

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:

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2017-2018
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through Z. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12

PART A

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

17 § 2. This act shall take effect on the one hundred eightieth day after
18 it shall have become a law and shall remain in effect until September 1,
19 [2017] 2019.

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

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28 shall expire and be deemed repealed.

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

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

36 § 4. Section 20 of chapter 261 of the laws of 1987, amending chapters
37 50, 53 and 54 of the laws of 1987, the correction law, the penal law and
38 other chapters and laws relating to correctional facilities, as amended
39 by section 4 of part B of chapter 55 of the laws of 2015, is amended to
40 read as follows:

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

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

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

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

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

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

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

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

45 § 8. Subdivision h of section 74 of chapter 3 of the laws of 1995,
46 amending the correction law and other laws relating to the incarceration
47 fee, as amended by section 8 of part B of chapter 55 of the laws of
48 2015, is amended to read as follows:

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

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

9 § 9. Subdivision (c) of section 49 of subpart A of part C of chapter
10 62 of the laws of 2011 amending the correction law and the executive
11 law, relating to merging the department of correctional services and
12 division of parole into the department of corrections and community
13 supervision, as amended by section 9 of part B of chapter 55 of the laws
14 of 2015, is amended to read as follows:

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

19 § 10. Subdivision (aa) of section 427 of chapter 55 of the laws of
20 1992, amending the tax law and other laws relating to taxes, surcharges,
21 fees and funding, as amended by section 10 of part B of chapter 55 of
22 the laws of 2015, is amended to read as follows:

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

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

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

35 § 12. Subdivision (p) of section 406 of chapter 166 of the laws of
36 1991, amending the tax law and other laws relating to taxes, as amended
37 by section 12 of part B of chapter 55 of the laws of 2015, is amended to
38 read as follows:

39 (p) The amendments to section 1809 of the vehicle and traffic law made
40 by sections three hundred thirty-seven and three hundred thirty-eight of
41 this act shall not apply to any offense committed prior to such effec-
42 tive date; provided, further, that section three hundred forty-one of
43 this act shall take effect immediately and shall expire November 1, 1993
44 at which time it shall be deemed repealed; sections three hundred
45 forty-five and three hundred forty-six of this act shall take effect
46 July 1, 1991; sections three hundred fifty-five, three hundred fifty-
47 six, three hundred fifty-seven and three hundred fifty-nine of this act
48 shall take effect immediately and shall expire June 30, 1995 and shall
49 revert to and be read as if this act had not been enacted; section three
50 hundred fifty-eight of this act shall take effect immediately and shall
51 expire June 30, 1998 and shall revert to and be read as if this act had
52 not been enacted; section three hundred sixty-four through three hundred
53 sixty-seven of this act shall apply to claims filed on or after such
54 effective date; sections three hundred sixty-nine, three hundred seven-
55 ty-two, three hundred seventy-three, three hundred seventy-four, three
56 hundred seventy-five and three hundred seventy-six of this act shall

1 remain in effect until September 1, [2017] 2019, at which time they
2 shall be deemed repealed; provided, however, that the mandatory
3 surcharge provided in section three hundred seventy-four of this act
4 shall apply to parking violations occurring on or after said effective
5 date; and provided further that the amendments made to section 235 of
6 the vehicle and traffic law by section three hundred seventy-two of this
7 act, the amendments made to section 1809 of the vehicle and traffic law
8 by sections three hundred thirty-seven and three hundred thirty-eight of
9 this act and the amendments made to section 215-a of the labor law by
10 section three hundred seventy-five of this act shall expire on September
11 1, [2017] 2019 and upon such date the provisions of such subdivisions
12 and sections shall revert to and be read as if the provisions of this
13 act had not been enacted; the amendments to subdivisions 2 and 3 of
14 section 400.05 of the penal law made by sections three hundred seventy-
15 seven and three hundred seventy-eight of this act shall expire on July
16 1, 1992 and upon such date the provisions of such subdivisions shall
17 revert and shall be read as if the provisions of this act had not been
18 enacted; the state board of law examiners shall take such action as is
19 necessary to assure that all applicants for examination for admission to
20 practice as an attorney and counsellor at law shall pay the increased
21 examination fee provided for by the amendment made to section 465 of the
22 judiciary law by section three hundred eighty of this act for any exam-
23 ination given on or after the effective date of this act notwithstanding
24 that an applicant for such examination may have prepaid a lesser fee for
25 such examination as required by the provisions of such section 465 as of
26 the date prior to the effective date of this act; the provisions of
27 section 306-a of the civil practice law and rules as added by section
28 three hundred eighty-one of this act shall apply to all actions pending
29 on or commenced on or after September 1, 1991, provided, however, that
30 for the purposes of this section service of such summons made prior to
31 such date shall be deemed to have been completed on September 1, 1991;
32 the provisions of section three hundred eighty-three of this act shall
33 apply to all money deposited in connection with a cash bail or a
34 partially secured bail bond on or after such effective date; and the
35 provisions of sections three hundred eighty-four and three hundred
36 eighty-five of this act shall apply only to jury service commenced
37 during a judicial term beginning on or after the effective date of this
38 act; provided, however, that nothing contained herein shall be deemed to
39 affect the application, qualification, expiration or repeal of any
40 provision of law amended by any section of this act and such provisions
41 shall be applied or qualified or shall expire or be deemed repealed in
42 the same manner, to the same extent and on the same date as the case may
43 be as otherwise provided by law;

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

47 8. The provisions of this section shall only apply to offenses commit-
48 ted on or before September first, two thousand [seventeen] nineteen.

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

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

1 going sections of this act on their effective date is authorized and
2 directed to be made and completed on or before such effective date and
3 shall remain in full force and effect until the first day of September,
4 [2017] 2019 when upon such date the provisions of this act shall be
5 deemed repealed.

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

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

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

16 § 4. This act shall take effect 120 days after it shall have become a
17 law and shall remain in full force and effect until September 1, [2017]
18 2019, when upon such date it shall expire.

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

23 2. Subdivision 4 of section 140.10 of the criminal procedure law as
24 added by section thirty-two of this act shall take effect January 1,
25 1996 and shall expire and be deemed repealed on September 1, [2017]
26 2019.

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

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

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

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

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

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

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

1 § 3. This act shall take effect immediately, except that section one
2 of this act shall take effect on the first of January next succeeding
3 the date on which it shall have become a law, and shall remain in effect
4 until the first of September, [2017] 2019, upon which date this act
5 shall be deemed repealed and have no further force and effect; provided
6 that section one of this act shall only take effect with respect to any
7 compacting state which has enacted an interstate compact entitled
8 "Interstate compact for adult offender supervision" and having an iden-
9 tical effect to that added by section one of this act and provided
10 further that with respect to any such compacting state, upon the effec-
11 tive date of section one of this act, section 259-m of the executive law
12 is hereby deemed REPEALED and section 259-mm of the executive law, as
13 added by section one of this act, shall take effect; and provided
14 further that with respect to any state which has not enacted an inter-
15 state compact entitled "Interstate compact for adult offender super-
16 vision" and having an identical effect to that added by section one of
17 this act, section 259-m of the executive law shall take effect and the
18 provisions of section one of this act, with respect to any such state,
19 shall have no force or effect until such time as such state shall adopt
20 an interstate compact entitled "Interstate compact for adult offender
21 supervision" and having an identical effect to that added by section one
22 of this act in which case, with respect to such state, effective imme-
23 diately, section 259-m of the executive law is deemed repealed and
24 section 259-mm of the executive law, as added by section one of this
25 act, shall take effect.

26 § 22. Section 8 of part H of chapter 56 of the laws of 2009, amending
27 the correction law relating to limiting the closing of certain correc-
28 tional facilities, providing for the custody by the department of
29 correctional services of inmates serving definite sentences, providing
30 for custody of federal prisoners and requiring the closing of certain
31 correctional facilities, as amended by section 22 of part B of chapter
32 55 of the laws of 2015, is amended to read as follows:

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

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

40 § 3. This act shall take effect on the same date as the reversion of
41 subdivision 5 of section 183 and subdivision 1 of section 221 of the
42 military law as provided by section 76 of chapter 435 of the laws of
43 1997, as amended by section 1 of chapter 19 of the laws of 1999 notwith-
44 standing this act shall be deemed to have been in full force and effect
45 on and after July 31, 2005 and shall remain in full force and effect
46 until September 1, [2017] 2019 when upon such date this act shall
47 expire.

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

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

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

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

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

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

19

PART B

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

23 § 221.10 Criminal possession of marihuana in the fifth degree.

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

- 26 1. marihuana in a public place, as defined in section 240.00 of this
27 chapter, and such marihuana is burning [or open to public view]; or
- 28 2. one or more preparations, compounds, mixtures or substances
29 containing marihuana and the preparations, compounds, mixtures or
30 substances are of an aggregate weight of more than twenty-five grams.

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

33 § 2. This act shall take effect on the first of November next succeed-
34 ing the date on which it shall have become a law.

35

PART C

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

38 § 190.78 Identity theft in the [third] fifth degree.

39 A person is guilty of identity theft in the [third] fifth degree when
40 he or she knowingly and with intent to defraud assumes the identity of
41 another person by presenting himself or herself as that other person, or
42 by acting as that other person or by using personal identifying informa-
43 tion of that other person, and thereby:

- 44 1. obtains goods, money, property or services or uses credit in the
45 name of such other person or causes financial loss to such person or to
46 another person or persons; or
- 47 2. commits a class A misdemeanor or higher level crime.

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

49 § 2. Section 190.79 of the penal law, as added by chapter 619 of the
50 laws of 2002, subdivision 4 as amended by chapter 279 of the laws of
51 2008, is amended to read as follows:

52 § 190.79 Identity theft in the [second] fourth degree.

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

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

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

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

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

14 [4.] d. commits the crime of identity theft in the [third] fifth
15 degree as defined in section 190.78 of this article and has been previ-
16 ously convicted within the last [five years of identity theft in the
17 third degree as defined in section 190.78, identity theft in the second
18 degree as defined in this section, identity theft in the first degree as
19 defined in section 190.80, unlawful possession of personal identifica-
20 tion information in the third degree as defined in section 190.81,
21 unlawful possession of personal identification information in the second
22 degree as defined in section 190.82, unlawful possession of personal
23 identification information in the first degree as defined in section
24 190.83, unlawful possession of a skimmer device in the second degree as
25 defined in section 190.85, unlawful possession of a skimmer device in
26 the first degree as defined in section 190.86, grand larceny in the
27 fourth degree as defined in section 155.30, grand larceny in the third
28 degree as defined in section 155.35, grand larceny in the second degree
29 as defined in section 155.40 or grand larceny in the first degree as
30 defined in section 155.42 of this chapter] ten years, excluding any time
31 during which such person was incarcerated for any reason, of any crime
32 in this article or article 170 of this title, or of any larceny crime as
33 defined in article 155 of this chapter, or of any criminal possession of
34 stolen property crime as defined in article 165 of this chapter; or

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

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

43 § 3. Section 190.80 of the penal law, as added by chapter 619 of the
44 laws of 2002, subdivision 4 as amended by chapter 279 of the laws of
45 2008, is amended to read as follows:

46 § 190.80 Identity theft in the [first] third degree.

47 A person is guilty of identity theft in the [first] third degree when:
48 1. he or she knowingly and with intent to defraud assumes the identity
49 of another person by presenting himself or herself as that other person,
50 or by acting as that other person or by using personal identifying
51 information of that other person, and thereby:

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

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

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

4 [4.] d. commits the crime of identity theft in the [second] fourth
5 degree as defined in section 190.79 of this article and has been previ-
6 ously convicted within the last [five years of identity theft in the
7 third degree as defined in section 190.78, identity theft in the second
8 degree as defined in section 190.79, identity theft in the first degree
9 as defined in this section, unlawful possession of personal identifica-
10 tion information in the third degree as defined in section 190.81,
11 unlawful possession of personal identification information in the second
12 degree as defined in section 190.82, unlawful possession of personal
13 identification information in the first degree as defined in section
14 190.83, unlawful possession of a skimmer device in the second degree as
15 defined in section 190.85, unlawful possession of a skimmer device in
16 the first degree as defined in section 190.86, grand larceny in the
17 fourth degree as defined in section 155.30, grand larceny in the third
18 degree as defined in section 155.35, grand larceny in the second degree
19 as defined in section 155.40 or grand larceny in the first degree as
20 defined in section 155.42 of this chapter] ten years, excluding any time
21 during which such person was incarcerated for any reason, of any crime
22 in this article or article 170 of this title, or of any larceny crime as
23 defined in article 155 of this chapter, or of any criminal possession of
24 stolen property crime as defined in article 165 of this chapter; or

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

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

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

34 § 190.81 Identity theft in the second degree.

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

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

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

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

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

49 d. commits the crime of identity theft in the third degree as defined
50 in section 190.80 of this article and has been previously convicted
51 within the last ten years, excluding any time during which such person
52 was incarcerated for any reason, of any crime in this article or article
53 170 of this title, or of any larceny crime as defined in article 155 of
54 this chapter, or of any criminal possession of stolen property crime as
55 defined in article 165 of this chapter; or

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

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

8 § 190.82 Identity theft in the first degree.

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

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

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

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

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

23 d. commits the crime of identity theft in the second degree as defined
24 in section 190.81 of this article and has been previously convicted
25 within the last ten years, excluding any time during which such person
26 was incarcerated for any reason, of any crime in this article or article
27 170 of this title, or of any larceny crime as defined in article 155 of
28 this chapter, or of any criminal possession of stolen property crime as
29 defined in article 165 of this chapter; or

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

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

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

39 § 190.80-a Aggravated identity theft in the first degree.

40 A person is guilty of aggravated identity theft in the first degree
41 when he or she knowingly and with intent to defraud assumes the identity
42 of another person by presenting himself or herself as that other person,
43 or by acting as that other person or by using personal identifying
44 information of that other person, and knows that such person is a member
45 of the armed forces, and knows that such member is presently deployed
46 outside of the continental United States; or knows that such person is a
47 vulnerable elderly person as defined in subdivision three of section
48 260.31 of this part; or knows that such person is an incompetent or
49 physically disabled person as defined in subdivision four of section
50 260.31 of this part; and:

51 1. thereby obtains goods, money, property or services or uses credit
52 in the name of such [member of the armed forces] individual in an aggre-
53 gate amount that exceeds five hundred dollars; or

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

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

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

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

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

13 8. "Without authorization" means to use or to access a computer,
14 computer service or computer network without the permission of the owner
15 or lessor or someone licensed or privileged by the owner or lessor where
16 such person knew that his or her use or access was without permission or
17 after actual notice to such person that such use or access was without
18 permission. It shall also mean the access of a computer service by a
19 person without permission where such person knew that such access was
20 without permission or after actual notice to such person, that such
21 access was without permission. For purposes of criminal prosecution
22 under this article, "without authorization" shall also include use or
23 access exceeding the scope of authorization. A person exceeds the scope
24 of authorization to use or access a computer, computer service or
25 computer network when such person uses or accesses such computer,
26 computer service or computer network for purposes other than legitimate
27 purposes for which such person has permission to use and access such
28 computer, computer service or computer network.

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

31 § 156.20 Computer tampering in the [fourth] fifth degree.

32 A person is guilty of computer tampering in the [fourth] fifth degree
33 when he or she uses, causes to be used, or accesses a computer, computer
34 service, or computer network without authorization and he or she inten-
35 tionally alters in any manner or destroys computer data or a computer
36 program of another person.

37 Computer tampering in the [fourth] fifth degree is a class A misdemea-
38 nor.

39 § 9. Section 156.25 of the penal law, as amended by chapter 89 of the
40 laws of 1993, subdivision 2 as amended by chapter 376 of the laws of
41 1997, is amended to read as follows:

42 § 156.25 Computer tampering in the [third] fourth degree.

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

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

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

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

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

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

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

3 § 156.26 Computer tampering in the [second] third degree.

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

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

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

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

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

19 § 156.27 Computer tampering in the [first] second degree.

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

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

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

28 § 156.28 Computer tampering in the first degree.

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

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

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

39

PART D

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

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

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

3 (b) No confession, admission or other statement shall be subject to a
4 motion to suppress pursuant to subdivision three of section 710.20 of
5 this chapter based solely upon the failure to video record such interro-
6 gation in a detention facility as defined in paragraph (a) of this
7 subdivision. However, where the people offer into evidence a confession,
8 admission or other statement made by a person in custody with respect to
9 his or her participation or lack of participation in an offense speci-
10 fied in paragraph (a) of this subdivision, that has not been video
11 recorded, the court shall consider the failure to record as a factor,
12 but not as the sole factor, in accordance with paragraph (c) of this
13 subdivision in determining whether such confession, admission or other
14 statement shall be admissible.

15 (c) Notwithstanding the requirement of paragraph (a) of this subdivi-
16 sion, upon a showing of good cause by the prosecutor, the custodial
17 interrogation need not be recorded. Good cause shall include, but not be
18 limited to:

19 (i) If electronic recording equipment malfunctions.

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

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

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

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

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

32 (vii) If the statement is made after a suspect has refused to partic-
33 ipate in the interrogation if it is recorded, and appropriate effort to
34 document such refusal is made.

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

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

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

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

1 (e) Video recording as required by this section shall be conducted in
2 accordance with standards established by rule of the division of crimi-
3 nal justice services.

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

6 3. Where a respondent is subject to custodial interrogation by a
7 public servant at a facility specified in subdivision four of section
8 305.2 of this article, the entire custodial interrogation, including the
9 giving of any required advice of the rights of the individual being
10 questioned, and the waiver of any rights by the individual, shall be
11 recorded and governed in accordance with the provisions of paragraphs
12 (a), (b), (c), (d) and (e) of subdivision three of section 60.45 of the
13 criminal procedure law.

14 § 3. Section 60.25 of the criminal procedure law, subparagraph (ii) of
15 paragraph (a) of subdivision 1 as amended by chapter 479 of the laws of
16 1977, is amended to read as follows:

17 § 60.25 Rules of evidence; identification by means of previous recogni-
18 tion, in absence of present identification.

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

22 (a) Such witness testifies that:

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

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

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

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

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

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

11 § 4. Section 60.30 of the criminal procedure law, as amended by chap-
12 ter 479 of the laws of 1977, is amended to read as follows:

13 § 60.30 Rules of evidence; identification by means of previous recogni-
14 tion, in addition to present identification.

15 In any criminal proceeding in which the defendant's commission of an
16 offense is in issue, a witness who testifies that (a) he or she observed
17 the person claimed by the people to be the defendant either at the time
18 and place of the commission of the offense or upon some other occasion
19 relevant to the case, and (b) on the basis of present recollection, the
20 defendant is the person in question and (c) on a subsequent occasion he
21 or she observed the defendant, or where the observation is made pursuant
22 to a blind or blinded procedure, as defined in paragraph (c) of subdivi-
23 sion one of section 60.25 of this article, a pictorial, photographic,
24 electronic, filmed or video recorded reproduction of the defendant,
25 under circumstances consistent with such rights as an accused person may
26 derive under the constitution of this state or of the United States, and
27 then also recognized him or her or the pictorial, photographic, elec-
28 tronic, filmed or video recorded reproduction of him or her as the same
29 person whom he or she had observed on the first or incriminating occa-
30 sion, may, in addition to making an identification of the defendant at
31 the criminal proceeding on the basis of present recollection as the
32 person whom he or she observed on the first or incriminating occasion,
33 also describe his or her previous recognition of the defendant and
34 testify that the person whom he or she observed or whose pictorial,
35 photographic, electronic, filmed or video recorded reproduction he or
36 she observed on such second occasion is the same person whom he or she
37 had observed on the first or incriminating occasion. Such testimony and
38 such pictorial, photographic, electronic, filmed or video recorded
39 reproduction constitutes evidence in chief.

40 § 5. Subdivision 6 of section 710.20 of the criminal procedure law, as
41 amended by chapter 8 of the laws of 1976 and as renumbered by chapter
42 481 of the laws of 1983, is amended to read as follows:

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

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

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

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

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

22 § 343.3. Rules of evidence; identification by means of previous recog-
23 nition in absence of present identification. 1. In any juvenile delin-
24 quency proceeding in which the respondent's commission of a crime is in
25 issue, testimony as provided in subdivision two may be given by a
26 witness when:

27 (a) such witness testifies that:

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

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

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

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

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

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

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

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

19 § 343.4. Rules of evidence; identification by means of previous recog-
20 nition, in addition to present identification. In any juvenile delin-
21 quency proceeding in which the respondent's commission of a crime is in
22 issue, a witness who testifies that: (a) he or she observed the person
23 claimed by the presentment agency to be the respondent either at the
24 time and place of the commission of the crime or upon some other occa-
25 sion relevant to the case, and (b) on the basis of present recollection,
26 the respondent is the person in question, and (c) on a subsequent occa-
27 sion he or she observed the respondent, or, where the observation is
28 made pursuant to a blind or blinded procedure, a pictorial, photograph-
29 ic, electronic, filmed or video recorded reproduction of the respondent
30 under circumstances consistent with such rights as an accused person may
31 derive under the constitution of this state or of the United States, and
32 then also recognized him or her or the pictorial, photographic, elec-
33 tronic, filmed or video recorded reproduction of him or her as the same
34 person whom he or she had observed on the first or incriminating occa-
35 sion, may, in addition to making an identification of the respondent at
36 the delinquency proceeding on the basis of present recollection as the
37 person whom he or she observed on the first or incriminating occasion,
38 also describe his or her previous recognition of the respondent and
39 testify that the person whom he or she observed or whose pictorial,
40 photographic, electronic, filmed or video recorded reproduction he or
41 she observed on such second occasion is the same person whom he or she
42 had observed on the first or incriminating occasion. Such testimony and
43 such pictorial, photographic, electronic, filmed or video recorded
44 reproduction constitutes evidence in chief. For purposes of this
45 section, a "blind or blinded procedure" shall be as defined in paragraph
46 (c) of subdivision one of section 343.3 of this part.

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

49 21. Promulgate a standardized and detailed written protocol that is
50 grounded in evidence-based principles for the administration of photo-
51 graphic array and live lineup identification procedures for police agen-
52 cies and standardized forms for use by such agencies in the reporting
53 and recording of such identification procedure. The protocol shall
54 address the following topics:

55 (a) the selection of photographic array and live lineup filler photo-
56 graphs or participants;

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

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

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

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

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

14 (c) Disseminate the written policies and procedures promulgated in
15 accordance with subdivision twenty-one of section eight hundred thirty-
16 seven of this article to all police departments in this state and imple-
17 ment a training program for all current and new police officers regard-
18 ing the policies and procedures established pursuant to such
19 subdivision.

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

22 § 722-e. Expenses. All expenses for providing counsel and services
23 other than counsel hereunder shall be a county charge or in the case of
24 a county wholly located within a city a city charge to be paid out of an
25 appropriation for such purposes. Provided, however, that any such addi-
26 tional expenses incurred for the provision of counsel and services as a
27 result of the implementation of a plan established pursuant to subdivi-
28 sion four of section eight hundred thirty-two of the executive law,
29 including any interim steps taken to implement such plan, shall be reim-
30 bursed by the state to the county or city providing such services. The
31 state shall appropriate funds sufficient to provide for the reimburse-
32 ment required by this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 § 14. Notwithstanding the provisions of any other law: (a) the fee
18 collected by the office of court administration for the provision of
19 criminal history searches and other searches for data kept electron-
20 ically by the unified court system shall be [sixty-five] eighty dollars;
21 (b) [thirty-five] fifty dollars of each such fee collected shall be
22 deposited in the indigent legal services fund established by section
23 98-b of the state finance law, as added by section twelve of this act,
24 (c) nine dollars of each such fee collected shall be deposited in the
25 legal services assistance fund established by section 98-c of the state
26 finance law, as added by section nineteen of this act, (d) sixteen
27 dollars of each such fee collected shall be deposited to the judiciary
28 data processing offset fund established by section 94-b of the state
29 finance law, and (e) the remainder shall be deposited in the general
30 fund.

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

34 4. The biennial registration fee shall be [three] four hundred [seven-
35 ty-five] twenty-five dollars, sixty dollars of which shall be allocated
36 to and be deposited in a fund established pursuant to the provisions of
37 section ninety-seven-t of the state finance law, [fifty] one hundred
38 dollars of which shall be allocated to and shall be deposited in a fund
39 established pursuant to the provisions of section ninety-eight-b of the
40 state finance law, twenty-five dollars of which shall be allocated to be
41 deposited in a fund established pursuant to the provisions of section
42 ninety-eight-c of the state finance law, and the remainder of which
43 shall be deposited in the attorney licensing fund. Such fee shall be
44 required of every attorney who is admitted and licensed to practice law
45 in this state, whether or not the attorney is engaged in the practice of
46 law in this state or elsewhere, except attorneys who certify to the
47 chief administrator of the courts that they have retired from the prac-
48 tice of law.

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

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

1 ant to subdivision three of section two hundred twenty-six, subdivision
2 four of section two hundred twenty-seven, subdivision four-a of section
3 five hundred ten or subdivision five-a of section eighteen hundred nine
4 of this chapter, such suspension shall remain in effect until a termi-
5 nation of a suspension fee of [seventy] one hundred five dollars is paid
6 to the court or tribunal that initiated the suspension of such license
7 or privilege. In no event may the aggregate of the fees imposed by an
8 individual court pursuant to this paragraph for the termination of all
9 suspensions that may be terminated as a result of a person's answers,
10 appearances or payments made in such cases pending before such individ-
11 ual court exceed four hundred dollars. For the purposes of this para-
12 graph, the various locations of the administrative tribunal established
13 under article two-A of this chapter shall be considered an individual
14 court.

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

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

23

PART E

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

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

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

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

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

11 3. Conditions of post-release supervision. [The] For persons who have
12 been granted parole by the board of parole pursuant to subdivision two
13 of section two hundred fifty-nine-i of the executive law, such board [of
14 parole] shall establish and impose conditions of post-release super-
15 vision in the same manner and to the same extent as it may establish and
16 impose conditions in accordance with the executive law upon persons who
17 are granted parole [or conditional release]; for all other persons
18 released to post-release supervision said conditions shall be estab-
19 lished and imposed by the commissioner of corrections and community
20 supervision; provided that, notwithstanding any other provision of law,
21 the board of parole may impose as a condition of post-release super-
22 vision that for a period not exceeding six months immediately following
23 release from the underlying term of imprisonment pursuant to the grant
24 of parole the person be transferred to and participate in the programs
25 of a residential treatment facility as that term is defined in subdivi-
26 sion six of section two of the correction law. [Upon release from the
27 underlying term of imprisonment, the person] All individuals released to
28 post-release supervision shall be furnished with a written statement
29 setting forth the conditions of [post-release supervision] release in
30 sufficient detail to provide for the person's conduct and supervision.

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

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

51 § 5. Subdivision 2 of section 259-c of the executive law, as amended
52 by section 38-b of subpart A of part C of chapter 62 of the laws of
53 2011, is amended to read as follows:

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

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

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

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

18 § 7. Section 70.45 of the penal law is amended by adding a new subdi-
19 vision 6 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (ix) successfully works in the puppies behind bars program for a peri-
33 od of no less than two years; or

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

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

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

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

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

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

6 (b) if the youthful offender finding was substituted for any other
7 felony, then the sentence shall be as authorized by section 60.01 of
8 this article for a sentence upon a conviction of a class E felony;
9 provided, however, that if the youthful offender finding was substituted
10 for a violent felony offense as defined in subdivision one of section
11 70.02 of this title or for a felony sex offense as defined in paragraph
12 (a) of subdivision one of section 70.80 of this title and, in either
13 case, a sentence of imprisonment in excess of one year is imposed to be
14 served in a facility of the state department of corrections and communi-
15 ty supervision, the sentence shall be the determinate sentence of impri-
16 sonment authorized for a class E violent felony offense or felony sex
17 offense, as the case may be, and the corresponding period of post-re-
18 lease supervision provided for that class E felony by section 70.45 of
19 this title.

20 § 10. Section 70.00 of the penal law, the section heading as amended
21 by chapter 277 of the laws of 1973, subdivision 1 as amended by section
22 36 of chapter 7 of the laws of 2007, subdivisions 2, 3 and 4 as amended
23 by chapter 738 of the laws of 2004, paragraph (a) of subdivision 3 as
24 amended by chapter 107 of the laws of 2006, paragraph (b) of subdivision
25 3 as amended by chapter 746 of the laws of 2006, subdivision 5 as
26 amended by chapter 482 of the laws of 2009 and subdivision 6 as amended
27 by chapter 1 of the laws of 1998, is amended to read as follows:

28 § 70.00 Sentence of imprisonment for felony.

29 1. [Indeterminate] Unless otherwise authorized by a provision of arti-
30 cle sixty or seventy of this chapter, the sentence of imprisonment for a
31 felony is as follows:

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

41 (b) Class B, C, D or E felony sentence. Except as provided in subdivi-
42 sions four and six of this section or section 70.80 of this article, a
43 sentence of imprisonment for a class B, C, D or E felony, other than a
44 felony defined in article two hundred twenty or two hundred twenty-one
45 of this chapter, shall be a determinate sentence of imprisonment in
46 accordance with the provisions of subdivision three-a of this section,
47 which shall include, as part thereof, a period of post-release super-
48 vision in accordance with the provisions of section 70.45 of this arti-
49 cle.

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

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

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

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

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

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

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

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

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

17 (A) where a sentence, other than a sentence of death or life imprison-
18 ment without parole, is imposed upon a defendant convicted of murder in
19 the first degree as defined in section 125.27 of this chapter such mini-
20 mum period shall be not less than twenty years nor more than twenty-five
21 years, and[,]

22 (B) where a sentence is imposed upon a defendant convicted of murder
23 in the second degree as defined in subdivision five of section 125.25 of
24 this chapter or convicted of aggravated murder as defined in section
25 125.26 of this chapter, the sentence shall be life imprisonment without
26 parole, and[,]

27 (C) where a sentence is imposed upon a defendant convicted of
28 attempted murder in the first degree as defined in article one hundred
29 ten of this chapter and subparagraph (i), (ii) or (iii) of paragraph (a)
30 of subdivision one and paragraph (b) of subdivision one of section
31 125.27 of this chapter or attempted aggravated murder as defined in
32 article one hundred ten of this chapter and section 125.26 of this chap-
33 ter such minimum period shall be not less than twenty years nor more
34 than forty years.

35 (ii) For a class A-II felony, such minimum period shall not be less
36 than three years nor more than eight years four months, except that for
37 the class A-II felony of predatory sexual assault as defined in section
38 130.95 of this chapter or the class A-II felony of predatory sexual
39 assault against a child as defined in section 130.96 of this chapter,
40 such minimum period shall be not less than ten years nor more than twen-
41 ty-five years.

42 (b) [For any other felony, the minimum period shall be fixed by the
43 court and specified in the sentence and shall be not less than one year
44 nor more than one-third of the maximum term imposed] A minimum period of
45 imprisonment shall not be fixed by the court for a class A felony when a
46 sentence of life imprisonment without parole is authorized by section
47 60.06 of this title, or subdivision five of this section, or any other
48 provision of this chapter and is imposed.

49 3-a. Determinate term of imprisonment for a class B, C, D or E felony.

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

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

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

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

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

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

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

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

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

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

16 4. Alternative definite sentence for class C, D and E felonies. When a
17 person, other than a second or persistent felony offender, is sentenced
18 for a class C, D or [class] E felony, and the court, having regard to
19 the nature and circumstances of the crime and to the history and charac-
20 ter of the defendant, is of the opinion that a sentence of imprisonment
21 is necessary but that it would be unduly harsh to impose [an indetermi-
22 nate or] a determinate sentence, the court may impose a definite
23 sentence of imprisonment and fix a term of one year or less.

24 5. Life imprisonment without parole. (a) Notwithstanding any other
25 provision of law, a defendant sentenced to life imprisonment without
26 parole shall not be or become eligible for parole or conditional
27 release. For purposes of commitment and custody, other than parole and
28 conditional release, such sentence shall be deemed to be an indetermi-
29 nate sentence.

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

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

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

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

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

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

8 § 11. Section 70.06 of the penal law, as added by chapter 277 of the
9 laws of 1973, paragraph (a) of subdivision 1 and subdivision 4 as
10 amended by chapter 410 of the laws of 1979, subparagraph (i) of para-
11 graph (b) of subdivision 1 as amended by chapter 784 of the laws of
12 1975, subparagraph (iii) of paragraph (b) of subdivision 1 as amended by
13 chapter 471 of the laws of 1980, subdivisions 2 and 3 as amended by
14 section 38 of chapter 7 of the laws of 2007, paragraph (a) of subdivi-
15 sion 4 as amended by chapter 107 of the laws of 2006, subdivision 6 as
16 added by chapter 3 of the laws of 1995 and subdivision 7 as amended by
17 section 123 of subpart B of part C of chapter 62 of the laws of 2011, is
18 amended to read as follows:

19 § 70.06 Sentence of imprisonment for second felony offender.

20 1. Definition of second felony offender.

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

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

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

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

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

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

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

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

51 2. Unless otherwise authorized by a provision of this article or arti-
52 cle sixty of this chapter, the sentence of imprisonment for a second
53 felony offender shall be as follows:

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

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

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

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

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

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

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

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

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

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

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

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

1 this article, the court must impose a determinate sentence of imprison-
2 ment, the term of which must be fixed by the court as follows:

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

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

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

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

11 (b) When the court has found, pursuant to the provisions of the crimi-
12 nal procedure law, that a person is a second felony offender and the
13 sentence to be imposed on such person is for a felony offense which is
14 not defined in article one hundred twenty-five of this chapter and which
15 is not designated a violent felony offense by subdivision one of section
16 70.02 of this article, the court must impose a determinate sentence of
17 imprisonment, the term of which must be fixed by the court as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 § 105.15 Conspiracy in the second degree.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 4. Certain class C felonies. Except as provided in subdivision six,
29 every person convicted of a class C violent felony offense as defined in
30 subdivision one of section 70.02 of this title, must be sentenced to
31 imprisonment in accordance with section 70.02 of this title; and, except
32 as provided in subdivision six of this section, every person convicted
33 of the class C felonies of: attempt to commit any of the class B felo-
34 nies of bribery in the first degree as defined in section 200.04, bribe
35 receiving in the first degree as defined in section 200.12, conspiracy
36 in the second degree as defined in section 105.15 and criminal mischief
37 in the first degree as defined in section 145.12; criminal usury in the
38 first degree as defined in section 190.42, rewarding official misconduct
39 in the first degree as defined in section 200.22, receiving reward for
40 official misconduct in the first degree as defined in section 200.27,
41 [attempt to promote prostitution in the first degree as defined in
42 section 230.32,] promoting prostitution in the second degree as defined
43 in section 230.30, arson in the third degree as defined in section
44 150.10 of this chapter, must be sentenced to imprisonment in accordance
45 with section 70.00 of this title.

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

49 (b) Class C violent felony offenses: an attempt to commit any of the
50 class B felonies set forth in paragraph (a) of this subdivision; aggra-
51 vated criminally negligent homicide as defined in section 125.11, aggra-
52 vated manslaughter in the second degree as defined in section 125.21,
53 aggravated sexual abuse in the second degree as defined in section
54 130.67, assault on a peace officer, police officer, fireman or emergency
55 medical services professional as defined in section 120.08, assault on a
56 judge as defined in section 120.09, gang assault in the second degree as

1 defined in section 120.06, strangulation in the first degree as defined
2 in section 121.13, burglary in the second degree as defined in section
3 140.25, robbery in the second degree as defined in section 160.10, crim-
4 inal possession of a weapon in the second degree as defined in section
5 265.03, criminal use of a firearm in the second degree as defined in
6 section 265.08, criminal sale of a firearm in the second degree as
7 defined in section 265.12, criminal sale of a firearm with the aid of a
8 minor as defined in section 265.14, aggravated criminal possession of a
9 weapon as defined in section 265.19, soliciting or providing support for
10 an act of terrorism in the first degree as defined in section 490.15,
11 hindering prosecution of terrorism in the second degree as defined in
12 section 490.30, [and] criminal possession of a chemical weapon or
13 biological weapon in the third degree as defined in section 490.37,
14 conspiracy in the second degree as defined in subdivision two of section
15 105.15, promoting prostitution in the first degree as defined in section
16 230.32, and tampering with a witness in the first degree as defined in
17 section 215.13.

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

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

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

30 PART F

31 Section 1. Subdivision 2 of section 216 of the executive law is renum-
32 bered subdivision 3 and a new subdivision 2 is added to read as follows:

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

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

50 § 3. This act shall take effect immediately.

51 PART G

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

5 11. Notwithstanding the provisions of subdivisions one, two and three
6 of this section, an individual who was a victim of either the crime of:
7 menacing in the second degree as defined in subdivision one of section
8 120.14 of the penal law; menacing in the third degree as defined in
9 section 120.15 of the penal law; unlawful imprisonment in the first
10 degree as defined in section 135.10 of the penal law[,]; kidnapping in
11 the second degree as defined in section 135.20 of the penal law [or];
12 kidnapping in the first degree as defined in section 135.25 of the penal
13 law; criminal mischief in the fourth degree as defined in subdivision
14 four of section 145.00 of the penal law; robbery in the third degree as
15 defined in section 160.05 of the penal law; robbery in the second degree
16 as defined in subdivision one, paragraph b of subdivision two or subdivi-
17 vision three of section 160.10 of the penal law; or robbery in the first
18 degree as defined in subdivisions two, three and four of section 160.15
19 of the penal law who has not been physically injured as a direct result
20 of such crime shall only be eligible for an award that includes loss of
21 earnings or support and the unreimbursed costs of counseling provided to
22 such victim on account of mental or emotional stress resulting from the
23 incident in which the crime occurred.

24 12. Notwithstanding the provisions of subdivisions one, two and three
25 of this section, an individual who was a victim of either the crime of
26 menacing in the second degree as defined in subdivision two or three of
27 section 120.14 of the penal law, menacing in the first degree as defined
28 in section 120.13 of the penal law, criminal obstruction of breathing or
29 blood circulation as defined in section 121.11 of the penal law, harass-
30 ment in the second degree as defined in [subdivision two or three of]
31 section 240.26 of the penal law, harassment in the first degree as
32 defined in section 240.25 of the penal law, aggravated harassment in the
33 second degree as defined in subdivision three or five of section 240.30
34 of the penal law, aggravated harassment in the first degree as defined
35 in subdivision two of section 240.31 of the penal law, criminal contempt
36 in the first degree as defined in [paragraph (ii) or (iv) of] subdivi-
37 sion (b) or subdivision (c) of section 215.51 of the penal law, or
38 stalking in the fourth, third, second or first degree as defined in
39 sections 120.45, 120.50, 120.55 and 120.60 of the penal law, respective-
40 ly, or a hate crime as defined in section 485.05 of the penal law who
41 has not been physically injured as a direct result of such crime shall
42 only be eligible for an award that includes loss of earning or support,
43 the unreimbursed cost of repair or replacement of essential personal
44 property that has been lost, damaged or destroyed as a direct result of
45 such crime, the unreimbursed cost for security devices to enhance the
46 personal protection of such victim, transportation expenses incurred for
47 necessary court expenses in connection with the prosecution of such
48 crime, the unreimbursed costs of counseling provided to such victim on
49 account of mental or emotional stress resulting from the incident in
50 which the crime occurred, the unreimbursed cost of securing a crime
51 scene, reasonable relocation expenses, and for occupational or job
52 training.

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

1

PART H

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

5 5. "Victim" shall mean (a) a person who suffers personal physical
6 injury as a direct result of a crime; (b) a person who is the victim of
7 either the crime of (1) unlawful imprisonment in the first degree as
8 defined in section 135.10 of the penal law, (2) kidnapping in the second
9 degree as defined in section 135.20 of the penal law, (3) kidnapping in
10 the first degree as defined in section 135.25 of the penal law, (4)
11 menacing in the first degree as defined in section 120.13 of the penal
12 law, (5) criminal obstruction of breathing or blood circulation as
13 defined in section 121.11 of the penal law, (6) harassment in the second
14 degree as defined in subdivision two or three of section 240.26 of the
15 penal law, (7) harassment in the first degree as defined in section
16 240.25 of the penal law, (8) aggravated harassment in the second degree
17 as defined in subdivision five of section 240.30 of the penal law, (9)
18 aggravated harassment in the first degree as defined in subdivision two
19 of section 240.31 of the penal law, (10) criminal contempt in the first
20 degree as defined in paragraph (ii) or (iv) of subdivision (b) or subdi-
21 vision (c) of section 215.51 of the penal law, (11) stalking in the
22 fourth, third, second or first degree as defined in sections 120.45,
23 120.50, 120.55 and 120.60 of the penal law, (12) labor trafficking as
24 defined in section 135.35 of the penal law, or [(5)] (13) sex traffick-
25 ing as defined in section 230.34 of the penal law; a vulnerable elderly
26 person or an incompetent or physically disabled person as defined in
27 section 260.31 of the penal law who incurs a loss of savings as defined
28 in subdivision twenty-four of this section; or a person who has had a
29 frivolous lawsuit filed against them.

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

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

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

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

1 medical or other services necessary as a result of the injury upon which
2 the claim is based, an award may be made for rehabilitative occupational
3 training for the purpose of job retraining or similar employment-orient-
4 ed rehabilitative services based upon the claimant's medical and employ-
5 ment history. For the purpose of this subdivision, rehabilitative occu-
6 pational training shall include but not be limited to educational
7 training and expenses. An award for rehabilitative occupational training
8 may be made to a victim, or to a family member of a victim where neces-
9 sary as a direct result of a crime.

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

12 3-a. Any award made for loss of savings shall, unless reduced pursuant
13 to other provisions of this article, be in an amount equal to the actual
14 loss sustained.

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

17 (f) Notwithstanding the provisions of paragraph (a) of this subdivi-
18 sion, the office shall disregard for this purpose the responsibility of
19 the victim for his or her own loss of savings.

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

22 8-a. Notwithstanding the provisions of subdivision one of this
23 section, a vulnerable elderly person or an incompetent or physically
24 disabled person, as defined in section 260.31 of the penal law, who has
25 not been physically injured as a direct result of a crime, shall be
26 eligible for an award that includes loss of savings.

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

30 PART I

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

33 § 203-a. Additional duties of the commissioner regarding flood related
34 losses. In accordance with 44 CFR 75.11 of the code of federal regu-
35 lations, in the event that state-owned structures and their contents are
36 damaged as the result of flood related losses, flood, and/or flood
37 related hazards occurring in areas identified by the federal insurance
38 administrator as A, AO, AH, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO,
39 AR/AH, AR/A, A99, M, V, VO, V1-30, VE, and E Zones, the commissioner of
40 general services shall pay an amount not less than the limits of cover-
41 age that would be applicable if such state-owned structures and their
42 contents had been covered by standard flood insurance policies, as
43 defined in 44 CFR 59.1, for the repair, restoration, or replacement of
44 such state-owned structures and contents, and shall maintain and update,
45 not less frequently than annually, an inventory of all state-owned
46 structures and their contents within such zones.

47 § 2. This act shall take effect immediately.

48 PART J

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (i) "State contract" means:

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

1 replacement, major repair or renovation of real property and improve-
2 ments thereon;

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

10 (j) "Subcomponent" is any article, material, or supply, whether manu-
11 factured or unmanufactured, that is one step removed from a component in
12 the manufacturing process and that is incorporated directly into a
13 component.

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

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

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

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

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

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

46 (c) a reciprocal trade agreement or treaty has been negotiated by the
47 state or by the United States government on behalf of or including this
48 state with a foreign nation or government for nondiscriminatory govern-
49 mental procurement practices or policies with such foreign nation or
50 government; or

51 (d) the state contract is subject to federal funding and the require-
52 ments of such federal funding supersede this section; or

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

1 cient quantities or of satisfactory quality or design to meet the agen-
2 cy's requirements; or

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

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

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

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

19 (b) The certificates required by this section shall additionally spec-
20 ify such information as the executive shall require.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (i) "State contract" means:

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

1 replacement, major repair or renovation of real property and improve-
2 ments thereon;

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

10 (j) "Subcomponent" is any article, material, or supply, whether manu-
11 factured or unmanufactured, that is one step removed from a component in
12 the manufacturing process and that is incorporated directly into a
13 component.

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

17 2. Procurements subject to the provisions of this section. (a) This
18 section shall apply to all state contracts as defined in paragraph (i)
19 of subdivision one of this section and all requests for bids and
20 proposals for such contracts, which shall state that a preference is
21 given to bidders and proposers who agree to provide products Manufac-
22 tured in America, and bidders and proposers, in their bids or proposals,
23 shall (i) state that they agree to meet such requirement or (ii) state
24 in detail why they cannot meet such requirement. (b) No bidder or propo-
25 ser on a state contract subject to this section shall be deemed to be
26 the lowest responsive and responsible bidder or proposer unless (i) the
27 bidder or proposer complies with the provisions required by subparagraph
28 (i) of paragraph (a) of this subdivision, or (ii) the executive deter-
29 mines in accordance with subdivision three of this section that the
30 provisions of this section shall not apply to the subject procurement.

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

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

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

45 (c) a reciprocal trade agreement or treaty has been negotiated by the
46 state or by the United States government on behalf of or including this
47 state with a foreign nation or government for nondiscriminatory govern-
48 mental procurement practices or policies with such foreign nation or
49 government; or

50 (d) the state contract is subject to federal funding and the require-
51 ments of such federal funding supersede this section; or

52 (e) the specified products are not Manufactured in America in suffi-
53 cient quantities or quality to meet the state entity's requirements or
54 cannot be Manufactured in America or within the necessary time in suffi-
55 cient quantities or of satisfactory quality or design to meet the agen-
56 cy's requirements; or

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

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

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

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

17 (b) The certificates required by this section shall additionally spec-
18 ify such information as the executive shall require.

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

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

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

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

53 § 4. Severability. If any clause, sentence, paragraph, subdivision,
54 section or part of this act shall be adjudged by any court of competent
55 jurisdiction to be invalid, such judgement shall not affect, impair or
56 invalidate the remainder thereof, but shall be confined in its operation

1 to the clause, sentence, paragraph, subdivision, section or part thereof
2 directly involved in the controversy in which such judgment shall have
3 been rendered. It is hereby declared to be the intent of the legislature
4 that this act would have been enacted even if such invalid provision had
5 not been included herein.

6 § 5. This act shall take effect on January 1, 2018 and shall apply to
7 any state contracts, executed and entered into on or after that date and
8 shall exclude such contracts that have been previously awarded or have
9 pending bids or pending requests for proposals issued as of January 1,
10 2018.

11 PART K

12 Section 1. Employees of the division of military and naval affairs in
13 the unclassified service of the state, who are substantially engaged in
14 the performance of duties to support business and financial services,
15 administrative services, payroll administration, time and attendance,
16 benefit administration and other transactional human resources func-
17 tions, may be transferred to the office of general services in accord-
18 ance with the provisions of section 45 of the civil service law as if
19 the state had taken over a private entity. No employee who is trans-
20 ferred pursuant to this act shall suffer a reduction in basic annual
21 salary as a result of the transfer.

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

26 PART L

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

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

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

35 § 8-a. Contracts for work performed at secure facilities. 1. For the
36 purposes of this section, "secure facility" shall mean (a) a building,
37 property, or facility under the jurisdiction of the department of
38 corrections and community supervision, the office of mental health, the
39 office of children and family services, or the office for people with
40 developmental disabilities, and where inmates, patients, or residents
41 who dwell within such building, property, or facility have limited or
42 restricted ingress and egress or (b) any other facility of the state
43 that is determined to be a secure facility by the commissioner of gener-
44 al services because of potential risks to the life, safety, or health of
45 the public or of the inhabitants of such facility.

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

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

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

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

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

31 (e) Bidders for contracts for the work of construction, recon-
32 struction, alteration, repair, or improvement of or at a secure facility
33 may, at the discretion of the commissioner of general services, be
34 solicited solely from the list of eligible bidders established pursuant
35 to this subdivision, and such contracts shall be awarded in accordance
36 with section eight of this article, except that notwithstanding the
37 provisions of subdivision two of section eight of this article, solici-
38 tations for bids or proposals shall be advertised in the public notifi-
39 cation service of the office of general services, and either the
40 procurement opportunities newsletter published by the department of
41 economic development or the state register.

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

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

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

1 to receive and open such proposals for such work of construction, recon-
2 struction, alteration, repair or improvement, and upon the opening of
3 such proposals he shall, in appropriate cases, transmit to said depart-
4 ment or other agency a tabulation of such proposals. Except as provided
5 in [section] sections eight-a and twenty of this chapter, such adver-
6 tisement for proposals shall be printed in a newspaper published in the
7 city of Albany, and in such other newspaper or newspapers as will be
8 most likely to give adequate notice to contractors of the work contem-
9 plated and of the invitation to submit proposals therefor. Such adver-
10 tisement shall be published for such time and in such manner as shall be
11 determined by the commissioner of general services. Such advertisement
12 shall be a public notice which shall contain a brief description of the
13 work of construction, reconstruction, alteration, repair or improvement,
14 a reference to the drawings and specifications therefor and where they
15 may be seen and obtained, the time when and the place where the
16 proposals invited by such advertisement will be received, the require-
17 ment of a deposit with the proposal, the requirement of a bond to accom-
18 pany the contract and in such amount as may be prescribed for the faith-
19 ful performance of the contract, and such other matters as the
20 commissioner of general services may deem advisable.

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

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

43 § 5. This act shall take effect immediately.

44 PART M

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

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

51 § 2. This act shall take effect immediately.

52 PART N



1 Section 1. Subdivisions 1, 2, 3, 4, 5 and 6 of section 162 of the
2 state finance law, subdivisions 1, 3, 4 as added by chapter 83 of the
3 laws of 1995, subdivision 2 as amended by chapter 501 of the laws of
4 2002, paragraph a of subdivision 2, paragraphs a and b of subdivision 3,
5 subparagraph (i) of paragraph a of subdivision 4, subdivision 5, para-
6 graphs a and d of subdivision 6 as amended by section 164 of subpart B
7 of part C of chapter 62 of the laws of 2011, paragraph b of subdivision
8 2 as amended by chapter 519 of the laws of 2003, subparagraph (iii) of
9 paragraph b of subdivision 4 as amended by chapter 430 of the laws of
10 1997, and paragraph e of subdivision 6 as amended by chapter 265 of the
11 laws of 2013, are amended to read as follows:

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

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

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

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

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

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

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

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

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

1 a. By December thirty-first, nineteen hundred ninety-five, the commis-
2 sioner, in consultation with the commissioners of corrections and commu-
3 nity supervision, the office of children and family services, the office
4 of temporary and disability assistance, mental health and education,
5 shall prepare a list of all commodities and services that are available
6 and are being provided as of said date, for purchase by state agencies,
7 public benefit corporations or political subdivisions from those enti-
8 ties accorded preference or priority status under this section. Such
9 list may include references to catalogs and other descriptive literature
10 which are available directly from any provider accorded preferred status
11 under this section. The commissioner shall make this list available to
12 prospective vendors, state agencies, public benefit corporations, poli-
13 tical subdivisions and other interested parties. Thereafter, new or
14 substantially different commodities or services may only be made avail-
15 able by preferred sources for purchase by more than one state agency,
16 public benefit corporation or political subdivision after addition to
17 said list.

18 b. After January first, nineteen hundred ninety-six, upon the applica-
19 tion of the commissioner of corrections and community supervision, the
20 commissioner of the office of children and family services, the office
21 of temporary and disability assistance, the commissioner of mental
22 health or the commissioner of education, or a non-profit-making facili-
23 tating agency designated by one of the said commissioners pursuant to
24 paragraph e of subdivision six of this section, the state procurement
25 council may recommend that the commissioner: (i) add commodities or
26 services to, or (ii) in order to insure that such list reflects current
27 production and/or availability of commodities and services, delete at
28 the request of a preferred source, commodities or services from, the
29 list established by paragraph a of this subdivision. The council may
30 make a non-binding recommendation to the relevant preferred source to
31 delete a commodity or service from such list. Additions may be made only
32 for new services or commodities, or for services or commodities that are
33 substantially different from those reflected on said list for that
34 provider. The decision to recommend the addition of services or commod-
35 ities shall be based upon a review of relevant factors as determined by
36 the council including costs and benefits to be derived from such addi-
37 tion and shall include an analysis by the office of general services
38 conducted pursuant to subdivision six of this section. Unless the state
39 procurement council shall make a recommendation to the commissioner on
40 any such application within one hundred twenty days of receipt thereof,
41 such application shall be deemed recommended. In the event that the
42 state procurement council shall deny any such application, the commis-
43 sioner or non-profit-making facilitating agency which submitted such
44 application may, within thirty days of such denial, appeal such denial
45 to the commissioner of general services who shall review all materials
46 submitted to the state procurement council with respect to such applica-
47 tion and who may request such further information or material as is
48 deemed necessary. Within sixty days of receipt of all information or
49 materials deemed necessary, the commissioner shall render a written
50 final decision on the application which shall be binding upon the appli-
51 cant and upon the state procurement council.

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

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

4 a. (i) When commodities are available, in the form, function and util-
5 ity required by a state agency, public authority, commission, public
6 benefit corporation or political subdivision, said commodities must be
7 purchased first from the correctional industries program of the depart-
8 ment of corrections and community supervision;

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

15 (iii) When commodities are available, in the form, function and utili-
16 ty required by, a state agency or political subdivision or public bene-
17 fit corporation having their own purchasing agency, and such commodities
18 are not available pursuant to subparagraphs (i) and (ii) of this para-
19 graph, said commodities shall then be purchased from a qualified non-
20 profit-making agency for other [severely] significantly disabled
21 persons, [a qualified special employment program for mentally ill
22 persons,] or a qualified veterans' workshop;

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

32 (i) state agencies or political subdivisions or public benefit corpo-
33 rations having their own purchasing agency shall [make reasonable
34 efforts to provide a notification] provide a written scope of services
35 describing their requirements to those preferred sources, or to the
36 facilitating entity identified in paragraph e of subdivision six of this
37 section, which provide the required services as indicated on the offi-
38 cial public list maintained by the office of general services pursuant
39 to subdivision three of this section and identify the time frame within
40 which written questions may be submitted, the date answers to questions
41 will be provided, the date by which a written proposal must be submitted
42 and the estimated contract start date;

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

53 (iii) if[, within ten days of the notification required by subpara-
54 graph (i) of this paragraph,] no preferred source or facilitating entity
55 identified in paragraph e of subdivision six of this section [indicates
56 intent to provide the service,] submits a written proposal within the

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

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

13 [c. For the purposes of commodities and services produced by special
14 employment programs operated by facilities approved or operated by the
15 office of mental health, facilities within the office of mental health
16 shall be exempt from the requirements of subparagraph (i) of paragraph a
17 of this subdivision. When such requirements of the office of mental
18 health cannot be met pursuant to subparagraph (ii) or (iii) of paragraph
19 a of this subdivision, or paragraph b of this subdivision, the office of
20 mental health may purchase commodities and services which are compet-
21 itive in price and comparable in quality to those which could otherwise
22 be obtained in accordance with this article, from special employment
23 programs operated by facilities within the office of mental health or
24 other programs approved by the office of mental health.]

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

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

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

49 6. Prices charged by agencies for the blind, other [severely] signif-
50 icantly disabled and veterans' workshops.

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

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

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

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

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

37 d. Such qualified charitable non-profit-making agencies for the blind
38 and other [severely] significantly disabled may make purchases of mate-
39 rials, equipment and supplies directly from the correctional industries
40 program administered by the commissioner of corrections and community
41 supervision, subject to such rules as may be established from time to
42 time pursuant to the correction law; provided that the qualified chari-
43 table non-profit-making agency for the blind or other [severely] signif-
44 icantly disabled shall accept sole responsibility for any payment due
45 the department of corrections and community supervision.

46 e. The commissioner of the office of children and family services
47 shall appoint the New York state commission for the blind, or other
48 non-profit-making agency, other than the agency representing the other
49 [severely] significantly disabled, to facilitate the distribution of
50 orders among qualified non-profit-making charitable agencies for the
51 blind. The state commissioner of education shall appoint a non-profit-
52 making agency, other than the agency representing the blind, to facili-
53 tate the distribution of orders among qualified non-profit-making chari-
54 table agencies for the other severely disabled and the veterans'
55 workshops. [The state commissioner of mental health shall facilitate
56 the distribution of orders among qualified special employment programs

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

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

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

17

PART O

18 Section 1. Subdivision 5 of section 54 of the workers' compensation
19 law, as amended by section 23 of part GG of chapter 57 of the laws of
20 2013, is amended to read as follows:

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

42 Such notice shall be served on the employer by delivering it to him,
43 her or it or by sending it by mail, by certified or registered letter,
44 return receipt requested, addressed to the employer at his, her or its
45 last known place of business; provided that, if the employer be a part-
46 nership, then such notice may be so given to any of one of the partners,
47 and if the employer be a corporation then the notice may be given to any
48 agent or officer of the corporation upon whom legal process may be
49 served; and further provided that an employer may designate any person
50 or entity at any address to receive such notice including the design-
51 nation of one person or entity to receive notice on behalf of multiple
52 entities insured under one insurance policy and that service of notice
53 at the address so designated upon the person or entity so designated by
54 delivery or by mail, by certified or registered letter, return receipt

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

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

7 The state insurance fund may cancel a policy for the employer's fail-
8 ure to cooperate with a payroll audit if the employer fails to (i) keep
9 an appointment with a payroll auditor, after the state insurance fund
10 has made at least two attempts to schedule an appointment during the
11 employer's regular business hours, when such employer is provided
12 advance written notice of such appointments or (ii) furnish business
13 records in the course of a payroll audit as required pursuant to section
14 ninety-five or one hundred thirty-one of this chapter. At least fifteen
15 days in advance of sending a notice of cancellation for failure to coop-
16 erate with a payroll audit, the state insurance fund shall send a warn-
17 ing notice to the employer in the same manner as provided in this subdivi-
18 vision for serving a notice of cancellation. Such notice shall specify a
19 means of contacting the state insurance fund to set up an audit appoint-
20 ment. The state insurance fund will be required to provide only one such
21 warning notice to an employer related to any particular payroll audit
22 prior to cancellation.

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

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

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

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

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

1 from such employer in completing any payroll audit on the cancelled
2 policy and the billed premium on the cancelled policy [remains uncol-
3 lected] is paid, including any additional amounts billed following the
4 completion of any payroll audit.

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

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

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

28 § 3. Section 95 of the workers' compensation law, as amended by chap-
29 ter 135 of the laws of 1998, is amended to read as follows:

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



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

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

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

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

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

49

PART P

50 Section 1. Subdivision 2 of section 87 of the workers' compensation
51 law, as added by section 20 of part GG of chapter 57 of the laws of
52 2013, is amended to read as follows:

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

1 services, may be invested (1) in the types of securities described in
2 subdivisions one, two, three, four, five, six, eleven, twelve, twelve-a,
3 thirteen, fourteen, fifteen, nineteen, twenty, twenty-one, twenty-one-a,
4 twenty-four, twenty-four-a, twenty-four-b, twenty-four-c and twenty-five
5 of section two hundred thirty-five of the banking law, or (2) in the
6 types of obligations described in paragraph two of subsection (a) of
7 section one thousand four hundred four of the insurance law except that
8 up to twenty-five percent of surplus funds may be invested in obli-
9 gations rated investment grade by a nationally recognized securities
10 rating organization, or[,] (3) up to fifty percent of surplus funds, in
11 the types of securities or investments described in paragraphs [two,]
12 three, eight and ten of subsection (a) of section one thousand four
13 hundred four of the insurance law, except that [up to ten percent of
14 surplus funds may be invested] investments in [the securities of any
15 solvent American institution as described in such paragraphs] diversi-
16 fied index funds and accounts may be made irrespective of the rating [of
17 such institution's obligations] or other similar qualitative standards
18 [described therein, and] applicable under such paragraphs, or (4) up to
19 ten percent of surplus funds, in the types of securities or investments
20 described in paragraphs two, three and ten of subsection (a) of section
21 one thousand four hundred four of the insurance law irrespective of the
22 rating of such institution's obligations or other similar qualitative
23 standard, or (5) up to fifteen percent of surplus funds in securities or
24 investments which do not otherwise qualify for investment under this
25 section as shall be made with the care, prudence and diligence under the
26 circumstances then prevailing that a prudent person acting in a like
27 capacity and familiar with such matters would use in the conduct of an
28 enterprise of a like character and with like aims as provided for the
29 state insurance fund under this article, but shall not include any
30 direct derivative instrument or derivative transaction except for hedg-
31 ing purposes. Notwithstanding any other provision in this subdivision,
32 the aggregate amount that the state insurance fund may invest in the
33 types of securities or investments described in paragraphs three, eight
34 and ten of subsection (a) of section one thousand four hundred four of
35 the insurance law and as a prudent person acting in a like capacity
36 would invest as provided in this subdivision shall not exceed fifty
37 percent of such surplus funds. For purposes of this subdivision, any
38 funds appropriated pursuant to the provisions of subdivision one or two
39 of section eighty-seven-f of this article shall not be considered
40 surplus funds.

41 § 2. This act shall take effect immediately.

42

PART Q

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

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



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

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

29 3. A temporary position established pursuant to this section may be
 30 abolished for reason of economy, consolidation or abolition of func-
 31 tions, curtailment of activities or otherwise. Upon such abolition or at
 32 the end of the term of the appointment, the provisions of sections
 33 seventy-eight, seventy-nine, eighty and eighty-one of this chapter shall
 34 not apply. In the event of a reduction of workforce pursuant to section
 35 eighty of this chapter affecting information technology positions, the
 36 term appointments pursuant to this section shall be abolished prior to
 37 the abolition of permanent competitive class information technology
 38 positions at such agency involving comparable skills and responsibil-
 39 ities.

40 § 2. Notwithstanding any provision of law to the contrary, the depart-
 41 ment of civil service may limit certification from the following eligi-
 42 ble lists to those who are eligible and identified as having knowledge,
 43 skills or certifications, or any combination thereof, by the appointing
 44 authority as necessary to perform the duties of certain positions:

45 Information Technology Specialist 4	G-25
46 Information Technology Specialist 4 (Data Communications)	G-25
47 Information Technology Specialist 4 (Systems Programming)	G-25
48 Manager Information Technology Services 1	G-27
49 Manager Information Technology Services 1 (Data Communications)	G-27
50 Manager Information Technology Services 1 (Database)	G-27
51 Manager Information Technology Services 1 (Systems Programming)	G-27
52 Manager Information Technology Services 2	G-29
53 Manager Information Technology Services 2 (Technical)	G-29

54 § 3. This act shall take effect immediately.

55

PART R

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

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

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

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

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

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

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

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

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

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

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

11 PART S

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

15 § 167-a. Reimbursement for medicare premium charges. Upon exclusion
16 from the coverage of the health benefit plan of supplementary medical
17 insurance benefits for which an active or retired employee or a depend-
18 ent covered by the health benefit plan is or would be eligible under the
19 federal old-age, survivors and disability insurance program, effective
20 May first, two thousand seventeen an amount [equal to] not to exceed
21 \$104.90 per month for the standard medicare premium charge for such
22 supplementary medical insurance benefits for such active or retired
23 employee and his or her dependents who enrolled in medicare on or before
24 December thirty-first, two thousand fifteen, if any, shall be paid
25 monthly or at other intervals to such active or retired employee from
26 the health insurance fund. For an active or retired employee or his or
27 her dependents who enrolled in medicare on or after January first, two
28 thousand sixteen, the lesser of \$121.80 per month or the currently
29 applicable standard medicare premium charge for such supplementary
30 medical insurance benefits for such active or retired employee and his
31 or her dependents, if any, shall be paid monthly or at other intervals
32 to such active or retired employee from the health insurance fund.
33 Furthermore, effective January first, two thousand seventeen, there
34 shall be no payment whatsoever for the income related monthly adjustment
35 amount for amounts (premiums) incurred on or after January first, two
36 thousand seventeen to any active or retired employee and his or her
37 dependents, if any. Where appropriate, such standard medicare premium
38 amount may be deducted from contributions payable by the employee or
39 retired employee; or where appropriate in the case of a retired employee
40 receiving a retirement allowance, such standard medicare premium amount
41 may be included with payments of his or her retirement allowance. All
42 state employer, employee, retired employee and dependent contributions
43 to the health insurance fund, including contributions from public
44 authorities, public benefit corporations or other quasi-public organiza-
45 tions of the state eligible for participation in the health benefit plan
46 as authorized by subdivision two of section one hundred sixty-three of
47 this article, shall be adjusted as necessary to cover the cost of reim-
48 bursing federal old-age, survivors and disability insurance program
49 premium charges under this section. This cost shall be included in the
50 calculation of premium or subscription charges for health coverage
51 provided to employees and retired employees of the state, public author-
52 ities, public benefit corporations or other quasi-public organizations
53 of the state; provided, however, the state, public authorities, public
54 benefit corporations or other quasi-public organizations of the state

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

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

10

PART T

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

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

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

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

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



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

11 (d) For state employees who retire from a position at or equated to
12 grade nine or lower with at least ten but less than twenty years of
13 service, the state shall pay thirty-nine percent of the cost of premium
14 or subscription charges for the coverage of dependents of such retired
15 state employees; such contribution shall increase by two percent of the
16 cost of premium or subscription charges for each year of service in
17 excess of ten years, to a maximum of fifty-seven percent of the cost of
18 premium or subscription charges for such dependents. For state employees
19 who retire from a position at or equated to grade nine or lower with
20 twenty or more years of service, the state shall pay sixty-three percent
21 of the cost of premium or subscription charges for the coverage of
22 dependents of such retired state employees; such contribution shall
23 increase by one percent of the cost of premium or subscription charges
24 for each year of service in excess of twenty years, to a maximum of
25 seventy-three percent of the cost of premium or subscription charges for
26 such dependents.

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

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

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

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

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

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

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

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

3 PART 4

4 COUNTY-WIDE SHARED SERVICES PROPERTY TAX SAVINGS PLAN

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

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

13 2. The mayor of each city and village in such county, and the supervi-
14 sor of each town in such county, shall inform such property tax savings
15 plan. The chief executive officer of the county shall seek consensus
16 among such mayors and supervisors prior to submission of the property
17 tax savings plan to the county legislative body as set forth in subdivi-
18 sion four of this section. Public input shall inform such property tax
19 savings plan, in addition to input from civic, business, labor, and
20 community leaders. Any such input shall be provided at one or more
21 public hearings to be held within the county.

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

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

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

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

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

1 7. If the property tax savings plan shall fail to obtain approval of a
2 majority of the electors voting on the plan in accordance with subdivi-
3 sion six of this section, the chief executive officer of the county,
4 with input from the mayor of each city and village in such county, and
5 the supervisor of each town in such county, shall receive and resubmit
6 such plan to the county legislative body no later than August first, two
7 thousand eighteen. Public input shall inform such resubmitted property
8 tax savings plan, in addition to input from civic, business, labor, and
9 community leaders. Any such input shall be provided at one or more
10 public hearings to be held within the county. Such plan shall be accom-
11 panied by a certification as to the accuracy of the savings contained
12 therein. Such certification shall also be transmitted to the director of
13 the division of the budget no later than the date of resubmission. The
14 county legislative body shall review such resubmitted plan. A majority
15 of the members of such body may make modifications as deemed necessary
16 to ensure compliance with this section. If modifications are made by the
17 county legislative body, the chief executive officer of such county
18 shall transmit to the director of the division of the budget a certifi-
19 cation of amended property tax savings. The chief executive officer
20 shall finalize such plan no later than September fifteenth, two thousand
21 eighteen, and the plan shall be publicly disseminated to the residents
22 of the county. At the general election occurring in November two thou-
23 sand eighteen, the county legislative body shall cause the question of
24 whether to implement the provisions of such finalized resubmitted plan
25 to be placed on the ballot and voted on by the qualified electors of the
26 county. If approved by a majority of such electors, the resubmitted plan
27 shall be implemented no later than January first, two thousand nineteen.

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

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

37 § 2. This act shall take effect immediately.

38 PART V

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

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

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

46 (b) any public school, including any school district, board of cooper-
47 ative educational services, public college, or public university.

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

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

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

6 § 3. This act shall take effect immediately.

7

PART W

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

10 § 1680-s. New York State consolidated laboratory project act. 1. Short
11 title. This section shall be known and may be cited as the "New York
12 state consolidated laboratory project act".

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

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

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

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

32 (A) Expediting project delivery;

33 (B) Improving project innovation, quality and efficiency;

34 (C) Reducing and guaranteeing design and construction costs;

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

37 (E) Increasing competition for design and construction services;

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

39 (G) Reducing change orders.

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

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



1 operations and maintenance; promote economic and intellectual property
2 development; and provide opportunities to generate savings from syner-
3 gies and shared services with other agencies.

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

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

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

13 3. Definitions. For the purposes of this act:

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

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

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

20 (iii) the level of customer satisfaction with the offerer's perform-
21 ance on previous projects;

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

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

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

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

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

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

32 Such basis shall reflect, wherever possible, objective and quantifi-
33 able analysis.

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

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

41 (d) "Construction manager build delivery method" shall mean a delivery
42 method in which a construction manager (i) serves as part of a team in
43 conjunction with DASNY and the department in the design phase of the
44 project, (ii) under the oversight of DASNY, in consultation with the
45 department, acts as the single source of responsibility to bid, select,
46 and hold construction contracts on behalf of DASNY, acting in consulta-
47 tion the department, during the construction phase, and (iii) manages
48 the construction phase of the project on behalf of DASNY or the depart-
49 ment.

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

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

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

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

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

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

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

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

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

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

54 (a) Upon compliance with the procurement method described in subdivi-
55 sion five of this section and in conformity with the other requirements
56 of this act, DASNY, in consultation with the department, may enter into

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

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

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

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

26 (i) Pre-qualification of prospective contractors. DASNY, in consulta-
27 tion with the department, shall generate a list of qualified entities
28 that have demonstrated the general capability to deliver the project and
29 otherwise perform the requirements of a project agreement. Such list
30 shall consist of a specified number of entities, as determined by DASNY,
31 in consultation with the department, and shall be generated based upon
32 the review by DASNY and the department of responses to a publicly adver-
33 tised request for qualifications for the project. Such request for qual-
34 ifications shall include a general description of the project and the
35 selection criteria to qualify entities. Such selection criteria shall
36 include such qualifications as DASNY and the department deem appropri-
37 ate, which may include but are not limited to the general qualifications
38 and experience of the members of the proposing team, the organization of
39 the proposing team, demonstrated responsibility, the ability of the team
40 or of a member or members of the team to comply with applicable project
41 requirements, including if applicable the provisions of articles one
42 hundred forty-five, one hundred forty-seven and one hundred forty-eight
43 of the education law, past record of compliance with the labor law or
44 any comparable law applicable in jurisdictions where such entity has
45 conducted business (in each instance to the extent applicable), under-
46 standing of the project and its requirements, financial, management and
47 technical capability, and record of past performance. DASNY and the
48 department shall evaluate all entities responding to the request for
49 qualifications. Based upon such evaluations, DASNY and the department
50 may develop a list of the entities that shall receive a request for
51 proposals in accordance with this subdivision. To the extent consistent
52 with applicable law, DASNY and the department shall consider, when eval-
53 uating entities pursuant to this section: (A) such entities' records of
54 compliance with article fifteen-A of the executive law on other projects
55 or otherwise providing for the participation of firms certified pursuant
56 to article fifteen-A of the executive law as minority or women-owned



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

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

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

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

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

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

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

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

55 (5) provide for a schedule of unit prices;



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

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

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

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

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

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

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

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

1 section, DASNY shall have the power and authority to enter into the
2 project agreement and any related agreements, subject only to compliance
3 with the requirements of this act, and, in addition, to act as a
4 procurement, technical and administrative consultant and advisor to the
5 department in connection with the planning, procurement and implementa-
6 tion of the project, including the power and authority to act as agent
7 for or consultant to the department in procuring and managing the
8 services of technical, legal and other consultants; soliciting, review-
9 ing and evaluating the qualifications and proposals from potential
10 contractors for the project; drafting and negotiating the project agree-
11 ment and any related agreements; supervising the performance of the
12 design and construction of the project by the contractor under the
13 project agreement; and coordinating participation in the project by
14 other involved state agencies and departments. In acting as agent of or
15 advisor to the department, DASNY shall have no independent liability in
16 connection with the project and the department shall indemnify DASNY to
17 the extent permitted by law. For the purposes of this act, the term
18 "employee" as defined in subdivision one of section seventeen of the
19 public officers law shall include the members of the board, officers and
20 employees of the dormitory authority.

21 7. Procurement and contract approval authority. (a) Procurement
22 approvals. The procurement of the project pursuant to this act, includ-
23 ing but not limited to pre-qualification of prospective contractors, the
24 election to issue a request for proposals, the evaluation of responses
25 to the request for proposals, the determination by DASNY and the depart-
26 ment to award the project agreement and any related agreements to which
27 DASNY or the department is a party and the execution of the project
28 agreement pursuant to this act, any related agreement to which DASNY or
29 the department is a party or any amendments thereto, shall not be
30 subject to the approval or authorization of any state officer, depart-
31 ment or agency, except for: (i) the approval of the comptroller to the
32 extent required by law of any agreement to which the department is a
33 party; and (ii) the approval of the state division of the budget.

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

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

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

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

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

24 (b) The construction, demolition, reconstruction, excavation, rehabil-
25 itation, repair, or renovation of the project or an improvement to the
26 property pertaining to the property shall be a "public work" for the
27 purposes of article eight of the labor law, to be performed in accord-
28 ance therewith (except as otherwise expressly provided in this act), as
29 well as subject to enforcement of prevailing wage requirements by the
30 New York state department of labor.

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

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

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

1 federal requirements for disadvantaged and veterans business enter-
2 prises.

3 § 2. Severability. If any clause, sentence, paragraph, subdivision,
4 section or part of this act shall be adjudged by any court of competent
5 jurisdiction to be invalid, such judgment shall not affect, impair or
6 invalidate the remainder thereof, but shall be confined in its operation
7 to the clause, sentence, paragraph, subdivision, section or part thereof
8 directly involved in the controversy in which such judgment shall have
9 been rendered. It is hereby declared to be the intent of the legislature
10 that this act would have been enacted even if such invalid provision had
11 not been included herein.

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

20

PART X

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

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

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

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

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

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

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

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

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

3 (d) the business must not have caused individuals to transfer from
4 existing employment with a related person located in the state to simi-
5 lar employment with the business, unless such business has received
6 approval for such transfers from the commissioner after demonstrating
7 that the related person has not eliminated those existing positions;

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

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

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

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

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

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

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

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

50 16. "Significant change in organizational structure" means the convey-
51 ance of five percent or greater of the equity of a business in the form
52 of stock, capital, profits or beneficial interest, the admission of a
53 member or partner to the business, or the sale or transfer of substan-
54 tially all of the assets of a business.

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

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

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

12 (ii) any vacant land [on a campus of] owned or leased by a state
13 university campus, community college [or], city university campus, or by
14 any affiliate of a state university, community college or city universi-
15 ty;

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

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

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

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

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

5 (i) a state university campus other than the following: (A) any empire
6 state college campus except for the empire state college campus in Sara-
7 toga Springs[,] and (B) [any property of downstate medical center
8 located in Nassau county, Suffolk county, Westchester county or New York
9 city except for property affiliated with downstate medical center that
10 constitutes a New York state incubator as the term is used in subdivi-
11 sion four of section four hundred thirty-three of this article, and (C)]
12 any property of the college of optometry or maritime college located in
13 Nassau county, Suffolk county, Westchester county or New York city.

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

18 (iii) a total of five city university campuses, one each in the
19 boroughs of Manhattan, Brooklyn, Bronx, Queens and Staten Island, which
20 will be designated by the board of trustees of the city university of
21 New York. The campus designated in each borough must be located in an
22 economically distressed community. The commissioner shall establish a
23 list of economically distressed communities for the purpose of this
24 designation, based on criteria indicative of economic distress, includ-
25 ing poverty rates, numbers of persons receiving public assistance, unem-
26 ployment rates, and such other indicators as the commissioner deems
27 appropriate to be in need of economic assistance. In addition, para-
28 graphs (a) and (b) of this subdivision shall apply to property of the
29 city university located outside of Nassau county, Suffolk county, West-
30 chester county and New York city.

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

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

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

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

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

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

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

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

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

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

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

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

31 (iv) a city university campus that is not designated under subpara-
32 graph (iii) of paragraph (c) of subdivision one of this section.

33 (d) In addition, the board may approve: (i) one application that
34 includes eligible land owned or leased by a city university campus that
35 is directly adjacent to such campus; (ii) one application that includes
36 eligible land owned or leased by a state university campus, community
37 college, or private university or college in Nassau county or Suffolk
38 county that is directly adjacent to such campus, university or college;
39 and (iii) one application that includes eligible land owned or leased by
40 a state university campus, community college, or private university or
41 college in Westchester county that is directly adjacent to such campus,
42 university or college. The board may approve an additional application,
43 for a state university campus, community college, or private university
44 or college in the county not previously approved under subparagraph (ii)
45 of this paragraph, in which case it shall also approve a second applica-
46 tion under subparagraph (i) of this paragraph.

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

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

14 § 6. Section 433 of the economic development law, as added by section
15 1 of part A of chapter 68 of the laws of 2013, is amended to read as
16 follows:

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

20 (a) The mission and activities of the business must align with or
21 further the academic mission of the campus, college or university spon-
22 soring the tax-free NY area in which it seeks to locate, and the busi-
23 ness's participation in the [START-UP NY] excelsior business program
24 must have positive community and economic benefits.

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

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

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

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

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

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

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

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

28 2. The following types of businesses, as determined by the commission-
29 er based upon the proposed predominant activity of each business apply-
30 ing to participate in the excelsior business program, are prohibited
31 from participating in the [START-UP NY] excelsior business program.

32 (a) retail and wholesale businesses;
33 (b) restaurants;
34 (c) real estate brokers;
35 (d) law firms;
36 (e) medical or dental practices;
37 (f) real estate management companies;
38 (g) hospitality;
39 (h) finance and financial services;
40 (i) businesses providing personal services;
41 (j) businesses providing business administrative or support services,
42 unless such business has received permission from the commissioner to
43 apply to participate in the [START-UP NY] excelsior business program
44 upon demonstration that the business would create no fewer than one
45 hundred net new jobs in the tax-free NY area;
46 (k) accounting firms;
47 (l) businesses providing utilities; and
48 (m) businesses engaged in the generation or distribution of electric-
49 ity, the distribution of natural gas, or the production of steam associ-
50 ated with the generation of electricity.

51 [2-a. Additional eligibility requirements in Nassau county, Suffolk
52 county, Westchester county and New York city. In order to be eligible to
53 participate in the START-UP NY program in Nassau county, Suffolk county,
54 Westchester county or New York city, a business must be:

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

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

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

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

17 § 7. Section 434 of the economic development law, as added by section
18 1 of part A of chapter 68 of the laws of 2013, is amended to read as
19 follows:

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

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

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

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

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

17 1. The president or chief executive officer of any state university
18 campus, community college or city university campus seeking to sponsor a
19 tax-free NY area and have some of its eligible land specified under
20 subdivision one of section four hundred thirty-two of this article be
21 designated as a tax-free NY area must submit a plan to the commissioner
22 that specifies the land or space the campus or college wants to include,
23 describes the type of business or businesses that may locate on that
24 land or in that space, explains how those types of businesses align with
25 or further the academic mission of the campus or college and how partic-
26 ipation by those types of businesses in the [START-UP NY] excelsior
27 business program would have positive community and economic benefits,
28 and describes the process the campus or college will follow to select
29 participating businesses. At least thirty days prior to submitting such
30 plan, the campus or college must provide the municipality or municipi-
31 palities in which the proposed tax-free NY area is located, local
32 economic development entities, the applicable campus or college faculty
33 senate, union representatives and the campus student government with a
34 copy of the plan. In addition, if the plan of the campus or college
35 includes land or space located outside of the campus boundaries, the
36 campus or college must consult with the municipality or municipalities
37 in which such land or space is located prior to including such space or
38 land in its proposed tax-free NY area and shall give preference to unde-
39 rutilized properties. Before approving or rejecting the plan submitted
40 by a state university campus, community college or city university
41 campus, the commissioner shall consult with the chancellor of the appli-
42 cable university system or his or her designee.

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

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

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

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

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

6 § 9. Section 436 of the economic development law, as added by section
7 1 of part A of chapter 68 of the laws of 2013, is amended to read as
8 follows:

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

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

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

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

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

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

31 3. The business submitting the application, as part of the applica-
32 tion, must:

33 (a) agree to allow the department of taxation and finance to share its
34 tax information with the department and the sponsoring campus, universi-
35 ty or college;

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

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

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



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

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

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

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

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

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

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

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

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

53 6. Any business approved to participate in the excelsior business
54 program that experiences a significant change in organizational struc-
55 ture shall apply to the commissioner to remain eligible to participate
56 in the excelsior business program. The commissioner may approve the

1 continued participation of such business in the excelsior business
2 program if the significant change in organizational structure does not
3 substantially modify the conditions of such business' participation
4 based upon factors set forth by the commissioner in regulations includ-
5 ing, but not limited to, the affiliation of the business with the spon-
6 soring college or university, the activity to be conducted in the tax-
7 free NY area subsequent to the significant change in organizational
8 structure, and any economic impact resulting from the significant change
9 in organizational structure. The commissioner may terminate the partic-
10 ipation of the business in the excelsior business program in the event
11 that the commissioner determines that the significant change in organ-
12 izational structure of the business will substantially modify the condi-
13 tions of the business' participation in the excelsior business program.
14 Approval by the commissioner of the continued participation of a busi-
15 ness in the excelsior business program subsequent to a significant
16 change in organizational structure shall not affect the period for which
17 the business may claim benefits pursuant to section four hundred thir-
18 ty-four of this article.

19 § 10. Section 438 of the economic development law, as added by section
20 1 of part A of chapter 68 of the laws of 2013, is amended to read as
21 follows:

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

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

40 (b)] Any business located in a tax-free NY area must submit an annual
41 report to the commissioner in a form and at such time and with such
42 information as prescribed by the commissioner in consultation with the
43 commissioner of taxation and finance. Such information shall be suffi-
44 cient for the commissioner and the commissioner of taxation and finance
45 to: (i) monitor the continued eligibility of the business and its
46 employees to participate in the [START-UP NY] excelsior business program
47 and receive the tax benefits described in section thirty-nine of the tax
48 law and section three hundred fifty-five of this chapter; and (ii) eval-
49 uate the progress of the [START-UP NY] excelsior business program[; and
50 (iii) prepare the annual report required by paragraph (a) of this subdivi-
51 sion. Such annual report shall also include information regarding the
52 wages paid during the year to its employees employed in the net new jobs
53 created and maintained in the tax-free NY area].

54 § 11. Subdivision 2 of section 358 of the economic development law, as
55 added by section 1 of part MM of chapter 59 of the laws of 2010, is
56 amended to read as follows:

1 2. The commissioner shall prepare a report on [a quarterly] an annual
2 basis [a program report for posting on the department's website. The
3 first report will be due June thirtieth, two thousand eleven, and every
4 three months thereafter. Such report shall include, but not be limited
5 to, the following: number of applicants; number of participants
6 approved; names of participants; total amount of benefits certified;
7 benefits received per participant; total number of net new jobs created;
8 number of net new jobs created per participant; aggregate new investment
9 in the state; new investment per participant;] pertaining to the excels-
10 ior jobs program and excelsior business program. The report shall be
11 posted to the department's website, and shall include such [other]
12 information as the commissioner determines is appropriate to describe
13 the department's progress in promoting business growth, job creation,
14 and innovation through the incentives available under this article and
15 article twenty-one of this chapter.

16 § 12. Section 439 of the economic development law, as added by section
17 1 of part A of chapter 68 of the laws of 2013, is amended to read as
18 follows:

19 § 439. Conflict of interest guidelines. 1. Each campus, university or
20 college participating in the [START-UP NY] excelsior business program
21 shall adopt a conflict of interest policy. Such conflict of interest
22 policy shall provide, as it relates to the [START-UP NY] excelsior busi-
23 ness program: (a) as a general principle, that service as an official of
24 the campus, university or college shall not be used as a means for
25 private benefit or inurement for the official, a relative thereof, or
26 any entity in which the official, or relative thereof, has a business
27 interest; (b) no official who is a vendor or employee of a vendor of
28 goods or services to the campus, university or college, or who has a
29 business interest in such vendor, or whose relative has a business
30 interest in such vendor, shall vote on, or participate in the adminis-
31 tration by the campus, university or college, as the case may be, of any
32 transaction with such vendor; and (c) upon becoming aware of an actual
33 or potential conflict of interest, an official shall advise the presi-
34 dent or chief executive officer of the campus, university or college, as
35 the case may be, of his or her or a relative's business interest in any
36 such existing or proposed vendor with the campus, university or college.
37 Each campus, university or college shall maintain a written record of
38 all disclosures of actual or potential conflicts of interest made pursu-
39 ant to paragraph (c) of this subdivision, and shall report such disclo-
40 sures, on a calendar year basis, by January thirty-first of each year,
41 to the auditor for such campus, university or college. The auditor shall
42 forward such reports to the commissioner, who shall make public such
43 reports.

44 2. For purposes of such conflict of interest policies: (a) an official
45 of a campus, university or college has a "business interest" in an enti-
46 ty if the individual: (i) owns or controls ten percent or more of the
47 stock of the entity (or one percent in the case of an entity the stock
48 of which is regularly traded on an established securities exchange); or
49 (ii) serves as an officer, director or partner of the entity; (b) a
50 "relative" of an official of a campus, university or college shall mean
51 any person living in the same household as the individual and any person
52 who is a direct descendant of that individual's grandparents or the
53 spouse of such descendant; and (c) an "official" of a campus, university
54 or college shall mean an employee at the level of dean and above as well
55 as any other [employee] person with decision-making authority over the
56 [START-UP NY] excelsior business program.

1 § 13. Subdivisions 1, 2 and 3 of section 353 of the economic develop-
2 ment law, subdivisions 1 and 3 as amended by section 2 of part K of
3 chapter 59 of the laws of 2015, and subdivision 2 as amended by section
4 2 of part G of chapter 61 of the laws of 2011, are amended to read as
5 follows:

6 1. To be a participant in the excelsior jobs program, a business enti-
7 ty shall operate in New York state predominantly:

8 (a) as a financial services data center or a financial services back
9 office operation;

10 (b) in manufacturing;

11 (c) in software development and new media;

12 (d) in scientific research and development;

13 (e) in agriculture;

14 (f) in the creation or expansion of back office operations in the
15 state;

16 (g) in a distribution center;

17 (h) in an industry with significant potential for private-sector
18 economic growth and development in this state as established by the
19 commissioner in regulations promulgated pursuant to this article. In
20 promulgating such regulations the commissioner shall include job and
21 investment criteria;

22 (i) as an entertainment company; [or]

23 (j) in music production; or

24 (k) as a business approved to participate in the excelsior business
25 program pursuant to section four hundred thirty-six of this chapter.

26 2. When determining whether an applicant is operating predominately in
27 one of the industries listed in subdivision one of this section, the
28 commissioner will examine the nature of the business activity at the
29 location for the proposed project and will make eligibility determi-
30 nations based on such activity; provided, however, that a business
31 eligible to participate in the excelsior jobs program pursuant to para-
32 graph (k) of subdivision one of this section may engage in any eligible
33 business activity pursuant to section four hundred thirty-three of this
34 chapter.

35 3. For the purposes of this article, in order to participate in the
36 excelsior jobs program, a business entity operating predominantly in
37 manufacturing must create at least ten net new jobs; a business approved
38 to participate in the excelsior business program pursuant to section
39 four hundred thirty-six of this chapter must create at least five net
40 new jobs; a business entity operating predominately in agriculture must
41 create at least five net new jobs; a business entity operating predomi-
42 nantly as a financial service data center or financial services customer
43 back office operation must create at least fifty net new jobs; a busi-
44 ness entity operating predominantly in scientific research and develop-
45 ment must create at least five net new jobs; a business entity operating
46 predominantly in software development must create at least five net new
47 jobs; a business entity creating or expanding back office operations
48 must create at least fifty net new jobs; a business entity operating
49 predominately in music production must create at least five net new
50 jobs; a business entity operating predominantly as an entertainment
51 company must create or obtain at least one hundred net new jobs; or a
52 business entity operating predominantly as a distribution center in the
53 state must create at least seventy-five net new jobs, notwithstanding
54 subdivision five of this section; or a business entity must be a
55 regionally significant project as defined in this article[; or].

1 Twenty-five percent of tax credits shall be allocated to businesses
2 accepted into the program under subdivision four of section three
3 hundred fifty-three of this article and seventy-five percent of tax
4 credits shall be allocated to businesses accepted into the program under
5 subdivision three of section three hundred fifty-three of this article.

6 Provided, however, if by September thirtieth of a calendar year, the
7 department has not allocated the full amount of credits available in
8 that year to either: (i) businesses accepted into the program under
9 subdivision four of section three hundred fifty-three of this article or
10 (ii) businesses accepted into the program under subdivision three of
11 section three hundred fifty-three of this article, the commissioner may
12 allocate any remaining tax credits to businesses referenced in this
13 paragraph as needed; provided, however, that under no circumstances may
14 the aggregate statutory cap for all program years be exceeded. One
15 hundred percent of the unawarded amounts remaining at the end of two
16 thousand twenty-four may be allocated in subsequent years, notwithstand-
17 ing the fifty percent limitation on any amounts of tax credits not
18 awarded in taxable years two thousand eleven through two thousand twen-
19 ty-four. Provided, however, no tax credits may be allowed for taxable
20 years beginning on or after January first, two thousand [twenty-seven]
21 thirty.

22 § 16. Section 215-d of the education law, as added by section 1 of
23 part Z of chapter 56 of the laws of 2014, is amended to read as follows:

24 § 215-d. State university of New York report on economic development
25 activities. The chancellor of the state university of New York shall
26 report to the governor and to the legislature, on or before January
27 first, two thousand fifteen, on economic development activities under-
28 taken by the state university of New York. Such report shall include,
29 but not be limited to, expenditures of capital funds for economic devel-
30 opment activities received from the empire state development corpo-
31 ration, SUNY 2020 challenge grant projects, capital expenditures from
32 other sources, and activities [for the purpose of securing START-UP NY
33 approval] of campuses of the state university of New York related to the
34 excelsior business program.

35 § 17. The section heading of section 361 of the education law, as
36 added by section 21 of part A of chapter 68 of the laws of 2013, is
37 amended to read as follows:

38 [START-UP NY program leases] Excelsior business program leases.

39 § 18. Subdivision (b) of section 31 of the tax law, as amended by
40 section 3 of part O of chapter 60 of the laws of 2016, is amended to
41 read as follows:

42 (b) To be eligible for the excelsior jobs program credit, the taxpayer
43 shall have been issued a "certificate of tax credit" by the department
44 of economic development pursuant to subdivision four of section three
45 hundred fifty-four of the economic development law, which certificate
46 shall set forth the amount of each credit component that may be claimed
47 for the taxable year. A taxpayer, other than a business eligible to
48 participate in the excelsior jobs program pursuant to paragraph (k) of
49 subdivision one of section three hundred fifty-three of the economic
50 development law, may claim such credit for ten consecutive taxable years
51 commencing in the first taxable year that the taxpayer receives a
52 certificate of tax credit or the first taxable year listed on its
53 preliminary schedule of benefits, whichever is later, provided that no
54 tax credits may be allowed for taxable years beginning on or after Janu-
55 ary first, two thousand [twenty-seven] thirty. A taxpayer eligible to
56 participate in the excelsior jobs program pursuant to paragraph (k) of

1 subdivision one of section three hundred fifty-three of the economic
2 development law, may claim such credit for the period commencing in the
3 first taxable year that the taxpayer receives a certificate of tax cred-
4 it or the first taxable year listed on its preliminary schedule of bene-
5 fits, whichever is later, and ending in the last taxable year under
6 which the business is entitled to receive benefits pursuant to section
7 thirty-nine of this article, provided that no tax credits may be allowed
8 for taxable years beginning on or after January first, two thousand
9 thirty. The taxpayer shall be allowed to claim only the amount listed on
10 the certificate of tax credit for that taxable year. Such certificate
11 must be attached to the taxpayer's return. No cost or expense paid or
12 incurred by the taxpayer shall be the basis for more than one component
13 of this credit or any other tax credit, except as provided in section
14 three hundred fifty-five of the economic development law.

15 § 19. Paragraph 1 of subdivision (a) of section 39 of the tax law, as
16 added by section 2 of part A of chapter 68 of the laws of 2013, is
17 amended to read as follows:

18 (1) Any business or owner of a business in the case of a business
19 taxed as a sole proprietorship, partnership or New York S corporation,
20 that is approved to locate and is located in a tax-free NY area approved
21 pursuant to article twenty-one of the economic development law is eligi-
22 ble for the tax benefits described in this section. Unless otherwise
23 specified, such business or owner of such business shall be eligible for
24 these tax benefits for a period of ten consecutive taxable years,
25 commencing with the taxable year during which it locates in [the] a
26 tax-free NY area for the first time.

27 § 20. Subdivisions (a), (c-1), (d), (f), (g), (i), (j) and (k) and
28 paragraph (A) of subdivision (h) of section 39 of the tax law, subdivi-
29 sions (a), (d), (f), (g), (i), (j) and (k) and paragraph (A) of subdivi-
30 sion (h) as added by section 2 of part A of chapter 68 of the laws of
31 2013, subdivision (c-1) as added by section 1 of part T of chapter 59 of
32 the laws of 2014, paragraph (4) of subdivision (k) as amended by section
33 53 of part A of chapter 59 of the laws of 2014 and paragraph 6 of subdivi-
34 sion (k) as amended by section 2-a of part T of chapter 59 of the laws
35 of 2014, are amended to read as follows:

36 (a) (1) Any business or owner of a business in the case of a business
37 taxed as a sole proprietorship, partnership or New York S corporation,
38 that is approved to locate and is located in a tax-free NY area approved
39 pursuant to article twenty-one of the economic development law is eligi-
40 ble for the tax benefits described in this section. Unless otherwise
41 specified, such business or owner of such business shall be eligible for
42 these tax benefits for a period of ten consecutive taxable years,
43 commencing with the taxable year during which it locates in [the] a
44 tax-free NY area for the first time.

45 (2) In order to be eligible for these tax benefits during any taxable
46 year, calendar quarter or sales tax quarter, such business must be
47 approved to participate in the [START-UP NY] excelsior business program,
48 must operate at the approved location in the tax-free NY area, and must
49 satisfy the eligibility criteria specified in paragraph (b) of subdivi-
50 sion one of section four hundred thirty-three of the economic develop-
51 ment law.

52 (c-1) Excise tax on telecommunication services. Such business or owner
53 of a business shall be eligible for a credit of the excise tax on tele-
54 communication services imposed by section one hundred eighty-six-e of
55 this chapter that is passed through to such business, pursuant to the
56 provisions referenced in subdivision [(k)] (j) of this section.

1 (d) Metropolitan commuter transportation district mobility tax. If the
2 tax-free NY area at which such business is located is within the metro-
3 politan commuter transportation district (MCTD), and such business is an
4 employer engaged in business within the MCTD, the payroll expense of
5 such business at such location within the tax-free NY area shall be
6 exempt from the metropolitan commuter transportation district mobility
7 tax imposed under article twenty-three of this chapter for forty consec-
8 utive calendar quarters, commencing with the calendar quarter during
9 which the employer locates in the tax-free NY area within the MCTD.
10 Provided, however, if such business located in a tax-free NY area
11 outside the MCTD prior to locating in a tax-free NY area within the
12 MCTD, its benefit period within the MCTD may consist of less than forty
13 consecutive calendar quarters and shall be deemed to commence in the
14 calendar quarter such business first located in a tax-free NY area. If
15 the tax-free NY area at which such business is located is within the
16 MCTD and the owner of such business is an individual who has net earn-
17 ings from self-employment at such location, such net earnings shall be
18 exempt from the metropolitan commuter transportation district mobility
19 tax imposed under article twenty-three of this chapter for ten consec-
20 utive taxable years commencing with the taxable year during which the
21 business locates in the tax-free NY area. Provided, however, if such
22 business located in a tax-free NY area outside the MCTD prior to locat-
23 ing in a tax-free NY area within the MCTD, the benefit period for the
24 owner of such business within the MCTD may consist of less than ten
25 taxable years and shall be deemed to commence in the taxable year in
26 which such business first located in a tax-free NY area.

27 (f) Sales and use tax. Such business shall be eligible for a credit or
28 refund for sales and use taxes imposed on the retail sale of tangible
29 personal property or services under subdivisions (a), (b), and (c) of
30 section eleven hundred five and section eleven hundred ten of this chap-
31 ter and similar taxes imposed pursuant to the authority of article twen-
32 ty-nine of this chapter. The credit or refund shall be allowed for one
33 hundred twenty consecutive months beginning with the earlier of the
34 month during which such business locates in [the] a tax-free NY area for
35 the first time or the month in which such business is approved to locate
36 in a tax-free NY area for the first time.

37 (g) Real estate transfer taxes. Any lease of property to such business
38 shall be exempt from any state or local real estate transfer tax or real
39 property transfer tax. Such exemption shall be available for a period of
40 ten consecutive years commencing on the date that such business is
41 approved for the first time to locate in a tax-free NY area.

42 (A) Notwithstanding any provision of this chapter to the contrary, the
43 commissioner, to the extent practicable, may disclose publicly the names
44 and addresses of the businesses receiving any of the tax benefits speci-
45 fied in this section. In addition, the commissioner may disclose public-
46 ly the amounts of such benefits allowed to each such business, and
47 whether or not a business created or maintained net new jobs during the
48 taxable year. With regard to the income tax exemption specified in
49 subdivision (e) of this section, the commissioner may publicly disclose
50 the aggregate amounts of such tax exemption allowed to employees. In
51 addition, the commissioner may publicly disclose the number of net new
52 jobs such business reports on its tax return or report or any other
53 information necessary for the commissioner of economic development or
54 the campus, college or university sponsoring the tax-free NY area
55 approved pursuant to article twenty-one of the economic development law

1 to monitor and enforce compliance with the law, rules and regulations
2 governing the [START-UP NY] excelsior business program.

3 (i) Such business shall not be allowed to claim any other tax credit
4 allowed under this chapter with respect to its activities or employees
5 in such tax-free NY area, except that such business may be eligible to
6 claim the excelsior jobs program credit components specified in subdivi-
7 sion (a) of section thirty-one of this article, provided that such busi-
8 ness satisfies the eligibility criteria enumerated in section three
9 hundred fifty-three of the economic development law and is issued a
10 certificate of tax credit by the department of economic development
11 pursuant to subdivision four of section three hundred fifty-four of the
12 economic development law.

13 (j) [If the application of a business for participation in the START-
14 UP NY program specifies that failure to meet the performance benchmarks
15 specified in such application shall result in proportional recovery of
16 tax benefits awarded under the START-UP NY program, the business shall
17 be required to reduce the total amount of tax benefits described in this
18 section that the business or its owners claimed or received during the
19 taxable year by the percentage reduction in net new jobs promised by the
20 performance benchmarks, and if the tax benefits are reduced to an amount
21 less than zero, those negative amounts shall be added back as tax. The
22 amount required to be added back shall be reported on such business's
23 corporate franchise tax report if such business is taxed as a corpo-
24 ration or on the corporate franchise tax reports or personal income tax
25 returns of the owners of such business if such business is taxed as a
26 sole proprietorship, partnership or New York S corporation.

27 (k) Cross-references. For application of the tax benefits provided
28 for in this section, see the following provisions of this chapter:

29 (1) Section 40.

30 (4) Article 9-A: section 210-B, subdivision 41 and subdivision 44.

31 (5) Article 22: section 606, subsection (i), paragraph (1), subpara-
32 graph (B), clause (xxxvi).

33 (6) Article 22: section 606, subsection (ww) and subsection (yy).

34 (7) Article 22: section 612, subsection (c), paragraph (40).

35 (8) Article 23: section 803.

36 (9) Article 28: section 1119, subdivision (d).

37 (10) Article 31: section 1405, subdivision (b), paragraph 11.

38 § 21. Section 39-a of the tax law, as added by section 3 of part A of
39 chapter 68 of the laws of 2013, is amended to read as follows:

40 § 39-a. Penalties for fraud in the [START-UP NY] excelsior business
41 program. If the commissioner of economic development on his or her own
42 initiative or on the recommendation of a sponsoring campus, university
43 or college finally determines that any such business participating in
44 the [START-UP NY] excelsior business program authorized under article
45 twenty-one of the economic development law has acted fraudulently in
46 connection with its participation in such program, such business:

47 (a) shall be immediately terminated from such program;

48 (b) shall be subject to applicable criminal penalties, including but
49 not limited to the felony crime of offering a false instrument for
50 filing in the first degree pursuant to section 175.35 of the penal law;
51 and

52 (c) shall be required in that year to add back to tax the total value
53 of the tax benefits described in section thirty-nine of this article
54 that such business has received and that the employees of such business
55 have received up to the date of such finding. The amount required to be
56 added back shall be reported on such business's corporate franchise

1 report if such business is taxed as a corporation or on the corporate
2 franchise tax reports or personal income tax returns of the owners of
3 such business if such business is taxed as a sole proprietorship, part-
4 nership or New York S corporation.

5 § 22. Subdivisions (a) and (c) of section 40 of the tax law, as added
6 by section 4 of part A of chapter 68 of the laws of 2013, paragraph 1 of
7 subdivision (c) as amended by section 34 of part T of chapter 59 of the
8 laws of 2015, are amended to read as follows:

9 (a) Allowance of credit. A taxpayer that is a business or owner of a
10 business in the case of a business taxed as a sole proprietorship, part-
11 nership or New York S corporation, that is approved to locate and is
12 located in [a] one or more tax-free NY area or areas approved pursuant
13 to article twenty-one of the economic development law and is subject to
14 tax under article nine-A, or twenty-two of this chapter, shall be
15 allowed a credit against such tax, pursuant to the provisions referenced
16 in subdivision (e) of this section, to be computed as hereinafter
17 provided.

18 (c) Tax-free area allocation factor. The tax-free area allocation
19 factor shall be the percentage representing the business's economic
20 presence in the tax-free NY area or areas in which the business was
21 approved to locate pursuant to article twenty-one of the economic devel-
22 opment law. This percentage shall be computed by:

23 (1) ascertaining the percentage that the average value of the busi-
24 ness's real and tangible personal property, whether owned or rented to
25 it, in the tax-free NY [area] areas in which the business was [located]
26 approved to locate during the period covered by the taxpayer's report or
27 return bears to the average value of the business's real and tangible
28 personal property, whether owned or rented to it, within the state
29 during such period; provided that the term "value of the business's real
30 and tangible personal property" shall have the same meaning as such term
31 has in paragraph (a) of subdivision two of section two hundred nine-B of
32 this chapter; and

33 (2) ascertaining the percentage that the total wages, salaries and
34 other personal service compensation, similarly computed, during such
35 period of employees, except general executive officers, employed at each
36 of the business's [location] locations in the tax-free NY [area] areas
37 in which it was approved to locate, bears to the total wages, salaries
38 and other personal service compensation, similarly computed, during such
39 period, of all the business's employees within the state, except general
40 executive officers; and

41 (3) adding together the percentages so determined and dividing the
42 result by two.

43 For purposes of article twenty-two of this chapter, references in this
44 subdivision to property, wages, salaries and other personal service
45 compensation shall be deemed to be references to such items connected
46 with the conduct of a business.

47 § 23. Subdivision (d) of section 40 of the tax law, as added by
48 section 4 of part A of chapter 68 of the laws of 2013, clause (ii) of
49 subparagraph (B) of paragraph 2 as amended by section 35, subparagraph
50 (C) of paragraph 2 as amended by section 36, and subparagraph (B) of
51 paragraph 3 as amended by section 37 of part T of chapter 59 of the laws
52 of 2015, is amended to read as follows:

53 (d) Tax factor. (1) General. The tax factor shall be, in the case of
54 article nine-A of this chapter, the largest of the amounts of tax deter-
55 mined for the taxable year under paragraphs (a) through (d) of subdivi-
56 sion one of section two hundred ten of such article after the deduction

1 of any other credits allowable under such article, other than the
2 excelsior jobs program credits allowed under subdivision thirty-one of
3 section two hundred ten-B. The tax factor shall be, in the case of
4 article twenty-two of this chapter, the tax determined for the taxable
5 year under subsections (a) through (d) of section six hundred one of
6 such article after the deduction of any other credits allowable under
7 such article, other than the excelsior jobs program credits allowed
8 under subsection (qq) of section six hundred six of this chapter.

9 (2) Sole proprietors, partners and S corporation shareholders. (A)
10 Where the taxpayer is a sole proprietor of a business located in [a] one
11 or more tax-free NY [area] areas, the taxpayer's tax factor shall be
12 that portion of the amount determined in paragraph one of this subdivi-
13 sion that is attributable to the income of the business at its location
14 in the tax-free NY [area] areas in which it was approved to locate. Such
15 attribution shall be made in accordance with the ratio of the taxpayer's
16 income from such business allocated within the state, entering into New
17 York adjusted gross income, to the taxpayer's New York adjusted gross
18 income, or in accordance with such other methods as the commissioner may
19 prescribe as providing an apportionment that reasonably reflects the
20 portion of the taxpayer's tax attributable to the income of such busi-
21 ness. In no event may the ratio so determined exceed 1.0. The income
22 from such business allocated within the state shall be determined as if
23 the sole proprietor was a non-resident.

24 (B) (i) Where the taxpayer is a member of a partnership that is a busi-
25 ness located in [a] one or more tax-free NY [area] areas, the taxpayer's
26 tax factor shall be that portion of the amount determined in paragraph
27 one of this subdivision that is attributable to the income of the part-
28 nership. Such attribution shall be made in accordance with the ratio of
29 the partner's income from the partnership allocated within the state to
30 the partner's entire income, or in accordance with such other methods as
31 the commissioner may prescribe as providing an apportionment that
32 reasonably reflects the portion of the partner's tax attributable to the
33 income of the partnership. In no event may the ratio so determined
34 exceed 1.0. The income from the partnership allocated within the state
35 shall be determined as if any of the partners was a non-resident.

36 (ii) For purposes of article nine-A of this chapter, the term "part-
37 ner's income from the partnership" means partnership items of income,
38 gain, loss and deduction, and New York modifications thereto, entering
39 into business income and the term "partner's entire income" means busi-
40 ness income, allocated within the state. For purposes of article twen-
41 ty-two of this chapter, the term "partner's income from the partnership"
42 means partnership items of income, gain, loss and deduction, and New
43 York modifications thereto, entering into New York adjusted gross
44 income, and the term "partner's entire income" means New York adjusted
45 gross income.

46 (C) (i) Where the taxpayer is a shareholder of a New York S corpo-
47 ration that is a business located in [a] one or more tax-free NY [area]
48 areas, the shareholder's tax factor shall be that portion of the amount
49 determined in paragraph one of this subdivision that is attributable to
50 the income of the S corporation. Such attribution shall be made in
51 accordance with the ratio of the shareholder's income from the S corpo-
52 ration allocated within the state, entering into New York adjusted gross
53 income, to the shareholder's New York adjusted gross income, or in
54 accordance with such other methods as the commissioner may prescribe as
55 providing an apportionment that reasonably reflects the portion of the
56 shareholder's tax attributable to the income of such business. The

1 income of the S corporation allocated within the state shall be deter-
2 mined by multiplying the income of the S corporation by a business allo-
3 cation factor that shall be determined in clause (ii) of this subpara-
4 graph. In no event may the ratio so determined exceed 1.0.

5 (ii) The business allocation factor for purposes of this subparagraph
6 shall be computed by adding together the property factor specified in
7 subclause (I) of this clause, the wage factor specified in subclause
8 (II) of this clause and the apportionment factor determined under
9 section two hundred ten-A of this chapter and dividing by three.

10 (I) The property factor shall be determined by ascertaining the
11 percentage that the average value of the business's real and tangible
12 personal property, whether owned or rented to it, within the state
13 during the period covered by the taxpayer's report or return bears to
14 the average value of the business's real and tangible personal property,
15 whether owned or rented to it, within and without the state during such
16 period; provided that the term "value of the business's real and tangi-
17 ble personal property" shall have the same meaning as such term has in
18 paragraph (a) of subdivision two of section two hundred nine-B of this
19 chapter.

20 (II) The wage factor shall be determined by ascertaining the percent-
21 age that the total wages, salaries and other personal service compen-
22 sation, similarly computed, during such period of employees, except
23 general executive officers, employed at the business's location or
24 locations within the state, bears to the total wages, salaries and other
25 personal service compensation, similarly computed, during such period,
26 of all the business's employees within and without the state, except
27 general executive officers.

28 (3) Combined returns or reports. (A) Where the taxpayer is a business
29 located in [a] one or more tax-free NY [area] areas and is required or
30 permitted to make a return or report on a combined basis under article
31 nine-A of this chapter, the taxpayer's tax factor shall be the amount
32 determined in paragraph one of this subdivision that is attributable to
33 the income of such business. Such attribution shall be made in accord-
34 ance with the ratio of the business's income allocated within the state
35 to the combined group's income, or in accordance with such other methods
36 as the commissioner may prescribe as providing an apportionment that
37 reasonably reflects the portion of the combined group's tax attributable
38 to the income of such business. In no event may the ratio so determined
39 exceed 1.0.

40 (B) The term "income of the business located in [a] one or more tax-
41 free NY [area] areas" means business income calculated as if the taxpay-
42 er was filing separately and the term "combined group's income" means
43 business income as shown on the combined report, allocated within the
44 state.

45 (4) If a business is generating or receiving income from a line of
46 business or intangible property that was previously conducted, created
47 or developed by the business or a related person, as that term is
48 defined in section four hundred thirty-one of the economic development
49 law, the tax factor specified in this subdivision shall be adjusted to
50 disregard such income. However, if the income being generated or
51 received is from the expansion of a line of business or intangible prop-
52 erty that the business previously conducted, created or developed in a
53 limited, prototypical fashion, the taxpayer may request that the commis-
54 sioner exercise his or her discretion to not disregard such income.
55 Such request must be made in the manner determined by the commissioner

1 and must be made by the due date of the taxpayer's return, determined
2 with regard to extensions.

3 § 24. Subdivision (b) of section 803 of the tax law, as added by
4 section 11 of part A of chapter 68 of the laws of 2013, is amended to
5 read as follows:

6 (b) If a tax-free NY area approved pursuant to the provisions of arti-
7 cle twenty-one of the economic development law is located within the
8 MCTD, the payroll expense in such tax-free NY area of any employer that
9 is located in such area and accepted into the [START-UP NY] excelsior
10 business program shall be exempt from the tax imposed under this arti-
11 cle. In addition, the net earnings from self-employment of an individual
12 from a business in such tax-free NY area that is accepted into the
13 [START-UP NY] excelsior business program shall be exempt from the tax
14 imposed under this article.

15 § 25. Paragraph 11 of subdivision (b) of section 1405 of the tax law,
16 as added by section 13 of part A of chapter 68 of the laws of 2013, is
17 amended to read as follows:

18 11. Conveyances of real property located in tax-free NY areas approved
19 pursuant to article twenty-one of the economic development law to busi-
20 nesses located in such areas that are participating in the [START-UP NY]
21 excelsior business program pursuant to such article twenty-one.

22 § 26. Subdivision 2 of section 420-a of the real property tax law, as
23 amended by section 17 of part A of chapter 68 of the laws of 2013, is
24 amended to read as follows:

25 2. If any portion of such real property is not so used exclusively to
26 carry out thereupon one or more of such purposes but is leased or other-
27 wise used for other purposes, such portion shall be subject to taxation
28 and the remaining portion only shall be exempt; provided, however, that
29 such real property shall be fully exempt from taxation although it or a
30 portion thereof is used (a) for purposes which are exempt pursuant to
31 this section or sections four hundred twenty-b, four hundred twenty-two,
32 four hundred twenty-four, four hundred twenty-six, four hundred twenty-
33 eight, four hundred thirty or four hundred fifty of this [chapter] title
34 by another corporation which owns real property exempt from taxation
35 pursuant to such sections or whose real property if it owned any would
36 be exempt from taxation pursuant to such sections, (b) for purposes
37 which are exempt pursuant to section four hundred six or section four
38 hundred eight of this [chapter] article by a corporation which owns real
39 property exempt from taxation pursuant to such section or if it owned
40 any would be exempt from taxation pursuant to such section, (c) for
41 purposes which are exempt pursuant to section four hundred sixteen of
42 this [chapter] article by an organization which owns real property
43 exempt from taxation pursuant to such section or whose real property if
44 it owned any would be exempt from taxation pursuant to such section, (d)
45 for purposes relating to civil defense pursuant to the New York state
46 defense emergency act, including but not limited to activities in prepa-
47 ration for anticipated attack, during attack, or following attack or
48 false warning thereof, or in connection with drill or test ordered or
49 directed by civil defense authorities, or (e) for purposes of a tax-free
50 NY area that has been approved pursuant to article twenty-one of the
51 economic development law, subject to the conditions that the real prop-
52 erty must have been owned by the corporation or association organized
53 exclusively for educational purposes and exempt pursuant to this section
54 on June first, two thousand thirteen, and that the exemption shall apply
55 only to the portion of such real property that is used for purposes of
56 the [START-UP NY] excelsior business program; and provided further that

1 such real property shall be exempt from taxation only so long as it or a
2 portion thereof, as the case may be, is devoted to such exempt purposes
3 and so long as any moneys paid for such use do not exceed the amount of
4 the carrying, maintenance and depreciation charges of the property or
5 portion thereof, as the case may be.

6 § 27. This act shall take effect immediately; provided, however, that:

7 a. the amendments to paragraph (c) of subdivision 6 of section 431 of
8 the economic development law made by section three of this act shall
9 take effect on the same date and in the same manner as section 3 of part
10 S of chapter 59 of the laws of 2014, takes effect; and

11 b. the amendments to paragraphs (c), (f) and (g) of subdivision 1 of
12 section 433 of the economic development law made by section six of this
13 act shall not apply to any business approved to participate in the
14 excelsior business program prior to the effective date of this act.

15

PART Y

16 Section 1. Section 522 of the labor law, as amended by chapter 720 of
17 the laws of 1953, is amended to read as follows:

18 § 522. Total unemployment. "Total unemployment" or "totally unem-
19 ployed" means the [total] lack of any employment [on] in any [day] week.
20 The term "employment" as used in this section means any employment
21 including that not defined in this title.

22 § 2. Section 523 of the labor law, as amended by chapter 675 of the
23 laws of 1977, is amended to read as follows:

24 § 523. [Effective day. "Effective day" means a full day of total unem-
25 ployment provided such day falls within a week in which a claimant had
26 four or more days of total unemployment and provided further that only
27 those days of total unemployment in excess of three days within such
28 week are deemed "effective days". No effective day is deemed to occur in
29 a week in which the claimant has days of employment for which he is paid
30 compensation exceeding the highest benefit rate which is applicable to
31 any claimant in such week. A claimant who is employed on a shift
32 continuing through midnight is deemed to have been employed on the day
33 beginning before midnight with respect to such shift, except where night
34 shift employees are regularly scheduled to start their work week at
35 seven post meridiem or thereafter on Sunday night, their regularly sche-
36 duled starting time on Sunday shall be considered as starting on
37 Monday.] Partial unemployment. "Partial unemployment" or "partially
38 unemployed" means any week where a claimant has received remuneration in
39 an amount not more than the maximum benefit amount set forth in para-
40 graph (a) of subdivision five of section five hundred ninety of this
41 article.

42 § 3. Section 524 of the labor law, as added by chapter 5 of the laws
43 of 2000, is amended to read as follows:

44 § 524. Week of employment. For purposes of this article, "week of
45 employment" shall mean a Monday through Sunday period during which a
46 claimant was paid remuneration for employment for an employer or employ-
47 ers liable for contributions or for payments in lieu of contributions
48 under this article. A claimant who is employed on a shift continuing
49 through midnight is deemed to have been employed on the day beginning
50 before midnight with respect to such shift, except where night shift
51 employees are regularly scheduled to start their work week at seven post
52 meridiem or thereafter on Sunday night, their regularly scheduled start-
53 ing time on Sunday shall be considered as starting on Monday.

1 § 4. Subdivision 4 of section 527 of the labor law, as amended by
2 chapter 832 of the laws of 1968 and as renumbered by chapter 381 of the
3 laws of 1984, is amended to read as follows:

4 4. General condition. A valid original claim may be filed only in a
5 week in which the claimant [has at least one effective day of unemploy-
6 ment] is totally unemployed or partially unemployed as defined in this
7 article.

8 § 5. Clauses (i), (ii), (iii) and (iv) of subparagraph 2 of paragraph
9 (e) of subdivision 1 of section 581 of the labor law, as amended by
10 chapter 282 of the laws of 2002, are amended to read as follows:

11 (i) In those instances where the claimant may not utilize wages paid
12 to establish entitlement based upon subdivision ten of section five
13 hundred ninety of this article and an educational institution is the
14 claimant's last employer prior to the filing of the claim for benefits,
15 or the claimant performed services in such educational institution in
16 such capacity while employed by an educational service agency which is
17 the claimant's last employer prior to the filing of the claim for bene-
18 fits, such employer shall not be liable for benefit charges [for the
19 first twenty-eight effective days of benefits paid] in an amount equal
20 to the benefits paid for seven weeks of total unemployment as otherwise
21 provided by this section. Under such circumstances, benefits paid shall
22 be charged to the general account. In addition, wages paid during the
23 base period by such educational institutions, or for services in such
24 educational institutions for claimants employed by an educational
25 service agency shall not be considered base period wages during periods
26 that such wages may not be used to gain entitlement to benefits pursuant
27 to subdivision ten of section five hundred ninety of this article.

28 (ii) In those instances where the claimant may not utilize wages paid
29 to establish entitlement based upon subdivision eleven of section five
30 hundred ninety of this article and an educational institution is the
31 claimant's last employer prior to the filing of the claim for benefits,
32 or the claimant performed services in such educational institution in
33 such capacity while employed by an educational service agency which is
34 the claimant's last employer prior to the filing of the claim for bene-
35 fits, such employer shall not be liable for benefit charges [for the
36 first twenty-eight effective days of benefits paid] in an amount equal
37 to the benefits paid for seven weeks of total unemployment as otherwise
38 provided by this section. Under such circumstances, benefits paid will
39 be charged to the general account. In addition, wages paid during the
40 base period by such educational institutions, or for services in such
41 educational institutions for claimants employed by an educational
42 service agency shall not be considered base period wages during periods
43 that such wages may not be used to gain entitlement to benefits pursuant
44 to subdivision eleven of section five hundred ninety of this article.
45 However, in those instances where a claimant was not afforded an oppor-
46 tunity to perform services for the educational institution for the next
47 academic year or term after reasonable assurance was provided, such
48 employer shall be liable for benefit charges as provided for in this
49 paragraph for any retroactive payments made to the claimant.

50 (iii) In those instances where the federal government is the claim-
51 ant's last employer prior to the filing of the claim for benefits and
52 such employer is not a base-period employer, payments [equaling the
53 first twenty-eight effective days of benefits] in an amount equal to the
54 benefits paid for seven weeks of total unemployment as otherwise
55 prescribed by this section shall be charged to the general account. In
56 those instances where the federal government is the claimant's last

1 employer prior to the filing of the claim for benefits and a base-period
2 employer, such employer shall be liable for charges for all benefits
3 paid on such claim in the same proportion that the remuneration paid by
4 such employer during the base period bears to the remuneration paid by
5 all employers during the base period. In addition, benefit payment
6 charges for the first twenty-eight effective days of benefits other than
7 those chargeable to the federal government as prescribed above shall be
8 made to the general account.

9 (iv) In those instances where a combined wage claim is filed pursuant
10 to interstate reciprocal agreements and the claimant's last employer
11 prior to the filing of the claim is an out-of-state employer and such
12 employer is not a base-period employer, benefit payments [equaling the
13 first twenty-eight effective days of benefits] in an amount equal to the
14 benefits paid for seven weeks of total unemployment as otherwise
15 prescribed by this section shall be charged to the general account. In
16 those instances where the out-of-state employer is the last employer
17 prior to the filing of the claim for benefits and a base-period employer
18 such employer shall be liable for charges for all benefits paid on such
19 claim in the same proportion that the remuneration paid by such employer
20 during the base period bears to the remuneration paid by all employers
21 during the base period. In addition, benefit payment charges for the
22 twenty-eight effective days of benefits other than those chargeable to
23 the out-of-state employer as prescribed above shall be made to the
24 general account.

25 § 6. Subdivisions 1, 3, 4, paragraph (a) of subdivision 5 and subdivi-
26 sions 6 and 7 of section 590 of the labor law, subdivisions 1 and 3 as
27 amended by chapter 645 of the laws of 1951, subdivision 4 as amended by
28 chapter 457 of the laws of 1987, paragraph (a) of subdivision 5 as
29 amended by section 8 of part 0 of chapter 57 of the laws of 2013, subdivi-
30 sion 6 as added by chapter 720 of the laws of 1953 and as renumbered
31 by chapter 675 of the laws of 1977, and subdivision 7 as amended by
32 chapter 415 of the laws of 1983, are amended and three new paragraphs
33 (c), (d) and (e) are added to subdivision 5 to read as follows:

34 1. Entitlement to benefits. A claimant shall be entitled to [accumu-
35 late effective days for the purpose of benefit rights] the payment of
36 benefits only if he or she has complied with the provisions of this
37 article regarding the filing of his or her claim, including the filing
38 of a valid original claim, registered as totally unemployed or partially
39 unemployed, reported his or her subsequent employment and unemployment,
40 and reported for work or otherwise given notice of the continuance of
41 his or her unemployment.

42 3. Compensable periods. Benefits shall be paid for each [accumulation
43 of effective days within a] week of partial unemployment or total unem-
44 ployment.

45 4. Duration. Benefits shall not be paid for more than [one hundred and
46 four effective days] an amount exceeding twenty-six times the claimant's
47 weekly benefit rate in any benefit year, except as provided in section
48 six hundred one and subdivision two of section five hundred ninety-nine
49 of this chapter.

50 (a) A claimant's weekly benefit amount shall be one twenty-sixth of
51 the remuneration paid during the highest calendar quarter of the base
52 period by employers, liable for contributions or payments in lieu of
53 contributions under this article, provided the claimant has remuneration
54 paid in all four calendar quarters during his or her base period or
55 alternate base period. However, for any claimant who has remuneration
56 paid in all four calendar quarters during his or her base period or

1 alternate base period and whose high calendar quarter remuneration
2 during the base period is three thousand five hundred seventy-five
3 dollars or less, the benefit amount shall be one twenty-fifth of the
4 remuneration paid during the highest calendar quarter of the base period
5 by employers liable for contributions or payments in lieu of contrib-
6 utions under this article. A claimant's weekly benefit shall be one
7 twenty-sixth of the average remuneration paid in the two highest quar-
8 ters paid during the base period or alternate base period by employers
9 liable for contributions or payments in lieu of contributions under this
10 article when the claimant has remuneration paid in two or three calendar
11 quarters provided however, that a claimant whose high calendar quarter
12 is four thousand dollars or less but greater than three thousand five
13 hundred seventy-five dollars shall have a weekly benefit amount of one
14 twenty-sixth of such high calendar quarter. However, for any claimant
15 who has remuneration paid in two or three calendar quarters during his
16 or her base period or alternate base period and whose high calendar
17 quarter remuneration during the base period is three thousand five
18 hundred seventy-five dollars or less, the benefit amount shall be one
19 twenty-fifth of the remuneration paid during the highest calendar quar-
20 ter of the base period by employers liable for contributions or payments
21 in lieu of contributions under this article. Any claimant whose high
22 calendar quarter remuneration during the base period is more than three
23 thousand five hundred seventy-five dollars shall not have a weekly bene-
24 fit amount less than one hundred forty-three dollars. The weekly benefit
25 amount, so computed, that is not a multiple of one dollar shall be
26 lowered to the next multiple of one dollar. On the first Monday of
27 September, nineteen hundred ninety-eight the weekly benefit amount shall
28 not exceed three hundred sixty-five dollars nor be less than forty
29 dollars, until the first Monday of September, two thousand, at which
30 time the maximum benefit payable pursuant to this subdivision shall
31 equal one-half of the state average weekly wage for covered employment
32 as calculated by the department no sooner than July first, two thousand
33 and no later than August first, two thousand, rounded down to the lowest
34 dollar. On and after the first Monday of October, two thousand fourteen,
35 the weekly benefit shall not be less than one hundred dollars, nor shall
36 it exceed four hundred twenty dollars until the first Monday of October,
37 two thousand fifteen when the maximum benefit amount shall be four
38 hundred twenty-five dollars, until the first Monday of October, two
39 thousand sixteen when the maximum benefit amount shall be four hundred
40 thirty dollars, until the first Monday of October, two thousand seven-
41 teen when the maximum benefit amount shall be four hundred thirty-five
42 dollars, until the first Monday of October, two thousand eighteen when
43 the maximum benefit amount shall be four hundred fifty dollars, until
44 the first Monday of October, two thousand nineteen when the maximum
45 benefit amount shall be thirty-six percent of the average weekly wage
46 until the first Monday of October, two thousand twenty when the maximum
47 benefit amount shall be thirty-eight percent of the average weekly wage,
48 until the first Monday of October two thousand twenty-one when the maxi-
49 mum benefit amount shall be forty percent of the average weekly wage,
50 until the first Monday of October, two thousand twenty-two when the
51 maximum benefit amount shall be forty-two percent of the average weekly
52 wage, until the first Monday of October, two thousand twenty-three when
53 the maximum benefit amount shall be forty-four percent of the average
54 weekly wage, until the first Monday of October, two thousand twenty-four
55 when the maximum benefit amount shall be forty-six percent of the aver-
56 age weekly wage, until the first Monday of October, two thousand twen-



1 ty-five when the maximum benefit amount shall be forty-eight percent of
2 the average weekly wage, until the first Monday of October, two thousand
3 twenty-six and each year thereafter on the first Monday of October when
4 the maximum benefit amount shall be fifty percent of the average weekly
5 wage provided, however, that in no event shall the maximum benefit
6 amount be reduced from the previous year. A claimant shall receive his
7 or her full benefit rate for each week of total unemployment.

8 (c) Any claimant who is partially unemployed and eligible for benefits
9 shall be paid a benefit amount equal to the difference between the week-
10 ly benefit amount to which he or she would have been entitled, if total-
11 ly unemployed, and the amount of his or her remuneration received for
12 partial employment performed during such week, disregarding earnings
13 equal to forty percent of his or her weekly benefit amount or one
14 hundred dollars, whichever is greater. Such weekly benefit amount, so
15 computed, that is not a multiple of one dollar shall be lowered to the
16 next multiple of one dollar. Provided, however, if a claimant earns in
17 any week remuneration for partial employment in an amount greater than
18 the maximum benefit amount set forth in paragraph (a) of this subdivi-
19 sion, he or she shall not be entitled to receive benefits for such week.

20 (d) Any claimant who is partially unemployed whose employment is
21 limited to two days during any week of unemployment and whose paid or
22 payable remuneration for such week is less than the weekly maximum bene-
23 fit amount shall be paid:

24 (1) for employment limited to one day, a benefit amount equal to three
25 quarters of his or her weekly benefit amount, if that amount is greater
26 than what the claimant would have received had his or her benefit amount
27 been computed pursuant to paragraph (c) of this subdivision.

28 (2) for employment limited to two days, a benefit amount equal to
29 fifty percent of his or her weekly benefit amount, if that amount is
30 greater than what the claimant would have received had his or her bene-
31 fit amount been computed pursuant to paragraph (c) of this subdivision.

32 (e) Notwithstanding any other provision in this article, any claimant
33 who performs services as a corporate officer or on a strict commission
34 basis, or who is self-employed shall have his or her weekly benefit
35 amount reduced by twenty-five percent for each day or any portion there-
36 of exceeding three hours during which he or she performs such services
37 or is self-employed.

38 6. Notification requirement. [No effective day shall be counted for
39 any purposes except effective days as to] Benefits shall be payable only
40 for any week for which notification has been given in a manner
41 prescribed by the commissioner.

42 7. Waiting period. A claimant shall not be entitled to [accumulate
43 effective days for the purpose of] receive benefit payments until he or
44 she has [accumulated] completed a waiting period of [four effective days
45 either wholly within the] one week of total unemployment or partial
46 unemployment in which he or she established [his] a valid original claim
47 [or partly within such week and partly] within his or her benefit year
48 initiated by such claim.

49 § 7. Subdivision 1 and paragraph (a) of subdivision 6 of section 591
50 of the labor law, subdivision 1 as amended by chapter 413 of the laws of
51 2003 and paragraph (a) of subdivision 6 as added by section 13 of part 0
52 of chapter 57 of laws of 2013, are amended to read as follows:

53 1. Unemployment. Benefits, except as provided in section five hundred
54 ninety-one-a of this title, shall be paid only to a claimant who is
55 totally unemployed or partially unemployed and who is unable to engage
56 in his or her usual employment or in any other for which he or she is

1 reasonably fitted by training and experience. A claimant who is receiv-
2 ing benefits under this article shall not be denied such benefits pursu-
3 ant to this subdivision or to subdivision two of this section because of
4 such claimant's service on a grand or petit jury of any state or of the
5 United States.

6 (a) No benefits shall be payable to a claimant for any week during a
7 dismissal period for which a claimant receives dismissal pay, nor shall
8 any [day] period within such week be considered a [day] period of total
9 unemployment under section five hundred twenty-two of this article, if
10 such weekly dismissal pay exceeds the maximum weekly benefit rate.

11 § 8. Subdivision 1 of section 591 of the labor law, as amended by
12 chapter 446 of the laws of 1981, is amended to read as follows:

13 1. Unemployment. Benefits shall be paid only to a claimant who is
14 totally unemployed or partially unemployed and who is unable to engage
15 in his or her usual employment or in any other for which he or she is
16 reasonably fitted by training and experience. A claimant who is receiv-
17 ing benefits under this article shall not be denied such benefits pursu-
18 ant to this subdivision or to subdivision two of this section because of
19 such claimant's service on a grand or petit jury of any state or of the
20 United States.

21 § 9. Subdivision 2 of section 592 of the labor law, as amended by
22 chapter 415 of the laws of 1983, is amended to read as follows:

23 2. Concurrent payments prohibited. No [days of total unemployment
24 shall be deemed to occur] benefits shall be payable in any week with
25 respect to which or a part of which a claimant has received or is seek-
26 ing unemployment benefits under an unemployment compensation law of any
27 other state or of the United States, provided that this provision shall
28 not apply if the appropriate agency of such other state or of the United
29 States finally determines that he or she is not entitled to such unem-
30 ployment benefits.

31 § 10. Paragraph (a) of subdivision 1, the opening paragraph of subdivi-
32 sion 2, subdivision 3 and subdivision 4 of section 593 of the labor
33 law, paragraph (a) of subdivision 1, the opening paragraph of subdivi-
34 sion 2 and subdivision 3 as amended by section 15 of part 0 of chapter
35 57 of the laws of 2013, and subdivision 4 as amended by chapter 589 of
36 the laws of 1998, are amended to read as follows:

37 (a) No [days of total unemployment shall be deemed to occur] benefits
38 shall be payable for any week of total unemployment or partial unemploy-
39 ment that occurs after a claimant's voluntary separation without good
40 cause from employment until he or she has subsequently worked in employ-
41 ment and earned remuneration at least equal to ten times his or her
42 weekly benefit rate. In addition to other circumstances that may be
43 found to constitute good cause, including a compelling family reason as
44 set forth in paragraph (b) of this subdivision, voluntary separation
45 from employment shall not in itself disqualify a claimant if circum-
46 stances have developed in the course of such employment that would have
47 justified the claimant in refusing such employment in the first instance
48 under the terms of subdivision two of this section or if the claimant,
49 pursuant to an option provided under a collective bargaining agreement
50 or written employer plan which permits waiver of his or her right to
51 retain the employment when there is a temporary layoff because of lack
52 of work, has elected to be separated for a temporary period and the
53 employer has consented thereto.

54 No [days of total unemployment shall be deemed to occur] benefits
55 shall be payable for any week of total unemployment or partial unemploy-
56 ment beginning with the day on which a claimant, without good cause,

1 refuses to accept an offer of employment for which he or she is reason-
2 ably fitted by training and experience, including employment not subject
3 to this article, until he or she has subsequently worked in employment
4 and earned remuneration at least equal to ten times his or her weekly
5 benefit rate. Except that claimants who are not subject to a recall date
6 or who do not obtain employment through a union hiring hall and who are
7 still unemployed after receiving ten weeks of benefits shall be required
8 to accept any employment proffered that such claimants are capable of
9 performing, provided that such employment would result in a wage not
10 less than eighty percent of such claimant's high calendar quarter wages
11 received in the base period and not substantially less than the prevail-
12 ing wage for similar work in the locality as provided for in paragraph
13 (d) of this subdivision. No refusal to accept employment shall be deemed
14 without good cause nor shall it disqualify any claimant otherwise eligi-
15 ble to receive benefits if:

16 3. Misconduct. No [days of total unemployment shall be deemed to
17 occur] benefits shall be payable for any week of total unemployment or
18 partial unemployment that occurs after a claimant lost employment
19 through misconduct in connection with his or her employment until he or
20 she has subsequently worked in employment and earned remuneration at
21 least equal to ten times his or her weekly benefit rate.

22 4. Criminal acts. No [days of total unemployment shall be deemed to
23 occur during] benefits shall be payable for any week of total unemploy-
24 ment or partial unemployment for a period of twelve months after a
25 claimant loses employment as a result of an act constituting a felony in
26 connection with such employment, provided the claimant is duly convicted
27 thereof or has signed a statement admitting that he or she has committed
28 such an act. Determinations regarding a benefit claim may be reviewed
29 at any time. Any benefits paid to a claimant prior to a determination
30 that the claimant has lost employment as a result of such act shall not
31 be considered to have been accepted by the claimant in good faith. In
32 addition, remuneration paid to the claimant by the affected employer
33 prior to the claimant's loss of employment due to such criminal act may
34 not be utilized for the purpose of establishing entitlement to a subse-
35 quent, valid original claim. The provisions of this subdivision shall
36 apply even if the employment lost as a result of such act is not the
37 claimant's last employment prior to the filing of his or her claim.

38 § 11. Subdivisions 1 and 2 of section 594 of the labor law, as amended
39 by section 16 of part 0 of chapter 57 of the laws of 2013, are amended
40 to read as follows:

41 (1) A claimant who has wilfully made a false statement or represen-
42 tation to obtain any benefit under the provisions of this article shall
43 forfeit benefits [for at least the first four but not more than the
44 first eighty effective days] in an amount equal to at least the first
45 week of total unemployment, but not more than the first twenty weeks of
46 total unemployment following discovery of such offense for which he or
47 she otherwise would have been entitled to receive benefits. Such penalty
48 shall apply only once with respect to each such offense.

49 (2) For the purpose of subdivision four of section five hundred ninety
50 of this article, the claimant shall be deemed to have received benefits
51 for such forfeited [effective days] weeks.

52 § 12. Subdivisions 1 and 4 of section 596 of the labor law, subdivi-
53 sion 1 as amended by chapter 204 of the laws of 1982, and subdivision 4
54 as added by chapter 705 of the laws of 1944 and as renumbered by section
55 148-a of part B of chapter 436 of the laws of 1997 and such section as

1 renumbered by chapter 663 of the laws of 1946, are amended to read as
2 follows:

3 1. Claim filing and certification to unemployment. A claimant shall
4 file a claim for benefits [at] with the [local state employment office
5 serving the area in which he was last employed or in which he resides]
6 department's unemployment insurance division within such time and in
7 such manner as the commissioner shall prescribe. He or she shall
8 disclose whether he or she owes child support obligations, as hereafter
9 defined. If a claimant making such disclosure is eligible for benefits,
10 the commissioner shall notify the state or local child support enforce-
11 ment agency, as hereafter defined, that the claimant is eligible.

12 A claimant shall correctly report any [days of] employment and any
13 compensation [he] received for such employment, including [employments]
14 employment not subject to this article, and the days on which he or she
15 was totally unemployed or partially unemployed and shall make such
16 reports in accordance with such regulations as the commissioner shall
17 prescribe.

18 4. Registration and reporting for work. A claimant shall register as
19 totally unemployed or partially unemployed at a local state employment
20 office serving the area in which he or she was last employed or in which
21 he or she resides in accordance with such regulations as the commission-
22 er shall prescribe. After so registering, such claimant shall report for
23 work at the same local state employment office or otherwise give notice
24 of the continuance of his or her unemployment as often and in such
25 manner as the commissioner shall prescribe.

26 § 13. Paragraph (a) of subdivision 2 of section 599 of the labor law,
27 as amended by chapter 593 of the laws of 1991, is amended to read as
28 follows:

29 (a) Notwithstanding any other provision of this chapter, a claimant
30 attending an approved training course or program under this section may
31 receive additional benefits of up to [one hundred four effective days]
32 twenty-six times his or her weekly benefit amount following exhaustion
33 of regular and, if in effect, any other extended benefits, provided that
34 entitlement to a new benefit claim cannot be established. Certification
35 of continued satisfactory participation and progress in such training
36 course or program must be submitted to the commissioner prior to the
37 payment of any such benefits. The duration of such additional benefits
38 shall in no case exceed twice the number of [effective days] weeks of
39 regular benefits to which the claimant is entitled at the time the
40 claimant is accepted in, or demonstrates application for appropriate
41 training.

42 § 14. The opening paragraph and paragraph (e) of subdivision 2 of
43 section 601 of the labor law, as amended by chapter 35 of the laws of
44 2009, are amended to read as follows:

45 Extended benefits shall be payable to a claimant for [effective days
46 occurring in] any week of total unemployment or partial unemployment
47 within an eligibility period, provided the claimant

48 (e) is not claiming benefits pursuant to an interstate claim filed
49 under the interstate benefit payment plan in a state where an extended
50 benefit period is not in effect, except that this condition shall not
51 apply with respect to the first [eight effective days] two weeks of
52 total unemployment for which extended benefits shall otherwise be paya-
53 ble pursuant to an interstate claim filed under the interstate benefit
54 payment plan; and

1 § 15. Subdivisions 3 and 4 and paragraphs (b) and (e) of subdivision 5
2 of section 601 of the labor law, as amended by chapter 35 of the laws of
3 2009, are amended to read as follows:

4 3. Extended benefit amounts; rate and duration. Extended benefits
5 shall be paid to a claimant

6 (a) at a rate equal to his or her rate for regular benefits during his
7 or her applicable benefit year but

8 (b) for not more than [fifty-two effective days] thirteen weeks of
9 total unemployment or partial unemployment with respect to his or her
10 applicable benefit year, with a total maximum amount equal to fifty
11 percentum of the total maximum amount of regular benefits payable in
12 such benefit year, and

13 (c) if a claimant's benefit year ends within an extended benefit peri-
14 od, the remaining balance of extended benefits to which he or she would
15 be entitled, if any, shall be reduced by the [number of effective days]
16 weeks of total unemployment for which he or she was entitled to receive
17 trade readjustment allowances under the federal trade act of nineteen
18 hundred seventy-four during such benefit year, and

19 (d) for periods of high unemployment for not more than [eighty effec-
20 tive days] twenty weeks of total unemployment or partial unemployment
21 with respect to the applicable benefit year with a total maximum amount
22 equal to eighty percent of the total maximum amount of regular benefits
23 payable in such benefit year.

24 4. Charging of extended benefits. The provisions of paragraph (e) of
25 subdivision one of section five hundred eighty-one of this article shall
26 apply to benefits paid pursuant to the provisions of this section, and
27 if they were paid for [effective days] weeks of total unemployment
28 occurring in weeks following the end of a benefit year, they shall be
29 deemed paid with respect to that benefit year. However, except for
30 governmental entities as defined in section five hundred sixty-five and
31 Indian tribes as defined in section five hundred sixty-six of this arti-
32 cle, only one-half of the amount of such benefits shall be debited to
33 the employers' account; the remainder thereof shall be debited to the
34 general account, and such account shall be credited with the amount of
35 payments received in the fund pursuant to the provisions of the feder-
36 al-state extended unemployment compensation act. Notwithstanding the
37 foregoing, where the state has entered an extended benefit period trig-
38 gered pursuant to subparagraph one of paragraph (a) of subdivision one
39 of this section for which federal law provides for one hundred percent
40 federal sharing of the costs of benefits, all charges shall be debited
41 to the general account and such account shall be credited with the
42 amount of payments received in the fund pursuant to the provisions of
43 the federal-state extended unemployment compensation act or other feder-
44 al law providing for one hundred percent federal sharing for the cost of
45 such benefits.

46 (b) No [days of total unemployment shall be deemed to occur in] bene-
47 fits shall be payable for any week within an eligibility period during
48 which a claimant fails to accept any offer of suitable work or fails to
49 apply for suitable work to which he or she was referred by the commis-
50 sioner, who shall make such referral if such work is available, or
51 during which he or she fails to engage actively in seeking work by
52 making a systematic and sustained effort to obtain work and providing
53 tangible evidence of such effort, and until he or she has worked in
54 employment during at least four subsequent weeks and earned remuneration
55 of at least four times his or her benefit rate.

1 (e) No [days of total unemployment] benefits shall be [deemed to occur
2 in] payable for any week within an eligibility period under section five
3 hundred ninety-three of this article, until he or she has subsequently
4 worked in employment in accordance with the requirements set forth in
5 section five hundred ninety-three of this article.

6 § 16. Section 603 of the labor law, as amended by section 21 of part O
7 of chapter 57 of the laws of 2013, is amended to read as follows:

8 § 603. Definitions. For purposes of this title: "Total unemployment"
9 and "partial unemployment" shall [mean the total lack of any employment
10 on any day,] have the same meanings as defined in this article, other
11 than with an employer applying for a shared work program. "Work force"
12 shall mean the total work force, a clearly identifiable unit or units
13 thereof, or a particular shift or shifts. The work force subject to
14 reduction shall consist of no less than two employees.

15 § 17. Severability. If any amendment contained in a clause, sentence,
16 paragraph, section or part of this act shall be adjudged by the United
17 States Department of Labor to violate requirements for maintaining bene-
18 fit standards required of the state in order to be eligible for any
19 financial benefit offered through federal law or regulation, such amend-
20 ments shall be severed from this act and shall not affect, impair or
21 invalidate the remainder thereof.

22 § 18. This act shall take effect eighteen months after it shall have
23 become a law; provided, however, that effective immediately, any actions
24 necessary to be taken for the implementation of the provisions of this
25 act on its effective date, including rulemaking, are authorized and
26 directed to be completed on or before such effective date; provided,
27 further, however, that the amendments made to subdivision 1 of section
28 591 of the labor law by section seven of this act shall be subject to
29 the expiration and reversion of such subdivision pursuant to section 10
30 of chapter 413 of the laws of 2003, as amended, when upon such date the
31 provisions of section eight of this act shall take effect.

32

PART Z

33 Section 1. The state comptroller is hereby authorized and directed to
34 loan money in accordance with the provisions set forth in subdivision 5
35 of section 4 of the state finance law to the following funds and/or
36 accounts:

- 37 1. Proprietary vocational school supervision account (20452).
- 38 2. Local government records management account (20501).
- 39 3. Child health plus program account (20810).
- 40 4. EPIC premium account (20818).
- 41 5. Education - New (20901).
- 42 6. VLT - Sound basic education fund (20904).
- 43 7. Sewage treatment program management and administration fund
44 (21000).
- 45 8. Hazardous bulk storage account (21061).
- 46 9. Federal grants indirect cost recovery account (21065).
- 47 10. Low level radioactive waste account (21066).
- 48 11. Recreation account (21067).
- 49 12. Public safety recovery account (21077).
- 50 13. Environmental regulatory account (21081).
- 51 14. Natural resource account (21082).
- 52 15. Mined land reclamation program account (21084).
- 53 16. Great lakes restoration initiative account (21087).
- 54 17. Environmental protection and oil spill compensation fund (21200).

- 1 18. Public transportation systems account (21401).
- 2 19. Metropolitan mass transportation (21402).
- 3 20. Operating permit program account (21451).
- 4 21. Mobile source account (21452).
- 5 22. Statewide planning and research cooperative system account
- 6 (21902).
- 7 23. New York state thruway authority account (21905).
- 8 24. Mental hygiene program fund account (21907).
- 9 25. Mental hygiene patient income account (21909).
- 10 26. Financial control board account (21911).
- 11 27. Regulation of racing account (21912).
- 12 28. New York Metropolitan Transportation Council account (21913).
- 13 29. State university dormitory income reimbursable account (21937).
- 14 30. Criminal justice improvement account (21945).
- 15 31. Environmental laboratory reference fee account (21959).
- 16 32. Clinical laboratory reference system assessment account (21962).
- 17 33. Indirect cost recovery account (21978).
- 18 34. High school equivalency program account (21979).
- 19 35. Multi-agency training account (21989).
- 20 36. Interstate reciprocity for post-secondary distance education
- 21 account (23800).
- 22 37. Bell jar collection account (22003).
- 23 38. Industry and utility service account (22004).
- 24 39. Real property disposition account (22006).
- 25 40. Parking account (22007).
- 26 41. Asbestos safety training program account (22009).
- 27 42. Batavia school for the blind account (22032).
- 28 43. Investment services account (22034).
- 29 44. Surplus property account (22036).
- 30 45. Financial oversight account (22039).
- 31 46. Regulation of Indian gaming account (22046).
- 32 47. Rome school for the deaf account (22053).
- 33 48. Seized assets account (22054).
- 34 49. Administrative adjudication account (22055).
- 35 50. Federal salary sharing account (22056).
- 36 51. New York City assessment account (22062).
- 37 52. Cultural education account (22063).
- 38 53. Local services account (22078).
- 39 54. DHCR mortgage servicing account (22085).
- 40 55. Department of motor vehicles compulsory insurance account (22087).
- 41 56. Housing indirect cost recovery account (22090).
- 42 57. DHCR-HCA application fee account (22100).
- 43 58. Low income housing monitoring account (22130).
- 44 59. Corporation administration account (22135).
- 45 60. Montrose veteran's home account (22144).
- 46 61. Deferred compensation administration account (22151).
- 47 62. Rent revenue other New York City account (22156).
- 48 63. Rent revenue account (22158).
- 49 64. Tax revenue arrearage account (22168).
- 50 65. State university general income offset account (22654).
- 51 66. Lake George park trust fund account (22751).
- 52 67. State police motor vehicle law enforcement account (22802).
- 53 68. Highway safety program account (23001).
- 54 69. DOH drinking water program account (23102).
- 55 70. NYCCC operating offset account (23151).
- 56 71. Commercial gaming revenue account (23701).



- 1 72. Commercial gaming regulation account (23702).
- 2 73. Highway use tax administration account (23801).
- 3 74. Highway and bridge capital account (30051).
- 4 75. Aviation purpose account (30053).
- 5 76. State university residence hall rehabilitation fund (30100).
- 6 77. State parks infrastructure account (30351).
- 7 78. Clean water/clean air implementation fund (30500).
- 8 79. Hazardous waste remedial cleanup account (31506).
- 9 80. Youth facilities improvement account (31701).
- 10 81. Housing assistance fund (31800).
- 11 82. Housing program fund (31850).
- 12 83. Highway facility purpose account (31951).
- 13 84. Information technology capital financing account (32215).
- 14 85. New York racing account (32213).
- 15 86. Capital miscellaneous gifts account (32214).
- 16 87. New York environmental protection and spill remediation account.
- 17 88. Mental hygiene facilities capital improvement fund (32300).
- 18 89. Correctional facilities capital improvement fund (32350).
- 19 90. New York State Storm Recovery Capital Fund (33000).
- 20 91. OGS convention center account (50318).
- 21 92. Empire Plaza Gift Shop (50327).
- 22 93. Centralized services fund (55000).
- 23 94. Archives records management account (55052).
- 24 95. Federal single audit account (55053).
- 25 96. Civil service EHS occupational health program account (55056).
- 26 97. Banking services account (55057).
- 27 98. Cultural resources survey account (55058).
- 28 99. Neighborhood work project account (55059).
- 29 100. Automation & printing chargeback account (55060).
- 30 101. OFT NYT account (55061).
- 31 102. Data center account (55062).
- 32 103. Intrusion detection account (55066).
- 33 104. Domestic violence grant account (55067).
- 34 105. Centralized technology services account (55069).
- 35 106. Labor contact center account (55071).
- 36 107. Human services contact center account (55072).
- 37 108. Tax contact center account (55073).
- 38 109. Executive direction internal audit account (55251).
- 39 110. CIO Information technology centralized services account (55252).
- 40 111. Health insurance internal service account (55300).
- 41 112. Civil service employee benefits division administrative account
- 42 (55301).
- 43 113. Correctional industries revolving fund (55350).
- 44 114. Employees health insurance account (60201).
- 45 115. Medicaid management information system escrow fund (60900).
- 46 § 1-a. The state comptroller is hereby authorized and directed to loan
- 47 money in accordance with the provisions set forth in subdivision 5 of
- 48 section 4 of the state finance law to any account within the following
- 49 federal funds, provided the comptroller has made a determination that
- 50 sufficient federal grant award authority is available to reimburse such
- 51 loans:
- 52 1. Federal USDA-food and nutrition services fund (25000).
- 53 2. Federal health and human services fund (25100).
- 54 3. Federal education fund (25200).
- 55 4. Federal block grant fund (25250).
- 56 5. Federal miscellaneous operating grants fund (25300).

- 1 6. Federal unemployment insurance administration fund (25900).
- 2 7. Federal unemployment insurance occupational training fund (25950).
- 3 8. Federal emergency employment act fund (26000).
- 4 9. Federal capital projects fund (31350).

5 § 2. Notwithstanding any law to the contrary, and in accordance with
6 section 4 of the state finance law, the comptroller is hereby authorized
7 and directed to transfer, upon request of the director of the budget, on
8 or before March 31, 2018, up to the unencumbered balance or the follow-
9 ing amounts:

10 Economic Development and Public Authorities:

11 1. \$175,000 from the miscellaneous special revenue fund, underground
12 facilities safety training account (22172), to the general fund.

13 2. An amount up to the unencumbered balance from the miscellaneous
14 special revenue fund, business and licensing services account (21977),
15 to the general fund.

16 3. \$14,810,000 from the miscellaneous special revenue fund, code
17 enforcement account (21904), to the general fund.

18 4. \$3,000,000 from the general fund to the miscellaneous special
19 revenue fund, tax revenue arrearage account (22168).

20 Education:

21 1. \$2,394,714,000 from the general fund to the state lottery fund,
22 education account (20901), as reimbursement for disbursements made from
23 such fund for supplemental aid to education pursuant to section 92-c of
24 the state finance law that are in excess of the amounts deposited in
25 such fund for such purposes pursuant to section 1612 of the tax law.

26 2. \$966,634,000 from the general fund to the state lottery fund, VLT
27 education account (20904), as reimbursement for disbursements made from
28 such fund for supplemental aid to education pursuant to section 92-c of
29 the state finance law that are in excess of the amounts deposited in
30 such fund for such purposes pursuant to section 1612 of the tax law.

31 3. Moneys from the state lottery fund (20900) up to an amount deposit-
32 ed in such fund pursuant to section 1612 of the tax law in excess of the
33 current year appropriation for supplemental aid to education pursuant to
34 section 92-c of the state finance law.

35 4. \$300,000 from the New York state local government records manage-
36 ment improvement fund, local government records management account
37 (20501), to the New York state archives partnership trust fund, archives
38 partnership trust maintenance account (20351).

39 5. \$900,000 from the general fund to the miscellaneous special revenue
40 fund, Batavia school for the blind account (22032).

41 6. \$900,000 from the general fund to the miscellaneous special revenue
42 fund, Rome school for the deaf account (22053).

43 7. \$343,400,000 from the state university dormitory income fund
44 (40350) to the miscellaneous special revenue fund, state university
45 dormitory income reimbursable account (21937).

46 8. \$20,000,000 from any of the state education department special
47 revenue and internal service funds to the miscellaneous special revenue
48 fund, indirect cost recovery account (21978).

49 9. \$8,318,000 from the general fund to the state university income
50 fund, state university income offset account (22654), for the state's
51 share of repayment of the STIP loan.

52 10. \$40,000,000 from the state university income fund, state universi-
53 ty hospitals income reimbursable account (22656) to the general fund for
54 hospital debt service for the period April 1, 2017 through March 31,
55 2018.

1 11. An amount up to \$13,540,000 from the general fund to the state
2 university income fund, state university general revenue account
3 (22653).

4 Environmental Affairs:

5 1. \$9,000,000 from any of the department of environmental conserva-
6 tion's special revenue federal funds to the environmental conservation
7 special revenue fund, federal indirect recovery account (21065).

8 2. \$2,000,000 from any of the department of environmental conserva-
9 tion's special revenue federal funds to the conservation fund (21150) as
10 necessary to avoid diversion of conservation funds.

11 3. \$3,000,000 from any of the office of parks, recreation and historic
12 preservation capital projects federal funds and special revenue federal
13 funds to the miscellaneous special revenue fund, federal grant indirect
14 cost recovery account (22188).

15 4. \$1,000,000 from any of the office of parks, recreation and historic
16 preservation special revenue federal funds to the miscellaneous special
17 revenue fund, I love NY water account (21930).

18 5. \$28,000,000 from the general fund to the environmental protection
19 fund, environmental protection fund transfer account (30451).

20 6. \$1,800,000 from the general fund to the hazardous waste remedial
21 fund, hazardous waste oversight and assistance account (31505).

22 Family Assistance:

23 1. \$7,000,000 from any of the office of children and family services,
24 office of temporary and disability assistance, or department of health
25 special revenue federal funds and the general fund, in accordance with
26 agreements with social services districts, to the miscellaneous special
27 revenue fund, office of human resources development state match account
28 (21967).

29 2. \$4,000,000 from any of the office of children and family services
30 or office of temporary and disability assistance special revenue federal
31 funds to the miscellaneous special revenue fund, family preservation and
32 support services and family violence services account (22082).

33 3. \$18,670,000 from any of the office of children and family services,
34 office of temporary and disability assistance, or department of health
35 special revenue federal funds and any other miscellaneous revenues
36 generated from the operation of office of children and family services
37 programs to the general fund.

38 4. \$140,000,000 from any of the office of temporary and disability
39 assistance or department of health special revenue funds to the general
40 fund.

41 5. \$2,500,000 from any of the office of temporary and disability
42 assistance special revenue funds to the miscellaneous special revenue
43 fund, office of temporary and disability assistance program account
44 (21980).

45 6. \$7,400,000 from any of the office of children and family services,
46 office of temporary and disability assistance, department of labor, and
47 department of health special revenue federal funds to the office of
48 children and family services miscellaneous special revenue fund, multi-
49 agency training contract account (21989).

50 7. \$65,000,000 from the miscellaneous special revenue fund, youth
51 facility per diem account (22186), to the general fund.

52 8. \$621,850 from the general fund to the combined gifts, grants, and
53 bequests fund, WB Hoyt Memorial account (20128).

54 9. \$3,100,000 from the miscellaneous special revenue fund, state
55 central registry (22028), to the general fund.

56 General Government:

- 1 1. \$1,961,000 from the miscellaneous special revenue fund, examination
2 and miscellaneous revenue account (22065) to the general fund.
- 3 2. \$8,083,000 from the general fund to the health insurance revolving
4 fund (55300).
- 5 3. \$192,400,000 from the health insurance reserve receipts fund
6 (60550) to the general fund.
- 7 4. \$150,000 from the general fund to the not-for-profit revolving loan
8 fund (20650).
- 9 5. \$150,000 from the not-for-profit revolving loan fund (20650) to the
10 general fund.
- 11 6. \$3,000,000 from the miscellaneous special revenue fund, surplus
12 property account (22036), to the general fund.
- 13 7. \$19,000,000 from the miscellaneous special revenue fund, revenue
14 arrearage account (22024), to the general fund.
- 15 8. \$1,826,000 from the miscellaneous special revenue fund, revenue
16 arrearage account (22024), to the miscellaneous special revenue fund,
17 authority budget office account (22138).
- 18 9. \$1,000,000 from the miscellaneous special revenue fund, parking
19 services account (22007), to the general fund, for the purpose of reim-
20 bursing the costs of debt service related to state parking facilities.
- 21 10. \$21,783,000 from the general fund to the centralized services
22 fund, COPS account (55013).
- 23 11. \$8,960,000 from the general fund to the agencies internal service
24 fund, central technology services account (55069), for the purpose of
25 enterprise technology projects.
- 26 12. \$15,000,000 from the miscellaneous special revenue fund, workers'
27 compensation account (21995), to the miscellaneous capital projects
28 fund, workers' compensation board IT business process design fund,
29 (32218).
- 30 Health:
- 31 1. A transfer from the general fund to the combined gifts, grants and
32 bequests fund, breast cancer research and education account (20155), up
33 to an amount equal to the monies collected and deposited into that
34 account in the previous fiscal year.
- 35 2. A transfer from the general fund to the combined gifts, grants and
36 bequests fund, prostate cancer research, detection, and education
37 account (20183), up to an amount equal to the moneys collected and
38 deposited into that account in the previous fiscal year.
- 39 3. A transfer from the general fund to the combined gifts, grants and
40 bequests fund, Alzheimer's disease research and assistance account
41 (20143), up to an amount equal to the moneys collected and deposited
42 into that account in the previous fiscal year.
- 43 4. \$30,555,000 from the HCRA resources fund (20800) to the miscella-
44 neous special revenue fund, empire state stem cell trust fund account
45 (22161).
- 46 5. \$6,000,000 from the miscellaneous special revenue fund, certificate
47 of need account (21920), to the miscellaneous capital projects fund,
48 healthcare IT capital subfund (32216).
- 49 6. \$2,000,000 from the miscellaneous special revenue fund, vital
50 health records account (22103), to the miscellaneous capital projects
51 fund, healthcare IT capital subfund (32216)
- 52 7. \$2,000,000 from the miscellaneous special revenue fund, profes-
53 sional medical conduct account (22088), to the miscellaneous capital
54 projects fund, healthcare IT capital subfund (32216).
- 55 8. \$76,021,000 from the HCRA resources fund (20800) to the capital
56 projects fund (30000).



- 1 9. \$4,540,000 from the general fund to the medical marihuana trust
2 fund, health operation and oversight account (23755).
- 3 10. \$1,086,000 from the miscellaneous special revenue fund, certif-
4 icate of need account (21920), to the general fund.
- 5 Labor:
- 6 1. \$400,000 from the miscellaneous special revenue fund, DOL fee and
7 penalty account (21923), to the child performer's protection fund, child
8 performer protection account (20401).
- 9 2. \$8,400,000 from the miscellaneous special revenue fund, DOL fee and
10 penalty account (21923), to the general fund.
- 11 3. \$3,300,000 from the unemployment insurance interest and penalty
12 fund, unemployment insurance special interest and penalty account
13 (23601), to the general fund.
- 14 Mental Hygiene:
- 15 1. \$10,000,000 from the miscellaneous special revenue fund, mental
16 hygiene patient income account (21909), to the miscellaneous special
17 revenue fund, federal salary sharing account (22056).
- 18 2. \$1,800,000,000 from the general fund to the miscellaneous special
19 revenue fund, mental hygiene patient income account (21909).
- 20 3. \$1,700,000,000 from the general fund to the miscellaneous special
21 revenue fund, mental hygiene program fund account (21907).
- 22 4. \$100,000,000 from the miscellaneous special revenue fund, mental
23 hygiene program fund account (21907), to the general fund.
- 24 5. \$100,000,000 from the miscellaneous special revenue fund, mental
25 hygiene patient income account (21909), to the general fund.
- 26 6. \$3,800,000 from the miscellaneous special revenue fund, mental
27 hygiene patient income account (21909), to the agencies internal service
28 fund, civil service EHS occupational health program account (55056).
- 29 7. \$11,500,000 from the chemical dependence service fund, substance
30 abuse services fund account (22700), to the capital projects fund
31 (30000).
- 32 8. \$3,500,000 from the chemical dependence service fund, substance
33 abuse services fund account (22700), to the mental hygiene capital
34 improvement fund (32305).
- 35 Public Protection:
- 36 1. \$1,350,000 from the miscellaneous special revenue fund, emergency
37 management account (21944), to the general fund.
- 38 2. \$2,087,000 from the general fund to the miscellaneous special
39 revenue fund, recruitment incentive account (22171).
- 40 3. \$12,000,000 from the general fund to the correctional industries
41 revolving fund, correctional industries internal service account
42 (55350).
- 43 4. \$3,000,000 from the federal miscellaneous operating grants fund,
44 DMNA damage account (25324), to the general fund.
- 45 5. \$8,600,000 from the miscellaneous special revenue fund, criminal
46 justice improvement account (21945), to the general fund.
- 47 6. \$112,420,000 from the state police motor vehicle law enforcement
48 and motor vehicle theft and insurance fraud prevention fund, state
49 police motor vehicle enforcement account (22802), to the general fund
50 for state operation expenses of the division of state police.
- 51 7. A transfer of the unencumbered balance from the miscellaneous
52 special revenue fund, seized assets account (22061), to the miscella-
53 neous special revenue fund, seized assets account (22054).
- 54 8. \$26,500,000 from the general fund to the correctional facilities
55 capital improvement fund (32350).

- 1 9. \$5,000,000 from the general fund to the dedicated highway and
2 bridge trust fund (30050) for the purpose of work zone safety activities
3 provided by the division of state police for the department of transpor-
4 tation.
- 5 10. \$5,238,000 from the miscellaneous special revenue fund, statewide
6 public safety communications account (22123), to the capital projects
7 fund (30000).
- 8 11. \$9,545,000 from the miscellaneous special revenue fund, legal
9 services assistance account (22096), to the general fund.
- 10 12. \$300,000 from the state police motor vehicle law enforcement and
11 motor vehicle theft and insurance fraud prevention fund, motor vehicle
12 theft and insurance fraud account (22801), to the general fund.
- 13 13. \$1,000,000 from the general fund to the agencies internal service
14 fund, neighborhood work project account (55059).
- 15 14. \$5,940,556 from the miscellaneous special revenue fund, finger-
16 print identification & technology account (21950), to the general fund.
- 17 15. \$4,000,000 from the state police motor vehicle law enforcement and
18 motor vehicle theft and insurance fraud prevention fund, motor vehicle
19 theft and insurance fraud account (22801), to the general fund.
- 20 16. \$50,000,000 from the miscellaneous special revenue fund, public
21 safety communications account (22123), to the general fund.
- 22 17. \$2,000,000 from the general fund to the miscellaneous special
23 revenue fund, crimes against revenue program account (22015).
- 24 Transportation:
 - 25 1. \$17,672,000 from the federal miscellaneous operating grants fund to
26 the miscellaneous special revenue fund, New York Metropolitan Transpor-
27 tation Council account (21913).
 - 28 2. \$20,147,000 from the federal capital projects fund to the miscella-
29 neous special revenue fund, New York Metropolitan Transportation Council
30 account (21913).
 - 31 3. \$15,058,017 from the general fund to the mass transportation oper-
32 ating assistance fund, public transportation systems operating assist-
33 ance account (21401), of which \$12,000,000 constitutes the base need for
34 operations.
 - 35 4. \$720,000,000 from the general fund to the dedicated highway and
36 bridge trust fund (30050).
 - 37 5. \$3,662,000 from the miscellaneous special revenue fund, accident
38 prevention course program account (22094), to the dedicated highway and
39 bridge trust fund (30050).
 - 40 6. \$3,065,000 from the miscellaneous special revenue fund, motorcycle
41 safety account (21976), to the dedicated highway and bridge trust fund
42 (30050).
 - 43 7. \$244,250,000 from the general fund to the MTA financial assistance
44 fund, mobility tax trust account (23651).
 - 45 8. \$5,000,000 from the miscellaneous special revenue fund, transporta-
46 tion regulation account (22067) to the dedicated highway and bridge
47 trust fund (30050), for disbursements made from such fund for motor
48 carrier safety that are in excess of the amounts deposited in the dedi-
49 cated highway and bridge trust fund (30050) for such purpose pursuant to
50 section 94 of the transportation law.
 - 51 9. \$114,000 from the miscellaneous special revenue fund, seized assets
52 account (21906), to the dedicated highway and bridge trust fund (30050).
 - 53 10. \$500,000 from the clean air fund, mobile source account (21452),
54 to the general fund.
 - 55 11. \$3,000,000 from the miscellaneous special revenue fund, traffic
56 adjudication account (22055), to the general fund.

1 12. \$121,548,000 from the mass transportation operating assistance
2 fund, metropolitan mass transportation operating assistance account
3 (21402), to the capital projects fund (30000).

4 Miscellaneous:

5 1. \$250,000,000 from the general fund to any funds or accounts for the
6 purpose of reimbursing certain outstanding accounts receivable balances.

7 2. \$1,000,000,000 from the general fund to the debt reduction reserve
8 fund (40000).

9 3. \$450,000,000 from the New York state storm recovery capital fund
10 (33000) to the revenue bond tax fund (40152).

11 4. \$15,500,000 from the general fund, community projects account GG
12 (10256), to the general fund, state purposes account (10050).

13 § 3. Notwithstanding any law to the contrary, and in accordance with
14 section 4 of the state finance law, the comptroller is hereby authorized
15 and directed to transfer, on or before March 31, 2018:

16 1. Upon request of the commissioner of environmental conservation, up
17 to \$11,410,000 from revenues credited to any of the department of envi-
18 ronmental conservation special revenue funds, including \$3,293,400 from
19 the environmental protection and oil spill compensation fund (21200),
20 and \$1,783,600 from the conservation fund (21150), to the environmental
21 conservation special revenue fund, indirect charges account (21060).

22 2. Upon request of the commissioner of agriculture and markets, up to
23 \$3,000,000 from any special revenue fund or enterprise fund within the
24 department of agriculture and markets to the general fund, to pay appro-
25 priate administrative expenses.

26 3. Upon request of the commissioner of agriculture and markets, up to
27 \$2,000,000 from the state exposition special fund, state fair receipts
28 account (50051) to the miscellaneous capital projects fund, state fair
29 capital improvement account (32208).

30 4. Upon request of the commissioner of the division of housing and
31 community renewal, up to \$6,221,000 from revenues credited to any divi-
32 sion of housing and community renewal federal or miscellaneous special
33 revenue fund to the miscellaneous special revenue fund, housing indirect
34 cost recovery account (22090).

35 5. Upon request of the commissioner of the division of housing and
36 community renewal, up to \$5,500,000 may be transferred from any miscel-
37 laneous special revenue fund account, to any miscellaneous special
38 revenue fund.

39 6. Upon request of the commissioner of health up to \$8,500,000 from
40 revenues credited to any of the department of health's special revenue
41 funds, to the miscellaneous special revenue fund, administration account
42 (21982).

43 § 4. On or before March 31, 2018, the comptroller is hereby authorized
44 and directed to deposit earnings that would otherwise accrue to the
45 general fund that are attributable to the operation of section 98-a of
46 the state finance law, to the agencies internal service fund, banking
47 services account (55057), for the purpose of meeting direct payments
48 from such account.

49 § 5. Notwithstanding any law to the contrary, upon the direction of
50 the director of the budget and upon requisition by the state university
51 of New York, the dormitory authority of the state of New York is
52 directed to transfer, up to \$22,000,000 in revenues generated from the
53 sale of notes or bonds, the state university income fund general revenue
54 account (22653) for reimbursement of bondable equipment for further
55 transfer to the state's general fund.

1 § 6. Notwithstanding any law to the contrary, and in accordance with
2 section 4 of the state finance law, the comptroller is hereby authorized
3 and directed to transfer, upon request of the director of the budget and
4 upon consultation with the state university chancellor or his or her
5 designee, on or before March 31, 2018, up to \$16,000,000 from the state
6 university income fund general revenue account (22653) to the state
7 general fund for debt service costs related to campus supported capital
8 project costs for the NY-SUNY 2020 challenge grant program at the
9 University at Buffalo.

10 § 7. Notwithstanding any law to the contrary, and in accordance with
11 section 4 of the state finance law, the comptroller is hereby authorized
12 and directed to transfer, upon request of the director of the budget and
13 upon consultation with the state university chancellor or his or her
14 designee, on or before March 31, 2018, up to \$6,500,000 from the state
15 university income fund general revenue account (22653) to the state
16 general fund for debt service costs related to campus supported capital
17 project costs for the NY-SUNY 2020 challenge grant program at the
18 University at Albany.

19 § 8. Notwithstanding any law to the contrary, the state university
20 chancellor or his or her designee is authorized and directed to transfer
21 estimated tuition revenue balances from the state university collection
22 fund (61000) to the state university income fund, state university
23 general revenue offset account (22655) on or before March 31, 2018.

24 § 9. Notwithstanding any law to the contrary, and in accordance with
25 section 4 of the state finance law, the comptroller is hereby authorized
26 and directed to transfer, upon request of the director of the budget, up
27 to \$69,264,000 from the general fund to the state university income
28 fund, state university hospitals income reimbursable account (22656)
29 during the period July 1, 2017 through June 30, 2018 to reflect ongoing
30 state subsidy of SUNY hospitals and to pay costs attributable to the
31 SUNY hospitals' state agency status.

32 § 10. Notwithstanding any law to the contrary, and in accordance with
33 section 4 of the state finance law, the comptroller is hereby authorized
34 and directed to transfer, upon request of the director of the budget, up
35 to \$996,778,300 from the general fund to the state university income
36 fund, state university general revenue offset account (22655) during the
37 period of July 1, 2017 through June 30, 2018 to support operations at
38 the state university.

39 § 11. Notwithstanding any law to the contrary, and in accordance with
40 section 4 of the state financial law, the comptroller is hereby author-
41 ized and directed to transfer, upon request of the director of the budg-
42 et, up to \$100,000 from the general fund to the state university income
43 fund, state university general revenue offset account (22655) during the
44 period of April 1, 2017 through June 30, 2017 to support operations at
45 the state university.

46 § 12. Notwithstanding any law to the contrary, and in accordance with
47 section 4 of the state finance law, the comptroller is hereby authorized
48 and directed to transfer, upon request of the state university chancel-
49 lor or his or her designee, up to \$55,000,000 from the state university
50 income fund, state university hospitals income reimbursable account
51 (22656), for services and expenses of hospital operations and capital
52 expenditures at the state university hospitals; and the state university
53 income fund, Long Island veterans' home account (22652) to the state
54 university capital projects fund (32400) on or before June 30, 2018.

55 § 13. Notwithstanding any law to the contrary, and in accordance with
56 section 4 of the state finance law, the comptroller, after consultation

1 with the state university chancellor or his or her designee, is hereby
2 authorized and directed to transfer moneys, in the first instance, from
3 the state university collection fund, Stony Brook hospital collection
4 account (61006), Brooklyn hospital collection account (61007), and Syra-
5 cuse hospital collection account (61008) to the state university income
6 fund, state university hospitals income reimbursable account (22656) in
7 the event insufficient funds are available in the state university
8 income fund, state university hospitals income reimbursable account
9 (22656) to permit the full transfer of moneys authorized for transfer,
10 to the general fund for payment of debt service related to the SUNY
11 hospitals. Notwithstanding any law to the contrary, the comptroller is
12 also hereby authorized and directed, after consultation with the state
13 university chancellor or his or her designee, to transfer moneys from
14 the state university income fund to the state university income fund,
15 state university hospitals income reimbursable account (22656) in the
16 event insufficient funds are available in the state university income
17 fund, state university hospitals income reimbursable account (22656) to
18 pay hospital operating costs or to permit the full transfer of moneys
19 authorized for transfer, to the general fund for payment of debt service
20 related to the SUNY hospitals on or before March 31, 2018.

21 § 14. Notwithstanding any law to the contrary, upon the direction of
22 the director of the budget and the chancellor of the state university of
23 New York or his or her designee, and in accordance with section 4 of the
24 state finance law, the comptroller is hereby authorized and directed to
25 transfer monies from the state university dormitory income fund (40350)
26 to the state university residence hall rehabilitation fund (30100), and
27 from the state university residence hall rehabilitation fund (30100) to
28 the state university dormitory income fund (40350), in an amount not to
29 exceed \$80 million from each fund.

30 § 15. Notwithstanding any law to the contrary, and in accordance with
31 section 4 of the state finance law, the comptroller is hereby authorized
32 and directed to transfer monies, upon request of the director of the
33 budget, on or before March 31, 2018, from and to any of the following
34 accounts: the miscellaneous special revenue fund, patient income account
35 (21909), the miscellaneous special revenue fund, mental hygiene program
36 fund account (21907), the miscellaneous special revenue fund, federal
37 salary sharing account (22056), or the general fund in any combination,
38 the aggregate of which shall not exceed \$350 million.

39 § 16. Notwithstanding any law to the contrary, and in accordance with
40 section 4 of the state finance law, the comptroller is hereby authorized
41 and directed to transfer, at the request of the director of the budget,
42 up to \$750 million from the unencumbered balance of any special revenue
43 fund or account, agency fund or account, internal service fund or
44 account, enterprise fund or account, or any combination of such funds
45 and accounts, to the general fund. The amounts transferred pursuant to
46 this authorization shall be in addition to any other transfers expressly
47 authorized in the 2017-18 budget. Transfers from federal funds, debt
48 service funds, capital projects funds, the community projects fund, or
49 funds that would result in the loss of eligibility for federal benefits
50 or federal funds pursuant to federal law, rule, or regulation as assent-
51 ed to in chapter 683 of the laws of 1938 and chapter 700 of the laws of
52 1951 are not permitted pursuant to this authorization.

53 § 17. Notwithstanding any law to the contrary, and in accordance with
54 section 4 of the state finance law, the comptroller is hereby authorized
55 and directed to transfer, at the request of the director of the budget,
56 up to \$100 million from any non-general fund or account, or combination

1 of funds and accounts, to the miscellaneous special revenue fund, tech-
2 nology financing account (22207), the miscellaneous capital projects
3 fund, information technology capital financing account (32215), or the
4 centralized technology services account (55069), for the purpose of
5 consolidating technology procurement and services. The amounts trans-
6 ferred to the miscellaneous special revenue fund, technology financing
7 account (22207) pursuant to this authorization shall be equal to or less
8 than the amount of such monies intended to support information technolo-
9 gy costs which are attributable, according to a plan, to such account
10 made in pursuance to an appropriation by law. Transfers to the technolo-
11 gy financing account shall be completed from amounts collected by non-
12 general funds or accounts pursuant to a fund deposit schedule or perma-
13 nent statute, and shall be transferred to the technology financing
14 account pursuant to a schedule agreed upon by the affected agency
15 commissioner. Transfers from funds that would result in the loss of
16 eligibility for federal benefits or federal funds pursuant to federal
17 law, rule, or regulation as assented to in chapter 683 of the laws of
18 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to
19 this authorization.

20 § 18. Notwithstanding any other law to the contrary, up to \$245
21 million of the assessment reserves remitted to the chair of the workers'
22 compensation board pursuant to subdivision 6 of section 151 of the work-
23 ers' compensation law shall, at the request of the director of the budg-
24 et, be transferred to the state insurance fund, for partial payment and
25 partial satisfaction of the state's obligations to the state insurance
26 fund under section 88-c of the workers' compensation law.

27 § 19. Notwithstanding any law to the contrary, and in accordance with
28 section 4 of the state finance law, the comptroller is hereby authorized
29 and directed to transfer, at the request of the director of the budget,
30 up to \$400 million from any non-general fund or account, or combination
31 of funds and accounts, to the general fund for the purpose of consol-
32 idating technology procurement and services. The amounts transferred
33 pursuant to this authorization shall be equal to or less than the amount
34 of such monies intended to support information technology costs which
35 are attributable, according to a plan, to such account made in pursuance
36 to an appropriation by law. Transfers to the general fund shall be
37 completed from amounts collected by non-general funds or accounts pursu-
38 ant to a fund deposit schedule. Transfers from funds that would result
39 in the loss of eligibility for federal benefits or federal funds pursu-
40 ant to federal law, rule, or regulation as assented to in chapter 683 of
41 the laws of 1938 and chapter 700 of the laws of 1951 are not permitted
42 pursuant to this authorization.

43 § 20. Notwithstanding any provision of law, rule or regulation to the
44 contrary, the New York state energy research and development authority
45 is authorized and directed to make the following contributions to the
46 state treasury to the credit of the general fund on or before March 31,
47 2018: (a) \$913,000; and (b) \$23,000,000 from proceeds collected by the
48 authority from the auction or sale of carbon dioxide emission allowances
49 allocated by the department of environmental conservation.

50 § 21. Subdivision 5 of section 97-rrr of the state finance law, as
51 amended by section 21 of part UU of chapter 54 of the laws of 2016, is
52 amended to read as follows:

53 5. Notwithstanding the provisions of section one hundred seventy-one-a
54 of the tax law, as separately amended by chapters four hundred eighty-
55 one and four hundred eighty-four of the laws of nineteen hundred eight-
56 y-one, and notwithstanding the provisions of chapter ninety-four of the

1 laws of two thousand eleven, or any other provisions of law to the
2 contrary, during the fiscal year beginning April first, two thousand
3 [sixteen] seventeen, the state comptroller is hereby authorized and
4 directed to deposit to the fund created pursuant to this section from
5 amounts collected pursuant to article twenty-two of the tax law and
6 pursuant to a schedule submitted by the director of the budget, up to
7 [\$3,283,844,000] \$2,605,997,000, as may be certified in such schedule as
8 necessary to meet the purposes of such fund for the fiscal year begin-
9 ning April first, two thousand [sixteen] seventeen.

10 § 22. Notwithstanding any law to the contrary, the comptroller is
11 hereby authorized and directed to transfer, upon request of the director
12 of the budget, on or before March 31, 2018, the following amounts from
13 the following special revenue accounts to the capital projects fund
14 (30000), for the purposes of reimbursement to such fund for expenses
15 related to the maintenance and preservation of state assets:

16 1. \$43,000 from the miscellaneous special revenue fund, administrative
17 program account (21982).

18 2. \$1,478,000 from the miscellaneous special revenue fund, helen hayes
19 hospital account (22140).

20 3. \$366,000 from the miscellaneous special revenue fund, New York city
21 veterans' home account (22141).

22 4. \$513,000 from the miscellaneous special revenue fund, New York
23 state home for veterans' and their dependents at oxford account (22142).

24 5. \$159,000 from the miscellaneous special revenue fund, western New
25 York veterans' home account (22143).

26 6. \$323,000 from the miscellaneous special revenue fund, New York
27 state for veterans in the lower-hudson valley account (22144).

28 7. \$2,550,000 from the miscellaneous special revenue fund, patron
29 services account (22163).

30 8. \$41,930,000 from the miscellaneous special revenue fund, state
31 university dormitory income reimbursable account (21937).

32 9. \$830,000 from the miscellaneous special revenue fund, long island
33 veterans' home account (22652).

34 10. \$5,379,000 from the miscellaneous special revenue fund, state
35 university general income reimbursable account (22653).

36 11. \$112,556,000 from the miscellaneous special revenue fund, state
37 university revenue offset account (22655).

38 12. \$557,000 from the miscellaneous special revenue fund, state
39 university of New York tuition reimbursement account (22659).

40 § 22-a. Subdivision 3 of section 93-b of the state finance law, as
41 added by section 1 of part H of chapter 60 of the laws of 2015, the
42 opening paragraph as amended by section 1 of part M of chapter 57 of the
43 laws of 2016, and paragraph (a) as amended by section 27 of part UU of
44 chapter 54 of the laws of 2016, is amended to read as follows:

45 3. Transfers. Notwithstanding any other provisions of law to the
46 contrary, commencing on April first, two thousand fifteen, and continu-
47 ing through March thirty-first, two thousand twenty-one, the comptroller
48 is hereby authorized to transfer monies from the dedicated infrastruc-
49 ture investment fund to the general fund, and from the general fund to
50 the dedicated infrastructure investment fund, in an amount determined by
51 the director of the budget to the extent moneys are available in the
52 fund; provided, however, that the comptroller is only authorized to
53 transfer monies from the dedicated infrastructure investment fund to the
54 general fund in the event of an economic downturn as described in para-
55 graph (a) of this subdivision; and/or to fulfill disallowances and/or
56 settlements related to over-payments of federal medicare and medicaid

1 revenues in excess of one hundred million dollars from anticipated
2 levels, as determined by the director of the budget and described in
3 paragraph (b) of this subdivision; and/or a catastrophic event as
4 described in paragraph (c) of this subdivision.

5 (a) Economic downturn. Notwithstanding any law to the contrary, for
6 the purpose of this section, the commissioner of labor shall calculate
7 and publish, on or before the fifteenth day of each month, a composite
8 index of business cycle indicators. Such index shall be calculated using
9 monthly data on New York state private sector employment, average weekly
10 hours of manufacturing workers, and the unemployment rate prepared by
11 the department of labor or its successor agency, and total sales tax
12 collections adjusted for inflation, prepared by the department of tax-
13 tion and finance or its successor agency. Such index shall be adjusted
14 for seasonal variations in accordance with the procedures issued by the
15 United States Census Bureau or its successor agency. If the composite
16 index declines for five consecutive months, the commissioner of labor
17 shall notify the governor, the speaker of the assembly, the temporary
18 president of the senate, and the minority leaders of the assembly and
19 the senate. Upon such notification, the director of the budget may
20 authorize and direct the comptroller to transfer from the dedicated
21 infrastructure investment fund to the general fund such amounts as the
22 director of the budget deems necessary to meet the requirements of the
23 state financial plan. The authority to transfer funds under the
24 provisions of this paragraph shall lapse when the composite index shall
25 have increased for five consecutive months or twelve months from the
26 original notification of the commissioner of labor, whichever occurs
27 earlier. Provided, however, that for every additional and consecutive
28 monthly decline succeeding the five month decline so noted by the
29 commissioner of labor, the twelve month lapse date shall be extended by
30 one additional month.

31 (b) Federal medicare and medicaid revenues. Notwithstanding any law to
32 the contrary, the director of the budget may authorize and direct the
33 comptroller to transfer from the dedicated infrastructure investment
34 fund to the general fund an amount not to exceed the disallowances
35 and/or settlements related to the over-payments of federal medicare and
36 medicaid revenues. In the event this authorization is utilized, the
37 director of the budget may authorize and direct the comptroller to
38 transfer such amount and the concomitant reduction in state share medi-
39 care and medicaid revenues from the general fund to the miscellaneous
40 special revenue fund, mental hygiene program fund (21907), the miscella-
41 neous special revenue fund, patient income account (21909), and the
42 Medicaid Management Information System (MMIS) Statewide Escrow Fund
43 (60901).

44 (c) Catastrophic events. In the event of a need to repel invasion,
45 suppress insurrection, defend the state in war, or to respond to any
46 other emergency resulting from a disaster, including but not limited to,
47 a disaster caused by an act of terrorism, the director of the budget may
48 authorize and direct the comptroller to transfer from the dedicated
49 infrastructure investment fund to the general fund such amounts as the
50 director of the budget deems necessary to meet the requirements of the
51 state financial plan.

52 (d) Prior to authorizing any transfer from the dedicated infrastruc-
53 ture investment fund accounts pursuant to the provisions of this
54 section, the director of the budget shall notify the speaker of the
55 assembly, the temporary president of the senate, and the minority lead-

1 ers of the assembly and the senate. Such letter shall specify the
2 reasons for the transfer and the amount thereof.

3 § 22-b. Subdivision 2 of section 97-rrr of the state finance law, as
4 amended by section 45 of part H of chapter 56 of the laws of 2000, is
5 amended and a new subdivision 4 is added to read as follows:

6 2. Such fund shall consist of all monies credited or transferred ther-
7 eto from the general fund or from any other fund or sources pursuant to
8 law, and include an amount equal to fifty percent of any estimated cash-
9 basis surplus in the general fund, as certified by the director of the
10 budget on or before the twenty-fifth day of March of each fiscal year.
11 Upon request of the director of the budget, the state comptroller shall
12 transfer such surplus amount from the general fund to the debt reduction
13 reserve fund. The director of budget shall calculate the surplus as the
14 excess of estimated aggregate receipts above the estimated aggregate
15 disbursements at the end of the fiscal year. Notwithstanding paragraph
16 (a) of subdivision four of section seventy-two of this article, the
17 state comptroller shall retain any balance of moneys in the debt
18 reduction reserve fund at the end of any fiscal year in such fund.

19 4. Any amounts disbursed from such fund shall be excluded from the
20 calculation of annual spending growth in state operating funds.

21 § 22-c. Subdivision 1 of section 4 of section 1 of part D3 of chapter
22 62 of the laws of 2003 amending the general business law and other laws
23 relating to implementing the state fiscal plan for the 2003-2004 state
24 fiscal year, is amended to read as follows:

25 1. The state representative, upon the execution of a sale agreement on
26 behalf of the state may sell to the corporation, and the corporation may
27 purchase, for cash or other consideration and in one or more install-
28 ments, all or a portion of the state's share. Any such agreement shall
29 provide, among other matters, that the purchase price payable by the
30 corporation to the state for such state's share or portion thereof shall
31 consist of the net proceeds of the bonds issued to finance such purchase
32 price and the residual interests, if any. The residual interests shall
33 be deposited into [the tobacco settlement fund pursuant to section 92-x
34 of the state finance law, unless otherwise directed by statute] the
35 Medicaid management information system (MMIS) statewide escrow fund
36 within thirty days upon the availability of such residual interests to
37 fund a portion of the cumulative non-federal share of expenses related
38 to the state takeover of the local share of Medicaid growth pursuant to
39 part F of chapter 56 of the laws of 2012. Such deposit shall be in an
40 amount equal to (a) the amount of residual interests scheduled for
41 deposit into the MMIS statewide escrow fund in the applicable year's
42 enacted budget financial plan as updated or (b) the total amount of
43 residual interests available if the total amount of such residual inter-
44 ests is less than the total amount of residual interests scheduled for
45 deposit into the MMIS statewide escrow fund in the applicable year's
46 enacted budget financial plan as updated. At the discretion of the state
47 representative, any residual interests which exceed the amount scheduled
48 for deposit into the MMIS statewide escrow fund in the applicable year's
49 enacted budget financial plan as updated may either be deposited into
50 the (i) MMIS escrow fund to fund a portion, as determined by the state
51 representative, of the cumulative non-Federal share of expenses related
52 to the State takeover of the local share of Medicaid growth, pursuant to
53 part F of chapter 56 of the laws of 2012, or (ii) the state general
54 fund; provided, however that any residual interest derived from other
55 assets shall be applied as directed by statute. Any such sale shall be
56 pursuant to one or more sale agreements which may contain such terms and



1 conditions deemed necessary by the state representative to carry out and
2 effectuate the purposes of this section, including covenants binding the
3 state in favor of the corporation and its assignees, including the
4 owners of its bonds such as covenants with respect to the enforcement at
5 the expense of the state of the payment provisions of the master settle-
6 ment agreement, the diligent enforcement at the expense of the state of
7 the qualifying statute, the application and use of the proceeds of the
8 sale of the state's share to preserve the tax-exemption on the bonds,
9 the interest on which is intended to be exempt from federal income tax,
10 issued to finance the purchase thereof and otherwise as provided in this
11 act. Notwithstanding the foregoing, neither the state representative nor
12 the corporation shall be authorized to make any covenant, pledge, prom-
13 ise or agreement purporting to bind the state with respect to pledged
14 tobacco revenues, except as otherwise specifically authorized by this
15 act.

16 § 22-d. The state finance law is amended by adding a new section 99-aa
17 to read as follows:

18 § 99-aa. Retiree health benefit trust fund. 1. There is hereby estab-
19 lished in the sole custody of the commissioner of the department of
20 civil service a special investment fund to be known as the retiree
21 health benefit trust fund.

22 2. For purposes of this section: (a) "commissioner" shall mean the
23 commissioner of the department of civil service, except wherein this
24 section the commissioner of the department of taxation and finance is
25 referenced;

26 (b) "state" shall mean the state of New York;

27 (c) "fund", or "trust", or "trust fund" shall mean the retiree health
28 benefit trust fund created by this section; and

29 (d) "retiree health benefits" shall mean benefits, except pensions or
30 other benefits funded through a public retirement system, provided or to
31 be provided by the state as compensation, whether pursuant to statute,
32 contract or other lawful authority, to its current or former officers or
33 employees, or their families or beneficiaries, after service to the
34 state has ended, including, but not limited to, health care benefits.

35 3. (a) Notwithstanding any provision of law to the contrary, the reti-
36 ree health benefit trust fund is established for the exclusive benefit
37 of retired state employees and their dependents.

38 (b) The sole purpose of the trust fund established pursuant to subdi-
39 vision one of this section shall be to fund the health and welfare bene-
40 fits of retired state employees and their dependents.

41 4. (a) Payments into and from the trust fund established pursuant to
42 subdivision one of this section shall be made in accordance with this
43 section.

44 (b) Contributions to the trust, and any interest or other income or
45 earnings on contributions, shall be irrevocable before all liabilities
46 of the state government for retiree health benefits have been satisfied
47 and shall be solely dedicated to, and used solely for, providing retiree
48 health benefits and paying appropriate and reasonable expenses of admin-
49 istering the trust. No assets, income, earnings or distributions of the
50 trust shall be subject to any claim of creditors of the state, or to
51 assignment or execution, attachment or any other claim enforcement proc-
52 ess initiated by or on behalf of such creditors. Except as otherwise
53 provided in subdivision eight of this section, the commissioner shall
54 not be responsible for the adequacy of the assets of the trust to meet
55 any other post-employment benefit. The commissioner shall not be respon-
56 sible for taking any action to enforce the payment of any appropriation



1 into the trust. The trust may be terminated only when all liabilities of
2 the state for retiree health benefits have been satisfied and there is
3 no present or future obligation, contingent or otherwise, of the state
4 to provide such retiree health benefits. Upon such termination, any
5 remaining trust assets, after any proper expenses of the trust have been
6 paid, shall revert to the state.

7 (c) At the close of each fiscal year, the director of the budget shall
8 certify the cash surplus remaining in the general fund; such cash
9 surplus shall be calculated by the director of the budget as the excess
10 of estimated aggregate receipts above the estimated aggregate disburse-
11 ments at the end of the fiscal year. Upon such calculation and certif-
12 ication, a portion of any certified cash surplus remaining in the gener-
13 al fund, which such portion shall be determined in the sole discretion
14 of the director of the budget, may be transferred or deposited directly
15 to the trust fund at the sole request of the director of the budget.

16 (d) All payments for retiree health and welfare benefits from such
17 trust fund shall not be subject to an appropriation and shall be trans-
18 ferred, to the extent funds are available in such trust fund, to the
19 health insurance fund for the sole and exclusive purpose of funding
20 retiree health benefits.

21 5. Investments. (a) The commissioner may establish a trust in his or
22 her custody for the purpose of accumulating assets to fund the cost of
23 providing retiree health benefits.

24 (b) The commissioner is hereby declared to be the trustee of the trust
25 established pursuant to subdivision one of this section, and the commis-
26 sioner shall delegate responsibility for managing the investments of the
27 trust fund established pursuant to subdivision one of this section to
28 the commissioner of the department of taxation and finance. The commis-
29 sioner of the department of taxation and finance shall manage the
30 investments of the trust fund established pursuant to subdivision one of
31 this section in a careful and prudent manner consistent with the guide-
32 lines and provisions of section ninety-eight this article.

33 (c) Any interest or other income or earnings resulting from the
34 investment of assets of the trust shall accrue to and become part of the
35 assets of the trust.

36 6. In accordance with paragraph (b) of subdivision five of this
37 section, the commissioner of taxation and finance shall develop, in
38 consultation with the state health insurance council, a written invest-
39 ment policy for selecting investment options in a manner consistent with
40 the investment options prescribed in section ninety-eight of this arti-
41 cle so that the commissioner may be able to invest fund monies in
42 accordance with such policy. Such policy shall include a statement of
43 investment objectives addressing, in the following order of priority,
44 the ability to timely meet disbursement requests without forced sale of
45 assets, safety of principal and attainment of market rates of return.

46 7. Neither the state nor the commissioner shall be liable for any loss
47 or expense suffered by the trust in the absence of bad faith, willful
48 misconduct or intentional wrongdoing. The commissioner shall be consid-
49 ered to be acting as an officer of the state for purposes of section
50 seventeen of the public officers law, provided, however, that the costs
51 of any defense or indemnification of the commissioner arising from the
52 exercise of the functions of trustee shall be payable from the assets of
53 the trust.

54 8. Nothing contained in this section shall be interpreted or construed
55 to: (a) create any obligation in, impose any obligation on, or alter any
56 obligation of the state to provide retiree health benefits;

1 (b) limit or restrict the authority of the state to modify or elimi-
2 nate retiree health benefits;

3 (c) assure or deny retiree health benefits; or

4 (d) require the state to fund its liability for retiree health bene-
5 fits.

6 § 23. Notwithstanding any other law, rule, or regulation to the
7 contrary, the state comptroller is hereby authorized and directed to use
8 any balance remaining in the mental health services fund debt service
9 appropriation, after payment by the state comptroller of all obligations
10 required pursuant to any lease, sublease, or other financing arrangement
11 between the dormitory authority of the state of New York as successor to
12 the New York state medical care facilities finance agency, and the
13 facilities development corporation pursuant to chapter 83 of the laws of
14 1995 and the department of mental hygiene for the purpose of making
15 payments to the dormitory authority of the state of New York for the
16 amount of the earnings for the investment of monies deposited in the
17 mental health services fund that such agency determines will or may have
18 to be rebated to the federal government pursuant to the provisions of
19 the internal revenue code of 1986, as amended, in order to enable such
20 agency to maintain the exemption from federal income taxation on the
21 interest paid to the holders of such agency's mental services facilities
22 improvement revenue bonds. Annually on or before each June 30th, such
23 agency shall certify to the state comptroller its determination of the
24 amounts received in the mental health services fund as a result of the
25 investment of monies deposited therein that will or may have to be
26 rebated to the federal government pursuant to the provisions of the
27 internal revenue code of 1986, as amended.

28 § 24. Subdivision 1 of section 47 of section 1 of chapter 174 of the
29 laws of 1968, constituting the New York state urban development corpo-
30 ration act, as amended by section 29 of part UU of chapter 54 of the
31 laws of 2016, is amended to read as follows:

32 1. Notwithstanding the provisions of any other law to the contrary,
33 the dormitory authority and the corporation are hereby authorized to
34 issue bonds or notes in one or more series for the purpose of funding
35 project costs for the office of information technology services, depart-
36 ment of law, and other state costs associated with such capital
37 projects. The aggregate principal amount of bonds authorized to be
38 issued pursuant to this section shall not exceed [three] four hundred
39 [sixty-four] fifty million [eight] five hundred forty thousand dollars,
40 excluding bonds issued to fund one or more debt service reserve funds,
41 to pay costs of issuance of such bonds, and bonds or notes issued to
42 refund or otherwise repay such bonds or notes previously issued. Such
43 bonds and notes of the dormitory authority and the corporation shall not
44 be a debt of the state, and the state shall not be liable thereon, nor
45 shall they be payable out of any funds other than those appropriated by
46 the state to the dormitory authority and the corporation for principal,
47 interest, and related expenses pursuant to a service contract and such
48 bonds and notes shall contain on the face thereof a statement to such
49 effect. Except for purposes of complying with the internal revenue code,
50 any interest income earned on bond proceeds shall only be used to pay
51 debt service on such bonds.

52 § 25. Subdivision 1 of section 16 of part D of chapter 389 of the laws
53 of 1997, relating to the financing of the correctional facilities
54 improvement fund and the youth facility improvement fund, as amended by
55 section 30 of part UU of chapter 54 of the laws of 2016, is amended to
56 read as follows:

1 1. Subject to the provisions of chapter 59 of the laws of 2000, but
2 notwithstanding the provisions of section 18 of section 1 of chapter 174
3 of the laws of 1968, the New York state urban development corporation is
4 hereby authorized to issue bonds, notes and other obligations in an
5 aggregate principal amount not to exceed seven billion [four] seven
6 hundred [twenty-four] forty-one million [nine] one hundred ninety-nine
7 thousand dollars [\$7,424,999,000] \$7,741,199,000, and shall include all
8 bonds, notes and other obligations issued pursuant to chapter 56 of the
9 laws of 1983, as amended or supplemented. The proceeds of such bonds,
10 notes or other obligations shall be paid to the state, for deposit in
11 the correctional facilities capital improvement fund to pay for all or
12 any portion of the amount or amounts paid by the state from appropri-
13 ations or reappropriations made to the department of corrections and
14 community supervision from the correctional facilities capital improve-
15 ment fund for capital projects. The aggregate amount of bonds, notes or
16 other obligations authorized to be issued pursuant to this section shall
17 exclude bonds, notes or other obligations issued to refund or otherwise
18 repay bonds, notes or other obligations theretofore issued, the proceeds
19 of which were paid to the state for all or a portion of the amounts
20 expended by the state from appropriations or reappropriations made to
21 the department of corrections and community supervision; provided,
22 however, that upon any such refunding or repayment the total aggregate
23 principal amount of outstanding bonds, notes or other obligations may be
24 greater than seven billion [four] seven hundred [twenty-four] forty-one
25 million [nine] one hundred ninety-nine thousand dollars [\$7,424,999,000]
26 \$7,741,199,000, only if the present value of the aggregate debt service
27 of the refunding or repayment bonds, notes or other obligations to be
28 issued shall not exceed the present value of the aggregate debt service
29 of the bonds, notes or other obligations so to be refunded or repaid.
30 For the purposes hereof, the present value of the aggregate debt service
31 of the refunding or repayment bonds, notes or other obligations and of
32 the aggregate debt service of the bonds, notes or other obligations so
33 refunded or repaid, shall be calculated by utilizing the effective
34 interest rate of the refunding or repayment bonds, notes or other obli-
35 gations, which shall be that rate arrived at by doubling the semi-annual
36 interest rate (compounded semi-annually) necessary to discount the debt
37 service payments on the refunding or repayment bonds, notes or other
38 obligations from the payment dates thereof to the date of issue of the
39 refunding or repayment bonds, notes or other obligations and to the
40 price bid including estimated accrued interest or proceeds received by
41 the corporation including estimated accrued interest from the sale ther-
42 eof.

43 § 26. Paragraph (a) of subdivision 2 of section 47-e of the private
44 housing finance law, as amended by section 31 of part UU of chapter 54
45 of the laws of 2016, is amended to read as follows:

46 (a) Subject to the provisions of chapter fifty-nine of the laws of two
47 thousand, in order to enhance and encourage the promotion of housing
48 programs and thereby achieve the stated purposes and objectives of such
49 housing programs, the agency shall have the power and is hereby author-
50 ized from time to time to issue negotiable housing program bonds and
51 notes in such principal amount as shall be necessary to provide suffi-
52 cient funds for the repayment of amounts disbursed (and not previously
53 reimbursed) pursuant to law or any prior year making capital appropri-
54 ations or reappropriations for the purposes of the housing program;
55 provided, however, that the agency may issue such bonds and notes in an
56 aggregate principal amount not exceeding [four] five billion [six] three

1 hundred [ninety-seven] eighty-four million [four] one hundred [seventy-
2 four] ninety-nine thousand dollars, plus a principal amount of bonds
3 issued to fund the debt service reserve fund in accordance with the debt
4 service reserve fund requirement established by the agency and to fund
5 any other reserves that the agency reasonably deems necessary for the
6 security or marketability of such bonds and to provide for the payment
7 of fees and other charges and expenses, including underwriters'
8 discount, trustee and rating agency fees, bond insurance, credit
9 enhancement and liquidity enhancement related to the issuance of such
10 bonds and notes. No reserve fund securing the housing program bonds
11 shall be entitled or eligible to receive state funds apportioned or
12 appropriated to maintain or restore such reserve fund at or to a partic-
13 ular level, except to the extent of any deficiency resulting directly or
14 indirectly from a failure of the state to appropriate or pay the agreed
15 amount under any of the contracts provided for in subdivision four of
16 this section.

17 § 27. Subdivision (b) of section 11 of chapter 329 of the laws of
18 1991, amending the state finance law and other laws relating to the
19 establishment of the dedicated highway and bridge trust fund, as amended
20 by section 32 of part UU of chapter 54 of the laws of 2016, is amended
21 to read as follows:

22 (b) Any service contract or contracts for projects authorized pursuant
23 to sections 10-c, 10-f, 10-g and 80-b of the highway law and section
24 14-k of the transportation law, and entered into pursuant to subdivision
25 (a) of this section, shall provide for state commitments to provide
26 annually to the thruway authority a sum or sums, upon such terms and
27 conditions as shall be deemed appropriate by the director of the budget,
28 to fund, or fund the debt service requirements of any bonds or any obli-
29 gations of the thruway authority issued to fund or to reimburse the
30 state for funding such projects having a cost not in excess of
31 [\$9,147,234,000] \$9,634,586,000 cumulatively by the end of fiscal year
32 [2016-17] 2017-18.

33 § 28. Subdivision 1 of section 1689-i of the public authorities law,
34 as amended by section 33 of part UU of chapter 54 of the laws of 2016,
35 is amended to read as follows:

36 1. The dormitory authority is authorized to issue bonds, at the
37 request of the commissioner of education, to finance eligible library
38 construction projects pursuant to section two hundred seventy-three-a of
39 the education law, in amounts certified by such commissioner not to
40 exceed a total principal amount of one hundred [fifty-nine] seventy-
41 three million dollars.

42 § 29. Subdivision (a) of section 27 of part Y of chapter 61 of the
43 laws of 2005, relating to providing for the administration of certain
44 funds and accounts related to the 2005-2006 budget, as amended by
45 section 34 of part UU of chapter 54 of the laws of 2016, is amended to
46 read as follows:

47 (a) Subject to the provisions of chapter 59 of the laws of 2000, but
48 notwithstanding any provisions of law to the contrary, the urban devel-
49 opment corporation is hereby authorized to issue bonds or notes in one
50 or more series in an aggregate principal amount not to exceed
51 [\$167,600,000] \$173,600,000, excluding bonds issued to finance one or
52 more debt service reserve funds, to pay costs of issuance of such bonds,
53 and bonds or notes issued to refund or otherwise repay such bonds or
54 notes previously issued, for the purpose of financing capital projects
55 including IT initiatives for the division of state police, debt service
56 and leases; and to reimburse the state general fund for disbursements

1 made therefor. Such bonds and notes of such authorized issuer shall not
2 be a debt of the state, and the state shall not be liable thereon, nor
3 shall they be payable out of any funds other than those appropriated by
4 the state to such authorized issuer for debt service and related
5 expenses pursuant to any service contract executed pursuant to subdivi-
6 sion (b) of this section and such bonds and notes shall contain on the
7 face thereof a statement to such effect. Except for purposes of comply-
8 ing with the internal revenue code, any interest income earned on bond
9 proceeds shall only be used to pay debt service on such bonds.

10 § 30. Section 44 of section 1 of chapter 174 of the laws of 1968,
11 constituting the New York state urban development corporation act, as
12 amended by section 35 of part UU of chapter 54 of the laws of 2016, is
13 amended to read as follows:

14 § 44. Issuance of certain bonds or notes. 1. Notwithstanding the
15 provisions of any other law to the contrary, the dormitory authority and
16 the corporation are hereby authorized to issue bonds or notes in one or
17 more series for the purpose of funding project costs for the regional
18 economic development council initiative, the economic transformation
19 program, state university of New York college for nanoscale and science
20 engineering, projects within the city of Buffalo or surrounding envi-
21 rons, the New York works economic development fund, projects for the
22 retention of professional football in western New York, the empire state
23 economic development fund, the clarkson-trudeau partnership, the New
24 York genome center, the cornell university college of veterinary medi-
25 cine, the olympic regional development authority, projects at nano
26 Utica, onondaga county revitalization projects, Binghamton university
27 school of pharmacy, New York power electronics manufacturing consortium,
28 regional infrastructure projects, high technology manufacturing projects
29 in Chautauqua and Erie county, an industrial scale research and develop-
30 ment facility in Clinton county, upstate revitalization initiative
31 projects, market New York projects, fairground buildings or facilities
32 used to house and promote agriculture, the state fair, the empire state
33 trail, the moynihan station development project, the Kingsbridge armory
34 project, strategic economic development projects, the cultural, arts and
35 public spaces fund, an LGBT memorial, water infrastructure in the city
36 of Auburn and town of Owasco, a life sciences laboratory public health
37 initiative, and other state costs associated with such projects. The
38 aggregate principal amount of bonds authorized to be issued pursuant to
39 this section shall not exceed [four] six billion [six] five hundred
40 [seventy-one] five million [seven] two hundred fifty-seven thousand
41 dollars, excluding bonds issued to fund one or more debt service reserve
42 funds, to pay costs of issuance of such bonds, and bonds or notes issued
43 to refund or otherwise repay such bonds or notes previously issued. Such
44 bonds and notes of the dormitory authority and the corporation shall not
45 be a debt of the state, and the state shall not be liable thereon, nor
46 shall they be payable out of any funds other than those appropriated by
47 the state to the dormitory authority and the corporation for principal,
48 interest, and related expenses pursuant to a service contract and such
49 bonds and notes shall contain on the face thereof a statement to such
50 effect. Except for purposes of complying with the internal revenue code,
51 any interest income earned on bond proceeds shall only be used to pay
52 debt service on such bonds.

53 2. Notwithstanding any other provision of law to the contrary, in
54 order to assist the dormitory authority and the corporation in undertak-
55 ing the financing for project costs for the regional economic develop-
56 ment council initiative, the economic transformation program, state

1 university of New York college for nanoscale and science engineering,
2 projects within the city of Buffalo or surrounding environs, the New
3 York works economic development fund, projects for the retention of
4 professional football in western New York, the empire state economic
5 development fund, the clarkson-trudeau partnership, the New York genome
6 center, the cornell university college of veterinary medicine, the olym-
7 pic regional development authority, projects at nano Utica, onondaga
8 county revitalization projects, Binghamton university school of pharma-
9 cy, New York power electronics manufacturing consortium, regional
10 infrastructure projects, high technology manufacturing projects in Chau-
11 tauqua and Erie county, an industrial scale research and development
12 facility in Clinton county, upstate revitalization initiative projects,
13 market New York projects, fairground buildings or facilities used to
14 house and promote agriculture, the state fair, the empire state trail,
15 the moynihan station development project, the Kingsbridge armory
16 project, strategic economic development projects, the cultural, arts and
17 public spaces fund, an LGBT memorial, water infrastructure in the city
18 of Auburn and town of Owasco, a life sciences laboratory public health
19 initiative, and other state costs associated with such projects, the
20 director of the budget is hereby authorized to enter into one or more
21 service contracts with the dormitory authority and the corporation, none
22 of which shall exceed thirty years in duration, upon such terms and
23 conditions as the director of the budget and the dormitory authority and
24 the corporation agree, so as to annually provide to the dormitory
25 authority and the corporation, in the aggregate, a sum not to exceed the
26 principal, interest, and related expenses required for such bonds and
27 notes. Any service contract entered into pursuant to this section shall
28 provide that the obligation of the state to pay the amount therein
29 provided shall not constitute a debt of the state within the meaning of
30 any constitutional or statutory provision and shall be deemed executory
31 only to the extent of monies available and that no liability shall be
32 incurred by the state beyond the monies available for such purpose,
33 subject to annual appropriation by the legislature. Any such contract or
34 any payments made or to be made thereunder may be assigned and pledged
35 by the dormitory authority and the corporation as security for its bonds
36 and notes, as authorized by this section.

37 § 31. Subdivisions 1 and 3 of section 1285-p of the public authorities
38 law, subdivision 1 as amended by section 33 of part I of chapter 60 of
39 the laws of 2015 and subdivision 3 as amended by section 36 of part UU
40 of chapter 54 of the laws of 2016, is amended to read as follows:

41 1. Subject to chapter fifty-nine of the laws of two thousand, but
42 notwithstanding any other provisions of law to the contrary, in order to
43 assist the corporation in undertaking the administration and the financ-
44 ing of the design, acquisition, construction, improvement, installation,
45 and related work for all or any portion of any of the following environ-
46 mental infrastructure projects and for the provision of funds to the
47 state for any amounts disbursed therefor: (a) projects authorized under
48 the environmental protection fund, or for which appropriations are made
49 to the environmental protection fund including, but not limited to
50 municipal parks and historic preservation, stewardship, farmland
51 protection, non-point source, pollution control, Hudson River Park, land
52 acquisition, and waterfront revitalization; (b) department of environ-
53 mental conservation capital appropriations for Onondaga Lake for certain
54 water quality improvement projects in the same manner as set forth in
55 paragraph (d) of subdivision one of section 56-0303 of the environmental
56 conservation law; (c) for the purpose of the administration, management,



1 maintenance, and use of the real property at the western New York nucle-
2 ar service center; (d) department of environmental conservation capital
3 appropriations for the administration, design, acquisition,
4 construction, improvement, installation, and related work on department
5 of environmental conservation environmental infrastructure projects; (e)
6 office of parks, recreation and historic preservation appropriations or
7 reappropriations from the state parks infrastructure fund; (f) capital
8 grants for the cleaner, greener communities program [and]; (g) capital
9 costs of water quality infrastructure projects and (h) capital costs of
10 clean water infrastructure projects the director of the division of
11 budget and the corporation are each authorized to enter into one or more
12 service contracts, none of which shall exceed twenty years in duration,
13 upon such terms and conditions as the director and the corporation may
14 agree, so as to annually provide to the corporation in the aggregate, a
15 sum not to exceed the annual debt service payments and related expenses
16 required for any bonds and notes authorized pursuant to section twelve
17 hundred ninety of this title. Any service contract entered into pursuant
18 to this section shall provide that the obligation of the state to fund
19 or to pay the amounts therein provided for shall not constitute a debt
20 of the state within the meaning of any constitutional or statutory
21 provision and shall be deemed executory only to the extent of moneys
22 available for such purposes, subject to annual appropriation by the
23 legislature. Any such service contract or any payments made or to be
24 made thereunder may be assigned and pledged by the corporation as secu-
25 rity for its bonds and notes, as authorized pursuant to section twelve
26 hundred ninety of this title.

27 3. The maximum amount of bonds that may be issued for the purpose of
28 financing environmental infrastructure projects authorized by this
29 section shall be [two] four billion [one] four hundred [eight] fifty-one
30 million [two] seven hundred sixty thousand dollars, exclusive of bonds
31 issued to fund any debt service reserve funds, pay costs of issuance of
32 such bonds, and bonds or notes issued to refund or otherwise repay bonds
33 or notes previously issued. Such bonds and notes of the corporation
34 shall not be a debt of the state, and the state shall not be liable
35 thereon, nor shall they be payable out of any funds other than those
36 appropriated by the state to the corporation for debt service and
37 related expenses pursuant to any service contracts executed pursuant to
38 subdivision one of this section, and such bonds and notes shall contain
39 on the face thereof a statement to such effect.

40 § 32. Subdivision 1 of section 45 of section 1 of chapter 174 of the
41 laws of 1968, constituting the New York state urban development corpo-
42 ration act, as amended by section 37 of part UU of chapter 54 of the
43 laws of 2016, is amended to read as follows:

44 1. Notwithstanding the provisions of any other law to the contrary,
45 the urban development corporation of the state of New York is hereby
46 authorized to issue bonds or notes in one or more series for the purpose
47 of funding project costs for the implementation of a NY-SUNY and NY-CUNY
48 2020 challenge grant program subject to the approval of a NY-SUNY and
49 NY-CUNY 2020 plan or plans by the governor and either the chancellor of
50 the state university of New York or the chancellor of the city universi-
51 ty of New York, as applicable. The aggregate principal amount of bonds
52 authorized to be issued pursuant to this section shall not exceed
53 [\$550,000,000] \$660,000,000, excluding bonds issued to fund one or more
54 debt service reserve funds, to pay costs of issuance of such bonds, and
55 bonds or notes issued to refund or otherwise repay such bonds or notes
56 previously issued. Such bonds and notes of the corporation shall not be

1 a debt of the state, and the state shall not be liable thereon, nor
2 shall they be payable out of any funds other than those appropriated by
3 the state to the corporation for principal, interest, and related
4 expenses pursuant to a service contract and such bonds and notes shall
5 contain on the face thereof a statement to such effect. Except for
6 purposes of complying with the internal revenue code, any interest
7 income earned on bond proceeds shall only be used to pay debt service on
8 such bonds.

9 § 33. Subdivision (a) of section 48 of part K of chapter 81 of the
10 laws of 2002, providing for the administration of certain funds and
11 accounts related to the 2002-2003 budget, as amended by section 38 of
12 part UU of chapter 54 of the laws of 2016, is amended to read as
13 follows:

14 (a) Subject to the provisions of chapter 59 of the laws of 2000 but
15 notwithstanding the provisions of section 18 of the urban development
16 corporation act, the corporation is hereby authorized to issue bonds or
17 notes in one or more series in an aggregate principal amount not to
18 exceed [~~\$197,000,000~~] \$250,000,000 excluding bonds issued to fund one or
19 more debt service reserve funds, to pay costs of issuance of such bonds,
20 and bonds or notes issued to refund or otherwise repay such bonds or
21 notes previously issued, for the purpose of financing capital costs
22 related to homeland security and training facilities for the division of
23 state police, the division of military and naval affairs, and any other
24 state agency, including the reimbursement of any disbursements made from
25 the state capital projects fund, and is hereby authorized to issue bonds
26 or notes in one or more series in an aggregate principal amount not to
27 exceed [~~\$509,600,000~~] \$654,800,000, excluding bonds issued to fund one
28 or more debt service reserve funds, to pay costs of issuance of such
29 bonds, and bonds or notes issued to refund or otherwise repay such bonds
30 or notes previously issued, for the purpose of financing improvements to
31 State office buildings and other facilities located statewide, including
32 the reimbursement of any disbursements made from the state capital
33 projects fund. Such bonds and notes of the corporation shall not be a
34 debt of the state, and the state shall not be liable thereon, nor shall
35 they be payable out of any funds other than those appropriated by the
36 state to the corporation for debt service and related expenses pursuant
37 to any service contracts executed pursuant to subdivision (b) of this
38 section, and such bonds and notes shall contain on the face thereof a
39 statement to such effect.

40 § 34. Subdivision 1 of section 386-b of the public authorities law, as
41 amended by section 39 of part UU of chapter 54 of the laws of 2016, is
42 amended to read as follows:

43 1. Notwithstanding any other provision of law to the contrary, the
44 authority, the dormitory authority and the urban development corporation
45 are hereby authorized to issue bonds or notes in one or more series for
46 the purpose of financing peace bridge projects and capital costs of
47 state and local highways, parkways, bridges, the New York state thruway,
48 Indian reservation roads, and facilities, and transportation infrastruc-
49 ture projects including aviation projects, non-MTA mass transit
50 projects, and rail service preservation projects, including work appur-
51 tenant and ancillary thereto. The aggregate principal amount of bonds
52 authorized to be issued pursuant to this section shall not exceed three
53 billion [~~sixty-five million dollars \$3,065,000,000~~] nine hundred fifty-
54 four million dollars \$3,954,000,000, excluding bonds issued to fund one
55 or more debt service reserve funds, to pay costs of issuance of such
56 bonds, and to refund or otherwise repay such bonds or notes previously

1 issued. Such bonds and notes of the authority, the dormitory authority
2 and the urban development corporation shall not be a debt of the state,
3 and the state shall not be liable thereon, nor shall they be payable out
4 of any funds other than those appropriated by the state to the authori-
5 ty, the dormitory authority and the urban development corporation for
6 principal, interest, and related expenses pursuant to a service contract
7 and such bonds and notes shall contain on the face thereof a statement
8 to such effect. Except for purposes of complying with the internal
9 revenue code, any interest income earned on bond proceeds shall only be
10 used to pay debt service on such bonds.

11 § 35. Paragraph (c) of subdivision 19 of section 1680 of the public
12 authorities law, as amended by section 40 of part UU of chapter 54 of
13 the laws of 2016, is amended to read as follows:

14 (c) Subject to the provisions of chapter fifty-nine of the laws of two
15 thousand, the dormitory authority shall not issue any bonds for state
16 university educational facilities purposes if the principal amount of
17 bonds to be issued when added to the aggregate principal amount of bonds
18 issued by the dormitory authority on and after July first, nineteen
19 hundred eighty-eight for state university educational facilities will
20 exceed [eleven] twelve billion [six] three hundred [sixty-three] forty-
21 three million dollars; provided, however, that bonds issued or to be
22 issued shall be excluded from such limitation if: (1) such bonds are
23 issued to refund state university construction bonds and state universi-
24 ty construction notes previously issued by the housing finance agency;
25 or (2) such bonds are issued to refund bonds of the authority or other
26 obligations issued for state university educational facilities purposes
27 and the present value of the aggregate debt service on the refunding
28 bonds does not exceed the present value of the aggregate debt service on
29 the bonds refunded thereby; provided, further that upon certification by
30 the director of the budget that the issuance of refunding bonds or other
31 obligations issued between April first, nineteen hundred ninety-two and
32 March thirty-first, nineteen hundred ninety-three will generate long
33 term economic benefits to the state, as assessed on a present value
34 basis, such issuance will be deemed to have met the present value test
35 noted above. For purposes of this subdivision, the present value of the
36 aggregate debt service of the refunding bonds and the aggregate debt
37 service of the bonds refunded, shall be calculated by utilizing the true
38 interest cost of the refunding bonds, which shall be that rate arrived
39 at by doubling the semi-annual interest rate (compounded semi-annually)
40 necessary to discount the debt service payments on the refunding bonds
41 from the payment dates thereof to the date of issue of the refunding
42 bonds to the purchase price of the refunding bonds, including interest
43 accrued thereon prior to the issuance thereof. The maturity of such
44 bonds, other than bonds issued to refund outstanding bonds, shall not
45 exceed the weighted average economic life, as certified by the state
46 university construction fund, of the facilities in connection with which
47 the bonds are issued, and in any case not later than the earlier of
48 thirty years or the expiration of the term of any lease, sublease or
49 other agreement relating thereto; provided that no note, including
50 renewals thereof, shall mature later than five years after the date of
51 issuance of such note. The legislature reserves the right to amend or
52 repeal such limit, and the state of New York, the dormitory authority,
53 the state university of New York, and the state university construction
54 fund are prohibited from covenanting or making any other agreements with
55 or for the benefit of bondholders which might in any way affect such
56 right.



1 § 36. Paragraph (c) of subdivision 14 of section 1680 of the public
2 authorities law, as amended by section 41 of part UU of chapter 54 of
3 the laws of 2016, is amended to read as follows:

4 (c) Subject to the provisions of chapter fifty-nine of the laws of two
5 thousand, (i) the dormitory authority shall not deliver a series of
6 bonds for city university community college facilities, except to refund
7 or to be substituted for or in lieu of other bonds in relation to city
8 university community college facilities pursuant to a resolution of the
9 dormitory authority adopted before July first, nineteen hundred eighty-
10 five or any resolution supplemental thereto, if the principal amount of
11 bonds so to be issued when added to all principal amounts of bonds
12 previously issued by the dormitory authority for city university commu-
13 nity college facilities, except to refund or to be substituted in lieu
14 of other bonds in relation to city university community college facili-
15 ties will exceed the sum of four hundred twenty-five million dollars and
16 (ii) the dormitory authority shall not deliver a series of bonds issued
17 for city university facilities, including community college facilities,
18 pursuant to a resolution of the dormitory authority adopted on or after
19 July first, nineteen hundred eighty-five, except to refund or to be
20 substituted for or in lieu of other bonds in relation to city university
21 facilities and except for bonds issued pursuant to a resolution supple-
22 mental to a resolution of the dormitory authority adopted prior to July
23 first, nineteen hundred eighty-five, if the principal amount of bonds so
24 to be issued when added to the principal amount of bonds previously
25 issued pursuant to any such resolution, except bonds issued to refund or
26 to be substituted for or in lieu of other bonds in relation to city
27 university facilities, will exceed seven billion [five] nine hundred
28 [eighty-eight] eighty-one million [four] nine hundred [eleven] sixty-
29 eight thousand dollars. The legislature reserves the right to amend or
30 repeal such limit, and the state of New York, the dormitory authority,
31 the city university, and the fund are prohibited from covenanting or
32 making any other agreements with or for the benefit of bondholders which
33 might in any way affect such right.

34 § 37. Subdivision 10-a of section 1680 of the public authorities law,
35 as amended by section 42 of part UU of chapter 54 of the laws of 2016,
36 is amended to read as follows:

37 10-a. Subject to the provisions of chapter fifty-nine of the laws of
38 two thousand, but notwithstanding any other provision of the law to the
39 contrary, the maximum amount of bonds and notes to be issued after March
40 thirty-first, two thousand two, on behalf of the state, in relation to
41 any locally sponsored community college, shall be [eight] nine hundred
42 [sixty-one] fourteen million [four] five hundred [fifty-four] ninety
43 thousand dollars. Such amount shall be exclusive of bonds and notes
44 issued to fund any reserve fund or funds, costs of issuance and to
45 refund any outstanding bonds and notes, issued on behalf of the state,
46 relating to a locally sponsored community college.

47 § 38. Subdivision 1 of section 17 of part D of chapter 389 of the laws
48 of 1997, relating to the financing of the correctional facilities
49 improvement fund and the youth facility improvement fund, as amended by
50 section 43 of part UU of chapter 54 of the laws of 2016, is amended to
51 read as follows:

52 1. Subject to the provisions of chapter 59 of the laws of 2000, but
53 notwithstanding the provisions of section 18 of section 1 of chapter 174
54 of the laws of 1968, the New York state urban development corporation is
55 hereby authorized to issue bonds, notes and other obligations in an
56 aggregate principal amount not to exceed six hundred [forty-seven]

1 eighty-two million [sixty-five] nine hundred fifteen thousand dollars
2 [(\$647,065,000)] (\$682,915,000), which authorization increases the
3 aggregate principal amount of bonds, notes and other obligations author-
4 ized by section 40 of chapter 309 of the laws of 1996, and shall include
5 all bonds, notes and other obligations issued pursuant to chapter 211 of
6 the laws of 1990, as amended or supplemented. The proceeds of such
7 bonds, notes or other obligations shall be paid to the state, for depos-
8 it in the youth facilities improvement fund, to pay for all or any
9 portion of the amount or amounts paid by the state from appropriations
10 or reappropriations made to the office of children and family services
11 from the youth facilities improvement fund for capital projects. The
12 aggregate amount of bonds, notes and other obligations authorized to be
13 issued pursuant to this section shall exclude bonds, notes or other
14 obligations issued to refund or otherwise repay bonds, notes or other
15 obligations theretofore issued, the proceeds of which were paid to the
16 state for all or a portion of the amounts expended by the state from
17 appropriations or reappropriations made to the office of children and
18 family services; provided, however, that upon any such refunding or
19 repayment the total aggregate principal amount of outstanding bonds,
20 notes or other obligations may be greater than six hundred [forty-seven]
21 eighty-two million [sixty-five] nine hundred fifteen thousand dollars
22 [(\$647,065,000)] (\$682,915,000), only if the present value of the aggre-
23 gate debt service of the refunding or repayment bonds, notes or other
24 obligations to be issued shall not exceed the present value of the
25 aggregate debt service of the bonds, notes or other obligations so to be
26 refunded or repaid. For the purposes hereof, the present value of the
27 aggregate debt service of the refunding or repayment bonds, notes or
28 other obligations and of the aggregate debt service of the bonds, notes
29 or other obligations so refunded or repaid, shall be calculated by
30 utilizing the effective interest rate of the refunding or repayment
31 bonds, notes or other obligations, which shall be that rate arrived at
32 by doubling the semi-annual interest rate (compounded semi-annually)
33 necessary to discount the debt service payments on the refunding or
34 repayment bonds, notes or other obligations from the payment dates ther-
35 eof to the date of issue of the refunding or repayment bonds, notes or
36 other obligations and to the price bid including estimated accrued
37 interest or proceeds received by the corporation including estimated
38 accrued interest from the sale thereof.

39 § 39. Paragraph b of subdivision 2 of section 9-a of section 1 of
40 chapter 392 of the laws of 1973, constituting the New York state medical
41 care facilities finance agency act, as amended by section 44 of part UU
42 of chapter 54 of the laws of 2016, is amended to read as follows:

43 b. The agency shall have power and is hereby authorized from time to
44 time to issue negotiable bonds and notes in conformity with applicable
45 provisions of the uniform commercial code in such principal amount as,
46 in the opinion of the agency, shall be necessary, after taking into
47 account other moneys which may be available for the purpose, to provide
48 sufficient funds to the facilities development corporation, or any
49 successor agency, for the financing or refinancing of or for the design,
50 construction, acquisition, reconstruction, rehabilitation or improvement
51 of mental health services facilities pursuant to paragraph a of this
52 subdivision, the payment of interest on mental health services improve-
53 ment bonds and mental health services improvement notes issued for such
54 purposes, the establishment of reserves to secure such bonds and notes,
55 the cost or premium of bond insurance or the costs of any financial
56 mechanisms which may be used to reduce the debt service that would be

1 payable by the agency on its mental health services facilities improve-
2 ment bonds and notes and all other expenditures of the agency incident
3 to and necessary or convenient to providing the facilities development
4 corporation, or any successor agency, with funds for the financing or
5 refinancing of or for any such design, construction, acquisition, recon-
6 struction, rehabilitation or improvement and for the refunding of mental
7 hygiene improvement bonds issued pursuant to section 47-b of the private
8 housing finance law; provided, however, that the agency shall not issue
9 mental health services facilities improvement bonds and mental health
10 services facilities improvement notes in an aggregate principal amount
11 exceeding eight billion [twenty-one] three hundred seventy-two million
12 eight hundred fifteen thousand dollars, excluding mental health services
13 facilities improvement bonds and mental health services facilities
14 improvement notes issued to refund outstanding mental health services
15 facilities improvement bonds and mental health services facilities
16 improvement notes; provided, however, that upon any such refunding or
17 repayment of mental health services facilities improvement bonds and/or
18 mental health services facilities improvement notes the total aggregate
19 principal amount of outstanding mental health services facilities
20 improvement bonds and mental health facilities improvement notes may be
21 greater than eight billion [twenty-one] three hundred seventy-two
22 million eight hundred fifteen thousand dollars only if, except as here-
23 inafter provided with respect to mental health services facilities bonds
24 and mental health services facilities notes issued to refund mental
25 hygiene improvement bonds authorized to be issued pursuant to the
26 provisions of section 47-b of the private housing finance law, the pres-
27 ent value of the aggregate debt service of the refunding or repayment
28 bonds to be issued shall not exceed the present value of the aggregate
29 debt service of the bonds to be refunded or repaid. For purposes hereof,
30 the present values of the aggregate debt service of the refunding or
31 repayment bonds, notes or other obligations and of the aggregate debt
32 service of the bonds, notes or other obligations so refunded or repaid,
33 shall be calculated by utilizing the effective interest rate of the
34 refunding or repayment bonds, notes or other obligations, which shall be
35 that rate arrived at by doubling the semi-annual interest rate
36 (compounded semi-annually) necessary to discount the debt service
37 payments on the refunding or repayment bonds, notes or other obligations
38 from the payment dates thereof to the date of issue of the refunding or
39 repayment bonds, notes or other obligations and to the price bid includ-
40 ing estimated accrued interest or proceeds received by the authority
41 including estimated accrued interest from the sale thereof. Such bonds,
42 other than bonds issued to refund outstanding bonds, shall be scheduled
43 to mature over a term not to exceed the average useful life, as certi-
44 fied by the facilities development corporation, of the projects for
45 which the bonds are issued, and in any case shall not exceed thirty
46 years and the maximum maturity of notes or any renewals thereof shall
47 not exceed five years from the date of the original issue of such notes.
48 Notwithstanding the provisions of this section, the agency shall have
49 the power and is hereby authorized to issue mental health services
50 facilities improvement bonds and/or mental health services facilities
51 improvement notes to refund outstanding mental hygiene improvement bonds
52 authorized to be issued pursuant to the provisions of section 47-b of
53 the private housing finance law and the amount of bonds issued or
54 outstanding for such purposes shall not be included for purposes of
55 determining the amount of bonds issued pursuant to this section. The
56 director of the budget shall allocate the aggregate principal authorized

1 to be issued by the agency among the office of mental health, office for
2 people with developmental disabilities, and the office of alcoholism and
3 substance abuse services, in consultation with their respective commis-
4 sioners to finance bondable appropriations previously approved by the
5 legislature.

6 § 40. Paragraph (b) of subdivision 3 and clause (B) of subparagraph
7 (iii) of paragraph (j) of subdivision 4 of section 1 of part D of chap-
8 ter 63 of the laws of 2005, relating to the composition and responsibil-
9 ities of the New York state higher education capital matching grant
10 board, as amended by section 45 of part UU of chapter 54 of the laws of
11 2016, are amended to read as follows:

12 (b) Within amounts appropriated therefor, the board is hereby author-
13 ized and directed to award matching capital grants totaling [240] 270
14 million dollars. Each college shall be eligible for a grant award amount
15 as determined by the calculations pursuant to subdivision five of this
16 section. In addition, such colleges shall be eligible to compete for
17 additional funds pursuant to paragraph (h) of subdivision four of this
18 section.

19 (B) The dormitory authority shall not issue any bonds or notes in an
20 amount in excess of [240] 270 million dollars for the purposes of this
21 section; excluding bonds or notes issued to fund one or more debt
22 service reserve funds, to pay costs of issuance of such bonds, and bonds
23 or notes issued to refund or otherwise repay such bonds or notes previ-
24 ously issued. Except for purposes of complying with the internal revenue
25 code, any interest on bond proceeds shall only be used to pay debt
26 service on such bonds.

27 § 41. Section 1680-r of the public authorities law, as amended by
28 section 40 of part I of chapter 60 of the laws of 2015, subdivision 1 as
29 amended by section 48 of part UU of chapter 54 of the laws of 2016, is
30 amended to read as follows:

31 § 1680-r. Authorization for the issuance of bonds for the capital
32 restructuring financing program [and], the health care facility trans-
33 formation [program] programs, and the essential health care provider
34 program. 1. Notwithstanding the provisions of any other law to the
35 contrary, the dormitory authority and the urban development corporation
36 are hereby authorized to issue bonds or notes in one or more series for
37 the purpose of funding project costs for the capital restructuring
38 financing program for health care and related facilities licensed pursu-
39 ant to the public health law or the mental hygiene law and other state
40 costs associated with such capital projects [and], the health care
41 facility transformation [program] programs, and the essential health
42 care provider program. The aggregate principal amount of bonds author-
43 ized to be issued pursuant to this section shall not exceed two billion
44 [four] seven hundred million dollars, excluding bonds issued to fund one
45 or more debt service reserve funds, to pay costs of issuance of such
46 bonds, and bonds or notes issued to refund or otherwise repay such bonds
47 or notes previously issued. Such bonds and notes of the dormitory
48 authority and the urban development corporation shall not be a debt of
49 the state, and the state shall not be liable thereon, nor shall they be
50 payable out of any funds other than those appropriated by the state to
51 the dormitory authority and the urban development corporation for prin-
52 cipal, interest, and related expenses pursuant to a service contract and
53 such bonds and notes shall contain on the face thereof a statement to
54 such effect. Except for purposes of complying with the internal revenue
55 code, any interest income earned on bond proceeds shall only be used to
56 pay debt service on such bonds.

1 2. Notwithstanding any other provision of law to the contrary, in
2 order to assist the dormitory authority and the urban development corpo-
3 ration in undertaking the financing for project costs for the capital
4 restructuring financing program for health care and related facilities
5 licensed pursuant to the public health law or the mental hygiene law and
6 other state costs associated with such capital projects [and], the
7 health care facility transformation [program] programs, and the essen-
8 tial health care provider program, the director of the budget is hereby
9 authorized to enter into one or more service contracts with the dormito-
10 ry authority and the urban development corporation, none of which shall
11 exceed thirty years in duration, upon such terms and conditions as the
12 director of the budget and the dormitory authority and the urban devel-
13 opment corporation agree, so as to annually provide to the dormitory
14 authority and the urban development corporation, in the aggregate, a sum
15 not to exceed the principal, interest, and related expenses required for
16 such bonds and notes. Any service contract entered into pursuant to this
17 section shall provide that the obligation of the state to pay the amount
18 therein provided shall not constitute a debt of the state within the
19 meaning of any constitutional or statutory provision and shall be deemed
20 executory only to the extent of monies available and that no liability
21 shall be incurred by the state beyond the monies available for such
22 purpose, subject to annual appropriation by the legislature. Any such
23 contract or any payments made or to be made thereunder may be assigned
24 and pledged by the dormitory authority and the urban development corpo-
25 ration as security for its bonds and notes, as authorized by this
26 section.

27 § 42. Section 50 of section 1 of chapter 174 of the laws of 1968
28 constituting the New York state urban development corporation act, as
29 added by section 46-b of part I of chapter 55 of the laws of 2014, is
30 amended to read as follows:

31 § 50. 1. Notwithstanding the provisions of any other law to the
32 contrary, the dormitory authority and the urban development corporation
33 are hereby authorized to issue bonds or notes in one or more series for
34 the purpose of funding project costs undertaken by or on behalf of
35 special act school districts, state-supported schools for the blind and
36 deaf [and], approved private special education schools, non-public
37 schools and other state costs associated with such capital projects.
38 The aggregate principal amount of bonds authorized to be issued pursuant
39 to this section shall not exceed [five] thirty million dollars, exclud-
40 ing bonds issued to fund one or more debt service reserve funds, to pay
41 costs of issuance of such bonds, and bonds or notes issued to refund or
42 otherwise repay such bonds or notes previously issued. Such bonds and
43 notes of the dormitory authority and the urban development corporation
44 shall not be a debt of the state, and the state shall not be liable
45 thereon, nor shall they be payable out of any funds other than those
46 appropriated by the state to the dormitory authority and the urban
47 development corporation for principal, interest, and related expenses
48 pursuant to a service contract and such bonds and notes shall contain on
49 the face thereof a statement to such effect. Except for purposes of
50 complying with the internal revenue code, any interest income earned on
51 bond proceeds shall only be used to pay debt service on such bonds.

52 2. Notwithstanding any other provision of law to the contrary, in
53 order to assist the dormitory authority and the urban development corpo-
54 ration in undertaking the financing for project costs undertaken by or
55 on behalf of special act school districts, state-supported schools for
56 the blind and deaf and approved private special education schools, non-

1 public schools, and other state costs associated with such capital
2 projects, the director of the budget is hereby authorized to enter into
3 one or more service contracts with the dormitory authority and the urban
4 development corporation, none of which shall exceed thirty years in
5 duration, upon such terms and conditions as the director of the budget
6 and the dormitory authority and the urban development corporation agree,
7 so as to annually provide to the dormitory authority and the urban
8 development corporation, in the aggregate, a sum not to exceed the prin-
9 cipal, interest, and related expenses required for such bonds and notes.
10 Any service contract entered into pursuant to this section shall provide
11 that the obligation of the state to pay the amount therein provided
12 shall not constitute a debt of the state within the meaning of any
13 constitutional or statutory provision and shall be deemed executory only
14 to the extent of monies available and that no liability shall be
15 incurred by the state beyond the monies available for such purpose,
16 subject to annual appropriation by the legislature. Any such contract or
17 any payments made or to be made thereunder may be assigned and pledged
18 by the dormitory authority and the urban development corporation as
19 security for its bonds and notes, as authorized by this section.

20 [3. Subdivisions 1 and 2 of this section shall take effect only in the
21 event that a chapter of the laws of 2014, enacting the "smart schools
22 bond act of 2014", is submitted to the people at the general election to
23 be held in November 2014 and is approved by a majority of all votes cast
24 for and against it at such election. Upon such approval, subdivisions 1
25 and 2 of this section shall take effect immediately. If such approval is
26 not obtained, subdivisions 1 and 2 of this section shall expire and be
27 deemed repealed.]

28 § 43. Paragraph (b) of subdivision 4 of section 72 of the state
29 finance law, as amended by section 27 of part I of chapter 55 of the
30 laws of 2014, is amended to read as follows:

31 (b) On or before the beginning of each quarter, the director of the
32 budget may certify to the state comptroller the estimated amount of
33 monies that shall be reserved in the general debt service fund for the
34 payment of debt service and related expenses payable by such fund during
35 each month of the state fiscal year, excluding payments due from the
36 revenue bond tax fund. Such certificate may be periodically updated, as
37 necessary. Notwithstanding any provision of law to the contrary, the
38 state comptroller shall reserve in the general debt service fund the
39 amount of monies identified on such certificate as necessary for the
40 payment of debt service and related expenses during the current or next
41 succeeding quarter of the state fiscal year. Such monies reserved shall
42 not be available for any other purpose. Such certificate shall be
43 reported to the chairpersons of the Senate Finance Committee and the
44 Assembly Ways and Means Committee. [The provisions of this paragraph
45 shall expire June thirtieth, two thousand seventeen.]

46 § 44. Paragraph (a) of subdivision 1 of section 3234 of the public
47 authorities law, as amended by section 46-d of part I of chapter 55 of
48 the laws of 2014, is amended to read as follows:

49 (a) The corporation shall be administered by [seven] three directors,
50 one of whom shall be the comptroller, one of whom shall be the director
51 of the budget and [five] one of whom shall be appointed by the governor.
52 The comptroller and the director of the budget shall be entitled to
53 designate a representative or representatives to attend meetings of the
54 board in their place, and to vote or otherwise act on their behalf in
55 their absence. Notice of such designation shall be furnished in writing
56 to the board by the designating director. A representative shall serve

1 at the pleasure of the designating director during the director's term
2 of office. A representative shall not be authorized to delegate any of
3 his or her duties or functions to any other person. A director who is
4 not a state official shall serve for a term expiring at the end of the
5 term actually served by the officer making the appointment and may be
6 removed for cause by such officer after hearing on ten days notice.

7 § 45. Section 3234 of the public authorities law is amended by adding
8 a new subdivision 7 to read as follows:

9 7. Notwithstanding any other provision of law to the contrary, the
10 provisions of subdivisions four, six, seven and eight of section two
11 thousand eight hundred twenty-four of this chapter shall not apply to
12 the corporation.

13 § 46. Paragraph (d) of subdivision 1 of section 68-b of the state
14 finance law, as added by section 2 of part I of chapter 383 of the laws
15 of 2001, is amended to read as follows:

16 (d) All of the provisions of the enabling acts of the authorized
17 issuers relating to bonds and notes, which are not inconsistent with the
18 provisions of this section, may, at the discretion of the authorized
19 issuer, apply to revenue bonds authorized by this section. Notwith-
20 standing the foregoing, where the provisions of the enabling acts of the
21 authorized issuers relating to bonds and notes may be inconsistent with
22 the provisions of this section, including but not limited to the amount
23 of bonds authorized to be issued for authorized purposes, the authori-
24 zation for, manner, and requirements for the issuance of refunding
25 bonds, and any other similar powers, the provisions of this section
26 shall govern and be applied consistently for all such authorized
27 purposes.

28 § 47. Paragraph (d) of subdivision 1 of section 69-n of the state
29 finance law, as added by section 58 of part HH of chapter 57 of the laws
30 of 2013, is amended to read as follows:

31 (d) All of the provisions of the enabling acts of the authorized
32 issuers relating to bonds and notes, which are not inconsistent with the
33 provisions of this section, may, at the discretion of the authorized
34 issuer, apply to revenue bonds authorized by this section. Notwith-
35 standing the foregoing, where the provisions of the enabling acts of the
36 authorized issuers relating to bonds and notes may be inconsistent with
37 the provisions of this section, including but not limited to the amount
38 of bonds authorized to be issued for authorized purposes, the authori-
39 zation for, manner, and requirements for the issuance of refunding
40 bonds, and any other similar powers, the provisions of this section
41 shall govern and be applied consistently for all such authorized
42 purposes.

43 § 48. Paragraphs (a) and (g) of subdivision 2 of section 56 of the
44 state finance law, as amended by chapter 11 of the laws of 1994, are
45 amended to read as follows:

46 (a) Refunding bonds shall be issued only when the comptroller shall
47 have certified that, as a result of the refunding, there will be a debt
48 service savings to the state on a present value basis as a result of the
49 refunding transaction and that either (i) the refunding will benefit
50 state taxpayers over the life of the refunding bonds by achieving an
51 actual debt service savings each year or state fiscal year during the
52 term to maturity of the refunding bonds when debt service on the refund-
53 ing bonds is expected to be paid from legislative appropriations or (ii)
54 debt service on the refunding bonds shall be payable in annual install-
55 ments of principal and interest which result in substantially level or
56 declining debt service payments pursuant to paragraph (b) of subdivision

1 two of section fifty-seven of this [chapter] article. Such certifi-
2 cation by the comptroller shall be conclusive as to matters contained
3 therein after the refunding bonds have been issued.

4 (g) Any refunding bonds issued pursuant to this section shall be paid
5 in annual installments which shall, so long as any refunding bonds are
6 outstanding, be made in each year or state fiscal year in which install-
7 ments were due on the bonds to be refunded and shall be in an amount
8 which shall result in annual debt service payments which shall be less
9 in each year or state fiscal year than the annual debt service payments
10 on the bonds to be refunded unless debt service on the refunding bonds
11 is payable in annual installments of principal and interest which will
12 result in substantially level or declining debt service payments pursu-
13 ant to paragraph (b) of subdivision two of section fifty-seven of this
14 [chapter] article.

15 § 49. Subdivisions 1, 2 and 6 of section 57 of the state finance law,
16 as amended by chapter 11 of the laws of 1994, are amended to read as
17 follows:

18 1. Whenever the legislature, after authorization of a bond issue by
19 the people at a general election, as provided by section eleven of arti-
20 cle seven of the state constitution, or as provided by section three of
21 article eighteen of the state constitution, shall have authorized, by
22 one or more laws, the creation of a state debt or debts, bonds of the
23 state, to the amount of the debt or debts so authorized, shall be issued
24 and sold by the state comptroller. Any appropriation from the proceeds
25 of the sale of bonds, pursuant to this section, shall be deemed to be an
26 authorization for the creation of a state debt or debts to the extent of
27 such appropriation. The state comptroller may issue and sell a single
28 series of bonds pursuant to one or more such authorizations and for one
29 or more duly authorized works or purposes. As part of the proceedings
30 for each such issuance and sale of bonds, the state comptroller shall
31 designate the works or purposes for which they are issued. It shall not
32 be necessary for him to designate the works or purposes for which the
33 bonds are issued on the face of the bonds. The proceeds from the sale of
34 bonds for more than one work or purpose shall be separately accounted
35 for according to the works or purposes designated for such sale by the
36 comptroller and the proceeds received for each work or purpose shall be
37 expended only for such work or purpose. The bonds shall bear interest at
38 such rate or rates as in the judgment of the state comptroller may be
39 sufficient or necessary to effect a sale of the bonds, and such interest
40 shall be payable at least semi-annually, in the case of bonds with a
41 fixed interest rate, and at least annually, in the case of bonds with an
42 interest rate that varies periodically, in the city of New York unless
43 annual payments of principal and interest result in substantially level
44 or declining debt service payments over the life of an issue of bonds
45 pursuant to paragraph (b) of subdivision two of this section or unless
46 accrued interest is contributed to a sinking fund in accordance with
47 subdivision three of section twelve of article seven of the state
48 constitution, in which case interest shall be paid at such times and at
49 such places as shall be determined by the state comptroller prior to
50 issuance of the bonds.

51 2. Such bonds, or the portion thereof at any time issued, shall be
52 made payable (a) in equal annual principal installments or (b) in annual
53 installments of principal and interest which result in substantially
54 level or declining debt service payments, over the life of the bonds,
55 the first of which annual installments shall be payable not more than
56 one year from the date of issue and the last of which shall be payable

1 at such time as the comptroller may determine but not more than forty
2 years or state fiscal years after the date of issue, not more than fifty
3 years after the date of issue in the case of housing bonds, and not more
4 than twenty-five years in the case of urban renewal bonds. Where bonds
5 are payable pursuant to paragraph (b) of this subdivision, except for
6 the year or state fiscal year of initial issuance if less than a full
7 year of debt service is to become due in that year or state fiscal year,
8 either (i) the greatest aggregate amount of debt service payable in any
9 year or state fiscal year shall not differ from the lowest aggregate
10 amount of debt service payable in any other year or state fiscal year by
11 more than five percent or (ii) the aggregate amount of debt service in
12 each year or state fiscal year shall be less than the aggregate amount
13 of debt service in the immediately preceding year or state fiscal year.
14 For purposes of this subdivision, debt service shall include all princi-
15 pal, redemption price, sinking fund installments or contributions, and
16 interest scheduled to become due. For purposes of determining whether
17 debt service is level or declining on bonds issued with a variable rate
18 of interest pursuant to paragraph b of subdivision four of this section,
19 the comptroller shall assume a market rate of interest as of the date of
20 issuance. Where the comptroller determines that interest on any bonds
21 shall be compounded and payable at maturity, such bonds shall be payable
22 only in accordance with paragraph (b) of this subdivision unless accrued
23 interest is contributed to a sinking fund in accordance with subdivision
24 three of section twelve of article seven of the state constitution. In
25 no case shall any bonds or portion thereof be issued for a period longer
26 than the probable life of the work or purpose, or part thereof, to which
27 the proceeds of the bonds are to be applied, or in the alternative, the
28 weighted average period of the probable life of the works or purposes to
29 which the proceeds of the bonds are to be applied taking into consider-
30 ation the respective amounts of bonds issued for each work or purpose,
31 as may be determined under section sixty-one of this [chapter] article
32 and in accordance with the certificate of the commissioner of general
33 services, and/or the commissioner of transportation, state architect,
34 state commissioner of housing and urban renewal, or other authority, as
35 the case may be, having charge by law of the acquisition, construction,
36 work or improvement for which the debt was authorized. Such certificate
37 shall be filed in the office of the state comptroller and shall state
38 the group, or, where the probable lives of two or more separable parts
39 of the work or purposes are different, the groups, specified in such
40 section, for which the amount or amounts, shall be provided by the issu-
41 ance and sale of bonds. Weighted average period of probable life shall
42 be determined by computing the sum of the products derived from multi-
43 plying the dollar value of the portion of the debt contracted for each
44 work or purpose (or class of works or purposes) by the probable life of
45 such work or purpose (or class of works or purposes) and dividing the
46 resulting sum by the dollar value of the entire debt after taking into
47 consideration any original issue discount. Any costs of issuance
48 financed with bond proceeds shall be prorated among the various works or
49 purposes. Such bonds, or the portion thereof at any time sold, shall be
50 of such denominations, subject to the foregoing provisions, as the state
51 comptroller may determine. Notwithstanding the foregoing provisions of
52 this subdivision, the comptroller may issue all or a portion of such
53 bonds as serial debt, term debt or a combination thereof, maturing as
54 required by this subdivision, provided that the comptroller shall have
55 provided for the retirement each year or state fiscal year, or otherwise
56 have provided for the payment of, through sinking fund installment

1 payments or otherwise, a portion of such term bonds in an amount meeting
2 the requirements of paragraph (a) or (b) of this subdivision or shall
3 have established a sinking fund and provided for contributions thereto
4 as provided in subdivision eight of this section and section twelve of
5 article seven of the state constitution.

6 6. Except with respect to bonds issued in the manner provided in para-
7 graph (c) of subdivision seven of this section, all bonds of the state
8 of New York which the comptroller of the state of New York is authorized
9 to issue and sell, shall be executed in the name of the state of New
10 York by the manual or facsimile signature of the state comptroller and
11 his seal (or a facsimile thereof) shall be thereunto affixed, imprinted,
12 engraved or otherwise reproduced. In case the state comptroller who
13 shall have signed and sealed any of the bonds shall cease to hold the
14 office of state comptroller before the bonds so signed and sealed shall
15 have been actually countersigned and delivered by the fiscal agent or
16 trustee, such bonds may, nevertheless, be countersigned and delivered as
17 herein provided, and may be issued as if the state comptroller who
18 signed and sealed such bonds had not ceased to hold such office. Any
19 bond of a series may be signed and sealed on behalf of the state of New
20 York by such person as at the actual time of the execution of such bond
21 shall hold the office of comptroller of the state of New York, although
22 at the date of the bonds of such series such person may not have held
23 such office. The coupons to be attached to the coupon bonds of each
24 series shall be signed by the facsimile signature of the state comp-
25 troller of the state of New York or by any person who shall have held
26 the office of state comptroller of the state of New York on or after the
27 date of the bonds of such series, notwithstanding that such person may
28 not have been such state comptroller at the date of any such bond or may
29 have ceased to be such state comptroller at the date when any such bond
30 shall be actually countersigned and delivered. The bonds of each series
31 shall be countersigned with the manual signature of an authorized
32 employee of the fiscal agent or trustee of the state of New York. No
33 bond and no coupon thereunto appertaining shall be valid or obligatory
34 for any purpose until such manual countersignature of an authorized
35 employee of the fiscal agent or trustee of the state of New York shall
36 have been duly affixed to such bond.

37 § 50. Sections 58, 59 and 60 of the state finance law are REPEALED.

38 § 51. Section 62 of the state finance law, as amended by chapter 219
39 of the laws of 1999, is amended to read as follows:

40 § 62. Replacement of lost certificates. The comptroller, who may act
41 through his duly authorized fiscal agent or trustee appointed pursuant
42 to section sixty-five of this article, may issue to the lawful owner of
43 any certificate or bond issued by him in behalf of this state, which he
44 or such duly authorized fiscal agent or trustee is satisfied, by due
45 proof filed in his office or with such duly authorized fiscal agent or
46 trustee, has been lost or casually destroyed, a new certificate or bond,
47 corresponding in date, number and amount with the certificate or bond so
48 lost or destroyed, and expressing on its face that it is a renewed
49 certificate or bond. No such renewed certificate or bond shall be issued
50 unless sufficient security is given to satisfy the lawful claim of any
51 person to the original certificate or bond, or to any interest therein.
52 The comptroller shall report annually to the legislature the number and
53 amount of all renewed certificates or bonds so issued. If the renewed
54 certificate is issued by the state's duly authorized fiscal agent or
55 trustee and such agent or trustee agrees to be responsible for any loss
56 suffered as a result of unauthorized payment, the security shall be

1 provided to and approved by the fiscal agent or trustee and no addi-
2 tional approval by the comptroller or the attorney general shall be
3 required.

4 § 52. Section 65 of the state finance law, as amended by chapter 459
5 of the laws of 1948, subdivision 1 as amended by chapter 219 of the laws
6 of 1999, is amended to read as follows:

7 § 65. Appointment of fiscal agent or trustee; powers and duties. 1.
8 Notwithstanding any other provisions of this chapter, the comptroller,
9 on behalf of the state, may contract from time to time for a period or
10 periods not exceeding ten years each, except in the case of a bank or
11 trust company agreeing to act as issuing, paying and/or tender agent
12 with respect to a particular issue of variable interest rate bonds in
13 which case the comptroller, on behalf of the state, may contract for a
14 period not to exceed the term of such particular issue of bonds, with
15 one or more banks or trust companies located in the city of New York, to
16 act as fiscal agent, trustee, or agents of the state, and for the main-
17 tenance of an office for the registration, conversion, reconversion and
18 transfer of the bonds and notes of the state, including the preparation
19 and substitution of new bonds and notes, for the payment of the princi-
20 pal thereof and interest thereon, [and] for related services, and to
21 otherwise effectuate the powers and duties of a fiscal agent or trustee
22 on behalf of the state in all such respects as may be determined by the
23 comptroller for such bonds and notes, and for the payment by the state
24 of such compensation therefor as the comptroller may determine. Any such
25 fiscal agent or trustee may, where authorized pursuant to the terms of
26 its contract, accept delivery of obligations purchased by the state and
27 of securities deposited with the state pursuant to sections one hundred
28 five and one hundred six of this chapter and hold the same in safekeep-
29 ing, make delivery to purchasers of obligations sold by the state, and
30 accept deposit of such proceeds of sale without securing the same. Any
31 such contract may also provide that such fiscal agent or trustee may,
32 upon the written instruction of the comptroller, deposit any obligations
33 or securities which it receives pursuant to such contract, in an account
34 with a federal reserve bank, to be held in such account in the form of
35 entries on the books of the federal reserve bank, and to be transferred
36 in the event of any assignment, sale, redemption, maturity or other
37 disposition of such obligations or securities, by entries on the books
38 of the federal reserve bank. Any such bank or trust company shall be
39 responsible to the people of this state for the faithful and safe
40 conduct of the business of said office, for the fidelity and integrity
41 of its officers and agents employed in such office, and for all loss or
42 damage which may result from any failure to discharge their duties, and
43 for any improper and incorrect discharge of those duties, and shall save
44 the state free and harmless from any and all loss or damage occasioned
45 by or incurred in the performance of such services. Any such contract
46 may be terminated by the comptroller at any time. In the event of any
47 change in any office maintained pursuant to any such contract, the comp-
48 troller shall give public notice thereof in such form as he may deter-
49 mine appropriate.

50 2. The comptroller shall prescribe rules and regulations for the
51 registration, conversion, reconversion and transfer of the bonds and
52 notes of the state, including the preparation and substitution of new
53 bonds, for the payment of the principal thereof and interest thereon,
54 and for other authorized services to be performed by such fiscal agent
55 or trustee. Such rules and regulations, and all amendments thereof,
56 shall be prepared in duplicate, one copy of which shall be filed in the

1 office of the department of audit and control and the other in the
2 office of the department of state. A copy thereof may be filed as a
3 public record in such other offices as the comptroller may determine.
4 Such rules and regulations shall be obligatory on all persons having any
5 interests in bonds and notes of the state heretofore or hereafter
6 issued.

7 § 53. The state finance law is amended by adding a new article 5-G to
8 read as follows:

9 ARTICLE 5-G

10 PRIVATE SALE APPROVALS

11 Section 69-p. Private sale approvals.

12 § 69-p. Private sale approvals. Notwithstanding any other provision of
13 law to the contrary, wherever any issuer of bonds, notes, or other obli-
14 gations, as authorized in the state finance law, the public authorities
15 law, the local finance law, the general municipal law, the private hous-
16 ing finance law, the arts and cultural affairs law, the racing, pari-mu-
17 tual wagering and breeding law, or unconsolidated law, shall have a
18 requirement that such bonds, notes, or other obligations shall not be
19 sold at private sale unless such sale and the terms thereof have been
20 approved by the state comptroller, such issuer shall only be required to
21 seek or secure the approval from the state comptroller of the interest
22 rates, yields, and prices of such bonds, notes or other obligations, and
23 their costs of issuance. If the state comptroller shall not have
24 provided a decision on such approval by no later than noon eastern stan-
25 dard time on the next business day following the final pricing activity
26 of each such private sale, then the sale and the terms thereof shall be
27 deemed to be approved.

28 § 54. Subdivision 2 of section 365 of the public authorities law, as
29 separately amended by sections 349 and 381 of chapter 190 of the laws of
30 1990, is amended to read as follows:

31 2. The notes and bonds shall be authorized by resolution of the board,
32 shall bear such date or dates and mature at such time or times, in the
33 case of notes and any renewals thereof within five years after their
34 respective dates and in the case of bonds not exceeding forty years from
35 their respective dates, as such resolution or resolutions may provide.
36 The notes and bonds shall bear interest at such rate or rates, be in
37 such denominations, be in such form, either coupon or registered, carry
38 such registration privileges, be executed in such manner, be payable in
39 such medium of payment, at such place or places, and be subject to such
40 terms of redemption as such resolution or resolutions may provide. Bonds
41 and notes shall be sold by the authority, at public or private sale, at
42 such price or prices as the authority may determine. Bonds and notes of
43 the authority shall not be sold by the authority at private sale unless
44 such sale and the terms thereof have been approved in writing by the
45 comptroller, where such sale is not to the comptroller, or by the direc-
46 tor of the budget, where such sale is to the comptroller. [Bonds and
47 notes sold at public sale shall be sold by the comptroller, as agent of
48 the authority, in such manner as the authority, with the approval of the
49 comptroller, shall determine.]

50 § 55. This act shall take effect immediately and shall be deemed to
51 have been in full force and effect on and after April 1, 2017; provided,
52 however, that the provisions of sections one, two, three, four, five,
53 six, seven, eight, thirteen, fourteen, fifteen, sixteen, seventeen,
54 eighteen, nineteen, twenty, twenty-one, and twenty-two of this act shall
55 expire March 31, 2018 when upon such date the provisions of such
56 sections shall be deemed repealed.

1 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
2 sion, section or part of this act shall be adjudged by any court of
3 competent jurisdiction to be invalid, such judgment shall not affect,
4 impair, or invalidate the remainder thereof, but shall be confined in
5 its operation to the clause, sentence, paragraph, subdivision, section
6 or part thereof directly involved in the controversy in which such judg-
7 ment shall have been rendered. It is hereby declared to be the intent of
8 the legislature that this act would have been enacted even if such
9 invalid provisions had not been included herein.

10 § 3. This act shall take effect immediately provided, however, that
11 the applicable effective date of Parts A through Z of this act shall be
12 as specifically set forth in the last section of such Parts.

