# PATHWAYS TO LGBTQ+ PARENTHOOD:

## UNDERSTANDING LEGAL OPTIONS FOR FAMILY BUILDING

**DECEMBER 3, 2024 | 6:00-7:00 P.M. | PFIZER**

### FACULTY:

**Teresa D. Calabrese, Esq.** (she/her) – Mediator & collaborative lawyer
**John Cappiello, Esq.** (he/him) – Solo practitioner focusing on family law
**Brian Esser, Esq.** (he/him) – Solo practitioner focusing on building families
**Katerina Kurteva, Esq.** (Moderator) (she/her) – Assistant District Attorney, Bronx Cty. DA's Office

### CLE CREDIT:

**1.0 Credit in Areas of Professional Practice**

*(Appropriate for both Newly Admitted and Experienced Attorneys)*

LGBT BAR NY

Pfizer

**Pathways to LGBTQ+ Parenthood:**
**Understanding Legal Options for Family Building**

*Presented by the LGBT Bar Association of Greater New York*
*Hosted and sponsored by Pfizer*

**December 3, 2024 | 6:00 – 7:00 p.m. | New York, NY**

**Description:**

*This program will focus on LGBTQ+ parenting options, including adoption, fostering, surrogacy, fertility treatments, step-parent adoption, and other reproductive pathways. Experienced lawyers will explain different parenthood options and the evolving law of LGBTQ+ families.*

**Faculty:**

**Teresa D. Calabrese, Esq.** – Mediator & collaborative lawyer (Panelist)
**John Cappiello, Esq.** – Solo practitioner focusing on family law (Panelist)
**Brian Esser, Esq.** – Solo practitioner focusing on building families (Panelist)
**Katerina Kurteva, Esq.** – Assistant District Attorney, Bronx Cty. DA's Office (Moderator)

**Agenda:**

1. **What are the most common legally recognized LGBTQ+ Family Formations and Structures? – 5 minutes**
    a. What are some best practices in helping existing/prospective families add new members?

2. **What are the legal considerations involving paths to parentage via biological parentage? – 15 minutes**
    a. Known Sperm / Egg Donor Agreements
    b. Reciprocal IVF
    c. Co-Parenting Agreements

3. **What are the legal considerations involving paths to parentage via adoption? – 15 minutes**
    a. Foster to Adopt
    b. International
    c. Private Placement
    d. Second Parent Adoption v. Judgment of Parentage

4. **What are the legal considerations involving paths to parentage via surrogacy? – 15 minutes**
    a. Surrogacy Agreements
    b. Surrogate's Bill of Rights
    c. Parentage Proceeding

5. **Conclusion / Q&A – 10 minutes**

**Faculty Bios:**

**Teresa D. Calabrese, Esq.** (she/her)

*Mediator & Collaborative Lawyer at Mediation & Law Office of Teresa D. Calabrese*

Teresa Calabrese is a mediator and collaborative lawyer serving the NYC Queer community. Through mediation and collaborative practice, Teresa helps individuals, couples and families resolve conflict, problem-solve and make decisions together. She focuses on issues pertaining to: relationship formation, including co-habitation agreements and pre-marital agreements; building families, including donor sperm agreements and co-parenting agreements; and dissolving relationships and marriages.

Teresa also handles second parent adoption matters and provides basic estate planning services.

Teresa has presented programs for the New York State Council on Divorce Mediation, the New York Association of Collaborative Professionals, the Family and Divorce Mediation Council of Greater New York, and CUNY School of Law. Teresa has also participated in mediation and legal informational presentations for the Lesbian, Gay, Bisexual, and Transgender Community Services Center.

**John Cappiello, Esq.** (he/him)

*Family Law Practitioner*

John Cappiello, Esq. is a solo legal practitioner in Manhattan specializing in family law, including foster care, custody and guardianship, abuse and neglect, family offense, and juvenile delinquency proceedings. Prior to recently starting his own solo practice John worked for over six years at the New York City Administration for Children's Services (ACS) as a Family Court Legal Services supervising attorney in both New York and Kings Counties. At ACS John oversaw a high-volume foster care litigation practice including but not limited to child abuse and neglect proceedings, destitute child cases, children voluntarily placed in foster care and juvenile delinquency matters. John was also previously an associate attorney at Rosin Steinhagen Mendel, PLLC where he worked on foster care litigation, foster care and private adoptions, custody and guardianship cases, as well as appellate brief writing.

John is a member of the LGBT Bar of New York where he sits on the Family Law Committee and is former committee Co-Chair.

John is a graduate of Northeastern University School of Law and Loyola University Maryland. John is a proud alumni of Teach for America. John lives in Manhattan with his husband, William, and their dog, Ripley.

**Brian Esser, Esq.** (he/him)

*LGBT Family Law Partner at Law Office of Brian Esser PLLC*

Brian Esser is a solo practitioner whose practice focuses on building families through adoption, surrogacy, and assisted reproductive technology. He regularly works with clients pursuing private placement adoption, as well as families securing the parental rights of a non-biological parent through a second-parent adoption. He counsels families on sperm, egg, and embryo donor agreements, and all aspects of surrogacy. He has a particular interest in helping LGBT people build their families.

He is a former member of the board of directors of the National LGBT Bar Foundation where he served two terms as the board's President, a fellow of the Academy of Adoption and ART Attorneys, and a member of the ABA's Family Law Section Committee on Assisted Reproductive Technology. He is a founding board member of Equality New York, a statewide LGBTQI advocacy organization. He and his husband Kevin live in Park Slope, Brooklyn and have two sons through open adoption.

**Katerina Kurteva, Esq.– Moderator** (she/her)

*Assistant District Attorney at Bronx County District Attorney Office*

Katerina Kurteva, Esq. currently serves as a member of the Board of Directors of the Lesbian, Gay, Bisexual, Transgender (LGBT) Bar Association of Greater New York (LGBT Bar NY). As a child of immigrant parents, Katerina has dedicated her entire legal career to government and public service. Katerina joined LGBT Bar NY immediately after graduating law school, in early 2014. She then joined the Board of Directors in 2023 and has been serving as Secretary of the Foundation since 2024. Professionally, Katerina is an Assistant District Attorney with the Bronx County District Attorney's Office, primarily prosecuting violent cases, including vehicular homicides, manslaughter, attempted murder, assaults, pattern burglaries and robberies, as well as various gun and narcotic sale and possession cases. Katerina is the President of BXDA's first LGBTQ+ Pride Employee Resource Group. Prior to her service to the Bronx, Katerina was an investigative attorney with the NYC Department of Investigation, primarily prosecuting financial crimes conducted by the City and Agencies contracted to work with the City.

# Adoption Law:

## An Overview of Adoption in New York State

# Brian K. Esser

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Brian Esser is a solo practitioner whose practice focuses on building families through adoption, surrogacy, and assisted reproductive technology, and protecting families through proper estate planning. He regularly works with clients pursuing private placement adoption, agency adoption, as well as step- and second-parent adoptions.

# Introduction:

- Note about language choices.
- Note about families depicted

# Adoption is a Legal Process

- "Adoption is the legal proceeding whereby a person takes another person into the relation of child and thereby acquires the rights and incurs the responsibilities of parent in respect of such other person." Domestic Relations Law § 110.
- At finalization, the child becomes your legal child—confirming the parent-child relationship you have built over the previous months.

# Differences in Domestic Adoptions

- AGENCY ADOPTION
- Agency facilitates a match
- Biological parent(s)' parental rights are terminated involuntarily OR
- Birth parent(s) sign(s) a surrender voluntarily
- Temporary guardianship goes to the Agency
- Agency maintains more contact with expectant parent in days weeks, months, prior to birth of the child

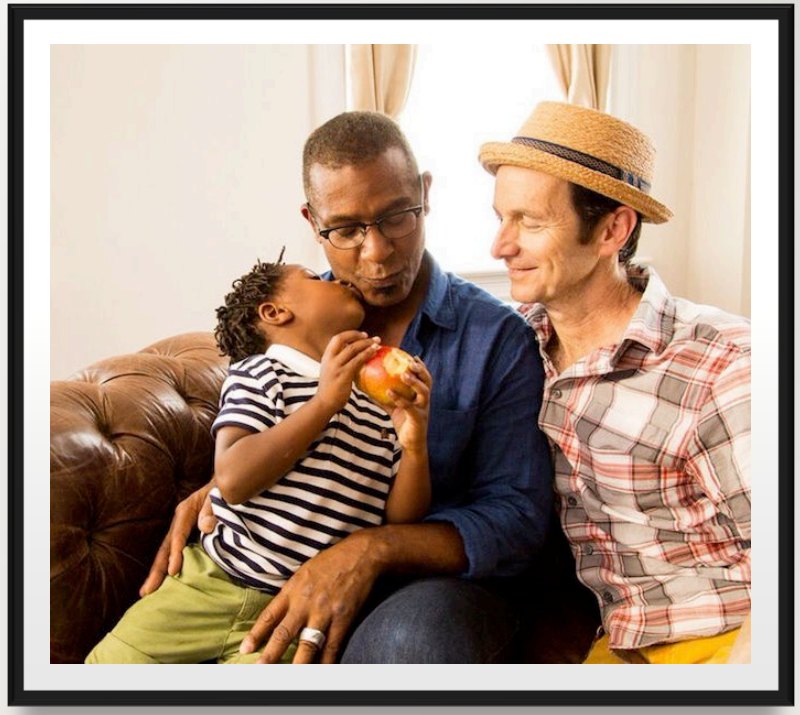
- PRIVATE/INDEPENDENT ADOPTION
- Adoptive parents and expectant/birth parents find each other through independent search
- Birth parent(s) sign(s) a consent voluntarily
- Temporary guardianship goes to the adoptive parent(s)
- Adoptive parent(s) maintain(s) more contact with expectant parent in days, weeks, months, prior to birth of the child

# New York Statutes

- Defines **who** may adopt
- Provides who may **be adopted**
- Determines whose **consent** is required
- Establishes who must be given **notice** of an adoption
- The statutes are found in the Domestic Relations Law and the Social Services Law

# Who May Adopt

- Must be 18 years of age or older
- Married couple jointly/unmarried couple/single person
- No major criminal convictions



# Who May Adopt, *continued*

Health concerns – cancer, HIV, etc.

Mental health

History of substance abuse

None of these are automatic disqualifications

# Who May Adopt, *continued*


- An agency may not deny services to prospective adoptive parents on the basis of race, religion, sexual orientation, gender identity, and other protected categories
- An agency will facilitate matches based on the preferences of an expectant parent with respect to family type, including religion, number of parents, etc.

# Who May Adopt, *continued*

- Single parents by choice are affirmatively permitted to adopt by statute and prohibited from discrimination by state regulation
- Single parents by choice represent roughly a third of prospective adoptive parents and do not necessarily experience longer wait times to match
- You may feel obstacles, but there are no legal impediments

# Who May Adopt, *continued*


- LGBTQI individuals and couples may adopt in New York, whether or not they are married
- Some states only allow *married* couples to adopt jointly
- No state categorially prohibits gay, lesbian, bi+, or trans people to adopt
- LGBTQI couples do not necessarily experience longer wait times to be matched
- You may feel obstacles, but there are no legal impediments

# Who May Be Adopted

- Most adoptions involve children **under 18 years**
- New York does permit adult adoption
- Some adoptions involve **voluntary** placements by the biological parents
- Some adoptions involve children whose biological parent's rights have been **involuntarily** terminated by court order

# Information About Adoptive Children

By statute, adoptive parents must receive information about the health history, including prenatal history, of the adoptive child.

In a match prior to a child's birth, the agency will typically obtain prenatal care records, as well as a social and medical history of the expectant parent.

# Placing a Child for Adoption

- **Surrender** is used in agency adoptions
- **Consent** is used in private/independent adoptions
- Both may be signed in front of a judge or outside of a courtroom, for example in a hospital

# Timing and Revocation

- New York law does not require a specific "cooling off" period.  (Other states require 48 to 72 hours.)
- Judicial surrenders/consents are irrevocable once the court appearance is complete.
- An agency surrender has a 30-day revocation period; a private/independent consent has a 45-day revocation period.
- Adoption STAR prefers extra-judicial surrenders/consents

# The Surrender—The Lawyer's Meeting with a Birth Parent

- The consultation usually takes about 2 hours—but can be longer. New York has large number of documents to be signed:
  - The surrender
  - An affidavit regarding reasons for placing
  - Affidavits regarding the birth father/parent, Native American heritage, financial disclosure
  - A HIPAA release
  - Release of the birth certificate to the agency
- Usually done in the hospital prior to discharge while recovering from birth
- Adoption STAR social worker is present; it is an emotional time for the parent

# Why Out-of-Court Surrenders?

- Many adoptive parents like the idea of an in-court surrender because it is irrevocable.
- Generally, parents making adoption plans prefer out-of-court surrenders.
  - Court is intimidating; they may have had bad experiences in the past with the legal system.
- In counties with large populations, it may be difficult to get a court date sooner than 30 days after birth.
- What if the parent making the adoption plan does not appear for the hearing?
- In practice parents making adoption plans revoking consent is very rare.

# The Biological Father/Parent

- New York recognizes three categories of biological father/parent:
  - Consent fathers/parents
  - Notice fathers/parents
  - Neither of the above
- The adoption statute and case law define in which category a biological father/parent falls.

# The Biological Father/Parent, *cont.*

- A biological father/parent's consent is required if:
  - Married to the birthing parent—even if not a genetic parent
  - Provided emotional/financial support during the pregnancy
  - Showed intent to be a parent to the child
  - Is listed on the birth certificate

# The Biological Father/Parent, *cont.*

- A biological father/parent is entitled to notice of the adoption if they:
  - Have been adjudicated as a parent in New York or any other state
  - Have filed with New York's putative father registry
  - Are living with the birthing parent and hold themselves out to be the parent
  - Have been identified by the birthing parent in a written, sworn statement
  - Were married to the birthing parent within six months after the birth and prior to the execution of the surrender

# The Biological Father/Parent, *cont.*

- A biological father/parent meets none of the proceeding criteria their consent and/or notice is not required.
- The birthing parent is not required to identify the birth father/parent if consent or notice is not required.
- There are pros and cons to this type of birth parent:
  - Pro: No potential veto
  - Con: Possibility that this parent will appear and try to assert a parental interest if not affirmatively engaged

# Whose Consent is Required: Grandparents

- Grandparents are not parties who must consent or receive notice
- A grandparent cannot assert rights through the birth parents
- Under some circumstances may have the ability to seek visitation

# Revocation of Consent

- "In an action or proceeding to . . . revoke or annul a surrender instrument in the case of such child placed in an adoptive home, the parent or parents who surrendered such child shall have no right to the custody of such child *superior* to that of the adoptive parents . . . . The custody of such child shall be awarded solely on the basis of the *best interests of the child*, and there shall be no presumption that such interests will be promoted by any particular custodial disposition." Social Services Law § 384.

# Revocation of Consent, *continued*

- Revocations are rare—if the match does not move forward typically it is before custody of the child is transferred to the adoptive parents
- Adoptive parents can oppose the revocation
- Courts have affirmed that the statute means what it says, that there is no presumption that the child will return to the birth parents

# Open Adoption

- When adoptive parents and birth parents agree to a level of post-placement contact that all both feel comfortable with
- Open adoption may take many forms
- Will likely change over time
- Ranges from exchange of letters and pictures to periodic visits

# Post-Adoption Contact Agreements

- A PACA is legally enforceable if it is incorporated into the judgment of adoption
- Enforcement is based on the best interests of the child
- A court will enter an order enforcing a PACA if it is in the child's best interests
- Not all PACAs are written, not all PACAs are presented to the court for incorporation into the judgment

# Adoption Records

- Adoption records are sealed by the court
- An adopted person may obtain their original birth certificate when they reach age 18
- If the adoption is finalized in New York, they may also be entitled to review their file
- This is a major shift—previously adopted people had a very high burden to show need for their adoption records

# Birth Parent Expenses

- Adoptive parents may assist with medical expenses, legal counsel, supportive counseling and pregnancy-related living expenses
- Adoptive parents may assist with birth parent living expenses for 60 days before the child's birth and 30 days after
- Living expenses include housing, food, utilities, maternity clothing
- These are effectively gifts—a birth parent does not have to repay if they do not move forward with the adoption plan

# Indian Child Welfare Act

- Federal statute that seeks to keep children with Native American ancestry with Native families
- Is applicable if the birth parents and/or the child are enrolled members, or eligible for enrollment, in a tribal nation
- ICWA adoptions are complex and often progress more slowly to finalization than non-ICWA adoptions

# Interstate Compact on the Placement of Children (ICPC)

- A set of laws enacted by all 50 states, the District of Columbia, and Puerto Rico
- Addresses the movement of children from one state to another for the purposes of adoption
- Ensures compliance with relevant state laws
- Creates a tracking mechanism to confirm that permanency has been obtained

# Requirements for Finalization

- A mountain of paperwork! Adoption filings are usually between 100 and 200 pages of records. All clearances must be dated less than 12 months from the time of finalization
- Post-placement reports documenting that you and the child are adjusting well to the placement
- Soonest you can petition to finalize is three-months post-placement
- Petition is filed in the county where you live
- Court processing time varies from county to county
- A hearing is required

# Conclusion and Questions

572 N.E.2d 27, 569 N.Y.S.2d 586, 59 USLW 2686

77 N.Y.2d 651
Court of Appeals of New York.

In the Matter of ALISON D., Appellant,
v.
VIRGINIA M., Respondent.

May 2, 1991.

**Synopsis**

Woman who had live-in relationship with child's mother brought habeas corpus petition to obtain visitation rights after termination of parties' relationship. The Supreme Court, Dutchess County, Benson, J., dismissed proceeding. Woman appealed. The Supreme Court, Appellate Division, 155 A.D.2d 11, 552 N.Y.S.2d 321, affirmed. Woman appealed. The Court of Appeals held that woman who had live-in relationship with child's mother was not a "parent," within meaning of statute allowing "either parent" to apply for writ of habeas corpus to determine issue of visitation rights, following termination of parties' relationship.

Affirmed.

Kaye, J., filed a dissenting opinion.

**Procedural Posture(s):** On Appeal.

**Attorneys and Law Firms**

***587 **28 Paula L. Ettelbrick, Lamba Legal Defense and Educ. Fund, Inc., Marian Rosenberg and Debra L. Rothberg, Jones, Day, Reavis & Pogue, for appellant.

*652 Anthony G. Maccarini, for respondent.

*653 William B. Rubenstein, of the Pennsylvania and District of Columbia Bars, admitted pro hac vice, Nan D. Hunter and Robert Levy for The American Civil Liberties Union et al., amici curiae.

Conrad K. Harper, Jane E. Booth, Janice Goodman and Carol R. Sherman for The Ass'n of the Bar of City of New York, amicus curiae.

Lynn Hecht Schafran, Alison Wetherfield and Sally F. Goldfarb of the District of Columbia and Wisconsin Bars, admitted pro hac vice, for NOW Legal Defense and Education Fund et al., amici curiae.

*654 Janet E. Schomer and Susan R. Keith, for The Gay and Lesbian Parents Coalition Intern. et al., amici curiae.

Jane A. Levine, David Chambers and Martha Minow, for Deborah A. Batts et al., amici curiae.

Loren M. Warboys, for Youth Law Center, amicus curiae.

**OPINION OF THE COURT**

PER CURIAM.

At issue in this case is whether petitioner, a biological *655 stranger to a child who is properly in the custody of his biological mother, has standing to seek visitation with the child under Domestic Relations Law § 70. Petitioner relies on both her established relationship with the child and her alleged agreement with the biological mother to support her claim that she has standing. We agree with the Appellate Division, 155 A.D.2d 11, 552 N.Y.S.2d 321, that, although petitioner apparently nurtured a close and loving relationship with the child, she is not a parent within the meaning of Domestic Relations Law § 70. Accordingly, we affirm.

I

Petitioner Alison D. and respondent Virginia M. established a relationship in September 1977 and began living together in March 1978. [*] In March 1980, they decided to have a child and agreed that respondent would be artificially inseminated. Together, they planned for the conception and birth of the child and agreed to share jointly all rights and responsibilities of child-rearing. In July 1981, respondent gave birth to a baby boy, A.D.M., who was given petitioner's last name as his middle name and respondent's last name became his last name. Petitioner shared in all birthing expenses and, after A.D.M.'s birth, continued to provide for his support. During A.D.M.'s first two years, petitioner and respondent jointly cared for and made decisions regarding the child.

In November 1983, when the child was 2 years and 4 months old, petitioner and respondent terminated their relationship

and petitioner moved out of the home they jointly owned. Petitioner and respondent agreed to a visitation schedule whereby petitioner continued to see the child a few times a week. Petitioner also agreed to continue to pay one half of the mortgage and major household expenses. By this time, the child had referred to both respondent and petitioner as "mommy". Petitioner's visitation with the child continued until 1986, at which time respondent bought out petitioner's interest in the house and then began to restrict petitioner's visitation with the child. In 1987 petitioner moved to Ireland to pursue career opportunities, but continued her attempts to communicate with the child. Thereafter, ****29** respondent terminated all contact between petitioner and the child, returning all of petitioner's gifts and letters. No dispute exists that *****588** ***656** respondent is a fit parent. Petitioner commenced this proceeding seeking visitation rights pursuant to Domestic Relations Law § 70.

Supreme Court dismissed the proceeding concluding that petitioner is not a parent under Domestic Relations Law § 70 and, given the concession that respondent is a fit parent, petitioner is not entitled to seek visitation pursuant to section 70. The Appellate Division affirmed, with one Justice dissenting, and granted leave to appeal to our Court.

II

Pursuant to Domestic Relations Law § 70 "either parent may apply to the supreme court for a writ of habeas corpus to have such minor child brought before such court; and [the court] may award the natural guardianship, charge and custody of such child to either parent * * * as the case may require". Although the Court is mindful of petitioner's understandable concern for and interest in the child and of her expectation and desire that her contact with the child would continue, she has no right under Domestic Relations Law § 70 to seek visitation and, thereby, limit or diminish the right of the concededly fit biological parent to choose with whom her child associates. She is not a "parent" within the meaning of section 70.

Petitioner concedes that she is not the child's "parent"; that is, she is not the biological mother of the child nor is she a legal parent by virtue of an adoption. Rather she claims to have acted as a "de facto" parent or that she should be viewed as a parent "by estoppel". Therefore, she claims she has standing to seek visitation rights. These claims, however, are insufficient under section 70. Traditionally, in this State it is the child's mother and father who, assuming fitness, have the right to the care and custody of their child, even in situations where the nonparent has exercised some control over the child with the parents' consent (*see, Matter of Ronald FF. v. Cindy GG.,* 70 N.Y.2d 141, 144, 517 N.Y.S.2d 932, 511 N.E.2d 75, citing *People ex rel. Kropp v. Shepsky,* 305 N.Y. 465, 468–469, 113 N.E.2d 801). "It has long been recognized that, as between a parent and a third person, parental custody of a child may not be displaced absent grievous cause or necessity" (*Matter of Ronald FF. v. Cindy GG., supra,* 70 N.Y.2d at 144, 517 N.Y.S.2d 932, 511 N.E.2d 75; *see also, Matter of Bennett v. Jeffreys,* 40 N.Y.2d 543, 549, 387 N.Y.S.2d 821, 356 N.E.2d 277). To allow the courts to award visitation—a limited form of custody—to a third person would necessarily impair the parents' ***657** right to custody and control (*id.*). Petitioner concedes that respondent is a fit parent. Therefore she has no right to petition the court to displace the choice made by this fit parent in deciding what is in the child's best interests.

Section 70 gives *parents* the right to bring proceedings to ensure their proper exercise of their care, custody and control (*see, Matter of Roland F. v. Brezenoff,* 108 Misc.2d 133, 134–135, 436 N.Y.S.2d 934). Where the Legislature deemed it appropriate, it gave other categories of persons standing to seek visitation and it gave the courts the power to determine whether an award of visitation would be in the child's best interests (*see, e.g.,* Domestic Relations Law § 71 [special proceeding or habeas corpus to obtain visitation rights for siblings]; § 72 [special proceeding or habeas corpus to obtain visitation rights for grandparents]; *see, Lo Presti v. Lo Presti,* 40 N.Y.2d 522, 526–527, 387 N.Y.S.2d 412, 355 N.E.2d 372). We decline petitioner's invitation to read the term parent in section 70 to include categories of nonparents who have developed a relationship with a child or who have had prior relationships with a child's parents and who wish to continue visitation with the child (*accord, Nancy S. v. Michele G.,* 228 Cal.App.3d 831, 279 Cal.Rptr. 212 [1st Dist., 1991] ). While one may dispute in an individual case whether it would be beneficial to a child to have continued contact with a nonparent, the Legislature did not in section 70 give such nonparent the opportunity to compel a fit parent to allow them to do so (*see, Matter of Ronald FF. v. Cindy GG.,* 70 N.Y.2d 141, 517 N.Y.S.2d 932, 511 N.E.2d 75, *supra; compare,* Oregon Rev.Stat.Ann. ****30** *****589** § 109.119[1] [giving

"(a)ny person including but not limited to a foster parent, stepparent, grandparent * * * who has established emotional ties creating a child-parent relationship with a child" the right to seek visitation or other right of custody] ).

Accordingly, the order of the Appellate Division should be affirmed, with costs.

KAYE, Judge (dissenting).

The Court's decision, fixing biology [1] as the key to visitation rights, has impact far beyond this particular controversy, one that may affect a wide spectrum of relationships—including those of longtime heterosexual stepparents, "common-law" and nonheterosexual partners such as involved here, and even participants in scientific reproduction procedures. Estimates that more than 15.5 million children do ***658** not live with two biological parents, and that as many as 8 to 10 million children are born into families with a gay or lesbian parent, suggest just how widespread the impact may be (*see,* Polikoff, *This Child Does Have Two Mothers: Redefining Parenthood to Meet the Needs of Children in Lesbian–Mother and other Nontraditional Families,* 78 Geo.L.J. 459, 461, n. 2 [1990]; Bartlett, *Rethinking Parenthood as an Exclusive Status: The Need for Legal Alternatives When the Premise of the Nuclear Family has Failed,* 70 Va.L.Rev. 879, 880–881 [1984]; *see generally, Developments in the Law—Sexual Orientation and the Law,* 102 Harv.L.Rev. 1508, 1629 [1989] ).

But the impact of today's decision falls hardest on the children of those relationships, limiting their opportunity to maintain bonds that may be crucial to their development. The majority's retreat from the courts' proper role—its tightening of rules that should in visitation petitions, above all, retain the capacity to take the children's interests into account—compels this dissent.

In focusing the difference, it is perhaps helpful to begin with what is *not* at issue. This is not a custody case, but solely a visitation petition. The issue on this appeal is not whether petitioner should actually have visitation rights. Nor is the issue the relationship between Alison D. and Virginia M. Rather, the sole issue is the relationship between Alison D. and A.D.M., in particular whether Alison D.'s petition for visitation should even be considered on its merits. I would conclude that the trial court had jurisdiction to hear the merits of this petition.

The relevant facts are amply described in the Court's opinion. Most significantly, Virginia M. agrees that, after long cohabitation with Alison D. and before A.D.M.'s conception, it was "explicitly planned that the child would be theirs to raise together." It is also uncontested that the two shared "financial and emotional preparations" for the birth, and that for several years Alison D. actually filled the role of coparent to A.D.M., both tangibly and intangibly. In all, a parent-child relationship—encouraged or at least condoned by Virginia M.—apparently existed between A.D.M. and Alison D. during the first six years of the child's life.

While acknowledging that relationship, the Court nonetheless proclaims powerlessness to consider the child's interest at all, because the word "parent" in the statute imposes an absolute barrier to Alison D.'s petition for visitation. That ***659** same conclusion would follow, as the Appellate Division dissenter noted, were the coparenting relationship one of 10 or more years, and irrespective of how close or deep the emotional ties might be between petitioner and child, or how devastating isolation might be to the child. I cannot agree that such a result is mandated by section 70, or any other law.

Domestic Relations Law § 70 provides a mechanism for "either parent" to bring a habeas corpus proceeding to determine a child's custody. Other State Legislatures, in comparable statutes, have defined "parent" specifically (*see, e.g.,* Cal.Civ.Code § 7001 [defining parent-child relationship *****590** ****31** as between "a child and his natural or adoptive parents"] ), and that definition has of course bound the courts (*see, Nancy S. v. Michele G.,* 228 Cal.App.3d 831, 279 Cal.Rptr. 212 [1991] [applying the statutory definition] ). Significantly, the Domestic Relations Law contains no such limitation. Indeed, it does not define the term "parent" at all. That remains for the courts to do, as often happens when statutory terms are undefined.

The majority insists, however, that, the word "parent" in this case can only be read to mean biological parent; the response "one fit parent" now forecloses all inquiry into the child's best interest, even in visitation proceedings. We have not previously taken such a hard line in these matters, but in the absence of express legislative direction have attempted to read otherwise undefined words of the statute so as to effectuate

the legislative purposes. The Legislature has made plain an objective in section 70 to promote "the best interest of the child" and the child's "welfare and happiness." (Domestic Relations Law § 70.) Those words should not be ignored by us in defining standing for visitation purposes—they have not been in prior case law.

Domestic Relations Law § 70 was amended in 1964 to broaden the category of persons entitled to seek habeas corpus relief (L.1964, ch. 564, § 1). Previously, only a husband or wife living within the State, and legally separated from the spouse, had standing to bring such a proceeding. The courts, however, refused to apply the statute so literally. In amending the statute to make domicile of the child the touchstone, and eliminate the separation requirement, the Legislature acted to bring section 70 into conformity with what the courts were already doing (*see,* Mem. of Joint Legis.Comm. on Matrimonial and Family Laws, 1964 McKinney's Session Laws of N.Y., at ***660** 1880 [amendment deleted "needless limitations which are not, in fact, observed by the Courts"] ).

This amendment to bring the statute into line with the practice reflects Supreme Court's equitable powers that complement the special habeas statute (*see, Langerman v. Langerman,* 303 N.Y. 465, 471, 104 N.E.2d 857; *see generally,* N.Y. Const., art. VI, § 7[a] ). In *Finlay v. Finlay,* 240 N.Y. 429, 433, 148 N.E. 624, this Court established that where the section 70 writ is denied to the petitioner seeking custody "there would remain his remedy by petition to the chancellor or to the court that has succeeded to the chancellor's prerogative [and] [n]othing in the habeas corpus act affects that jurisdiction." In such an action, the Chancellor "may act at the intervention or on the motion of a kinsman * * * but equally he may act at the instance of any one else." (240 N.Y., at 434, 148 N.E. 624.) Jurisdiction rests on the *parens patriae* power—concern for the welfare of the child (*id.; see also, Matter of Bachman v. Mejias,* 1 N.Y.2d 575, 581, 154 N.Y.S.2d 903, 136 N.E.2d 866).

As the Court wrote in *Matter of Bennett v. Jeffreys,* 40 N.Y.2d 543, 546, 387 N.Y.S.2d 821, 356 N.E.2d 277)—even in recognizing the superior right of a biological parent to the custody of her child—"when there is a conflict, the best interest of the child has always been regarded as superior to the right of parental custody. Indeed, analysis of the cases reveals a shifting of emphasis rather than a remaking of substance. This shifting reflects more the modern principle that a child is a person, and not a sub-person over whom the parent has an absolute possessory interest."

Apart from imposing upon itself an unnecessarily restrictive definition of "parent," and apart from turning its back on a tradition of reading of section 70 so as to promote the welfare of the children, in accord with the *parens patriae* power, the Court also overlooks the significant distinction between visitation and custody proceedings.

While both are of special concern to the State, custody and visitation are significantly different (*see, Weiss v. Weiss,* 52 N.Y.2d 170, 175, 436 N.Y.S.2d 862, 418 N.E.2d 377; *Matter of Ronald FF. v. Cindy GG.,* 70 N.Y.2d 141, 144, 517 N.Y.S.2d *****591** ****32** 932, 511 N.E.2d 75).[2] Custody disputes implicate a parent's right to rear a child—with the child's corresponding right to be raised by a parent (*see,* ***661** *Matter of Bennett v. Jeffreys,* 40 N.Y.2d, at 546, 387 N.Y.S.2d 821, 356 N.E.2d 277, *supra*). Infringement of that right must be based on the fitness—more precisely the lack of fitness—of the custodial parent.

Visitation rights also implicate a right of the custodial parent, but it is the right to choose with whom the child associates (*see, Matter of Ronald FF. v. Cindy GG.,* 70 N.Y.2d, at 144, 517 N.Y.S.2d 932, 511 N.E.2d 75, *supra*). Any burden on the exercise of that right must be based on the child's overriding need to maintain a particular relationship (*see, Weiss v. Weiss,* 52 N.Y.2d, at 174–175, 436 N.Y.S.2d 862, 418 N.E.2d 377, *supra*). Logically, the fitness concern present in custody disputes is irrelevant in visitation petitions, where continuing contact with the child rather than severing of a parental tie is in issue. For that reason, we refused to extend the *Bennett* "extraordinary circumstances" doctrine—which relates to the fitness of the custodial parent—to visitation petitions (*Matter of Ronald FF. v. Cindy GG.,* 70 N.Y.2d 141, 517 N.Y.S.2d 932, 511 N.E.2d 75, *supra*).

The Court now takes the law a step beyond *Ronald FF.* by establishing the *Bennett* "extraordinary circumstances" test as the only way to reach the child's best interest in a section 70 proceeding. In that *Ronald FF.* determined that extraordinary circumstances are irrelevant in the visitation context, our holding today thus firmly closes the door on all consideration of the child's best interest in visitation proceedings such as the one before us, unless petitioner is a biological parent.

Of course there must be some limitation on who can petition for visitation. Domestic Relations Law § 70 specifies that the person must be the child's "parent," and the law additionally recognizes certain rights of biological and legal parents. Arguments that every dedicated caretaker could sue for visitation if the term "parent" were broadened, or that such action would necessarily effect sweeping change throughout the law, overlook and misportray the Court's role in defining otherwise undefined statutory terms to effect particular statutory purposes, and to do so narrowly, for those purposes only.

Countless examples of that process may be found in our case law, the Court looking to modern-day realities in giving definition to statutory concepts. (*See, e.g., People v. Eulo,* 63 N.Y.2d 341, 354, 482 N.Y.S.2d 436, 472 N.E.2d 286 [defining "death" for purposes of homicide prosecutions].) Only recently, we defined the term "family" in the eviction provisions of the rent stabilization laws so as to advance the legislative objective, making abundantly clear that the definition was limited to the statute in issue and did not effect a wholesale change in the law (*see, Braschi v. Stahl Assocs. Co.,* 74 N.Y.2d 201, 211–213, 544 N.Y.S.2d 784, 543 N.E.2d 49).

***662** In discharging this responsibility, recent decisions from other jurisdictions, for the most part concerning visitation rights of stepparents, are instructive (*see, e.g., Gribble v. Gribble,* 583 P.2d 64 [Utah]; *Spells v. Spells,* 250 Pa.Super. 168, 378 A.2d 879). For example in *Spells,* 250 Pa.Super. at 172–173, 378 A.2d, at 881–882, the court fashioned a test for "parental status" or "in loco parentis" requiring that the petitioner demonstrate actual assumption of the parental role and discharge of parental responsibilities. It should be required that the relationship with the child came into being with the consent of the biological or legal parent, and that the petitioner at least have had joint custody of the child for a significant period of time (*see, Rethinking Parenthood as an Exclusive Status, op. cit.,* 70 Va.L.Rev. at 945–946). Other factors likely should be added to *****592** ****33** constitute a test that protects all relevant interests—much as we did in *Braschi.* Indeed, the criteria described by the Court in *Braschi* to be applied on a case-by-case basis later became the nucleus of formal standards (*see,* 9 NYCRR 2520.6).

It is not my intention to spell out a definition but only to point out that it is surely within our competence to do so. It is indeed regrettable that we decline to exercise that authority in this visitation matter, given the explicit statutory objectives, the courts' power, and the fact that all consideration of the child's interest is, for the future, otherwise absolutely foreclosed.

I would remand the case to Supreme Court for an exercise of its discretion in determining whether Alison D. stands in loco parentis to A.D.M. and, if so, whether it is in the child's best interest to allow her the visitation rights she claims.

WACHTLER, C.J., and SIMONS, ALEXANDER, TITONE, HANCOCK and BELLACOSA, JJ., concur in PER CURIAM opinion.

KAYE, J., dissents and votes to reverse in a separate opinion. Order affirmed, with costs.

**All Citations**

77 N.Y.2d 651, 572 N.E.2d 27, 569 N.Y.S.2d 586, 59 USLW 2686

## Footnotes

* Given the procedural posture of the case, the facts are those alleged by petitioner in her habeas corpus petition.

572 N.E.2d 27, 569 N.Y.S.2d 586, 59 USLW 2686

1 While the opinion speaks of biological *and legal* parenthood, this Court has not yet passed on the legality of adoption by a second mother.

2 The majority's opinion rests on a fundamental inconsistency. It cannot be that visitation is the same as custody —"a limited form of custody" (majority opn. at 656, at 588 of 569 N.Y.S.2d, at 29 of 572 N.E.2d)—and yet at the same time different from custody in that the "extraordinary circumstances" doctrine is inapplicable (*Matter of Ronald FF. v. Cindy GG.,* 70 N.Y.2d 141, 517 N.Y.S.2d 932, 511 N.E.2d 75; *see also, Matter of Mark V. v. Gale P.,* 143 Misc.2d 487, 489, 540 N.Y.S.2d 966).

28 N.Y.3d 1
Court of Appeals of New York.

In the Matter of BROOKE S.B., Respondent,
v.
ELIZABETH A.C.C., Respondent.
R. Thomas Rankin, Esq.,
Attorney for the Child, Appellant.
In the Matter of Estrellita A., Respondent,
v.
Jennifer L.D., Appellant.

Aug. 30, 2016.

**Synopsis**

**Background:** In first case, same-sex former partner of child's mother brought action seeking joint custody of and visitation with child. The Family Court, Chautauqua County, Judith S. Claire, J., dismissed former partner's petition for lack of standing. Attorney for child appealed. The Supreme Court, Appellate Division, 129 A.D.3d 1578, 10 N.Y.S.3d 380, affirmed. In second case, after female same-sex registered domestic partners ended their relationship, during which child was born to one partner through artificial insemination, non-birth-mother partner petitioned for visitation, alleging that she was an adjudicated parent, based on order requiring her to pay child support. The Family Court, Suffolk County, Theresa Whelan, J., 40 Misc.3d 219, 963 N.Y.S.2d 843, denied birth-mother partner's motion to dismiss, and later granted visitation. Birth-mother partner appealed. The Supreme Court, Appellate Division, 123 A.D.3d 1023, 999 N.Y.S.2d 504, affirmed. Leave to appeal was granted in each case.

The Court of Appeals, Abdus–Salaam, J., held that where a partner shows by clear and convincing evidence that the parties agreed to conceive a child and to raise the child together, the non-biological, non-adoptive partner has standing, as a parent, to seek visitation and custody, overruling *Alison D. v. Virginia M.*, 77 N.Y.2d 651, 572 N.E.2d 27, 569 N.Y.S.2d 586, and abrogating *Debra H. v. Janice R.*, 14 N.Y.3d 576, 930 N.E.2d 184, 904 N.Y.S.2d 263.

Affirmed in part and reversed in part.

Pigott, J., filed a concurring opinion.

**Procedural Posture(s):** Petition for Discretionary Review; On Appeal; Motion to Dismiss for Lack of Standing.

**Attorneys and Law Firms**

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## OPINION OF THE COURT

ABDUS–SALAAM, J.

****490** ***13** These two cases call upon us to assess the continued vitality of the rule promulgated in *Matter of Alison D. v. Virginia M.*, 77 N.Y.2d 651, 569 N.Y.S.2d 586, 572 N.E.2d 27 (1991)—namely that, in an unmarried couple, a partner without a biological or adoptive relation to a child is not that child's "parent" for purposes of standing to seek custody or visitation under Domestic Relations Law § 70(a), notwithstanding their "established relationship with the child" ***14** (77 N.Y.2d at 655, 569 N.Y.S.2d 586, 572 N.E.2d 27). Petitioners in these cases, who similarly lack any biological or adoptive connection to the subject children, argue that they should have standing to seek custody and visitation pursuant to Domestic Relations Law § 70(a). We agree that, in light of more recently delineated legal principles, the definition of "parent" established by this Court 25 years ago in *Alison D.* has become unworkable when applied to increasingly varied familial relationships. Accordingly, today, we overrule *Alison D.* and hold that where a partner shows by clear and convincing evidence that the parties agreed to conceive a child and to raise the child together, the non-biological, non-adoptive partner has standing to seek visitation and custody under Domestic Relations Law § 70.

### I.

### *Matter of Brooke S.B. v. Elizabeth A.C.C.*

Petitioner and respondent entered into a relationship in 2006 and, one year later, announced their engagement.[1] At the time, however, this was a purely symbolic gesture; same-sex couples could not legally marry in New York. Petitioner and respondent lacked the resources to travel to another jurisdiction to enter into a legal arrangement comparable to marriage, and it was then unclear whether New York would recognize an out-of-state same-sex union.

*****92** ****491** Shortly thereafter, the couple jointly decided to have a child and agreed that respondent would carry the child. In 2008, respondent became pregnant through artificial insemination. During respondent's pregnancy, petitioner regularly attended prenatal doctor's appointments, remained involved in respondent's care, and joined respondent in the emergency room when she had a complication during the pregnancy. Respondent went into labor in June 2009.

Petitioner stayed by her side and, when the subject child, a baby boy, was born, petitioner cut the umbilical cord. The couple gave the child petitioner's last name.

The parties continued to live together with the child and raised him jointly, sharing in all major parental responsibilities. Petitioner stayed at home with the child for a year while respondent returned to work. The child referred to petitioner as "Mama B."

***15** In 2010, the parties ended their relationship. Initially, respondent permitted petitioner regular visits with the child. In late 2012, however, petitioner's relationship with respondent deteriorated and, in or about July 2013, respondent effectively terminated petitioner's contact with the child.

Subsequently, petitioner commenced this proceeding seeking joint custody of the child and regular visitation. Family Court appointed an attorney for the child. That attorney determined that the child's best interests would be served by allowing regular visitation with petitioner.

Respondent moved to dismiss the petition, asserting that petitioner lacked standing to seek visitation or custody under Domestic Relations Law § 70 as interpreted in *Alison D.* because, in the absence of a biological or adoptive connection to the child, petitioner was not a "parent" within the meaning of the statute. Petitioner and the attorney for the child opposed the motion, contending that, in light of the legislature's enactment of the Marriage Equality Act (*see* L. 2011, ch. 95; Domestic Relations Law § 10–a) and other changes in the law, *Alison D.* should no longer be followed. They further argued that petitioner's long-standing parental relationship with the child conferred standing to seek custody and visitation under principles of equitable estoppel.

After hearing argument on the motion, Family Court dismissed the petition. While commenting on the "heartbreaking" nature of the case, Family Court noted that petitioner did not adopt the child and therefore granted respondent's motion to dismiss on constraint of *Alison D.* The attorney for the child appealed. [2]

The Appellate Division unanimously affirmed (*see* 129 A.D.3d 1578, 1578–1579, 10 N.Y.S.3d 380 [4th Dept.2015] ). The Court concluded that, because petitioner had not married respondent, had not adopted the child, and had no biological relationship to the child, *Alison D.* prohibited Family Court from ruling that petitioner had standing to seek custody or visitation (*see id.* at 1579, 569 N.Y.S.2d 586, 572 N.E.2d 27). We granted the attorney for the child leave to appeal (*see* 26 N.Y.3d 901, 2015 WL 5123318 [2015] ).

*Matter of Estrellita A. v. Jennifer L.D.*

Petitioner and respondent entered into a relationship in 2003 and moved in together later that year. In 2007, petitioner and ***16** respondent registered as domestic partners, and thereafter, they agreed to have a ****492** *****93** child. The couple jointly decided that respondent would bear the child and that the donor should share petitioner's ethnicity. In February 2008, respondent became pregnant through artificial insemination. During the pregnancy, petitioner attended medical appointments with respondent. In November 2008, respondent gave birth to a baby girl. Petitioner cut the umbilical cord. The couple agreed that the child should call respondent "Mommy" and petitioner "Mama."

The child resided with the couple in their home and, over the next three years, the parties shared a complete range of parental responsibilities. However, in May 2012, petitioner and respondent ended their relationship, and petitioner moved out in September 2012. Afterward, petitioner continued to have contact with the child.

In October 2012, respondent commenced a proceeding in Family Court seeking child support from petitioner. Petitioner denied liability. While the support case was pending, petitioner filed a petition in Family Court that, as later amended, sought visitation with the child. The court appointed an attorney for the child.

After a hearing, Family Court granted respondent's child support petition and remanded the matter to a support magistrate to determine petitioner's support obligation. The court held that "the uncontroverted facts establish[ed]" that petitioner was "a parent" to the child and, as such, "chargeable with the support of the child." Petitioner then amended her visitation petition to indicate that she "ha[d] been adjudicated

the parent" of the child and therefore was a legal parent for visitation purposes.

Thereafter, respondent moved to dismiss the visitation petition on the ground that petitioner did not have standing to seek custody or visitation under Domestic Relations Law § 70 as interpreted in *Alison D.* The attorney for the child supported visitation and opposed respondent's motion to dismiss. Petitioner also opposed respondent's motion to dismiss, asserting that *Alison D.* and our decision in *Debra H. v. Janice R.*, 14 N.Y.3d 576, 904 N.Y.S.2d 263, 930 N.E.2d 184 (2010) did not foreclose a finding of standing based on judicial estoppel, as the prior judgment in the support proceeding determined that petitioner was a legal parent to the subject child. Respondent contended that the prerequisites for judicial estoppel had not been met.

***17** Family Court denied respondent's motion to dismiss the visitation petition (*see* 40 Misc.3d 219, 219–225, 963 N.Y.S.2d 843 [Fam.Ct., Suffolk County 2013] ). Citing *Alison D.* and *Debra H.,* the court acknowledged that petitioner did not have standing to petition for visitation based on equitable estoppel or her general status as a de facto parent (*see id.* at 225, 963 N.Y.S.2d 843). However, given respondent's successful support petition, the court concluded that the doctrine of judicial estoppel conferred standing on petitioner to request visitation with the child (*see id.* at 225, 963 N.Y.S.2d 843). The court distinguished *Alison D.* and *Debra H.,* reasoning that, in those cases, the Court "did not address the situation ... where one party has asserted inconsistent positions" (*id.*). Here, in light of respondent's initial claim that petitioner was the child's legal parent in the support proceeding, the court "ma[de] a finding that respondent [wa]s judicially estopped from asserting that petitioner [wa]s not a parent based upon her sworn petition and testimony in a prior court proceeding where she took a different position because her interest in that case was different" (*id.*). Respondent filed an interlocutory appeal, ****493** *****94** which was dismissed by the Appellate Division.

Subsequently, Family Court held a hearing on the petition. The court found that petitioner's regular visitation and consultation on matters of import with respect to the child would serve the child's best interests. Respondent appealed.

Family Court's order was unanimously affirmed (*see* 123 A.D.3d 1023, 1023–1027, 999 N.Y.S.2d 504 [2d Dept.2014] ). The Appellate Division determined that, while Domestic Relations Law § 70, as interpreted in *Alison D.,* confers standing to seek custody or visitation only on a biological or adoptive parent, *Alison D.* does not preclude recognition of standing based upon the doctrine of judicial estoppel. Under that doctrine, the Court found, "a party who assumes a certain position in a prior legal proceeding and secures a favorable judgment therein is precluded from assuming a contrary position in another action simply because his or her interests have changed" (*id.* at 1026, 999 N.Y.S.2d 504 [internal quotation marks and citations omitted] ). The Appellate Division agreed with Family Court that the requirements of judicial estoppel had been met: respondent's position in the support proceeding was inconsistent with her position in the visitation proceeding; respondent had won a favorable judgment based on her earlier position; and allowing respondent to maintain an inconsistent position in the visitation proceeding would prejudice petitioner (*see id.* at 1026, 999 N.Y.S.2d 504). Accordingly, the ***18** Appellate Division concluded that respondent was judicially estopped from denying petitioner's standing as a "parent" of the child within the meaning of Domestic Relations Law § 70 (*see id.* at 1026–1027, 999 N.Y.S.2d 504). We granted respondent leave to appeal (*see* 26 N.Y.3d 901, 2015 WL 5123318 [2015] ).

II.

Domestic Relations Law § 70 provides:

> "Where a minor child is residing within this state, *either parent* may apply to the supreme court for a writ of habeas corpus to have such minor child brought before such court; and on the return thereof, the court, on due consideration, may award the natural guardianship, charge and custody of such child to either parent for such time, under such regulations and restrictions, and with such provisions and directions, as the case may require, and may at any time thereafter vacate or modify such order. In all cases there shall be no prima facie right to the custody of the child in either parent, but the court shall determine solely what is for the *best interest of the child, and what will best promote its welfare and happiness,* and make award accordingly" (Domestic Relations Law § 70[a] [emphases added] ).

Only a "parent" may petition for custody or visitation under Domestic Relations Law § 70, yet the statute does not define that critical term, leaving it to be defined by the courts. [3] In *Alison D.*, 77 N.Y.2d 651, 569 N.Y.S.2d 586, 572 N.E.2d 27, we supplied a definition. In that case, Alison D. and Virginia M. were in a long-term relationship and decided to have a child (*see Alison D.,* 77 N.Y.2d at 655, 569 N.Y.S.2d 586, 572 N.E.2d 27). They agreed that Virginia M. would carry the baby and that they would jointly raise the child, sharing parenting responsibilities (*see id.*). After the **494 ***95 child was born, Alison D. acted as a parent in all major respects, providing financial, emotional and practical support (*see id.*). Even after the couple ended their relationship and moved out of their shared home, Alison D. continued to regularly visit the child until he was about six years old, at which point Virginia M. terminated contact between them (*see id.*).

*19 Alison D. petitioned for visitation pursuant to Domestic Relations Law § 70 (*see id.* at 656, 569 N.Y.S.2d 586, 572 N.E.2d 27). In support of the petition, Alison D. argued that, although Virginia M. was concededly a fit parent, Alison D. nonetheless had standing to seek visitation with the child (*see id.*). The lower courts dismissed Alison D.'s petition for lack of standing, ruling that only a biological parent—and not a de facto parent—is a legal "parent" with standing to seek visitation under Domestic Relations Law § 70 (*see id.; see also Matter of Alison D. v. Virginia M.,* 155 A.D.2d 11, 13–16, 552 N.Y.S.2d 321 [2d Dept.1990] ).

We affirmed the lower courts' dismissal of Alison D.'s petition for lack of standing (*see Alison D.,* 77 N.Y.2d at 655, 657, 569 N.Y.S.2d 586, 572 N.E.2d 27). We decided that the word "parent" in Domestic Relations Law § 70 should be interpreted to preclude standing for a de facto parent who, under a theory of equitable estoppel, might otherwise be recognized as the child's parent for visitation purposes (*see id.* at 656–657, 569 N.Y.S.2d 586, 572 N.E.2d 27). Specifically, we held that "a biological stranger to a child who is properly in the custody of his biological mother" has no "standing to seek visitation with the child under Domestic Relations Law § 70" (*id.* at 654–655, 569 N.Y.S.2d 586, 572 N.E.2d 27).

We rested our determination principally on the need to preserve the rights of biological parents (*see id.* at 656–657, 569 N.Y.S.2d 586, 572 N.E.2d 27). Specifically, we reasoned that, "[t]raditionally, in this State it is the child's mother and father who, assuming fitness, have the right to the care and custody of their child" (*id.* at 656, 569 N.Y.S.2d 586, 572 N.E.2d 27). We therefore determined that the statute should not be read to permit a de facto parent to seek visitation of a child in a manner that "would necessarily impair the parents' right to custody and control" (*id.* at 656–657, 569 N.Y.S.2d 586, 572 N.E.2d 27).

Additionally, we suggested that, because the legislature expressly allowed certain non-parents—namely, grandparents and siblings—to seek custody or visitation (*see* Domestic Relations Law §§ 71–72), it must have intended to exclude de facto parents or parents by estoppel (*see Alison D.,* 77 N.Y.2d at 657, 569 N.Y.S.2d 586, 572 N.E.2d 27). And so, because Alison D. had no biological or adoptive connection to the subject child, she had no standing to seek visitation and "no right to petition the court to displace the choice made by this fit parent in deciding what is in the child's best interests" (*id.*).

Judge Kaye dissented on the ground that a person who "stands in loco parentis" should have standing to seek visitation under Domestic Relations Law § 70 (*see id.* at 657–662, 569 N.Y.S.2d 586, 572 N.E.2d 27 *20 [Kaye, J., dissenting] ). Observing that the Court's decision would "fall[ ] hardest" on the millions of children raised in nontraditional families—including families headed by same-sex couples, unmarried opposite-sex couples, and stepparents—the dissent argued that the majority had "turn[ed] its back on a tradition of reading section 70 so as to promote the welfare of the children" (*id.* at 658–660, 569 N.Y.S.2d 586, 572 N.E.2d 27). The dissent asserted that, because Domestic Relations Law § 70 did not define "parent—and **495 ***96 because the statute made express reference to the "best interest of the child"—the Court was free to craft a definition that accommodated the welfare of the child (*id.*). According to the dissent, well-established principles of equity—namely, "Supreme Court's equitable powers that complement" Domestic Relations Law § 70—supplied jurisdiction to act out of " concern for the welfare of the child" (*id.* at 660, 569 N.Y.S.2d 586, 572 N.E.2d 27; *see Matter of Bachman v. Mejias,* 1 N.Y.2d 575, 581, 154 N.Y.S.2d 903, 136 N.E.2d 866 [1956]; *Finlay v. Finlay,* 240 N.Y. 429, 433–434, 148 N.E. 624 [1925]; *Langerman v. Langerman,* 303 N.Y. 465, 471, 104 N.E.2d 857 [1952] ).

At the same time, Judge Kaye in her dissent recognized that

> "there must be some limitation on who can petition for visitation. Domestic Relations Law § 70 specifies that the person must be the child's 'parent,' and the law additionally recognizes certain rights of biological and legal parents....
>
> "It should be required that the relationship with the child came into being with the consent of the biological or legal parent" (*Alison D.,* 77 N.Y.2d at 661–662, 569 N.Y.S.2d 586, 572 N.E.2d 27 [Kaye, J., dissenting] [citations omitted] ).

The dissent also noted that a properly constituted test should likely include other factors as well, to ensure that all relevant interests are protected (*see id.* at 661–662, 569 N.Y.S.2d 586, 572 N.E.2d 27 [Kaye, J., dissenting] ). Judge Kaye further stated in the dissent that she would have remanded *Alison D.* so that the lower court could engage in a two-part inquiry: first, to determine whether Alison D. stood "in loco parentis" under whatever test the Court devised; and then, "if so, whether it is in the child's best interest to allow her the visitation rights she claims" (*id.* at 662, 569 N.Y.S.2d 586, 572 N.E.2d 27).

In 1991, same-sex partners could not marry in this state. Nor could a biological parent's unmarried partner adopt the child. As a result, a partner in a same-sex relationship not biologically related to a child was entirely precluded from obtaining standing to seek custody or visitation of that child under our definition of "parent" supplied in *Alison D.*

***21** Four years later, in *Matter of Jacob*, 86 N.Y.2d 651, 636 N.Y.S.2d 716, 660 N.E.2d 397 (1995), we had occasion to decide whether "the unmarried partner of a child's biological mother, whether heterosexual or homosexual, who is raising the child together with the biological parent, can become the child's second parent by means of adoption" (*id.* at 656, 636 N.Y.S.2d 716, 660 N.E.2d 397). We held that the adoptions sought in *Matter of Jacob*—"one by an unmarried heterosexual couple, the other by the lesbian partner of the child's mother"—were "fully consistent with the adoption statute" (*id.*). We reasoned that, while the adoption statute "must be strictly construed," our "primary loyalty must be to the statute's legislative purpose—the child's best interest" (*id.* at 657–658, 636 N.Y.S.2d 716, 660 N.E.2d 397). The outcome in *Matter of Jacob* was to confer standing to seek custody or visitation upon unmarried, non-biological partners—including a partner in a same-sex relationship—who adopted the child, even under our restrictive definition of "parent" set forth in *Alison D.* (*id.* at 659, 636 N.Y.S.2d 716, 660 N.E.2d 397).

Thereafter, in *Matter of Shondel J. v. Mark D.*, 7 N.Y.3d 320, 820 N.Y.S.2d 199, 853 N.E.2d 610 (2006), we applied a similar analysis, holding that a "man who has mistakenly represented himself as a child's father may be estopped from denying paternity, and made to pay child support, ****496** *****97** when the child justifiably relied on the man's representation of paternity, to the child's detriment" (*id.* at 324, 820 N.Y.S.2d 199, 853 N.E.2d 610). We based our decision on "the best interests of the child," emphasizing "[t]he potential damage to a child's psyche caused by suddenly ending established parental support" (*id.* at 324, 330, 820 N.Y.S.2d 199, 853 N.E.2d 610). [4]

Despite these intervening decisions that sought a means to take into account the best interests of the child in adoption and support proceedings, we declined to revisit *Alison D.* when confronted with a nearly identical situation almost 20 years later. *Debra H.,* as did *Alison D.,* involved an unmarried same-sex couple. Petitioner alleged that they agreed to have a child, and to that end, Janice R. was artificially inseminated and bore the child. Debra H. never adopted the child. After the couple ended their relationship, Debra H. petitioned for custody and visitation (*Debra H.,* 14 N.Y.3d at 586–588, 904 N.Y.S.2d 263, 930 N.E.2d 184). We declined to expand the definition of "parent" for purposes of ***22** Domestic Relations Law § 70, noting that "*Alison D.,* in conjunction with second-parent adoption, creates a bright-line rule that promotes certainty in the wake of domestic breakups" (*id.* at 593, 904 N.Y.S.2d 263, 930 N.E.2d 184).

Nonetheless, in *Debra H.,* we arrived at a different result than in *Alison D.* Ultimately, we invoked the common-law doctrine of comity to rule that, because the couple had entered into a civil union in Vermont prior to the child's birth—and because the union afforded Debra H. parental status under Vermont law—her parental status should be recognized under New York law as well (*see id.* at 598–601, 904 N.Y.S.2d 263, 930 N.E.2d 184). Seeing no obstacle in New York's public policy or comity doctrine to the recognition of the non-biological mother's standing, we declared that "New York will recognize

parentage created by a civil union in Vermont," thereby granting standing to Debra H. to petition for custody and visitation of the subject child (*id.* at 600–601, 904 N.Y.S.2d 263, 930 N.E.2d 184).

In a separate discussion, we also "reaffirm[ed] our holding in *Alison D.*" (*id.* at 589, 904 N.Y.S.2d 263, 930 N.E.2d 184). We acknowledged the apparent tension in our decision to authorize parentage by estoppel in the support context (*see Shondel J.,* 7 N.Y.3d 320, 820 N.Y.S.2d 199, 853 N.E.2d 610) and yet deny it in the visitation and custody context (*see Alison D.,* 77 N.Y.2d 651, 569 N.Y.S.2d 586, 572 N.E.2d 27), but we decided that this incongruity did not fatally undermine *Alison D.* (*see Debra H.,* 14 N.Y.3d at 592–593, 904 N.Y.S.2d 263, 930 N.E.2d 184).

Chief Judge Lippman and Judge Ciparick concurred in the result, agreeing with the majority's comity analysis but asserting that *Alison D.* should be overruled (*see id.* at 606–609, 904 N.Y.S.2d 263, 930 N.E.2d 184 [Ciparick, J., concurring] ). This concurrence asserted that *Alison D.* had indeed caused the widespread harm to children predicted by Judge Kaye's dissent (*see id.* at 606–607, 904 N.Y.S.2d 263, 930 N.E.2d 184). Noting the inconsistency between *Alison D.* and the Court's ruling in *Shondel J.,* the concurrence concluded that "[s]upport obligations flow from parental rights; the duty to support and the rights ****497 ***98** of parentage go hand in hand and it is nonsensical to treat the two things as severable" (*id.* at 607, 904 N.Y.S.2d 263, 930 N.E.2d 184). According to the concurrence, Supreme Court had "inherent equity powers and authority pursuant to Domestic Relations Law § 70 to determine who is a parent and what will serve the child's best interests" (*id.* at 609, 904 N.Y.S.2d 263, 930 N.E.2d 184). Echoing the dissent in *Alison D.,* and "taking into consideration the social changes" that occurred since that decision, the concurrence called for a "flexible, multi-factored" approach to determine whether a parental relationship had been established (*id.* at 608, 904 N.Y.S.2d 263, 930 N.E.2d 184).

A separate concurrence by Judge Smith in that case acknowledged the same social changes and proposed that, in the interest ***23** of insuring that "each child begins life with two parents," an appropriate test would focus on whether "a child is conceived through [artificial insemination] by one member of a same-sex couple living together, with the knowledge and consent of the other" (*id.* at 611–612, 904 N.Y.S.2d 263, 930 N.E.2d 184). Judge Smith observed that "[e]ach of these couples made a commitment to bring a child into a two-parent family, and it is unfair to the children to let the commitment go unenforced" (*id.* at 611, 904 N.Y.S.2d 263, 930 N.E.2d 184).

III.

We must now decide whether, as respondents claim, the doctrine of stare decisis warrants retention of the rule established in *Alison D.* Under stare decisis, a court's decision on an issue of law should generally bind the court in future cases that present the same issue (*see People v. Rodriguez,* 25 N.Y.3d 238, 243, 10 N.Y.S.3d 495, 32 N.E.3d 930 [2015]; *People v. Taylor,* 9 N.Y.3d 129, 148–149, 848 N.Y.S.2d 554, 878 N.E.2d 969 [2007] ). The doctrine "promotes predictability in the law, engenders reliance on our decisions, encourages judicial restraint and reassures the public that our decisions arise from a continuum of legal principle rather than the personal caprice of the members of this Court" (*People v. Peque,* 22 N.Y.3d 168, 194, 980 N.Y.S.2d 280, 3 N.E.3d 617 [2013] ). But in the rarest of cases, we may overrule a prior decision if an extraordinary combination of factors undermines the reasoning and practical viability of our prior decision (*see People v. Rudolph,* 21 N.Y.3d 497, 500–503, 974 N.Y.S.2d 885, 997 N.E.2d 457 [2013]; *see id.* at 505–507, 974 N.Y.S.2d 885, 997 N.E.2d 457 [Graffeo, J., concurring]; *People v. Reome,* 15 N.Y.3d 188, 191–195, 906 N.Y.S.2d 788, 933 N.E.2d 186 [2010]; *People v. Feingold,* 7 N.Y.3d 288, 291–296, 819 N.Y.S.2d 691, 852 N.E.2d 1163 [2006] ).

Long before our decision in *Alison D.,* New York courts invoked their equitable powers to ensure that matters of custody, visitation and support were resolved in a manner that served the best interests of the child (*see Finlay,* 240 N.Y. at 433, 148 N.E. 624; *Wilcox v. Wilcox,* 14 N.Y. 575, 578–579 [1856]; *see generally Guardian Loan Co. v. Early,* 47 N.Y.2d 515, 520, 419 N.Y.S.2d 56, 392 N.E.2d 1240 [1979]; *People ex rel. Lemon v. Supreme Ct. of State of N.Y.,* 245 N.Y. 24, 28, 156 N.E. 84 [1927]; *De Coppet v. Cone,* 199 N.Y. 56, 63, 92 N.E. 411 [1910] ). Consistent with these broad equitable powers, our courts have historically exercised their "inherent equity powers and authority" in order to determine "who is a parent and what will serve a child's best interests" (*Debra H.,* 14 N.Y.3d at 609, 904 N.Y.S.2d 263, 930 N.E.2d 184

[Ciparick, J., concurring]; *see also* N.Y. Const. art. VI, § 7[a] ).

Domestic Relations Law § 70 evolved in harmony with these equitable practices. ****498 ***99** The statute expanded in scope from a law narrowly conferring standing in custody and visitation matters ***24** upon a legally separated, resident "husband and wife" pair (L. 1909, ch. 19) to a broader measure granting standing to "either parent" without regard to separation (L. 1964, ch. 564). The legislature made many of these changes to conform to the courts' preexisting equitable practices (*see* L. 1964, ch. 564, § 1; Mem. of Joint Legis. Comm. on Matrimonial and Family Laws, Bill Jacket, L. 1964, ch. 564 at 6). Tellingly, the statute has never mentioned, much less purported to limit, the court's equitable powers, and even after its original enactment, courts continued to employ principles of equity to grant custody, visitation or related extra-statutory relief (*see People ex rel. Meredith v. Meredith,* 272 App.Div. 79, 82–90, 69 N.Y.S.2d 462 [2d Dept.1947], *affd.* 297 N.Y. 692, 77 N.E.2d 8 [1947]; *Matter of Rich v. Kaminsky,* 254 App.Div. 6, 7–9, 3 N.Y.S.2d 689 [1st Dept.1938]; *cf. Langerman,* 303 N.Y. at 471–472, 104 N.E.2d 857; *Finlay,* 240 N.Y. at 430–434, 148 N.E. 624).

Departing from this tradition of invoking equity, in *Alison D.,* we narrowly defined the term "parent," thereby foreclosing "all inquiry into the child's best interest" in custody and visitation cases involving parental figures who lacked biological or adoptive ties to the child (*Alison D.,* 77 N.Y.2d at 659, 569 N.Y.S.2d 586, 572 N.E.2d 27 [Kaye, J., dissenting] ). And, in the years that followed, lower courts applying *Alison D.* were "forced to ... permanently sever strongly formed bonds between children and adults with whom they have parental relationships" (*Debra H.,* 14 N.Y.3d at 606, 904 N.Y.S.2d 263, 930 N.E.2d 184 [Ciparick, J., concurring] ). By "limiting their opportunity to maintain bonds that may be crucial to their development," the rule of *Alison D.* has "fall[en] hardest on the children" (*Alison D.,* 77 N.Y.2d at 658, 569 N.Y.S.2d 586, 572 N.E.2d 27 [Kaye, J., dissenting] ).

As a result, in the 25 years since *Alison D.* was decided, this Court has gone to great lengths to escape the inequitable results dictated by a needlessly narrow interpretation of the term "parent." Now, we find ourselves in a legal landscape wherein a non-biological, non-adoptive "parent" may be estopped from disclaiming parentage and made to pay child support in a filiation proceeding (*Shondel J.,* 7 N.Y.3d 320, 820 N.Y.S.2d 199, 853 N.E.2d 610), yet denied standing to seek custody or visitation (*Alison D.,* 77 N.Y.2d at 655, 569 N.Y.S.2d 586, 572 N.E.2d 27). By creating a disparity in the support and custody contexts, *Alison D.* has created an inconsistency in the rights and obligations attendant to parenthood. Moreover, *Alison D.*'s foundational premise of heterosexual parenting and nonrecognition of same-sex couples is unsustainable, particularly in light of the enactment of same-sex marriage in New York State, and the United States Supreme Court's holding in ***25** *Obergefell v. Hodges*, 576 U.S. ——, 135 S.Ct. 2584, 192 L.Ed.2d 609 (2015), which noted that the right to marry provides benefits not only for same-sex couples, but also the children being raised by those couples.

Under the current legal framework, which emphasizes biology, it is impossible—without marriage or adoption—for both former partners of a same-sex couple to have standing, as only one can be biologically related to the child (*see Alison D.,* 77 N.Y.2d at 656, 569 N.Y.S.2d 586, 572 N.E.2d 27). By contrast, where both partners in a heterosexual couple are biologically related to the child, both former partners will have standing regardless of marriage or adoption. It is this context that informs the Court's determination of a proper test for standing that ensures ****499 ***100** equality for same-sex parents and provides the opportunity for their children to have the love and support of two committed parents.

The Supreme Court has emphasized the stigma suffered by the "hundreds of thousands of children [who] are presently being raised by [same-sex] couples" (*Obergefell,* 576 U.S. at ——, 135 S.Ct. at 2600–2601). By "fixing biology as the key to visitation rights" (*Alison D.,* 77 N.Y.2d at 657–658, 569 N.Y.S.2d 586, 572 N.E.2d 27 [Kaye, J., dissenting] ), the rule of *Alison D.* has inflicted disproportionate hardship on the growing number of nontraditional families across our state. At the time *Alison D.* was decided, estimates suggested that "more than 15.5 million children [did] not live with two biological parents, and that as many as 8 to 10 million children are born into families with a gay or lesbian parent" (*id.*). Demographic changes in the past 25 years have further transformed the elusive concept of the "average American family" (*Troxel v. Granville,* 530 U.S. 57, 63–64, 120 S.Ct. 2054, 147 L.Ed.2d 49 [2000] ); recent census statistics reflect the large number of same-sex couples residing in New York, and that many of New York's same-sex couples are raising children who are related to only one

partner by birth or adoption (*see* Gary J. Gates & Abigail M. Cooke, The Williams Institute, *New York Census Snapshot: 2010* at 1–3).

Relatedly, legal commentators have taken issue with *Alison D.* for its negative impact on children. A growing body of social science reveals the trauma children suffer as a result of separation from a primary attachment figure—such as a de facto parent—regardless of that figure's biological or adoptive ties to the children (*see* Amanda Barfield, Note, *The Intersection of Same–Sex and Stepparent Visitation,* 23 J.L. & Pol'y 257, 259–260 [2014]; Ayelet Blecher–Prigat, ***26** *Rethinking Visitation: From a Parental to a Relational Right,* 16 Duke J. Gender L. & Pol'y 1, 7 [2009]; Suzanne B. Goldberg, *Family Law Cases as Law Reform Litigation: Unrecognized Parents and the Story of Alison D. v. Virginia M.,* 17 Colum. J. Gender & L. 307 [2008]; Mary Ellen Gill, Note, *Third Party Visitation in New York: Why the Current Standing Statute Is Failing Our Families,* 56 Syracuse L. Rev. 481, 488–489 [2006]; Joseph G. Arsenault, Comment, *"Family" but not "Parent": The Same–Sex Coupling Jurisprudence of the New York Court of Appeals,* 58 Alb. L. Rev. 813, 834, 836 [1995]; *see also* brief for National Association of Social Workers as amicus curiae at 13–17 [collecting articles] ).

We must, however, protect the substantial and fundamental right of biological or adoptive parents to control the upbringing of their children (*see Alison D.,* 77 N.Y.2d at 656–657, 569 N.Y.S.2d 586, 572 N.E.2d 27; *Troxel v. Granville,* 530 U.S. 57, 65, 120 S.Ct. 2054, 147 L.Ed.2d 49 [2000] ). For certainly, "the interest of parents in the care, custody, and control of their children ... is perhaps the oldest of the fundamental liberty interests," and any infringement on that right "comes with an obvious cost" (*Troxel,* 530 U.S. at 64–65, 120 S.Ct. 2054). But here we do not consider whether to allow a third party to contest or infringe on those rights; rather, the issue is who qualifies as a "parent" with coequal rights. Nevertheless, the fundamental nature of those rights mandates caution in expanding the definition of that term and makes the element of consent of the biological or adoptive parent critical.

While "parents and families have fundamental liberty interests in preserving" intimate family-like bonds, "so, too, do children have these interests" (*Troxel,* 530 U.S. at 88–89, 120 S.Ct. 2054 [Stevens, J., ****500** *****101** dissenting] ), which must also inform the definition of " parent," a term so central to the life of a child. The "bright-line" rule of *Alison D.* promotes the laudable goals of certainty and predictability in the wake of domestic disruption (*Debra H.,* 14 N.Y.3d at 593–594, 904 N.Y.S.2d 263, 930 N.E.2d 184). But bright lines cast a harsh light on any injustice and, as predicted by Judge Kaye, there is little doubt by whom that injustice has been most finely felt and most finely perceived (*see Alison D.,* 77 N.Y.2d at 658, 569 N.Y.S.2d 586, 572 N.E.2d 27 [Kaye, J., dissenting] ). We will no longer engage in the "deft legal maneuvering" necessary to read fairness into an overly-restrictive definition of "parent" that sets too high a bar for reaching a child's best interest and does not take into account equitable principles (*see Debra H.,* 14 N.Y.3d at 606–608, 904 N.Y.S.2d 263, 930 N.E.2d 184 [Ciparick, J., concurring] ). Accordingly, we overrule *Alison D.*

***27** IV.

Our holding that Domestic Relations Law § 70 permits a non-biological, non-adoptive parent to achieve standing to petition for custody and visitation requires us to specify the limited circumstances in which such a person has standing as a "parent" under Domestic Relations Law § 70 (*see Alison D.,* 77 N.Y.2d at 661, 569 N.Y.S.2d 586, 572 N.E.2d 27 [Kaye, J., dissenting]; *Troxel,* 530 U.S. at 67, 120 S.Ct. 2054). Because of the fundamental rights to which biological and adoptive parents are undeniably entitled, any encroachment on the rights of such parents and, especially, any test to expand who is a parent, must be, as Judge Kaye acknowledged in her dissent in *Alison D.,* appropriately narrow.

Petitioners and some of the amici urge that we endorse a functional test for standing, which has been employed in other jurisdictions that recognize parentage by estoppel in the custody and/or visitation context (*see In re Custody of H.S.H–K.,* 193 Wis.2d 649, 694–695, 533 N.W.2d 419, 435–436 [1995] [visitation only]; *see also Conover v. Conover,* 448 Md. 548, 576–577, 141 A.3d 31, 47–48 [2016] [collecting cases from other jurisdictions that have adopted the functional test in contexts of custody or visitation] ). The functional test considers a variety of factors, many of which relate to the post-birth relationship between the putative parent and the child. Amicus Sanctuary for Families proposes a different test that hinges on whether petitioner can prove, by clear

and convincing evidence, that a couple "jointly planned and explicitly agreed to the conception of a child with the intention of raising the child as co-parents" (brief for Sanctuary for Families as amicus curiae at 39).

Although the parties and amici disagree as to what test should be applied, they generally urge us to adopt a test that will apply in determining standing as a parent for all non-biological, non-adoptive, non-marital "parents" who are raising children. We reject the premise that we must now declare that one test would be appropriate for all situations, or that the proffered tests are the only options that should be considered.

Petitioners in the two cases before us have alleged that the parties entered into a pre-conception agreement to conceive and raise a child as co-parents. We hold that these allegations, if proved by clear and convincing evidence, are sufficient to establish standing. Because we necessarily decide these cases based on the facts presented to us, it would be premature for us to consider adopting a test for situations in which a couple ***28** did not enter into a pre-conception agreement. Accordingly, we do not now decide whether, in a case where a biological or adoptive parent consented to ****501** *****102** the creation of a parent-like relationship between his or her partner and child after conception, the partner can establish standing to seek visitation and custody.

Inasmuch as the conception test applies here, we do not opine on the proper test, if any, to be applied in situations in which a couple has not entered into a pre-conception agreement. We simply conclude that, where a petitioner proves by clear and convincing evidence that he or she has agreed with the biological parent of the child to conceive and raise the child as co-parents, the petitioner has presented sufficient evidence to achieve standing to seek custody and visitation of the child. Whether a partner without such an agreement can establish standing and, if so, what factors a petitioner must establish to achieve standing based on equitable estoppel are matters left for another day, upon a different record.

Additionally, we stress that this decision addresses only the ability of a person to establish standing as a parent to petition for custody or visitation; the ultimate determination of whether those rights shall be granted rests in the sound discretion of the court, which will determine the best interests of the child.

V.

We conclude that a person who is not a biological or adoptive parent may obtain standing to petition for custody or visitation under Domestic Relations Law § 70(a) in accordance with the test outlined above.

In *Brooke S.B.,* our decision in *Alison D.* prevented the courts below from determining standing because the petitioner was not the biological or adoptive parent of the child. That decision no longer poses any obstacle to those courts' consideration of standing by equitable estoppel here, if Brooke S.B. proves by clear and convincing evidence her allegation that a pre-conception agreement existed. Accordingly, in *Brooke S.B.,* the order of the Appellate Division should be reversed, without costs, and the matter remitted to Family Court for further proceedings in accordance with this opinion.

In *Estrellita A.,* the courts below correctly resolved the question of standing by recognizing petitioner's standing based on judicial estoppel. In the child support proceeding, respondent ***29** obtained an order compelling petitioner to pay child support based on her successful argument that petitioner was a parent to the child. Respondent was therefore estopped from taking the inconsistent position that petitioner was not, in fact, a parent to the child for purposes of visitation. Under the circumstances presented here, Family Court properly invoked the doctrine of judicial estoppel to recognize petitioner's standing to seek visitation as a "parent" under Domestic Relations Law § 70(a). Accordingly, in *Estrellita A.,* the order of the Appellate Division should be affirmed, without costs.

PIGOTT, J. (concurring).

While I agree with the application of judicial estoppel in *Matter of Estrellita A. v. Jennifer L.D.,* and that the Appellate Division's decision in *Matter of Brooke S.B. v. Elizabeth A.C.C.* should be reversed and the case remitted to Supreme Court for a hearing, I cannot join the majority's opinion overruling *Matter of Alison D. v. Virginia M.*, 77 N.Y.2d 651, 569 N.Y.S.2d 586, 572 N.E.2d 27 (1991). The definition of "parent" that we applied in that case was consistent with the legislative history of Domestic Relations Law § 70 and the

common law, and despite several opportunities to do so, the legislature has never altered our conclusion. Rather than craft a new definition to achieve a result the **502 ***103 majority perceives as more just, I would retain the rule that parental status under New York law derives from marriage, biology or adoption and decide *Brooke S.B.* on the basis of extraordinary circumstances. As we have said before, "any change in the meaning of 'parent' under our law should come by way of legislative enactment rather than judicial revamping of precedent" (*Debra H. v. Janice R.,* 14 N.Y.3d 576, 596, 904 N.Y.S.2d 263, 930 N.E.2d 184 [2010] ).

It has long been the rule in this state that, absent extraordinary circumstances, only parents have the right to seek custody or visitation of a minor child (*see* Domestic Relations Law § 70[a] ["Where a minor child is residing within this state, either parent may apply to the ... court for a writ of habeas corpus to have such minor child brought before such court; and on the return thereof, the court ... may award the natural guardianship, charge and custody of such child to either parent"] ). The legislature has not seen the need to define that term, and in the absence of a statutory definition, our Court has consistently interpreted it in the most obvious and colloquial sense to mean a child's natural parents or parents by adoption (*see e.g. People ex rel. Portnoy v. Strasser,* 303 N.Y. 539, 542, 104 N.E.2d 895 [1952] ["No court can, for any but the gravest reasons, transfer a child from its *30 natural parent to any other person"]; *People ex rel. Kropp v. Shepsky,* 305 N.Y. 465, 470, 113 N.E.2d 801 [1953]; *see also* Domestic Relations Law § 110 [defining adoption as a legal act whereby an adult acquires the rights and responsibilities of a parent with respect to the adoptee] ). Thus, in *Matter of Ronald FF. v. Cindy GG.,* we held that a man who lacked biological or adoptive ties to a child born out of wedlock could not interfere with a fit biological mother's right to determine who may associate with her child because he was not a "parent" within the meaning of Domestic Relations Law § 70 (70 N.Y.2d 141, 142, 517 N.Y.S.2d 932, 511 N.E.2d 75 [1987] ).

We applied the same rule to a same-sex couple in *Matter of Alison D. v. Virginia M.,* holding that a biological stranger to a child who neither adopted the child nor married the child's biological mother before the child's birth lacked standing to seek visitation (77 N.Y.2d 651, 656–657, 569 N.Y.S.2d 586, 572 N.E.2d 27 [1991] ). The petitioner in that case conceded she was not the child's "parent" within the meaning of Domestic Relations Law § 70 but argued that her relationship with the child, as a *nonparent,* entitled her to seek visitation over the objection of the child's indisputably fit biological mother. Framed in those terms, the answer was easy: the petitioner's concession that she was not a parent of the child, coupled with the statutory language in Domestic Relations Law § 70 "giv[ing] *parents* the right to bring proceedings to ensure their proper exercise of [a child's] care, custody and control," deprived the petitioner of standing to seek visitation (*id.* at 657, 569 N.Y.S.2d 586, 572 N.E.2d 27).

Notwithstanding the fact that it may be "beneficial to a child to have continued contact with a nonparent" in some cases (*id.*), we declined to expand the word "parent" in section 70 to include individuals like the petitioner who were admittedly nonparents but who had developed a close relationship with the child. Our reasoning was that, where the legislature had intended to allow other categories of persons to seek visitation, it had expressly conferred standing on those individuals and given courts the power to determine whether an award of visitation would be in the child's best interest (*see id.*). Specifically, the legislature had previously provided that "[w]here circumstances show that conditions exist which equity would see fit to **503 ***104 intervene," a brother, sister or grandparent of a child may petition to have such child brought before the court to "make such directions as the best interest of the child may require, for visitation rights for such brother or sister [or grandparent or grandparents] in respect to such child" *31 (Domestic Relations Law §§ 71, 72[1] ). The legislature had also codified the common-law marital presumption of legitimacy for children conceived by artificial reproduction, so that any child born to a married woman by means of artificial insemination was deemed the legitimate, birth child of both spouses (*see* Domestic Relations Law § 73[1] ). In the absence of further legislative action defining the term "parent" or giving other nonparents the right to petition for visitation, we determined that a non-biological, non-adoptive parent who had not married the child's biological mother lacked standing under the law (77 N.Y.2d at 657, 569 N.Y.S.2d 586, 572 N.E.2d 27).

Our Court reaffirmed *Alison D.*'s core holding just six years ago in *Debra H. v. Janice R.*, 14 N.Y.3d 576, 904 N.Y.S.2d 263, 930 N.E.2d 184 (2010). Confronting many of the same arguments petitioners raise in these appeals, we rejected the impulse to judicially enlarge the term "parent" beyond marriage, biology or adoption. We observed that in the nearly 20 years that had passed since our decision in *Alison D.,* other

states had *legislatively* expanded the class of individuals who may seek custody and/or visitation of a child (*see id.* at 596–597, 904 N.Y.S.2d 263, 930 N.E.2d 184, citing Ind. Code Ann. §§ 31–17–2–8.5, 31–9–2–35.5; Colo. Rev. Stat. Ann. § 14–10–123; Tex. Fam. Code Ann. § 102.003[a][9]; Minn. Stat. Ann. § 257C.08 [4]; D.C. Code Ann. § 16–831.01[1]; Or. Rev. Stat. Ann. § 109.119[1]; Wyo. Stat. Ann. § 20–7–102[a] ). Our State had not—and has not, to this day. In the face of such legislative silence, we refused to undertake the kind of policy analysis reserved for the elected representatives of this State, who are better positioned to "conduct hearings and solicit comments from interested parties, evaluate the voluminous social science research in this area ..., weigh the consequences of various proposals, and make the tradeoffs needed to fashion the rules that best serve the population of our state" (*id.* at 597, 904 N.Y.S.2d 263, 930 N.E.2d 184).

The takeaway from *Debra H.* is that *Alison D.* didn't break any new ground or retreat from a broader understanding of parenthood. It showed respect for the role of the legislature in defining who a parent is, and held, based on the legislative guidance before us, that the term was intended to include a child's biological mother and father, a child's adoptive parents, and, pursuant to a statute enacted in 1974, the spouse of a woman to whom a child was born by artificial insemination. Although many have complained that this standard "is formulaic, or too rigid, or out of step with the times" (*id.* at 594, 904 N.Y.S.2d 263, 930 N.E.2d 184), such criticism is properly directed at the legislature, who ***32** in the 107 years since Domestic Relations Law § 70 was enacted has chosen not to amend that section or define the term "parent" to include persons who establish a loving parental bond with a child, though they lack a biological or adoptive tie.

To be sure, there was a time when our interpretation of "parent" put same-sex couples on unequal footing with their heterosexual counterparts. When *Alison D.* was decided, for example, it was impossible for both members of a same-sex couple to become the legal parents of a child born to one partner by artificial insemination, because same-sex couples were not permitted to marry or adopt. Our Court eventually held that the adoption statute permitted ****504 ***105** unmarried same-sex partners to obtain second-parent adoptions (*see Matter of Jacob,* 86 N.Y.2d 651, 656, 636 N.Y.S.2d 716, 660 N.E.2d 397 [1995] ), but it was not until 2011 that the legislature put an end to all sex-based distinctions in the law (*see* Domestic Relations Law § 10–a).

The legislature's passage of the Marriage Equality Act granted same-sex couples the right to marry and made clear that "[n]o government treatment or legal status, effect, right, benefit, privilege, protection or responsibility relating to marriage ... shall differ based on the parties to the marriage being or having been of the same sex rather than a different sex" (Domestic Relations Law § 10–a [2] ). Having mandated gender neutrality with respect to every legal benefit and obligation arising from marriage, and eliminated every sex-based distinction in the law and common law, the legislature has formally declared its intention that "[s]ame-sex couples should have the same access as others to the protections, responsibilities, rights, obligations, and benefits of civil marriage" (L. 2011, ch. 95, § 2).

Same-sex couples are now afforded the same legal rights as heterosexual couples and are no longer barred from establishing the types of legal parent-child relationships that the law had previously disallowed. Today, a child born to a married person by means of artificial insemination with the consent of the other spouse is deemed to be the child of both spouses, regardless of the couple's sexual orientation (2–22 N.Y. Civil Practice: Family Court Proceedings § 22.08[1] [Matthew Bender]; *Laura WW. v. Peter WW.,* 51 A.D.3d 211, 217–218, 856 N.Y.S.2d 258 [3d Dept.2008] [holding that a child born to a married woman is the legitimate child of both parties and that, absent evidence to the contrary, the spouse of the married woman is presumed ***33** to have consented to such status]; *Matter of Kelly S. v. Farah M.,* 139 A.D.3d 90, 103–104, 28 N.Y.S.3d 714 [2d Dept.2016] [finding that the failure to strictly comply with the requirements of Domestic Relations Law § 73 did not preclude recognition of a biological mother's former same-sex partner as a parent to the child conceived by artificial insemination during the couple's domestic partnership]; *Wendy G–M. v. Erin G–M.,* 45 Misc.3d 574, 593, 985 N.Y.S.2d 845 [Sup.Ct., Monroe County 2014] [applying the marital presumption to a child born of a same-sex couple married in Connecticut] ). And if two individuals of the same sex choose not to marry but later conceive a child by artificial insemination, the non-biological parent may now adopt the child through a second-parent adoption.

The Marriage Equality Act and *Matter of Jacob* have erased any obstacles to living within the rights and duties of the Domestic Relations Law. The corollary is, absent further legislative action, an unmarried individual who lacks a biological or adoptive connection to a child conceived after 2011 does not have standing under Domestic Relations Law § 70, regardless of gender or sexual orientation. Unlike the majority, I would leave it to the legislature to determine whether a broader category of persons should be permitted to seek custody or visitation under the law. I remain of the view, as I was in *Debra H.,* that we should not "preempt our Legislature by sidestepping section 70 of the Domestic Relations Law as presently drafted and interpreted in *Alison D.* to create an additional category of parent ... through the exercise of our common-law and equitable powers" (14 N.Y.3d at 597, 904 N.Y.S.2d 263, 930 N.E.2d 184).

I do agree, however, with the results the majority has reached in these cases. The Marriage Equality Act did not benefit the same-sex couples before us in these appeals ****505 ***106** who entered into committed relationships and chose to rear children before they were permitted to exercise what our legislature and the Supreme Court of the United States have now declared a fundamental human right (*see generally Obergefell v. Hodges,* 576 U.S. ——, 135 S.Ct. 2584, 192 L.Ed.2d 609 [2015] ). That Brooke and Elizabeth did not have the same opportunity to marry one another before they decided to have a family means that the couple (and the child born to them through artificial insemination) did not receive the same legal protection our laws would have provided a child born to a heterosexual couple under similar circumstances. That is, the law did not presume—as it would have for a married heterosexual couple—that any child ***34** born to one of the women during their relationship was the legitimate child of both.

In my view, this inequality and the substantial changes in the law that have occurred since our decision in *Debra H.* constitute extraordinary circumstances that give these petitioners standing to seek visitation (*see Ronald FF.,* 70 N.Y.2d at 144–145, 517 N.Y.S.2d 932, 511 N.E.2d 75 [barring the State from interfering with a parent's "(fundamental) right ... to choose those with whom her child associates" unless it "shows some compelling State purpose which furthers the child's best interest"] ). Namely, each couple agreed to conceive a child by artificial insemination at a time when they were not allowed to marry in New York and intended to raise the child in the type of relationship the couples would have formalized by marriage had our State permitted them to exercise that fundamental human right. On the basis of these facts, I would remit the matter in *Brooke S.B.* to Supreme Court for a hearing to determine whether it would be in the child's best interest to have regular visitation with petitioner. As the majority correctly concludes, the petitioner in *Estrellita A.* has standing by virtue of judicial estoppel (majority op. at 29, 39 N.Y.S.3d at 102, 61 N.E.3d at 501).

*Matter of Brooke S.B. v. Elizabeth A.C.C.:* Order reversed, without costs, and matter remitted to Family Court, Chautauqua County, for further proceedings in accordance with the opinion herein.

Opinion by Judge ABDUS–SALAAM. Chief Judge DiFIORE and Judges RIVERA, STEIN and GARCIA concur. Judge PIGOTT concurs in a separate concurring opinion. Judge FAHEY taking no part.

*Matter of Estrellita A. v. Jennifer L.D.:* Order affirmed, without costs.

Opinion by Judge ABDUS–SALAAM. Chief Judge DiFIORE and Judges RIVERA, STEIN and GARCIA concur. Judge PIGOTT concurs in a separate concurring opinion. Judge FAHEY taking no part.

**All Citations**

28 N.Y.3d 1, 61 N.E.3d 488, 39 N.Y.S.3d 89, 2016 N.Y. Slip Op. 05903

## Footnotes

61 N.E.3d 488, 39 N.Y.S.3d 89, 2016 N.Y. Slip Op. 05903

1 The parties in both cases before us dispute the relevant facts. Given the procedural posture of these cases, our summary of the facts is derived from petitioners' allegations in court filings and relevant decisions of the courts below.

2 Petitioner appealed but, citing her financial condition, proceeded without an attorney. Her appeal was subsequently dismissed.

3 We note that by the use of the term “either,” the plain language of Domestic Relations Law § 70 clearly limits a child to two parents, and no more than two, at any given time.

4 Furthermore, in *Matter of H.M. v. E.T.*, 14 N.Y.3d 521, 904 N.Y.S.2d 285, 930 N.E.2d 206 (2010), for purposes of child support proceedings, we construed Family Ct. Act § 413(1)(a) in a manner consistent with principles of equitable estoppel by interpreting the term “parents” to include a biological parent's former same-sex partner, notwithstanding the lack of a biological or adoptive connection to the child (*H.M.,* 14 N.Y.3d at 526–527, 904 N.Y.S.2d 285, 930 N.E.2d 206).

# Surrogacy Journeys for Gay Families Under the CPSA:

Perspectives from practitioners and a surrogacy matching agency

Brian Esser, Esq.

# Background & Enactment of CPSA

- All forms of surrogacy (gestational & traditional) banned in New York until passage of Child Parent Security Act in 2020 (eff. February 2021).
  - Family Court Act Article (FCA) 5-C;
  - *In re Baby M*, 109 N.J. 396, 1988 N.J. Lexis 1 (1987);
  - 2020 "Love makes a Family Campaign" but bills first introduced in NYS legislature in 2013.
- For our purposes in this presentation, the CPSA:
  - Creates path to establish parentage when one individual is not a biological parent whether child born via "natural" birth, ART, surrogacy (FCA §§ 581 – 201 to 206)
  - Legalizes *gestational* surrogacy and furnishes requirements for gestational surrogacy agreements including the Surrogates' Bill of Rights (FCA §§ 581-401 to 409);
  - Creates safeguards for intended parents and surrogates through regulation of surrogacy industry which are unique to New York. (Gen. Bus. Law Art. 44)
  - Leaves in-tact prohibition against "traditional" surrogacy (FCA §§ 581 – 701 to 704).
  - Focus of today's presentation is on a surrogacy journey for gay families under the CPSA.

# WHERE TO GO??

# Surrogacy in New York vs. Other States

## PROs:

- Child Parent Security Act
- Surrogate's Bill of Rights
- Highly Regulated Jurisdiction
  - Only State that Requires Licensure of Agencies
  - Only State Requiring Registration of Clinics
  - Only State with Tracking Registry of Former Surrogates
- Prevalence of Surrogate Friendly Insurance
- LGBTQ Friendly Jurisdiction
  - Pre-birth orders (more on this later)
- Roe has been codified in NY

# WHERE TO GO??

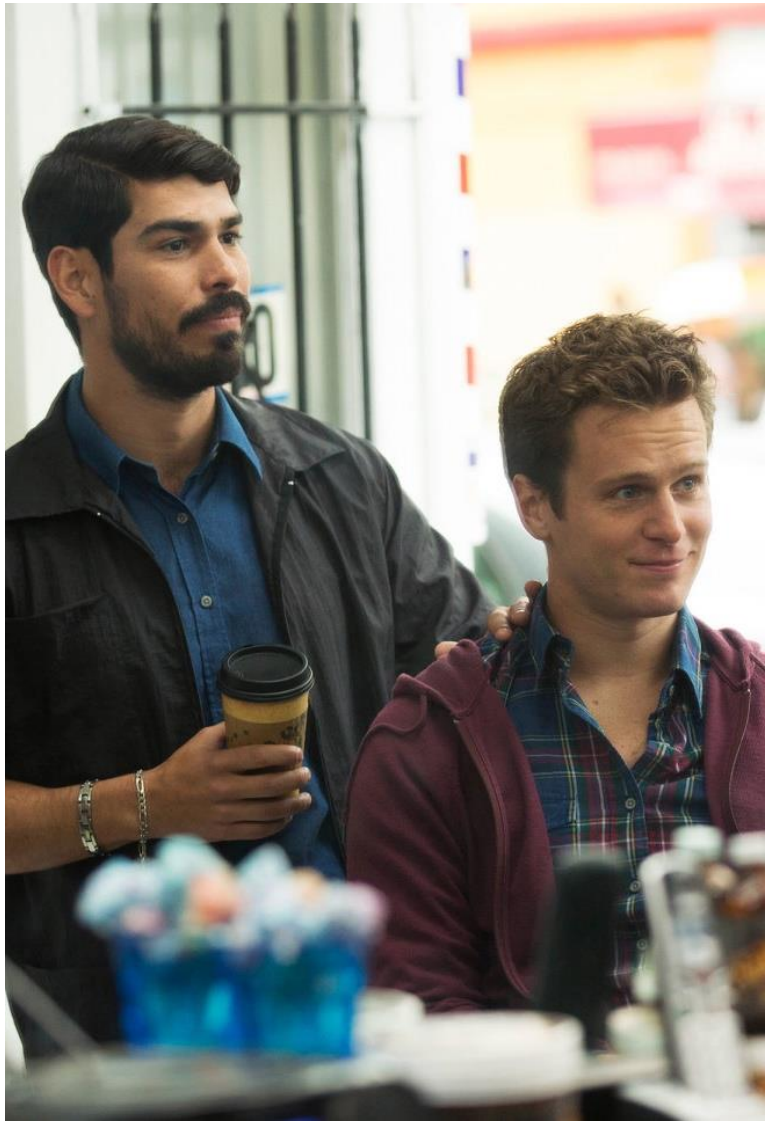
# Surrogacy in New York vs. Other States

## CONs:

- Insurance Premium Mandate (12 mos. post-birth)
  - Health insurance
  - Life insurance
  - Disability Insurance
- Novelty of law (2/15/2021)
  - Clean-up bill (2022)

# STEP ONE: Initial Consultation with Intended Parent(s)

- Embryo creation/egg donation, if necessary
  - Embryo donation
- Fertility clinic/reproductive endocrinologist
  - Registered with NY DOH
- Surrogacy Attorney
  - Licensed in NYS
- Surrogacy Matching Agency
  - Licensed by NY DOH
- Matching Considerations
  - Location?  State's Laws?
  - Surrogacy-Friendly Insurance?
  - Termination/Selective Reduction?
  - Vaccination?
  - Relationship/Contact?
- Cost/Budget



# Surrogacy Matching Agencies in New York

## What does a Surrogacy Matching Agency do?

- Agency Fees
- Education/Support
- Referral Services
  - Legal
  - Medical
  - Psychological
  - Insurance
- Surrogate Screening
- Individualized Matching
- Coordination/Monitoring
- Escrow (sometimes)

## What does DOH require?

- Licensing requirements
- Regulatory requirements

## How to select the right agency?

# The Surrogacy Agreement

WHAT IS THE NATURE OF THE AGREEMENT?

↓

CONTRACT VERSUS ROAD MAP

# Drafting the Surrogacy Agreement: Process

1. Referral from Agency with Term Sheet
2. IPs' Lawyer Drafts
3. IPs Approve
4. Surrogate's Lawyer Reviews with Clients
5. Comments to IPs
6. Final Agreement

# Drafting the Surrogacy Agreement: Core Terms

Section 581-403 of the Family Court Act provides a core set of terms that must be included in all agreements such as:

- Surrogate undergoes embryo transfer and attempts to give birth
- Surrogate (and spouse, if any) surrenders custody upon birth; no legal rights as to the child
- Intended Parents accept custody upon birth; assume responsibility for support of the child
- Intended Parents' rights and obligations not assignable
- Intended Parents' rights and obligation unaffected by subsequent separation or divorce
- Cooperation of parties in establishing legal parentage
- Intended Parents execute a will designating guardian

# Drafting the Surrogacy Agreement: Surrogate's Bill of Rights

The Surrogate has a set of substantive guarantees, per sections 581-602 through 607 of the Family Court Act:

- The right to make all health and welfare decisions regarding herself and the pregnancy
- The right to legal counsel of her choice, paid for by the Intended Parents
- The right to terminate the surrogacy agreement (before pregnancy)
- The right to health insurance
- The right to life insurance

# Drafting the Surrogacy Agreement: Financial Terms

- Compensation is permitted by statute (FCA § 581-502) for "medical risks, physical discomfort, inconvenience and the responsibilities they are undertaking."
- If the Surrogate and IPs were matched by a matching program, the financial terms are agreed upon at match.
  - Lawyers do not re-negotiate compensation.
- If the parties matched independently, more negotiation may take place.
- As a general principle, a surrogate should not be at a financial disadvantage due to her participation in the arrangement.

# Drafting the Surrogacy Agreement: Financial Terms, cont.

- Base Compensation – for agency matches can range from $25,000 to $75,000
  - Paid in monthly installments
  - What if child is premature?
- Multiples
- Monthly allowance for miscellaneous expenses
- Fees for certain events such as embryo transfer
- Fees for invasive procedures such as amniocentesis or c-section
- Reimbursements for travel, housekeeping, lost wages, child care
- Premiums for health and life insurance

# Drafting the Surrogacy Agreement: Other Terms

- Agreements often include provisions related to the surrogate's travel, lifestyle, and avoiding alcohol, tobacco, drugs; they can include dietary provisions; surrogates agree to avoid exposure to HIV, Zika virus, and Covid-19.
- Confidentiality and future contact will be addressed.
- Agreements CANNOT restrict health care decision making such as whether to have a Cesarean delivery, or to terminate the pregnancy. FCA § 581-403(i)(1)(v).
- Agreements SHOULD NOT predicate compensation on a live birth or the child surviving to be discharged from the hospital.

# Parentage

- Parentage under SA governed by FCA §581-203.
  - **Who** may petition? Child; Parent; IP; Surrogate or her Spouse; Social Services Offc. other gov't. agency auth. by law; Rep. of deceased, incapacitated, or minor who would be entitled to maintain a proceeding;
  - **When** to petition? Anytime after SA executed;
  - **Where** to petition? Family, Supreme, or Surrogate's Court in any county where IP resides, child was born or resides, or where surrogate resided after SA executed.
    - Consideration: appearance req. v. no appearance required.
  - **What** to include (OCA Forms):
    - Summons; Petition;
    - Certification of Compliant Surrogacy Agreement by Counsel;
    - Copy of Agreement?
- Pre-birth and Post-Birth Orders.
  - Generally encourage clients to obtain order prior to birth for practical reasons (too busy to worry about this step when baby arrives)
  - Discussion of process of pre-birth orders, hospitals, vital records, and birth certificates and amendment of birth certificates. FCA 581-203(d)(6)(i)(ii); Judiciary Law § 254; Public Health Law §4138 and NYC Public Health Code § 207.05

55 Misc.3d 865
Supreme Court, Suffolk County, New York.

DAWN M., Plaintiff,
v.
MICHAEL M., Defendant.

March 8, 2017.

**Synopsis**

**Background:** In divorce proceeding, wife, who was non-biological, non-adoptive parent, sought custody and visitation rights with husband's biological son, who lived with wife and biological mother.

The Supreme Court, Suffolk County, H. Patrick Leis III, J., held that best interests of child warranted granting wife shared legal custody, or "tri-custody," of child with husband and biological mother.

Motion granted.

**Attorneys and Law Firms**

****899** Karen G. Silverman, Esq., Commack, Plaintiff's Attorney.

Kenneth J. Molloy, Esq. Central Islip, Defendant's Attorney.

Theresa Mari, ESQ. Hauppauge, Attorney for Child.

**Opinion**

H. PATRICK LEIS III, J.

***866** It is

**ORDERED** that plaintiff is granted shared custody of J.M.; it is further

**ORDERED** that plaintiff is granted visitation with J.M. every Wednesday for dinner, a week-long school recess and two weeks out of the summer as delineated in this decision and judgment.

In this matter, plaintiff Dawn M., who is the non-biological, non-adoptive parent, asks the court to grant her "tri-custody" of defendant husband Michael M.'s ten-year- ****900** old biological son J.M.[1] After denying defendant's motion for summary judgment,[2] this court ordered a trial to determine custody and visitation rights of the parties regarding J.M.

The facts at trial established the following:

Plaintiff and defendant were married on July 9, 1994. After being unsuccessful at attempts to have a child, the parties went to a fertility doctor. The plaintiff was artificially inseminated with defendant's sperm and conceived a child. Unfortunately, that child was miscarried at ten weeks gestation.

In April of 2001, plaintiff met Audria G. (hereinafter referred to as "Audria") and they became close friends. Audria and her boyfriend moved into an apartment downstairs from plaintiff and defendant. When Audria's boyfriend moved out, Audria moved upstairs with plaintiff and defendant. Sometime in 2004, the relationship between plaintiff, defendant and Audria changed and the three began to engage in intimate relations.

As time went on, Audria, plaintiff and defendant began to consider themselves a "family" and decided to have a child together. The parties and Audria went to the fertility doctor previously utilized by plaintiff and defendant with the hope that Audria could be artificially inseminated with defendant's sperm. The fertility doctor, however, refused to artificially inseminate Audria because she was not married to defendant. ***867** Thereafter, the parties and Audria decided they would try to conceive a child naturally by defendant and Audria engaging in unprotected sexual relations. The credible evidence establishes that it was agreed, before a child was conceived, that plaintiff, Audria and defendant would all raise the child together as parents.

Audria became pregnant and J.M. was born on January 25, 2007. The evidence establishes that plaintiff's medical insurance was used to cover Audria's pregnancy and delivery, and that plaintiff accompanied Audria to most of her doctor appointments. For more than eighteen months after J.M.'s birth, defendant, plaintiff and Audria continued to live together. Audria and plaintiff shared duties as J.M.'s mother including taking turns getting up during the night to feed J.M. and taking him to doctor visits.

As time went on, however, the relationship between defendant and plaintiff became strained. In October of 2008, Audria and plaintiff moved out of the marital residence with J.M. A divorce action was commenced by plaintiff against defendant in 2011. Plaintiff testified credibly that after the divorce action was commenced, defendant no longer considered her to be J.M.'s parent. Prior to this divorce, a custody case was commenced by defendant against Audria. Defendant and Audria settled their custody proceeding by agreeing to joint custody; residential custody with Audria and liberal visitation accorded ****901** to defendant.[3] The plaintiff still resides with Audria and J.M., and sees J.M. on a daily basis. She testified that she brought this action to assure continued visitation and to secure custody rights for J.M. because she fears that without court-ordered visitation and shared custody, her ability to remain in J.M.'s life would be solely dependent upon obtaining the consent of either Audria or the defendant.

The Court finds plaintiff's love for J.M. evident from her actions, testimony and demeanor on the stand. Indeed, during her testimony, plaintiff beamed whenever she spoke of J.M., including her earliest involvement in his life during Audria's pregnancy. The court finds credible the testimony of Audria and plaintiff that J.M. was raised with two mothers and that he continues to the present day to call both "mommy." The court does not find credible defendant's claim that he called plaintiff by her first name and never referred to her as ***868** "mommy" in front of J.M. The court finds that in all respects, during the first eighteen months of J.M.'s life when defendant, plaintiff and Audria all lived together, and thereafter, plaintiff acted as a joint mother with Audria and that they all taught the child that he has two mothers. In fact, the credible evidence establishes that when J.M. had an ear operation at age two, the defendant told the nurse that both plaintiff and Audria were J.M.'s mother so that both could be with him in the recovery room.

Moreover, the in camera interview conducted by the court with J.M. clearly establishes that J.M. considers both plaintiff and Audria his mothers. When asked to distinguish them, he refers to Audria as "mommy with the orange truck" and to plaintiff as "mommy with the grey truck."[4] He makes no distinction based on biology. J.M. is a well adjusted ten-year-old boy who loves his father and his two mothers. He knows nothing about this action. He has no idea that his father opposes tri-custody and court-ordered visitation with plaintiff.[5] The in camera with J.M. leaves no doubt that J.M. considers both plaintiff and Audria to be equal "mommies" and that he would be devastated if he were not able to see plaintiff. The interview with J.M. also clearly shows that he enjoys his present living situation and would not want it altered in any way.

Although not a biological parent or an adoptive parent, plaintiff argues that she has been allowed to act as J.M.'s mother by both Audria and defendant. She has always lived with J.M. and J.M. has known plaintiff as his mom since his birth. Plaintiff asserts that the best interest of J.M. dictates that she be given shared legal custody of J.M. and visitation with him. J.M.'s biological mother Audria strongly agrees. Plaintiff argues, along with the child's attorney, that defendant should be estopped from opposing this application because he has created and fostered this situation by voluntarily agreeing, before the child was conceived, to raise him with three parents. And, further, that the defendant has acted consistent with this agreement by allowing the child to understand that he has two mothers.

Pursuant to DRL § 70, a parent may apply to the court for custody based solely upon what is for the best interest of the child, and what will promote his welfare ***869** and happiness. DRL § 240 also requires that in any proceeding for divorce, the court "shall enter a custody order having ****902** regard to the circumstances of the case and of the respective parties and to the best interests of the child...." The Court of Appeals in *Brooke S.B.* stressed that its decision only addressed the ability of a person who was not a biological or adoptive parent to establish standing as a parent to petition for custody and visitation, and that the ultimate determination of whether to grant those rights rests in the sound discretion of trial courts in determining the best interests of the child (28 N.Y.3d at 28, 39 N.Y.S.3d 89, 61 N.E.3d 488).[6]

Similarly, in determining shared legal custody, J.M.'s best interests control (*see Braiman v. Braiman,* 44 N.Y.2d 584, 589, 407 N.Y.S.2d 449, 378 N.E.2d 1019 [1978] ). Such an arrangement "reposes in both parents a shared responsibility for and control of a child's upbringing" (*id.*). As the Court in *Braiman* noted "children are entitled to the love, companionship, and concern of both parents ... [and] a joint award affords the otherwise noncustodial

parent psychological support which can be translated into a healthy environment for the child" (*id.*). Joint custody is usually encouraged primarily as a voluntary alternative when the parents are amicable (*Braiman,* 44 N.Y.2d at 589, 407 N.Y.S.2d 449, 378 N.E.2d 1019). When it is a court-ordered arrangement upon embittered parents, it only promotes familial chaos (*id.* at 590, 407 N.Y.S.2d 449, 378 N.E.2d 1019). That is not the case here. Here, the evidence establishes that the plaintiff acts as a defacto joint custodial parent with defendant and Audria and shares in making all major decisions in J.M.'s life.

Based on the evidence adduced at trial, including the demeanor and credibility of all three witnesses, the in camera interview and the factual findings made by this court, it is clear that the best interests of J.M. will be served by granting plaintiff's application for shared legal custody with defendant. Plaintiff and defendant have raised J.M. in a loving environment as evidenced by the fact that he does not know that the defendant opposes custody and court-ordered visitation with plaintiff. They clearly do not present as so embattled and embittered that they will not work together to put J.M.'s needs ***870** first. J.M. needs a continuing relationship with the plaintiff as his mother and that relationship cannot be left to depend on the consent or whim of either his biological mother or father. Anything less will promote great hardship and suffering for J.M. This Court concludes based on the evidence that plaintiff, defendant and Audria can and will get along as they have in the past, to maintain J.M.'s psychological stability and to act in his best interest, and that they will be able to cooperate in making major decisions in J.M.'s life such as health, education and welfare as they have done for his entire life.

Such joint legal custody will actually be a tri-custodial arrangement as Audria and defendant already share joint legal custody. As it appears from Audria's testimony that she whole-heartedly supports such an arrangement, this Court finds no issue with regards to Audria's rights in granting this relief. Indeed, tri-custody is the logical evolution of the Court of Appeals' decision in *Brooke S.B.,* and the passage of the ****903** Marriage Equality Act and DRL § 10–a which permits same-sex couples to marry in New York.

Regarding visitation, plaintiff requests that she be given one weekend a month and that such weekend can be carved out of defendant's time with J.M. (he presently sees J.M. from Saturday afternoon to Sunday late afternoon, three times a month). To grant plaintiff's request at defendant's expense, however, would be inappropriate as plaintiff presently lives with J.M. and sees him regularly when defendant does not have visitation. Additionally, J.M. enjoys his time with his father. Taking one of defendant's three weekends each month would significantly limit J.M.'s visitation with defendant and could have a detrimental impact on his relationship with his father. The Court does recognize plaintiff's need and right to time alone with J.M. and, accordingly, will grant plaintiff Wednesday night visitation with J.M. for dinner pursuant to a schedule to be established by plaintiff with input from Audria whose time with J.M. will be impacted by this court-ordered visitation. Lastly, plaintiff also requests one week-long school recess visitation each year and two weeks of visitation each summer. The court grants this relief and directs that all parties cooperate to determine which school recess and which two weeks out of the summer will belong to plaintiff.

In sum, plaintiff, defendant and Audria created this unconventional family dynamic by agreeing to have a child together and by raising J.M. with two mothers. The Court therefore ***871** finds that J.M.'s best interests cry out for an assurance that he will be allowed a continued relationship with plaintiff. No one told these three people to create this unique relationship. Nor did anyone tell defendant to conceive a child with his wife's best friend or to raise that child knowing two women as his mother. Defendant's assertion that plaintiff should not have legal visitation with J.M. is unconscionable given J.M.'s bond with plaintiff and defendant's role in creating this bond. A person simply is responsible for the natural and foreseeable consequences of his or her actions especially when the best interest of a child is involved. Reason and justice dictate that defendant should be estopped from arguing that this woman, whom he has fostered and orchestrated to be his child's mother, be denied legal visitation and custody. As a result of the choices made by all three parents, this ten-year-old child to this day considers both plaintiff and Audria his mothers. To order anything other than joint custody could potentially facilitate plaintiff's removal from J.M.'s life and that would have a devastating consequence to this child. Accordingly, plaintiff is granted shared legal tri-custody and visitation as outlined above.

This Court retains jurisdiction and therefore should circumstances change, either party or Audria may make an application to modify this decision and judgment of the court.

**All Citations**

55 Misc.3d 865, 47 N.Y.S.3d 898, 2017 N.Y. Slip Op. 27073

## Footnotes

1 This decision determines only plaintiff's custody and parenting time. All other issues including child support have been settled by stipulation between the parties dated June 15, 2015.

2 Defendant contended that *Alison D. v. Virginia M.,* 77 N.Y.2d 651, 569 N.Y.S.2d 586, 572 N.E.2d 27 (1991), required this court to deny plaintiff's requested relief for custody and visitation based on her lack of standing. Prior to the Court of Appeals' decision in *Brooke S.B. v. Elizabeth A.C.C.,* 28 N.Y.3d 1, 39 N.Y.S.3d 89, 61 N.E.3d 488 (2016), this court denied defendant's motion for summary judgment based upon the Marriage Equality Act and the Court's analysis of Vermont Law in *Debra H. v. Janice R.,* 14 N.Y.3d 576, 904 N.Y.S.2d 263, 930 N.E.2d 184 (2010), and found plaintiff had standing as a parent.

3 There is no written parenting schedule.

4 Referring to the color of the vehicle each mother drives.

5 To this extent the parties are to be complimented.

6 Under *Brooke S.B. v. Elizabeth A.C.C.*, 28 N.Y.3d 1, 39 N.Y.S.3d 89, 61 N.E.3d 488, relying heavily on the dissent written by Chief Judge Judith Kaye in *Alison D.,* 77 N.Y.2d 651, 657, 569 N.Y.S.2d 586, 572 N.E.2d 27 (1991), the law states “where a partner shows by clear & convincing evidence that the parties agreed to conceive a child and to raise the child together, the non-biological, non-adoptive parent has standing to seek visitation and custody under DRL 70.” This case represents the logical next step.

# STATE OF NEW YORK

S. 7506--B A. 9506--B

# SENATE - ASSEMBLY

January 22, 2020

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to contracts for excellence and the apportionment of public moneys; to amend the education law, in relation to the statewide universal full-day pre-kindergarten program; to amend the education law, in relation to conditions under which districts are entitled to apportionment; to amend the education law, in relation to courses of instruction in patriotism and citizenship and in certain historic documents; to amend the education law, in relation to instruction in the Holocaust in certain schools; to amend the education law, in relation to moneys apportioned to school districts for commercial gaming grants; to amend part B of chapter 57 of the laws of 2008 amending the education law relating to the universal pre-kindergarten program, in relation to the effectiveness thereof; to amend chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to reimbursements for the 2020-2021 school year; to amend chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to withholding a portion of employment preparation education aid and in relation to the effectiveness thereof; to amend chapter 169 of the laws of 1994, relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets, in relation to the effectiveness thereof; to amend chapter 147 of the laws of 2001, amending the education law relating to condi-

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

LBD12672-03-0

tional appointment of school district, charter school or BOCES employees, in relation to the effectiveness thereof; to amend chapter 425 of the laws of 2002, amending the education law relating to the provision of supplemental educational services, attendance at a safe public school and the suspension of pupils who bring a firearm to or possess a firearm at a school, in relation to the effectiveness thereof; to amend chapter 101 of the laws of 2003, amending the education law relating to implementation of the No Child Left Behind Act of 2001, in relation to the effectiveness thereof; to amend part C of chapter 57 of the laws of 2004, relating to the support of education, in relation to the effectiveness thereof; relates to school bus driver training; relates to special apportionment for salary expenses and public pension accruals; relates to authorizing the city school district of the city of Rochester to purchase certain services; relates to suballocations of appropriations; to amend chapter 121 of the laws of 1996, relating to authorizing the Roosevelt union free school district to finance deficits by the issuance of serial bonds; in relation to certain apportionments; to amend chapter 89 of the laws of 2016 relating to supplementary funding for dedicated programs for public school students in the East Ramapo central school district, in relation to the effectiveness thereof; to amend chapter 18 of the laws of 2020, authorizing deficit financing and an advance of aid payments for the Wyandanch union free school district, in relation to the issuance of serial bonds; and relates to the support of public libraries (Part A); to amend the education law, in relation to establishing the Syracuse Comprehensive Education and Workforce Training Center focusing on Science, Technology, Engineering, Arts, and Math to provide instruction to students in the Onondaga, Cortland and Madison county BOCES and the central New York region in the areas of science, technology, engineering, arts and mathematics (Part B); directing the commissioner of education to appoint a monitor for the Rochester city school district, establishing the powers and duties of such monitor and certain other officers and relating to the apportionment of aid to such school district; and providing for the repeal of certain provisions upon the expiration thereof (Part C); to amend the education law, in relation to predictable tuition allowing annual tuition increase for certain SUNY schools (Part D); intentionally omitted (Part E); intentionally omitted (Part F); intentionally omitted (Part G); to utilize reserves in the mortgage insurance fund for various housing purposes (Part H); to amend the emergency tenant protection act of nineteen seventy-four, in relation to authorizing a payment offset for rent administration costs (Part I); to amend the labor law, in relation to requirements for sick leave (Part J); to amend the social services law, in relation to increasing the standards of monthly need for aged, blind and disabled persons living in the community (Part K); to amend the family court act, in relation to judgments of parentage of children conceived through assisted reproduction or pursuant to surrogacy agreements; to amend the domestic relations law, in relation to restricting genetic surrogate parenting contracts; to amend the public health law, in relation to voluntary acknowledgments of parentage, gestational surrogacy and regulations concerning ova donation; to amend the general business law, the estates, powers and trusts law, the social services law and the insurance law, in relation to the regulation of surrogacy programs; to amend the estates powers and trusts law, in relation to inheritance by children after the death of an intended parent; and to repeal section 73 of the domestic

relations law, relating to legitimacy of children born by artificial insemination (Part L); intentionally omitted (Part M); to amend the social services law, in relation to restructuring financing for residential school placements; to repeal certain provisions of the education law relating thereto; and providing for the repeal of such provisions upon expiration thereof (Part N); intentionally omitted (Part O); to amend the education law, in relation to establishing the curing Alzheimer's health consortium (Part P); to amend the education law, in relation to the foster youth college success initiative (Part Q); to amend the social services law, in relation to the standard of proof for unfounded and indicated reports of child abuse and maltreatment; and to amend the family court act, in relation to the admissibility of reports of child abuse and maltreatment (Part R); to amend the private housing finance law, in relation to increasing the annual amount of loans made to an agricultural producer from the housing development fund (Part S); to amend the private housing finance law, in relation to increasing the bonding authority of the New York city housing development corporation (Part T); to amend the local emergency housing rent control act, in relation to the date when the local legislative body of a city having a population of one million or more may determine the continuation of the emergency (Part U); to amend the social services law and the vehicle and traffic law, in relation to photo identification cards (Part V); to amend the tax law, in relation to state support for the local enforcement of past-due property taxes (Part W); and to amend the tax law, in relation to the employer compensation expense tax (Part X); to amend the New York Health Care Reform Act of 1996, in relation to extending certain provisions relating thereto; to amend the public health law, in relation to health care initiative pool distributions; to amend the New York Health Care Reform Act of 2000, in relation to extending the effectiveness of provisions thereof; to amend the public health law and the state financial law in relation to eliminating programs that do not support the department of health's core mission; to amend the public health law, in relation to payments for uncompensated care to certain voluntary non-profit diagnostic and treatment centers; to amend the public health law, in relation to the distribution pool allocations and graduate medical education; to amend the public health law, in relation to the assessments on covered lives; to amend the public health law, in relation to tobacco control and insurance initiatives pool distributions; to amend chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending the effectiveness of certain provisions thereof; to amend chapter 62 of the laws of 2003 amending the general business law and other laws relating to enacting major components necessary to implement the state fiscal plan for the 2003-04 state fiscal year, in relation to the deposit of certain funds; to amend the social services law, in relation to extending payment provisions for general hospitals; to amend the public health law, in relation to extending payment provisions for certain medical assistance rates for certified home health agencies; to amend the social services law, in relation to extending payment provisions for certain personal care services medical assistance rates; to amend chapter 517 of the laws of 2016 amending the public health law relating to payments from the New York state medical indemnity fund, in relation to the effectiveness thereof; and to repeal certain provisions of the public health law relating to funding for

certain programs (Part Y); to amend the social services law, in relation to limiting the availability of enhanced quality of adult living program ("EQUAL") grants (Part Z); to amend the state finance law, in relation to transferring responsibility for the autism awareness and research fund to the office for people with developmental disabilities; to amend the mental hygiene law, the insurance law and the labor law, in relation to transferring responsibility for the comprehensive care centers for eating disorders to the office of mental health; and to repeal certain provisions of the public health law relating to funding for certain programs (Part AA); to amend chapter 59 of the laws of 2016 amending the public health law and other laws relating to electronic prescriptions, in relation to the effectiveness thereof; to amend chapter 19 of the laws of 1998, amending the social services law relating to limiting the method of payment for prescription drugs under the medical assistance program, in relation to the effectiveness thereof; to amend the public health law, in relation to continuing nursing home upper payment limit payments; to amend chapter 904 of the laws of 1984, amending the public health law and the social services law relating to encouraging comprehensive health services, in relation to the effectiveness thereof; to amend chapter 62 of the laws of 2003, amending the public health law relating to allowing for the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, in relation to extending the provisions thereof; to amend chapter 59 of the laws of 2011, amending the public health law relating to the statewide health information network of New York and the statewide planning and research cooperative system and general powers and duties, in relation to the effectiveness thereof; to amend chapter 58 of the laws of 2008, amending the elder law and other laws relating to reimbursement to participating provider pharmacies and prescription drug coverage, in relation to extending the expiration of certain provisions thereof; to amend the public health law, in relation to issuance of certificates of authority to accountable care organizations; to amend chapter 59 of the laws of 2016, amending the social services law and other laws relating to authorizing the commissioner of health to apply federally established consumer price index penalties for generic drugs, and authorizing the commissioner of health to impose penalties on managed care plans for reporting late or incorrect encounter data, in relation to the effectiveness of certain provisions of such chapter; to amend part B of chapter 57 of the laws of 2015, amending the social services law and other laws relating to supplemental rebates, in relation to the effectiveness thereof; to amend chapter 57 of the laws of 2019, amending the public health law relating to waiver of certain regulations, in relation to the effectiveness thereof; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to extending the effectiveness of certain provisions thereof; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to extending the effectiveness of certain provisions thereof; to amend chapter 58 of the laws of 2008, amending the social services law and the public health law relating to adjustments of rates, in relation to extending the date of the expiration of certain provisions thereof; to amend chapter 495 of the laws of 2004, amending the insurance law and the public health law relating to the New York state health insurance

continuation assistance demonstration project, in relation to the effectiveness thereof; to amend chapter 563 of the laws of 2008, amending the education law and the public health law relating to immunizing agents to be administered to adults by pharmacists, in relation to the effectiveness thereof; to amend chapter 116 of the laws of 2012, amending the education law relating to authorizing a licensed pharmacist and certified nurse practitioner to administer certain immunizing agents, in relation to the effectiveness thereof; and to amend chapter 21 of the laws of 2011, amending the education law relating to authorizing pharmacists to perform collaborative drug therapy management with physicians in certain settings, in relation to the effectiveness thereof (Part BB); to amend the public health law, in relation to the state's schedules of controlled substances (Part CC); to amend the public health law and the labor law, in relation to the state's modernization of environmental health fee (Part DD); to amend the public health law, the tax law and the general business law, in relation to the sale of tobacco products and vapor products (Part EE); to amend the public health law, in relation to the renaming of the Physically Handicapped Children's Program (Part FF); to amend the social services law and the public health law, in relation to creating a single preferred-drug list for medication assisted treatment; to amend chapter 57 of the laws of 2015, amending the social services law and other laws relating to supplemental rebates, in relation to the effectiveness thereof; to amend chapter 165 of the laws of 1991, amending the public health law and other laws relating to establishing payments for medical assistance, in relation to the effectiveness thereof; to amend chapter 710 of the laws of 1988, amending the social services law and the education law relating to medical assistance eligibility of certain persons and providing for managed medical care demonstration programs, in relation to the effectiveness thereof; and providing for the repeal of certain provisions upon expiration thereof (Part GG); to amend the public health law, in relation to expanding telehealth services (Part HH); to establish a pilot program for the purposes of promoting social determinant of health interventions (Part II); to provide for the administration of certain funds and accounts related to the 2020-2021 budget, authorizing certain payments and transfers; to amend the state finance law, in relation to the administration of certain funds and accounts; to amend part D of chapter 389 of the laws of 1997 relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, in relation to the issuance of certain bonds or notes; to amend part Y of chapter 61 of the laws of 2005, relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to the issuance of certain bonds or notes; to amend the public authorities law, in relation to the issuance of certain bonds or notes; to amend part K of 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 the issuance of certain bonds or notes; to amend the New York state medical care facilities finance agency act, in relation to the issuance of certain bonds or notes; to amend the New York state urban development corporation act, in relation to the issuance of certain bonds or 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 certain bonds or notes; to amend the public authorities law, in

relation to the issuance of certain bonds or notes; to amend the New York state urban development corporation act, in relation to the issuance of certain bonds or notes; to amend the private housing finance law, in relation to housing program bonds and notes; to amend the New York state urban development corporation act, in relation to authorizing the dormitory authority of the state of New York and the urban development corporation to enter into line of credit facilities, and in relation to state-supported debt issued during the 2021 fiscal year; to amend the state finance law, in relation to payments of bonds; to amend the civil practice law and rules, in relation to an action related to a bond; to amend the state finance law, in relation to establishing the public health emergency charitable gifts trust fund; and providing for the repeal of certain provisions upon expiration thereof (Part JJ); to amend the public health law, in relation to the designation of statewide general hospital quality and sole community pools and the reduction of capital related inpatient expenses; to repeal certain provisions of such law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part KK); to amend the social services law, in relation to reimbursement of transportation costs; to supplemental transportation payments; to reimbursement of emergency transportation services; to manage Medicaid transportation services using the contracted transportation managers for transportation provided to enrollees of managed long term care plans; to transition to a Medicaid transportation broker; and to reimbursement of emergency medical transportation (Part LL); to amend the social services law, in relation to changing the authorization requirements for personal care services; to amend the public health law, in relation to integrated medicaid managed care products for dual-eligibles; in relation to licensed home care service agency contracting; to amend chapter 60 of the laws of 2014, amending the social services law relating to fair hearings within the Fully Integrated Duals Advantage program, in relation to the effectiveness thereof; to amend the social services law, in relation to integrated fair hearing and appeals processes; to amend the public health law, in relation to the hospice worker recruitment and retention program; in relation to licensed home care services agencies; to direct the department of health to contract with an independent assessor to conduct community health assessments; to amend part C of chapter 57 of the laws of 2018, amending the social services law and the public health law relating to health homes and penalties for managed care providers, in relation to the effectiveness of certain contracts; to amend the social services law, in relation to the medicaid eligibility look-back period and to the community spouse resource amount; to amend the public health law, in relation to authorizations for personal care services; to direct the department of health to establish or procure the services of an independent panel of clinical professionals and to develop and implement a uniform task-based assessment tool; and in relation to managed long term care plans program oversight and administration (Part MM); to amend the public health law, in relation to discontinuing return of equity payments to for-profit nursing homes (Part NN); to amend the public health law and the labor law, in relation to wage parity enforcement (Part OO); to amend the social services law, in relation to improving access to private duty nursing services for medically fragile children, removing limitations on alternative rehabilitative services and establishing pilot programs promoting the use of alternative treatments for individuals suffering

from chronic lower back pain and diabetes and chronic disease self-management (Part PP); to amend the social services law, the public health law and the insurance law, in relation to managed care encounter data (Part QQ); to amend the general city law and the administrative code of the city of New York, in relation to authorizing providing relocation and employment assistance credits (Part RR); to amend the real property tax law and the administrative code of the city of New York, in relation to abatement of tax payments for certain industrial and commercial properties in a city of one million or more persons (Part SS); to amend the election law, in relation to omitting a candidate for the office of president of the United States from the primary ballot (Part TT); to amend the criminal procedure law, the judiciary law and the executive law, in relation to securing orders and pretrial proceedings (Part UU); to amend the penal law, in relation to transit crimes and prohibition orders relating to such crimes (Part VV); to amend the Hudson river park act, in relation to Pier 76 (Part WW); to amend the insurance law, in relation to prescription drug pricing and creating a drug accountability board (Part XX); to amend the financial services law and the insurance law, in relation to claims payment timeframes and payment of interest, payment and billing for out-of-network hospital emergency services, claims payment performance and creation of a workgroup to study health care administrative simplification; to amend the civil practice law and rules, in relation to claims for medical debt; to amend the public health law, the insurance law and the financial services law, in relation to provisional credentialing of physicians and to amend the insurance law and the public health law, in relation to preventing recoupment of COVID-19 related inpatient and emergency services claims (Part YY); to amend the tax law and the social services law, in relation to certain Medicaid management; and providing for the repeal of such provisions upon expiration thereof (Part ZZ); to amend chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending the effectiveness of certain provisions thereof; to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, relating to the effectiveness of certain provisions of such chapter, in relation to extending certain provisions concerning the hospital excess liability pool; and to amend part H of chapter 57 of the laws of 2017, amending the New York Health Care Reform Act of 1996 and other laws relating to extending certain provisions relating thereto, in relation to extending provisions relating to excess coverage (Part AAA); intentionally omitted (Part BBB); to amend part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to known and projected department of health state fund Medicaid expenditures, in relation to extending the Medicaid global cap (Part CCC); to amend the insurance law, in relation to capping cost sharing for insulin (Part DDD); to amend the public authorities law, in relation to the New York State Bridge Authority (Part EEE); to amend the public health law, in relation to extending and enhancing the Medicaid drug cap and to reduce unnecessary pharmacy benefit manager costs to the Medicaid program; to direct the department of health to remove the pharmacy benefit from the managed care benefit package and to provide the pharmacy benefit under the fee for service program; and to amend the public health law, in relation to partic-

ipation and membership in a demonstration period (Part FFF); to amend the public health law, in relation to enacting the emergency or disaster treatment protection act (Part GGG); to amend the criminal procedure law and the judiciary law, in relation to automatic discovery (Part HHH); to amend the local finance law, in relation to establishing a period of probable usefulness for airport construction and improvement of the Ithaca Tompkins International Airport (Part III); to validate certain acts of the Mahopac Central school district with regard to certain capital improvement projects (Part JJJ); to amend the social services law, the public health law and the insurance law, in relation to managed care encounter data, authorizing electronic notifications, and establishing regional demonstration projects (Part KKK); and to amend chapter 141 of the laws of 1994, amending the legislative law and the state finance law relating to the operation and administration of the legislature, in relation to extending such provisions (Part LLL)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2020-2021 state fiscal year. Each component is wholly contained within a Part identified as Parts A through LLL. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Paragraph e of subdivision 1 of section 211-d of the education law, as amended by section 1 of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

e. Notwithstanding paragraphs a and b of this subdivision, a school district that submitted a contract for excellence for the two thousand eight--two thousand nine school year shall submit a contract for excellence for the two thousand nine--two thousand ten school year in conformity with the requirements of subparagraph (vi) of paragraph a of subdivision two of this section unless all schools in the district are identified as in good standing and provided further that, a school district that submitted a contract for excellence for the two thousand nine--two thousand ten school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand eleven--two thousand twelve school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the product of the amount approved by the commissioner in the contract for excellence for the two thousand nine--two thousand ten school year, multiplied by the district's gap elimination adjustment percentage and provided further that, a school district that submitted a contract for excellence for the

two thousand eleven--two thousand twelve school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twelve--two thousand thirteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand eleven--two thousand twelve school year and provided further that, a school district that submitted a contract for excellence for the two thousand twelve--two thousand thirteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand thirteen--two thousand fourteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand twelve--two thousand thirteen school year and provided further that, a school district that submitted a contract for excellence for the two thousand thirteen--two thousand fourteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand fourteen--two thousand fifteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand thirteen--two thousand fourteen school year; and provided further that, a school district that submitted a contract for excellence for the two thousand fourteen--two thousand fifteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand fifteen--two thousand sixteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand fourteen--two thousand fifteen school year; and provided further that a school district that submitted a contract for excellence for the two thousand fifteen--two thousand sixteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand sixteen--two thousand seventeen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand fifteen--two thousand sixteen school year; and provided further that, a school district that submitted a contract for excellence for the two thousand sixteen--two thousand seventeen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand seventeen--two thousand eighteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand sixteen--two thousand seventeen school year; and provided further that a school district that submitted a contract for excellence for the two thousand seventeen--two

thousand eighteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand eighteen--two thousand nineteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand seventeen--two thousand eighteen school year; and provided further that, a school district that submitted a contract for excellence for the two thousand eighteen--two thousand nineteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand nineteen--two thousand twenty school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand eighteen--two thousand nineteen school year**; and provided further that, a school district that submitted a contract for excellence for the two thousand nineteen--two thousand twenty school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twenty--two thousand twenty-one school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand nineteen--two thousand twenty school year**. For purposes of this paragraph, the "gap elimination adjustment percentage" shall be calculated as the sum of one minus the quotient of the sum of the school district's net gap elimination adjustment for two thousand ten--two thousand eleven computed pursuant to chapter fifty-three of the laws of two thousand ten, making appropriations for the support of government, plus the school district's gap elimination adjustment for two thousand eleven--two thousand twelve as computed pursuant to chapter fifty-three of the laws of two thousand eleven, making appropriations for the support of the local assistance budget, including support for general support for public schools, divided by the total aid for adjustment computed pursuant to chapter fifty-three of the laws of two thousand eleven, making appropriations for the local assistance budget, including support for general support for public schools. Provided, further, that such amount shall be expended to support and maintain allowable programs and activities approved in the two thousand nine--two thousand ten school year or to support new or expanded allowable programs and activities in the current year.

§ 2. Intentionally omitted.

§ 3. Intentionally omitted.

§ 4. Intentionally omitted.

§ 5. Intentionally omitted.

§ 6. Intentionally omitted.

§ 7. Intentionally omitted.

§ 8. Intentionally omitted.

§ 9. Intentionally omitted.

§ 10. Intentionally omitted.

§ 11. Intentionally omitted.

§ 12. Intentionally omitted.

§ 13. Intentionally omitted.

§ 14. Intentionally omitted.

§ 14-a. Subdivision 4 of section 3602 of the education law is amended by adding a new paragraph h to read as follows:

**h. Foundation aid payable in the two thousand twenty--two thousand twenty-one school year. Notwithstanding any provision of law to the contrary, foundation aid payable in the two thousand twenty--two thousand twenty-one school year shall equal the apportionment for foundation aid in the base year.**

§ 14-b. Section 3602 of the education law is amended by adding a new subdivision 19 to read as follows:

**19. Pandemic adjustment. a. Notwithstanding any other provision of law to the contrary, the commissioner shall reduce payments due to each district for the two thousand twenty--two thousand twenty-one school year pursuant to section thirty-six hundred nine-a of this part by an amount equal to the pandemic adjustment computed for such district, and provided further that an amount equal to the amount of such deduction shall be deemed to have been paid to the district pursuant to this section for the school year in which such deduction is made. The commissioner shall compute such pandemic adjustment in each electronic data file produced pursuant to subdivision twenty-one of section three hundred five of this chapter, based on the following information: (i) ninety-nine and one-half percent of the funds from the elementary and secondary emergency relief fund that are available for school districts pursuant to the Coronavirus Aid, Relief, and Economic Security Act of 2020, and (ii) the governor's emergency relief fund pursuant to such act, provided that a schedule of such amounts shall be approved by the director of the budget, and provided further the commissioner shall provide a schedule of such pandemic adjustment to the state comptroller, the director of the budget, the chair of the senate finance committee, and the chair of the assembly ways and means committee.**

**b. Notwithstanding any inconsistent provision of law to the contrary, where additional federal and state revenues are apportioned to school districts with a pandemic adjustment reduction pursuant to this subdivision, such additional federal and state revenues shall be apportioned to such school district in an amount equal to the pandemic adjustment as computed herein, unless otherwise specified by federal law.**

§ 14-c. The closing paragraph of subdivision 5-a of section 3602 of the education law, as amended by section 16 of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

For the two thousand eight--two thousand nine school year, each school district shall be entitled to an apportionment equal to the product of fifteen percent and the additional apportionment computed pursuant to this subdivision for the two thousand seven--two thousand eight school year. For the two thousand nine--two thousand ten through two thousand [~~nineteen~~] **twenty**--two thousand [~~twenty~~] **twenty-one** school years, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "SUPPLEMENTAL PUB EXCESS COST" under the heading "2008-09 BASE YEAR AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand nine--two thousand ten school year and entitled "SA0910".

§ 14-d. Subdivision 12 of section 3602 of the education law, as amended by section 17 of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

12. Academic enhancement aid. A school district that as of April first of the base year has been continuously identified as a district in need of improvement for at least five years shall, for the two thousand

eight--two thousand nine school year, be entitled to an additional apportionment equal to the positive remainder, if any, of (a) the lesser of fifteen million dollars or the product of the total foundation aid base, as defined by paragraph j of subdivision one of this section, multiplied by ten percent (0.10), less (b) the positive remainder of (i) the sum of the total foundation aid apportioned pursuant to subdivision four of this section and the supplemental educational improvement grants apportioned pursuant to subdivision eight of section thirty-six hundred forty-one of this article, less (ii) the total foundation aid base.

For the two thousand nine--two thousand ten through two thousand four-teen--two thousand fifteen school years, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "EDUCATION GRANTS, ACADEMIC EN" under the heading "2008-09 BASE YEAR AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand nine--two thousand ten school year and entitled "SA0910", and such apportionment shall be deemed to satisfy the state obligation to provide an apportion-ment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.

For the two thousand fifteen--two thousand sixteen year, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "ACADEMIC ENHANCEMENT" under the head-ing "2014-15 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand four-teen--two thousand fifteen school year and entitled "SA141-5", and such apportionment shall be deemed to satisfy the state obligation to provide an apportionment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.

For the two thousand sixteen--two thousand seventeen school year, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "ACADEMIC ENHANCEMENT" under the heading "2015-16 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand fifteen--two thousand sixteen school year and entitled "SA151-6", and such apportionment shall be deemed to satisfy the state obligation to provide an apportionment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.

For the two thousand seventeen--two thousand eighteen school year, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "ACADEMIC ENHANCEMENT" under the heading "2016-17 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand sixteen--two thousand seventeen school year and entitled "SA161-7", and such apportionment shall be deemed to satisfy the state obligation to provide an apportionment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.

For the two thousand eighteen--two thousand nineteen school year, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "ACADEMIC ENHANCEMENT" under the heading "2017-18 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand seventeen--two thousand eighteen school year and entitled "SA171-8", and such apportionment shall be deemed to satisfy the state obligation to provide an apportionment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.

For the two thousand nineteen--two thousand twenty school year, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "ACADEMIC ENHANCEMENT" under the heading "2018-19 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand eighteen--two thousand nineteen school year and entitled "SA181-9", and such apportionment shall be deemed to satisfy the state obligation to provide an apportionment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.

**For the two thousand twenty--two thousand twenty-one school year, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "ACADEMIC ENHANCEMENT" under the heading "2019-20 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand nineteen--two thousand twenty school year and entitled "SA192-0", and such apportionment shall be deemed to satisfy the state obligation to provide an apportionment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.**

§ 14-e. The opening paragraph of subdivision 16 of section 3602 of the education law, as amended by section 18 of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

Each school district shall be eligible to receive a high tax aid apportionment in the two thousand eight--two thousand nine school year, which shall equal the greater of (i) the sum of the tier 1 high tax aid apportionment, the tier 2 high tax aid apportionment and the tier 3 high tax aid apportionment or (ii) the product of the apportionment received by the school district pursuant to this subdivision in the two thousand seven--two thousand eight school year, multiplied by the due-minimum factor, which shall equal, for districts with an alternate pupil wealth ratio computed pursuant to paragraph b of subdivision three of this section that is less than two, seventy percent (0.70), and for all other districts, fifty percent (0.50). Each school district shall be eligible to receive a high tax aid apportionment in the two thousand nine--two thousand ten through two thousand twelve--two thousand thirteen school years in the amount set forth for such school district as "HIGH TAX AID" under the heading "2008-09 BASE YEAR AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand nine--two thousand ten school year and entitled "SA0910". Each school district shall be eligible to receive a high tax aid apportionment in the two thousand thirteen--two thousand fourteen through two thousand [~~nineteen~~] **twenty**--two thousand [~~twenty~~] **twenty-one** school years equal to the greater of (1) the amount set forth for such school district as "HIGH TAX AID" under the heading "2008-09 BASE YEAR AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand nine--two thousand ten school year and entitled "SA0910" or (2) the amount set forth for such school district as "HIGH TAX AID" under the heading "2013-14 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the executive budget for the 2013-14 fiscal year and entitled "BT131-4".

§ 14-f. Subdivision 4 of section 3627 of the education law, as amended by section 5-d of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

4. Notwithstanding any other provision of law to the contrary, any expenditures for transportation provided pursuant to this section in the two thousand thirteen--two thousand fourteen school year and thereafter

and otherwise eligible for transportation aid pursuant to subdivision seven of section thirty-six hundred two of this article shall be considered approved transportation expenses eligible for transportation aid, provided further that for the two thousand thirteen--two thousand fourteen school year such aid shall be limited to eight million one hundred thousand dollars and for the two thousand fourteen--two thousand fifteen school year such aid shall be limited to the sum of twelve million six hundred thousand dollars plus the base amount and for the two thousand fifteen--two thousand sixteen school year through two thousand eighteen--two thousand nineteen school year such aid shall be limited to the sum of eighteen million eight hundred fifty thousand dollars plus the base amount, and for the two thousand nineteen--two thousand twenty school year [~~and thereafter~~] such aid shall be limited to the sum of nineteen million three hundred fifty thousand dollars plus the base amount**, and for the two thousand twenty--two thousand twenty-one school year and thereafter such aid shall be limited to the sum of nineteen million eight hundred fifty thousand dollars plus the base amount**. For purposes of this subdivision, "base amount" means the amount of transportation aid paid to the school district for expenditures incurred in the two thousand twelve--two thousand thirteen school year for transportation that would have been eligible for aid pursuant to this section had this section been in effect in such school year, except that subdivision six of this section shall be deemed not to have been in effect. And provided further that the school district shall continue to annually expend for the transportation described in subdivision one of this section at least the expenditures used for the base amount.

§ 15. Intentionally omitted.

§ 16. Intentionally omitted.

§ 17. Intentionally omitted.

§ 18. Intentionally omitted.

§ 19. Intentionally omitted.

§ 20. Intentionally omitted.

§ 21. Intentionally omitted.

§ 22. Subdivision 16 of section 3602-ee of the education law, as amended by section 19 of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

16. The authority of the department to administer the universal full-day pre-kindergarten program shall expire June thirtieth, two thousand [~~twenty~~] **twenty-one**; provided that the program shall continue and remain in full effect.

§ 22-a. Subdivision 4 of section 51 of part B of chapter 57 of the laws of 2008 amending the education law relating to the universal pre-kindergarten program, as amended by section 28-b of part YYY of chapter 59 of the laws of 2017, is amended to read as follows:

4. section twenty-three of this act shall take effect July 1, 2008 and shall expire and be deemed repealed June 30, [~~2020~~] **2021**;

§ 22-b. Subparagraph (ii) of paragraph (c) of subdivision 8 of section 3602-ee of the education law, as amended by section 24-a of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

(ii) Provided that, notwithstanding any provisions of this paragraph to the contrary, for the two thousand seventeen-two thousand eighteen through the two thousand [~~nineteen~~] **twenty**--two thousand [~~twenty~~] **twenty-one** school years an exemption to the certification requirement of subparagraph (i) of this paragraph may be made for a teacher without certification valid for service in the early childhood grades who possesses a written plan to obtain certification and who has registered

in the ASPIRE workforce registry as required under regulations of the commissioner of the office of children and family services. Notwithstanding any exemption provided by this subparagraph, certification shall be required for employment no later than June thirtieth, two thousand [~~twenty~~] twenty-one; provided that for the two thousand [~~nineteen~~] twenty-two thousand [~~twenty~~] twenty-one school year, school districts with teachers seeking an exemption to the certification requirement of subparagraph (i) of this paragraph shall submit a report to the commissioner regarding (A) the barriers to certification, if any, (B) the number of uncertified teachers registered in the ASPIRE workforce registry teaching pre-kindergarten in the district, including those employed by a community-based organization, (C) the number of previously uncertified teachers who have completed certification as required by this subdivision, and (D) the expected certification completion date of such teachers.

§ 23. Intentionally omitted.

§ 24. The opening paragraph of section 3609-a of the education law, as amended by section 21 of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

For aid payable in the two thousand seven--two thousand eight school year through the two thousand [~~nineteen~~] twenty--two thousand [~~twenty~~] twenty-one school year, "moneys apportioned" shall mean the lesser of (i) the sum of one hundred percent of the respective amount set forth for each school district as payable pursuant to this section in the school aid computer listing for the current year produced by the commissioner in support of the budget which includes the appropriation for the general support for public schools for the prescribed payments and individualized payments due prior to April first for the current year plus the apportionment payable during the current school year pursuant to subdivision six-a and subdivision fifteen of section thirty-six hundred two of this part minus any reductions to current year aids pursuant to subdivision seven of section thirty-six hundred four of this part or any deduction from apportionment payable pursuant to this chapter for collection of a school district basic contribution as defined in subdivision eight of section forty-four hundred one of this chapter, less any grants provided pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law, less any grants provided pursuant to subdivision five of section ninety-seven-nnnn of the state finance law, less any grants provided pursuant to subdivision twelve of section thirty-six hundred forty-one of this article, or (ii) the apportionment calculated by the commissioner based on data on file at the time the payment is processed; provided however, that for the purposes of any payments made pursuant to this section prior to the first business day of June of the current year, moneys apportioned shall not include any aids payable pursuant to subdivisions six and fourteen, if applicable, of section thirty-six hundred two of this part as current year aid for debt service on bond anticipation notes and/or bonds first issued in the current year or any aids payable for full-day kindergarten for the current year pursuant to subdivision nine of section thirty-six hundred two of this part. The definitions of "base year" and "current year" as set forth in subdivision one of section thirty-six hundred two of this part shall apply to this section. For aid payable in the two thousand [~~nineteen~~] twenty--two thousand [~~twenty~~] twenty-one school year, reference to such "school aid computer listing for the current year" shall mean the printouts entitled [~~"SA192-0"~~] "SA202-1".

§ 25. Intentionally omitted.

§ 26. Intentionally omitted.

§ 26-a. Subparagraph (viii) of paragraph (a) of subdivision 1 of section 2856 of the education law, as amended by section 4 of part YYY of chapter 59 of the laws of 2017, is amended and two new subparagraphs (ix) and (x) are added to read as follows:

(viii) for the two thousand twenty--two thousand twenty-one [~~school year and thereafter~~] **and two thousand twenty-one--two thousand twenty-two school years**, the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year **multiplied by, for the two thousand twenty--two thousand twenty-one school year only, (iii) nine hundred forty-five one-thousandths (0.945)** or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

**(ix) for the two thousand twenty-two--two thousand twenty-three through two thousand twenty-four--two thousand twenty-five school years the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year four years prior to the base year and finishing with the year prior to the base year, excluding the two thousand twenty--two thousand twenty-one school year, of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.**

**(x) for the two thousand twenty-five--two thousand twenty-six school year and thereafter the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the**

total approved operating expense for such district for the immediately preceding year or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

§ 26-b. Subparagraph (viii) of paragraph (a) of subdivision 1 of section 2856 of the education law, as amended by section 4-a of part YYY of chapter 59 of the laws of 2017, is amended and two new subparagraphs (ix) and (x) are added to read as follows:

(viii) for the two thousand twenty--two thousand twenty-one [~~school year and thereafter~~] and two thousand twenty-one--two thousand twenty-two school years, the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year multiplied by, for the two thousand twenty--two thousand twenty-one school year only, (iii) nine hundred forty-five one-thousandths (0.945) or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(ix) for the two thousand twenty-two--two thousand twenty-three through two thousand twenty-four--two thousand twenty-five school years the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year four years prior to the base year and finishing with the year prior to the base year, excluding the two thousand twenty--two thousand twenty-one school year, of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(x) for the two thousand twenty-five--two thousand twenty-six school year and thereafter the charter school basic tuition shall be the lesser

of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

§ 27. Subdivisions 1 and 3 of section 801 of the education law, as amended by chapter 574 of the laws of 1997, are amended to read as follows:

1. In order to promote a spirit of patriotic and civic service and obligation and to foster in the children of the state moral and intellectual qualities which are essential in preparing to meet the obligations of citizenship in peace or in war, the regents of The University of the State of New York shall prescribe courses of instruction in patriotism, citizenship, civic education and values, our shared history of diversity, the role of religious tolerance in this country, and human rights issues, with particular attention to the study of the inhumanity of genocide, slavery (including the freedom trail and underground railroad), the Holocaust, and the mass starvation in Ireland from 1845 to 1850, to be maintained and followed in all the schools of the state. The boards of education and trustees of the several cities and school districts of the state shall require instruction to be given in such courses, by the teachers employed in the schools therein. All pupils attending such schools, over the age of eight years, shall attend upon such instruction.

Similar courses of instruction shall be prescribed and maintained in private schools in the state, and all pupils in such schools over eight years of age shall attend upon such courses. If such courses are not so established and maintained in a private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to pupils of like age in the public schools of the city or district in which such pupils reside.

3. The regents shall determine the subjects to be included in such courses of instruction in patriotism, citizenship, civic education and values, our shared history of diversity, the role of history of diversity, the role of religious tolerance in this country, and human rights issues, with particular attention to the study of the inhumanity of genocide, slavery (including the freedom trail and underground railroad), the Holocaust, and the mass starvation in Ireland from 1845 to 1850, and in the history, meaning, significance and effect of the provisions of the constitution of the United States, the amendments thereto, the declaration of independence, the constitution of the state of New York and the amendments thereto, and the period of instruction in each of the grades in such subjects. They shall adopt rules providing for attendance upon such instruction and for such other matters as are required for carrying into effect the objects and purposes of this

section. The commissioner shall be responsible for the enforcement of such section and shall cause to be inspected and supervise the instruction to be given in such subjects. The commissioner may, in his discretion, cause all or a portion of the public school money to be apportioned to a district or city to be withheld for failure of the school authorities of such district or city to provide instruction in such courses and to compel attendance upon such instruction, as herein prescribed, and for a non-compliance with the rules of the regents adopted as herein provided.

§ 28. Section 2590-h of the education law is amended by adding a new subdivision 55 to read as follows:

**55. Ensure that all public, nonpublic, and charter school students enrolled in elementary and secondary schools located in the city of New York be provided with additional opportunities to supplement classroom instruction including, but not limited to, visiting educational and cultural sites and institutions such as a Holocaust museum, African American cultural centers and historical landmarks, a Native American museum, Asian American museums and cultural centers, a LatinX American museum, center for women, LGBTQ historical landmarks, and American historical landmarks and monuments.**

§ 29. Section 3609-h of the education law, as added by section 7 of part A of chapter 56 of the laws of 2015, is amended to read as follows:

§ 3609-h. Moneys apportioned to school districts for commercial gaming grants pursuant to subdivision six of section ninety-seven-nnnn of the state finance law, when and how payable commencing July first, two thousand fourteen. Notwithstanding the provisions of section thirty-six hundred nine-a of this part, apportionments payable pursuant to subdivision six of section ninety-seven-nnnn of the state finance law shall be paid pursuant to this section. The definitions of "base year" and "current year" as set forth in subdivision one of section thirty-six hundred two of this part shall apply to this section.

1. The moneys apportioned by the commissioner to school districts pursuant to subdivision six of section ninety-seven-nnnn of the state finance law for the two thousand fourteen-two thousand fifteen school year and thereafter shall be paid as a commercial gaming grant, as computed pursuant to such subdivision, as follows:

a. For the two thousand fourteen--two thousand fifteen school year, one hundred percent of such grant shall be paid on the same date as the payment computed pursuant to clause (v) of subparagraph three of paragraph b of subdivision one of section thirty-six hundred nine-a of this article.

b. For the two thousand fifteen--two thousand sixteen school year [~~and thereafter~~] **through the two thousand eighteen--two thousand nineteen school year**, seventy percent of such grant shall be paid on the same date as the payment computed pursuant to clause (ii) of subparagraph three of paragraph b of subdivision one of section thirty-six hundred nine-a of this article, and thirty percent of such grant shall be paid on the same date as the payment computed pursuant to clause (v) of subparagraph three of paragraph b of subdivision one of section thirty-six hundred nine-a of this article.

**c. For the two thousand nineteen--two thousand twenty school year and thereafter, one hundred percent of such grant shall be paid on the same date as the payment computed pursuant to clause (ii) of subparagraph three of paragraph b of subdivision one of section thirty-six hundred nine-a of this article.**

2. Any payment to a school district pursuant to this section shall be general receipts of the district and may be used for any lawful purpose of the district.

§ 30. Subdivision b of section 2 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, as amended by section 35 of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

b. Reimbursement for programs approved in accordance with subdivision a of this section for the reimbursement for the [~~2017--2018 school year shall not exceed 60.4 percent of the lesser of such approvable costs per contact hour or thirteen dollars and ninety cents per contact hour, reimbursement for the~~] 2018--2019 school year shall not exceed 59.4 percent of the lesser of such approvable costs per contact hour or fourteen dollars and ninety-five cents per contact hour, [~~and~~] reimbursement for the 2019--2020 school year shall not exceed 57.7 percent of the lesser of such approvable costs per contact hour or fifteen dollars sixty cents per contact hour, **and reimbursement for the 2020--2021 school year shall not exceed 56.9 percent of the lesser of such approvable costs per contact hour or sixteen dollars and twenty-five cents per contact hour**, **and** where a contact hour represents sixty minutes of instruction services provided to an eligible adult. Notwithstanding any other provision of law to the contrary, [~~for the 2017--2018 school year such contact hours shall not exceed one million five hundred forty-nine thousand four hundred sixty-three (1,549,463); and~~] for the 2018--2019 school year such contact hours shall not exceed one million four hundred sixty-three thousand nine hundred sixty-three (1,463,963); [~~and~~] for the 2019--2020 school year such contact hours shall not exceed one million four hundred forty-four thousand four hundred forty-four (1,444,444)**; and for the 2020--2021 school year such contact hours shall not exceed one million four hundred six thousand nine hundred twenty-six (1,406,926)**. Notwithstanding any other provision of law to the contrary, the apportionment calculated for the city school district of the city of New York pursuant to subdivision 11 of section 3602 of the education law shall be computed as if such contact hours provided by the consortium for worker education, not to exceed the contact hours set forth herein, were eligible for aid in accordance with the provisions of such subdivision 11 of section 3602 of the education law.

§ 31. Section 4 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, is amended by adding a new subdivision y to read as follows:

**y. The provisions of this subdivision shall not apply after the completion of payments for the 2020-21 school year. Notwithstanding any inconsistent provisions of law, the commissioner of education shall withhold a portion of employment preparation education aid due to the city school district of the city of New York to support a portion of the costs of the work force education program. Such moneys shall be credited to the elementary and secondary education fund-local assistance account and shall not exceed thirteen million dollars ($13,000,000).**

§ 32. Section 6 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, as amended by section 37 of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

§ 6. This act shall take effect July 1, 1992, and shall be deemed repealed on June 30, [~~2020~~] **2021**.

§ 32-a. Paragraph a-1 of subdivision 11 of section 3602 of the education law, as amended by section 37-a of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

a-1. Notwithstanding the provisions of paragraph a of this subdivision, for aid payable in the school years two thousand--two thousand one through two thousand nine--two thousand ten, and two thousand eleven--two thousand twelve through two thousand [~~nineteen~~] twenty--two thousand [~~twenty~~] twenty-one, the commissioner may set aside an amount not to exceed two million five hundred thousand dollars from the funds appropriated for purposes of this subdivision for the purpose of serving persons twenty-one years of age or older who have not been enrolled in any school for the preceding school year, including persons who have received a high school diploma or high school equivalency diploma but fail to demonstrate basic educational competencies as defined in regulation by the commissioner, when measured by accepted standardized tests, and who shall be eligible to attend employment preparation education programs operated pursuant to this subdivision.

§ 33. Subdivision 1 of section 167 of chapter 169 of the laws of 1994, relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets, as amended by section 32 of part CCC of chapter 59 of the laws of 2018, is amended to read as follows:

1. Sections one through seventy of this act shall be deemed to have been in full force and effect as of April 1, 1994 provided, however, that sections one, two, twenty-four, twenty-five and twenty-seven through seventy of this act shall expire and be deemed repealed on March 31, 2000; provided, however, that section twenty of this act shall apply only to hearings commenced prior to September 1, 1994, and provided further that section twenty-six of this act shall expire and be deemed repealed on March 31, 1997; and provided further that sections four through fourteen, sixteen, and eighteen, nineteen and twenty-one through twenty-one-a of this act shall expire and be deemed repealed on March 31, 1997; and provided further that sections three, fifteen, seventeen, twenty, twenty-two and twenty-three of this act shall expire and be deemed repealed on March 31, [~~2020~~] 2022.

§ 34. Section 12 of chapter 147 of the laws of 2001, amending the education law relating to conditional appointment of school district, charter school or BOCES employees, as amended by section 39 of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

§ 12. This act shall take effect on the same date as chapter 180 of the laws of 2000 takes effect, and shall expire July 1, [~~2020~~] 2021 when upon such date the provisions of this act shall be deemed repealed.

§ 35. Section 4 of chapter 425 of the laws of 2002, amending the education law relating to the provision of supplemental educational services, attendance at a safe public school and the suspension of pupils who bring a firearm to or possess a firearm at a school, as amended by section 40 of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

§ 4. This act shall take effect July 1, 2002 and section one of this act shall expire and be deemed repealed June 30, 2019, and sections two and three of this act shall expire and be deemed repealed on June 30, [~~2020~~] 2021.

§ 36. Section 5 of chapter 101 of the laws of 2003, amending the education law relating to implementation of the No Child Left Behind Act of 2001, as amended by section 41 of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

§ 5. This act shall take effect immediately; provided that sections one, two and three of this act shall expire and be deemed repealed on June 30, [~~2020~~] 2021.

§ 37. Subdivision 11 of section 94 of part C of chapter 57 of the laws of 2004, relating to the support of education, as amended by section 58 of part YYY of chapter 59 of the laws of 2017, is amended to read as follows:

11. section seventy-one of this act shall expire and be deemed repealed June 30, [~~2020~~] 2023;

§ 38. School bus driver training. In addition to apportionments otherwise provided by section 3602 of the education law, for aid payable in the 2020-2021 school year, the commissioner of education shall allocate school bus driver training grants to school districts and boards of cooperative educational services pursuant to sections 3650-a, 3650-b and 3650-c of the education law, or for contracts directly with not-for-profit educational organizations for the purposes of this section. Such payments shall not exceed four hundred thousand dollars ($400,000) per school year.

§ 39. Special apportionment for salary expenses. a. Notwithstanding any other provision of law, upon application to the commissioner of education, not sooner than the first day of the second full business week of June 2021 and not later than the last day of the third full business week of June 2021, a school district eligible for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2021, for salary expenses incurred between April 1 and June 30, 2020 and such apportionment shall not exceed the sum of (i) the deficit reduction assessment of 1990--1991 as determined by the commissioner of education, pursuant to paragraph f of subdivision 1 of section 3602 of the education law, as in effect through June 30, 1993, plus (ii) 186 percent of such amount for a city school district in a city with a population in excess of 1,000,000 inhabitants, plus (iii) 209 percent of such amount for a city school district in a city with a population of more than 195,000 inhabitants and less than 219,000 inhabitants according to the latest federal census, plus (iv) the net gap elimination adjustment for 2010--2011, as determined by the commissioner of education pursuant to chapter 53 of the laws of 2010, plus (v) the gap elimination adjustment for 2011--2012 as determined by the commissioner of education pursuant to subdivision 17 of section 3602 of the education law, and provided further that such apportionment shall not exceed such salary expenses. Such application shall be made by a school district, after the board of education or trustees have adopted a resolution to do so and in the case of a city school district in a city with a population in excess of 125,000 inhabitants, with the approval of the mayor of such city.

b. The claim for an apportionment to be paid to a school district pursuant to subdivision a of this section shall be submitted to the commissioner of education on a form prescribed for such purpose, and shall be payable upon determination by such commissioner that the form has been submitted as prescribed. Such approved amounts shall be payable on the same day in September of the school year following the year in which application was made as funds provided pursuant to subparagraph (4) of paragraph b of subdivision 4 of section 92-c of the state finance law, on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of education in the manner prescribed by law from moneys in the state lottery fund and from the

general fund to the extent that the amount paid to a school district pursuant to this section exceeds the amount, if any, due such school district pursuant to subparagraph (2) of paragraph a of subdivision 1 of section 3609-a of the education law in the school year following the year in which application was made.

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to subdivisions a and b of this section shall first be deducted from the following payments due the school district during the school year following the year in which application was made pursuant to subparagraphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph (2) of such paragraph followed by the fixed fall payments payable pursuant to subparagraph (4) of such paragraph and then followed by the district's payments to the teachers' retirement system pursuant to subparagraph (1) of such paragraph, and any remainder to be deducted from the individualized payments due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

§ 40. Special apportionment for public pension accruals. a. Notwithstanding any other provision of law, upon application to the commissioner of education, not later than June 30, 2021, a school district eligible for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2021 and such apportionment shall not exceed the additional accruals required to be made by school districts in the 2004--2005 and 2005--2006 school years associated with changes for such public pension liabilities. The amount of such additional accrual shall be certified to the commissioner of education by the president of the board of education or the trustees or, in the case of a city school district in a city with a population in excess of 125,000 inhabitants, the mayor of such city. Such application shall be made by a school district, after the board of education or trustees have adopted a resolution to do so and in the case of a city school district in a city with a population in excess of 125,000 inhabitants, with the approval of the mayor of such city.

b. The claim for an apportionment to be paid to a school district pursuant to subdivision a of this section shall be submitted to the commissioner of education on a form prescribed for such purpose, and shall be payable upon determination by such commissioner that the form has been submitted as prescribed. Such approved amounts shall be payable on the same day in September of the school year following the year in which application was made as funds provided pursuant to subparagraph (4) of paragraph b of subdivision 4 of section 92-c of the state finance law, on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of education in the manner prescribed by law from moneys in the state lottery fund and from the general fund to the extent that the amount paid to a school district pursuant to this section exceeds the amount, if any, due such school district pursuant to subparagraph (2) of paragraph a of subdivision 1 of section 3609-a of the education law in the school year following the year in which application was made.

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to subdivisions a and b of this section shall first be deducted from the

following payments due the school district during the school year following the year in which application was made pursuant to subparagraphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph (2) of such paragraph followed by the fixed fall payments payable pursuant to subparagraph (4) of such paragraph and then followed by the district's payments to the teachers' retirement system pursuant to subparagraph (1) of such paragraph, and any remainder to be deducted from the individualized payments due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

§ 41. Notwithstanding the provision of any law, rule, or regulation to the contrary, the city school district of the city of Rochester, upon the consent of the board of cooperative educational services of the supervisory district serving its geographic region may purchase from such board for the 2020--2021 school year, as a non-component school district, services required by article 19 of the education law.

§ 42. The amounts specified in this section shall be a set-aside from the state funds which each such district is receiving from the total foundation aid:

a. for the development, maintenance or expansion of magnet schools or magnet school programs for the 2020--2021 school year. For the city school district of the city of New York there shall be a setaside of foundation aid equal to forty-eight million one hundred seventy-five thousand dollars ($48,175,000) including five hundred thousand dollars ($500,000) for the Andrew Jackson High School; for the Buffalo city school district, twenty-one million twenty-five thousand dollars ($21,025,000); for the Rochester city school district, fifteen million dollars ($15,000,000); for the Syracuse city school district, thirteen million dollars ($13,000,000); for the Yonkers city school district, forty-nine million five hundred thousand dollars ($49,500,000); for the Newburgh city school district, four million six hundred forty-five thousand dollars ($4,645,000); for the Poughkeepsie city school district, two million four hundred seventy-five thousand dollars ($2,475,000); for the Mount Vernon city school district, two million dollars ($2,000,000); for the New Rochelle city school district, one million four hundred ten thousand dollars ($1,410,000); for the Schenectady city school district, one million eight hundred thousand dollars ($1,800,000); for the Port Chester city school district, one million one hundred fifty thousand dollars ($1,150,000); for the White Plains city school district, nine hundred thousand dollars ($900,000); for the Niagara Falls city school district, six hundred thousand dollars ($600,000); for the Albany city school district, three million five hundred fifty thousand dollars ($3,550,000); for the Utica city school district, two million dollars ($2,000,000); for the Beacon city school district, five hundred sixty-six thousand dollars ($566,000); for the Middletown city school district, four hundred thousand dollars ($400,000); for the Freeport union free school district, four hundred thousand dollars ($400,000); for the Greenburgh central school district, three hundred thousand dollars ($300,000); for the Amsterdam city school district, eight hundred thousand dollars ($800,000); for the Peekskill city school district, two hundred thousand dollars ($200,000); and for the Hudson city school district, four hundred thousand dollars ($400,000).

b. Notwithstanding any inconsistent provision of law to the contrary, a school district setting aside such foundation aid pursuant to this

section may use such setaside funds for: (i) any instructional or instructional support costs associated with the operation of a magnet school; or (ii) any instructional or instructional support costs associated with implementation of an alternative approach to promote diversity and/or enhancement of the instructional program and raising of standards in elementary and secondary schools of school districts having substantial concentrations of minority students.

c. The commissioner of education shall not be authorized to withhold foundation aid from a school district that used such funds in accordance with this paragraph, notwithstanding any inconsistency with a request for proposals issued by such commissioner for the purpose of attendance improvement and dropout prevention for the 2020--2021 school year, and for any city school district in a city having a population of more than one million, the setaside for attendance improvement and dropout prevention shall equal the amount set aside in the base year. For the 2020--2021 school year, it is further provided that any city school district in a city having a population of more than one million shall allocate at least one-third of any increase from base year levels in funds set aside pursuant to the requirements of this section to community-based organizations. Any increase required pursuant to this section to community-based organizations must be in addition to allocations provided to community-based organizations in the base year.

d. For the purpose of teacher support for the 2020--2021 school year: for the city school district of the city of New York, sixty-two million seven hundred seven thousand dollars ($62,707,000); for the Buffalo city school district, one million seven hundred forty-one thousand dollars ($1,741,000); for the Rochester city school district, one million seventy-six thousand dollars ($1,076,000); for the Yonkers city school district, one million one hundred forty-seven thousand dollars ($1,147,000); and for the Syracuse city school district, eight hundred nine thousand dollars ($809,000). All funds made available to a school district pursuant to this section shall be distributed among teachers including prekindergarten teachers and teachers of adult vocational and academic subjects in accordance with this section and shall be in addition to salaries heretofore or hereafter negotiated or made available; provided, however, that all funds distributed pursuant to this section for the current year shall be deemed to incorporate all funds distributed pursuant to former subdivision 27 of section 3602 of the education law for prior years. In school districts where the teachers are represented by certified or recognized employee organizations, all salary increases funded pursuant to this section shall be determined by separate collective negotiations conducted pursuant to the provisions and procedures of article 14 of the civil service law, notwithstanding the existence of a negotiated agreement between a school district and a certified or recognized employee organization.

§ 42-a. Subdivision a of section 5 of chapter 121 of the laws of 1996, relating to authorizing the Roosevelt union free school district to finance deficits by the issuance of serial bonds, as amended by section 52-a of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

a. Notwithstanding any other provisions of law, upon application to the commissioner of education submitted not sooner than April first and not later than June thirtieth of the applicable school year, the Roosevelt union free school district shall be eligible to receive an apportionment pursuant to this chapter for salary expenses, including related benefits, incurred between April first and June thirtieth of such school

year. Such apportionment shall not exceed: for the 1996-97 school year through the [~~2019-20~~] 2020-21 school year, four million dollars ($4,000,000); for the [~~2020-21~~] 2021-22 school year, three million dollars ($3,000,000); for the [~~2021-22~~] 2022-23 school year, two million dollars ($2,000,000); for the [~~2022-23~~] 2023-24 school year, one million dollars ($1,000,000); and for the [~~2023-24~~] 2024-25 school year, zero dollars. Such annual application shall be made after the board of education has adopted a resolution to do so with the approval of the commissioner of education.

§ 42-b. Section 8 of chapter 89 of the laws of 2016 relating to supplementary funding for dedicated programs for public school students in the East Ramapo central school district, as amended by section 46-a of part YYY of chapter 59 of the laws of 2019, is amended to read as follows:

§ 8. This act shall take effect July 1, 2016 and shall expire and be deemed repealed June 30, [~~2020~~] 2021, except that paragraph (b) of section five of this act and section seven of this act shall expire and be deemed repealed June 30, 2021.

§ 42-c. Subdivision (a) of section 11 of chapter 18 of the laws of 2020, authorizing deficit financing and an advance of aid payments for the Wyandanch union free school district, is amended to read as follows:

(a) The school district is hereby authorized to issue serial bonds, subject to the provisions of section 10.10 of the local finance law, on or before [~~June thirtieth~~] October thirty-first, two thousand twenty, in an aggregate principal amount not to exceed [~~three~~] four million [~~one~~] five hundred thousand dollars [~~($3,100,000)~~] ($4,500,000), for the specific object or purpose of liquidating actual deficits in its general fund at the close of the fiscal year ending June thirtieth, two thousand nineteen as certified by the state comptroller. In anticipation of the issuance and sale of such serial bonds, bond anticipation notes are hereby authorized to be issued.

§ 43. Support of public libraries. The moneys appropriated for the support of public libraries by a chapter of the laws of 2020 enacting the aid to localities budget shall be apportioned for the 2020-2021 state fiscal year in accordance with the provisions of sections 271, 272, 273, 282, 284, and 285 of the education law as amended by the provisions of this chapter and the provisions of this section, provided that library construction aid pursuant to section 273-a of the education law shall not be payable from the appropriations for the support of public libraries and provided further that no library, library system or program, as defined by the commissioner of education, shall receive less total system or program aid than it received for the year 2001-2002 except as a result of a reduction adjustment necessary to conform to the appropriations for support of public libraries.

Notwithstanding any other provision of law to the contrary the moneys appropriated for the support of public libraries for the year 2020-2021 by a chapter of the laws of 2020 enacting the education, labor and family assistance budget shall fulfill the state's obligation to provide such aid and, pursuant to a plan developed by the commissioner of education and approved by the director of the budget, the aid payable to libraries and library systems pursuant to such appropriations shall be reduced proportionately to assure that the total amount of aid payable does not exceed the total appropriations for such purpose.

§ 44. Severability. The provisions of this act shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this act to any person or circumstance shall be

adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this act or remainder thereof, as the case may be, to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 45. This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after April 1, 2020, provided, however, that:

1. sections one, fourteen-a, fourteen-b, fourteen-c, fourteen-d, fourteen-e, twenty-two, twenty-four, twenty-seven, thirty-eight, forty-one, forty-two and forty-two-a of this act shall take effect July 1, 2020;

2. the amendments to section 2590-h of the education law made by section twenty-eight of this act shall not affect the expiration and reversion of such section and shall expire and be deemed repealed therewith;

3. section twenty-nine of this act shall be deemed to have been in full force and effect on and after April 1, 2019;

4. the amendments to chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by a consortium for worker education in New York city made by sections thirty and thirty-one of this act shall not affect the repeal of such chapter and shall be deemed repealed therewith;

5. the amendments to paragraph (a) of section 11 of chapter 18 of the laws of 2020 made by section forty-two-c of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and

6. the amendments to paragraph (a) of subdivision 1 of section 2856 of the education law made by section twenty-six-a of this act shall be subject to the expiration and reversion of such subdivision pursuant to subdivision d of section 27 of chapter 378 of the laws of 2007, as amended, when upon such date the provisions of section twenty-six-b of this act shall take effect.

## PART B

Section 1. Legislative intent. The purpose of this act is to establish the Syracuse Comprehensive Education and Workforce Training Center focusing on Science, Technology, Engineering, Arts, and Math. The high school within the Syracuse Comprehensive Education and Workforce Training Center shall provide a high school course of instruction for grades nine through twelve, dedicated to providing expanded learning access and career opportunities to students residing in the Onondaga, Cortland and Madison county board of cooperative educational services region and central New York, in the areas of science, technology, engineering, arts and mathematics as well as the core academic areas required for the issuance of high school diplomas in accordance with the rules and regulations promulgated by the board of regents. The legislature hereby finds and declares that the establishment of the Syracuse Comprehensive Education and Workforce Training Center is a necessary component to the development of the greater central New York region of New York state and a necessary link to fostering the development and advancement of the arts and emerging technologies. This high school and workforce training center will advance the interests of the central New York region and New York state by engaging students in rigorous and enriching educational

experiences focused on the arts and emerging technologies, project-based learning and collaboration and by providing that experience within the context of a business and learning community for the purpose of directly connecting student learning with real world experience in the arts and advanced technical facilities. It is expressly found that the establishment and operation of the Syracuse Comprehensive Education and Workforce Training Center pursuant to this act is a public purpose.

§ 2. Establishment of the Syracuse Comprehensive Education and Workforce Training Center high school. 1. The Syracuse Comprehensive Education and Workforce Training Center high school may be established by the board of education of the Syracuse city school district pursuant to this section for students in grades nine through twelve.

2. Such high school shall be governed by the board of education of the Syracuse city school district. The high school shall be subject to all laws, rules and regulations which are applicable to a public high school unless otherwise provided for in this act. The high school shall be subject to the oversight of the board of regents and the program shall be audited in a manner consistent with provisions of law and regulations that are applicable to other public schools.

3. The board of education of the Syracuse city school district shall have the responsibility for the operation, supervision and maintenance of the high school and shall be responsible for the administration of the high school, including curriculum, grading, discipline and staffing. The high school may partner with a certified institution of higher education to offer an early college high school program. The high school and workforce training center may also partner with a certified institution of higher education to offer apprenticeship training and programs. The workforce training center, in collaboration with educational opportunity centers, shall provide career connection programs and opportunities including, but not limited to, workforce preparation and training, industry certifications and credentials including advanced technical certifications and high school equivalency programs, and educational opportunity center programs at the Syracuse Comprehensive Education and Workforce Training Center at night. The State University of New York Empire State College may also partner with the New York State Department of Labor. The workforce training center is also authorized to partner with other local entities including, but not limited to, businesses, non-profit organizations, educational opportunity centers, state and local governments, and other organizations focused on closing the skills gap and increasing employment opportunities through training. The workforce training center programs shall be available to students as well as members of the community.

4. Such workforce training center shall be governed by the State University of New York Empire State College in consultation with the board of education of the Syracuse city school district.

5. The Syracuse City School District shall develop a comprehensive safety policy that includes a requirement that workforce training center programs offered at the Syracuse Comprehensive Education and Workforce Training Center shall be offered at night.

6. The board of education of the Syracuse city school district shall be authorized to enter into contracts as necessary or convenient to operate such high school.

7. Students attending such high school shall continue to be enrolled in their school district of residence. The Syracuse city school district shall be responsible for the issuance of a high school diploma to

students who attended the high school based on such students' successful completion of the high school's educational program.

8. For purposes of all state aid calculations made pursuant to the education law, students attending such high school shall continue to be treated and counted as students of their school district of residence.

9. The public school district of residence shall be obligated to provide transportation, without regard to any mileage limitations, provided however, for aid reimbursements pursuant to subdivision 7 of section 3602 of the education law, expenses associated with the transportation of students to and from the high school up to a distance of thirty miles shall be included.

10. It shall be the duty of the student's district of residence to make payments as calculated in this act directly to the school district for each student enrolled in the high school. No costs shall be apportioned to school districts that elect not to participate in such high school.

11. The trustees or the board of education of a school district may enter into a memorandum of understanding with the board of education of the Syracuse city school district to participate in such high school program for a period not to exceed five years upon such terms as such trustees or board of education and the board of education of the Syracuse city school district may mutually agree. Such memorandum of understanding shall set forth a methodology for the calculation of per pupil tuition costs that shall be subject to review and approval by the commissioner of education.

12. Any student eligible for enrollment in grades nine through twelve of a public school entering into a memorandum of understanding with the board of education of the Syracuse city school district to enroll students in the high school shall be eligible for admission to the high school. To the extent that the number of qualified applicants may exceed the number of available spaces, the high school shall grant admission on a random selection basis, provided that an enrollment preference shall be provided to pupils returning to the high school in the second or any subsequent year. The criteria for admission shall not be limited based on intellectual ability, measures of academic achievement or aptitude, athletic aptitude, disability, race, creed, gender, national origin, religion, ancestry, or location of residence. The high school shall determine the tentative enrollment roster, notify the parents, or those in parental relations to those students, and the resident school district by April first of the school year preceding the school year for which the admission is granted.

13. Notwithstanding any other provision of law to the contrary, the Syracuse city school district is authorized to transfer ownership of the Syracuse Comprehensive Education and Workforce Training Center facility to the county of Onondaga and the county of Onondaga is authorized to assume such ownership and to enter into a lease for such facility with the Syracuse city school district. The county of Onondaga may contract for indebtedness to renovate such facility and any related financing shall be deemed a county purpose. The county of Onondaga shall transfer ownership of the Syracuse Comprehensive Education and Workforce Training Center facility to the city of Syracuse upon the expiration of the lease.

14. Notwithstanding any other provision of law to the contrary, the county of Onondaga shall submit estimated project costs for the renovation and equipping of the Syracuse Comprehensive Education and Workforce Training Center after the completion of schematic plans and spec-

ifications for review by the commissioner of education. If the total project costs associated with such project exceed the approved cost allowance of such building project pursuant to section three of this act, and the county has not otherwise demonstrated to the satisfaction of the New York state education department the availability of additional local shares for such excess costs from the city of Syracuse and/or the Syracuse city school district, then the county shall not proceed with the preparation of final plans and specifications for such project until the project has been redesigned or value-engineered to reduce estimated project costs so as not to exceed the above cost limits.

15. Notwithstanding any other provision of law to the contrary, the county of Onondaga shall submit estimated project costs for the renovation and equipping of the Syracuse Comprehensive Education Workforce and Training Center after the completion of fifty percent of the final plans and specifications for review by the commissioner of education. If the total project costs associated with such project exceed the approved cost allowance of such building project pursuant to subparagraph (8) of paragraph a of subdivision 6 of section 3602 of the education law, and the county has not otherwise demonstrated to the satisfaction of the New York state education department the availability of additional local share for such excess costs from the city of Syracuse and/or the Syracuse city school district, then the county shall not proceed with the completion of the remaining fifty percent of the plans and specifications for such project until the project has been redesigned or value-engineered to reduce estimated project costs so as to not exceed the above cost limits.

§ 3. Paragraph a of subdivision 6 of section 3602 of the education law is amended by adding a new subparagraph 8 to read as follows:

**(8) Notwithstanding any other provision of law to the contrary, for the purpose of computation of building aid for the renovation and equipping of the Syracuse Comprehensive Education and Workforce Training Center high school authorized for operation by the Syracuse city school district the building aid units assigned to this project shall reflect a building aid enrollment of one thousand students and multi-year cost allowances for the project shall be established and utilized two times in the first five-year period. Subsequent multi-year cost allowances shall be established no sooner than ten years after establishment of the first maximum cost allowance authorized pursuant to this subparagraph.**

§ 4. This act shall take effect immediately.

## PART C

Section 1. Definitions. As used in this act:

(a) "Commissioner" shall mean the commissioner of education;

(b) "Department" shall mean the state education department;

(c) "Board of education" or "board" shall mean the board of education of the Rochester city school district;

(d) "School district" or "district" shall mean the Rochester city school district;

(e) "Superintendent" shall mean the superintendent of the Rochester city school district;

(f) "Relatives" shall mean a Rochester city school district board member's spouse, domestic partner, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of a current board member or a board member's spouse or domestic partner; and

(g) "City" shall mean the city of Rochester.

§ 2. Appointment of a monitor. The commissioner shall appoint one monitor to provide oversight, guidance and technical assistance related to the educational and fiscal policies, practices, programs and decisions of the school district, the board of education and the superintendent.

1. The monitor, to the extent practicable, shall have experience in school district finances and one or more of the following areas:

(a) elementary and secondary education;

(b) the operation of school districts in New York;

(c) educating students with disabilities; and

(d) educating English language learners.

2. The monitor shall be a non-voting ex-officio member of the board of education. The monitor shall be an individual who is not a resident, employee of the school district or relative of a board member of the school district at the time of his or her appointment.

3. The reasonable and necessary expenses incurred by the monitor while performing his or her official duties shall be paid by the school district. Notwithstanding any other provision of law, the monitor shall be entitled to defense and indemnification by the school district to the same extent as a school district employee.

§ 3. Meetings. 1. The monitor shall be entitled to attend all meetings of the board, including executive sessions; provided however, such monitor shall not be considered for purposes of establishing a quorum of the board. The school district shall fully cooperate with the monitor including, but not limited to, providing such monitor with access to any necessary documents and records of the district including access to electronic information systems, databases and planning documents, consistent with all applicable state and federal statutes including, but not limited to, Family Education Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g) and section 2-d of the education law.

2. The board, in consultation with the monitor, shall adopt a conflict of interest policy that complies with all existing applicable laws, rules and regulations that ensures its board members and administration act in the school district's best interest and comply with applicable legal requirements. The conflict of interest policy shall include, but not be limited to:

(a) a definition of the circumstances that constitute a conflict of interest;

(b) procedures for disclosing a conflict of interest to the board;

(c) a requirement that the person with the conflict of interest not be present at or participate in board deliberations or votes on the matter giving rise to such conflict, provided that nothing in this subdivision shall prohibit the board from requesting that the person with the conflict of interest present information as background or answer questions at a board meeting prior to the commencement of deliberations or voting relating thereto;

(d) a prohibition against any attempt by the person with the conflict to influence improperly the deliberation or voting on the matter giving rise to such conflict; and

(e) a requirement that the existence and resolution of the conflict be documented in the board's records, including in the minutes of any meeting at which the conflict was discussed or voted upon.

§ 4. Public hearings. 1. The monitor shall schedule three public hearings to be held within sixty days of his or her appointment, which shall

allow public comment from the district's residents, students, parents, employees, board members and administration.

(a) The first hearing shall take public comment on existing statutory and regulatory authority of the commissioner, the department and the board of regents regarding school district governance and intervention under applicable state law and regulations, including but not limited to, sections 306, 211-c, and 211-f of the education law.

(b) The second hearing shall take public comment on the academic performance of the district.

(c) The third hearing shall take public comment on the fiscal performance of the district.

2. The board of education, the superintendent and the monitor shall consider these public comments when developing the financial plan and academic improvement plan under this act.

§ 5. Financial plan. 1. No later than November first, two thousand twenty, the board of education, the superintendent and the monitor shall develop a proposed financial plan for the two thousand twenty--two thousand twenty-one school year and the four subsequent school years. The financial plan shall ensure that annual aggregate operating expenses shall not exceed annual aggregate operating revenues for such school year and that the major operating funds of the district be balanced in accordance with generally accepted accounting principles, and shall consider whether financial and budgetary functions of the district shall be subject to a shared services agreement with the city. The financial plan shall include statements of all estimated revenues, expenditures, and cash flow projections of the district.

2. If the board of education and the monitor agree on all the elements of the proposed financial plan, the board of education shall conduct a public hearing on the plan and consider the input of the community. The proposed financial plan shall be made public on the district's website at least three business days before such public hearing. Once the proposed financial plan has been approved by the board of education, such plan shall be submitted by the monitor to the commissioner for approval and shall be deemed approved for the purposes of this act.

3. If the board of education and the monitor do not agree on all the elements of the proposed financial plan, the board of education shall conduct a public hearing on the proposed plan that details the elements of disagreement between the monitor and the board, including documented justification for such disagreements and any requested amendments from the monitor. The proposed financial plan, elements of disagreement, and requested amendments shall be made public on the district's website at least three business days before such public hearing. After considering the input of the community, the board may alter the proposed financial plan and the monitor may alter his or her requested amendments, and the monitor shall submit the proposed financial plan, his or her amendments to the plan, and documentation providing justification for such disagreements and amendments to the commissioner no later than December first, two thousand twenty. By January fifteenth, two thousand twenty-one, the commissioner shall approve the proposed plan with any of the monitor's proposed amendments, or make other modifications, he or she deems appropriate. The board of education shall provide the commissioner with any information he or she requests to approve such plan within three business days of such request. Upon the approval of the commissioner, the financial plan shall be deemed approved for purposes of this act.

§ 6. Academic improvement plan. 1. No later than November first, two thousand twenty, the board of education, the superintendent and the monitor shall develop an academic improvement plan for the district's two thousand twenty--two thousand twenty-one school year and the four subsequent school years. The academic improvement plan shall contain a series of programmatic recommendations designed to improve academic performance over the period of the plan in those academic areas that the commissioner deems to be in need of improvement which shall include addressing the provisions contained in any action plan set forth by the department.

2. If the board of education and the monitor agree on all the elements of the proposed academic improvement plan, the board of education shall conduct a public hearing on the plan and consider the input of the community. The proposed academic improvement plan shall be made public on the district's website at least three business days before such public hearing. Once the proposed academic improvement plan has been approved by the board of education, such plan shall be submitted by the monitor to the commissioner for approval and shall be deemed approved for the purposes of this act.

3. If the board of education and the monitor do not agree on all the elements of the proposed academic improvement plan, the board of education shall conduct a public hearing on the proposed plan that details the elements of disagreement between the monitor and the board, including documented justification for such disagreements and any requested amendments from the monitor. The proposed academic improvement plan, elements of disagreement, and requested amendments shall be made public on the district's website at least three business days before such public hearing. After considering the input of the community, the board may alter the proposed academic improvement plan and the monitor may alter his or her requested amendments, and the monitor shall submit the proposed academic improvement plan, his or her amendments to the plan, and documentation providing justification for such disagreements and amendments to the commissioner no later than December first, two thousand twenty. By January fifteenth, two thousand twenty-one, the commissioner shall approve the proposed plan with any of the monitor's proposed amendments, or make other modifications, he or she deems appropriate. The board of education shall provide the commissioner with any information he or she requests to approve such plan within three business days of such request. Upon the approval of the commissioner, the academic improvement plan shall be deemed approved for purposes of this act.

§ 7. Fiscal and operational oversight. 1. Starting with the proposed budget for the two thousand twenty-one--two thousand twenty-two school year, the board of education shall annually submit the school district's proposed budget for the next succeeding school year to the monitor no later than March first prior to the start of such next succeeding school year. The monitor shall review the proposed budget to ensure that it is balanced within the context of revenue and expenditure estimates and mandated programs. The monitor shall also review the proposed budget to ensure that it, to the greatest extent possible, is consistent with the district academic improvement plan and financial plan developed and approved pursuant to this act. The monitor shall present his or her findings to the board of education and the commissioner no later than forty-five days prior to the date scheduled for the board of education's vote on the adoption of the final budget or the last date on which the budget may be finally adopted, whichever is sooner. The commissioner

shall require the board of education to make amendments to the proposed budget consistent with any recommendations made by the monitor if the commissioner determines such amendments are necessary to comply with the financial plan and academic improvement plan under this act. The school district shall make available on the district's website: the initial proposed budget, the monitor's findings, and the final proposed budget at least seven days prior to the date of the school district's budget hearing. The board of education shall provide the commissioner with any information he or she requests in order to make a determination pursuant to this subdivision within three business days of such request.

2. The district shall provide quarterly reports to the monitor and annual reports to the commissioner and the board of regents on the academic, fiscal, and operational status of the school district. In addition, the monitor shall provide semi-annual reports to the commissioner, board of regents, the governor, the temporary president of the senate, and the speaker of the assembly on the academic, fiscal, and operational status of the school district. Such semi-annual report shall include all the contracts that the district entered into throughout the year.

3. The monitor shall have the authority to disapprove travel outside the state paid for by the district.

4. The monitor shall work with the district's shared decision-making committee as defined in 8 NYCRR 100.11 in developing the academic improvement plan, financial plan, district goals, implementation of district priorities, and budgetary recommendations.

5. The monitor shall assist in resolving any disputes and conflicts, including but not limited to, those between the superintendent and the board of education and among the members of the board of education.

6. The monitor may recommend, and the board shall consider by vote of a resolution at the next scheduled meeting of the board, cost saving measures including, but not limited to, shared service agreements.

§ 8. The commissioner may overrule any decision of the monitor, except for collective bargaining agreements negotiated in accordance with article 14 of the civil service law, if he or she deems that such decision is not aligned with the financial plan, academic improvement plan or school district's budget.

§ 9. The monitor may notify the commissioner and the board in writing when he or she deems the district is violating an element of the financial plan or academic improvement plan in this act. Within twenty days, the commissioner shall determine whether the district is in violation of any of the elements of the financial plan or academic improvement plan highlighted by the monitor and shall order the district to comply immediately with the plan and remedy any such violation. The school district shall suspend all actions related to the potential violation of the financial plan or academic improvement plan until the commissioner issues a determination.

§ 10. Nothing in this act shall be construed to abrogate the duties and responsibilities of the school district consistent with applicable state law and regulations.

§ 11. The Rochester city school district shall be paid on an accelerated schedule as follows:

a. (1) Notwithstanding any other provisions of law, for aid payable in the school years 2019-2020 through 2048-2049 upon application to the commissioner of education submitted not sooner than the second Monday in June of the school year in which such aid is payable and not later than the Friday following the third Monday in June of the school year in

which such aid is payable, or ten days after the effective date of this act, whichever shall be later, provided, however, that for the 2019-20 school year such application shall be no later than May 11, 2020, the Rochester city school district shall be eligible to receive an apportionment pursuant to this act in an amount equal to the product of thirty-five million dollars ($35,000,000) and the quotient of the positive difference of thirty minus the number of school years elapsed since the 2019-2020 school year divided by thirty, provided, however, that for the 2019-20 school year such apportionment shall be paid to the Rochester city school district no later than May 20, 2020.

(2) Funds apportioned pursuant to this subdivision shall be used for services and expenses of the Rochester city school district and shall be applied to support of its educational programs and any liability incurred by such city school district in carrying out its functions and responsibilities under the education law.

b. The claim for an apportionment to be paid to the Rochester city school district pursuant to subdivision a of this section shall be submitted to the commissioner of education on a form prescribed for such purpose, and shall be payable upon determination by such commissioner that the form has been submitted as prescribed and that the school district has complied with the reporting requirements of this act. For each school year in which application is made pursuant to subdivision a of this section, such approved amount shall be payable on or before June thirtieth of such school year upon the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of education in the manner prescribed by law from moneys in the state lottery fund appropriated for general support of public schools and from the general fund to the extent that the amount paid to the Rochester city school district pursuant to this subdivision and subdivision a of this section exceeds the amount of the moneys apportioned, if any, for general support for public schools due such school district pursuant to section 3609-a of the education law on or before September first of such school year.

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to the Rochester city school district during the base year pursuant to subdivisions a and b of this section shall first be deducted from payments due during the current school year pursuant to subparagraphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph (2) of such paragraph followed by the fixed fall payments payable pursuant to subparagraph (4) of such paragraph, and any remainder to be deducted from the individualized payments due to the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

d. Notwithstanding any other provisions of law, the sum of payments made to the Rochester city school district during the base year pursuant to subdivisions a and b of this section plus payments made to such school district during the current year pursuant to section 3609-a of the education law shall be deemed to truly represent all aids paid to such school district during the current school year pursuant to such section 3609-a for the purposes of computing any adjustments to such aids that may occur in a subsequent school year.

e. (1) On or before the first day of each month beginning in July 2020 and ending in June 2050, the chief fiscal officer and the superintendent of schools of the Rochester city school district shall prepare and

submit to the board of education a report of the fiscal condition of the school district, including but not limited to the most current available data on fund balances on funds maintained by the school district and the district's use of the apportionments provided pursuant to subdivisions a and b of this section.

(2) Such monthly report shall be in a format prescribed by the commissioner of education. The board of education shall either reject and return the report to the chief fiscal officer and the superintendent of schools for appropriate revisions and resubmittal or shall approve the report and submit copies to the commissioner of education and the state comptroller of such approved report as submitted or resubmitted.

(3) In the 2019-2020 through 2048-2049 school years, the chief fiscal officer of the Rochester city school district shall monitor all budgets and for each budget, shall prepare a quarterly report of summarized budget data depicting overall trends of actual revenues and budget expenditures for the entire budget as well as individual line items. Such report shall compare revenue estimates and appropriations as set forth in such budget with the actual revenues and expenditures made to date. All quarterly reports shall be accompanied by a recommendation from the superintendent of schools or chief fiscal officer to the board of education setting forth any remedial actions necessary to resolve any unfavorable budget variance including the overestimation of revenue and underestimation of appropriations. The chief fiscal officer shall also prepare, as part of such report, a quarterly trial balance of general ledger accounts in accordance with generally accepted accounting principles as prescribed by the state comptroller. All reports shall be completed within sixty days after the end of each quarter and shall be submitted to the chief fiscal officer and the board of education of the Rochester city school district, the state division of budget, the office of the state comptroller, the commissioner of education, the chair of the assembly ways and means committee and the chair of the senate finance committee.

§ 12. This act shall take effect immediately, provided, however, that sections two, three, four, five, six, seven, eight, nine and ten of this act shall expire and be deemed repealed June 30, 2023; and provided further, however that sections one and eleven of this act shall expire and be deemed repealed June 30, 2049.

PART D

Section 1. Paragraph h of subdivision 2 of section 355 of the education law is amended by adding a new paragraph 4-a to read as follows:

**(4-a) Notwithstanding any law, rule, regulation, or practice to the contrary and following the review and approval of the chancellor of the state university or his or her designee, the board of trustees may raise non-resident undergraduate rates of tuition by not more than ten percent over the tuition rates of the prior academic year for the following doctoral degree granting institutions of the state university of New York: the state university of New York college of environmental science and forestry as defined in article one hundred twenty-one of this chapter, downstate medical center, upstate medical center, and the college of technology at Utica-Rome/state university polytechnic institute for a four year period commencing with the two thousand twenty--two thousand twenty-one academic year and ending in the two thousand twenty-three--two thousand twenty-four academic year provided that such rate change is**

**approved annually prior to board of trustees action by the chancellor of the state university or his or her designee.**

§ 2. This act shall take effect immediately.

PART E

Intentionally Omitted

PART F

Intentionally Omitted

PART G

Intentionally Omitted

PART H

Section 1. Notwithstanding any other provision of law, the housing trust fund corporation may provide, for purposes of the neighborhood preservation program, a sum not to exceed $12,830,000 for the fiscal year ending March 31, 2021. Within this total amount, $150,000 shall be used for the purpose of entering into a contract with the neighborhood preservation coalition to provide technical assistance and services to companies funded pursuant to article 16 of the private housing finance law. Notwithstanding any other provision of law, and subject to the approval of the New York state director of the budget, the board of directors of the state of New York mortgage agency shall authorize the transfer to the housing trust fund corporation, for the purposes of reimbursing any costs associated with neighborhood preservation program contracts authorized by this section, a total sum not to exceed $12,830,000, such transfer to be made from (i) the special account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law, in an amount not to exceed the actual excess balance in the special account of the mortgage insurance fund, as determined and certified by the state of New York mortgage agency for the fiscal year 2019-2020 in accordance with section 2429-b of the public authorities law, if any, and/or (ii) provided that the reserves in the project pool insurance account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law are sufficient to attain and maintain the credit rating (as determined by the state of New York mortgage agency) required to accomplish the purposes of such account, the project pool insurance account of the mortgage insurance fund, such transfer to be made as soon as practicable but no later than June 30, 2020.

§ 2. Notwithstanding any other provision of law, the housing trust fund corporation may provide, for purposes of the rural preservation program, a sum not to exceed $5,360,000 for the fiscal year ending March 31, 2021. Within this total amount, $150,000 shall be used for the purpose of entering into a contract with the rural housing coalition to provide technical assistance and services to companies funded pursuant to article 16 of the private housing finance law. Notwithstanding any other provision of law, and subject to the approval of the New York state director of the budget, the board of directors of the state of New York mortgage agency shall authorize the transfer to the housing trust fund corporation, for the purposes of reimbursing any costs associated

with rural preservation program contracts authorized by this section, a total sum not to exceed $5,360,000, such transfer to be made from (i) the special account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law, in an amount not to exceed the actual excess balance in the special account of the mortgage insurance fund, as determined and certified by the state of New York mortgage agency for the fiscal year 2019-2020 in accordance with section 2429-b of the public authorities law, if any, and/or (ii) provided that the reserves in the project pool insurance account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law are sufficient to attain and maintain the credit rating (as determined by the state of New York mortgage agency) required to accomplish the purposes of such account, the project pool insurance account of the mortgage insurance fund, such transfer to be made as soon as practicable but no later than June 30, 2020.

§ 3. Notwithstanding any other provision of law, the housing trust fund corporation may provide, for purposes of the rural rental assistance program pursuant to article 17-A of the private housing finance law, a sum not to exceed $21,000,000 for the fiscal year ending March 31, 2021. Notwithstanding any other provision of law, and subject to the approval of the New York state director of the budget, the board of directors of the state of New York mortgage agency shall authorize the transfer to the housing trust fund corporation, for the purposes of reimbursing any costs associated with rural rental assistance program contracts authorized by this section, a total sum not to exceed $21,000,000, such transfer to be made from (i) the special account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law, in an amount not to exceed the actual excess balance in the special account of the mortgage insurance fund, as determined and certified by the state of New York mortgage agency for the fiscal year 2019-2020 in accordance with section 2429-b of the public authorities law, if any, and/or (ii) provided that the reserves in the project pool insurance account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law are sufficient to attain and maintain the credit rating, as determined by the state of New York mortgage agency, required to accomplish the purposes of such account, the project pool insurance account of the mortgage insurance fund, such transfer shall be made as soon as practicable but no later than June 30, 2020.

§ 4. Notwithstanding any other provision of law, the homeless housing and assistance corporation may provide, for purposes of the New York state supportive housing program, the solutions to end homelessness program or the operational support for AIDS housing program, or to qualified grantees under such programs, in accordance with the requirements of such programs, a sum not to exceed $42,641,000 for the fiscal year ending March 31, 2021. The homeless housing and assistance corporation may enter into an agreement with the office of temporary and disability assistance to administer such sum in accordance with the requirements of such programs. Notwithstanding any other provision of law, and subject to the approval of the New York state director of the budget, the board of directors of the state of New York mortgage agency shall authorize the transfer to the homeless housing and assistance corporation, a total sum not to exceed $42,641,000, such transfer to be made from (i) the special account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law, in an amount not to exceed the actual excess balance in the special account of the mortgage insur-

ance fund, as determined and certified by the state of New York mortgage agency for the fiscal year 2019-2020 in accordance with section 2429-b of the public authorities law, if any, and/or (ii) provided that the reserves in the project pool insurance account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law are sufficient to attain and maintain the credit rating as determined by the state of New York mortgage agency, required to accomplish the purposes of such account, the project pool insurance account of the mortgage insurance fund, such transfer shall be made as soon as practicable but no later than March 31, 2021.

§ 5. Notwithstanding any other provision of law, and in addition to the powers currently authorized to be exercised by the state of New York municipal bond bank agency, the state of New York municipal bond bank agency may provide, for purposes of municipal relief to the city of Albany, a sum not to exceed twelve million dollars for the city fiscal year ending December 31, 2020, to the city of Albany. Notwithstanding any other provision of law, and subject to the approval of the New York state director of the budget, the state of New York mortgage agency shall transfer to the state of New York municipal bond bank agency for distribution as municipal relief to the city of Albany, a total sum not to exceed twelve million dollars, such transfer to be made from (i) the special account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law, in an amount not to exceed the actual excess balance in the special account of the mortgage insurance fund, as determined and certified by the state of New York mortgage agency for the fiscal year 2019-2020 in accordance with section 2429-b of the public authorities law, if any, and/or (ii) provided that the reserves in the project pool insurance account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law are sufficient to attain and maintain the credit rating (as determined by the agency) required to accomplish the purposes of such account, the project pool insurance account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law, such transfer to be made as soon as practicable no later than December 31, 2020, and provided further that the New York state director of the budget may request additional information from the city of Albany regarding the utilization of these funds and the finances and operations of the city, as appropriate.

§ 6. Notwithstanding any other provision of law, the department of law may provide, for purposes of a homeowner protection program, or to qualified grantees under such program, in accordance with the requirements of such program, a sum not to exceed $10,000,000 for the fiscal year ending March 31, 2021. Notwithstanding any other provision of law, and subject to the approval of the New York state director of the budget, the board of directors of the state of New York mortgage agency shall authorize the transfer to the department of law, a total sum not to exceed $10,000,000, such transfer to be made from (i) the special account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law, in an amount not to exceed the actual excess balance in the special account of the mortgage insurance fund, as determined and certified by the state of New York mortgage agency for the fiscal year 2019-2020 in accordance with section 2429-b of the public authorities law, if any, and/or (ii) provided that the reserves in the project pool insurance account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law are sufficient to attain and maintain the credit rating as determined by

the state of New York mortgage agency, required to accomplish the purposes of such account, the project pool insurance account of the mortgage insurance fund, such transfer shall be made as soon as practicable but no later than March 31, 2021.

§ 7. This act shall take effect immediately.

PART I

Section 1. Subdivision c of section 8 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by section 16 of part K of chapter 36 of the laws of 2019, is amended to read as follows:

c. Whenever a city having a population of one million or more has determined the existence of an emergency pursuant to section three of this act, the provisions of this act and the New York city rent stabilization law of nineteen hundred sixty-nine shall be administered by the state division of housing and community renewal as provided in the New York city rent stabilization law of nineteen hundred sixty-nine, as amended, or as otherwise provided by law. The costs incurred by the state division of housing and community renewal in administering such regulation shall be paid by such city. All payments for such administration shall be transmitted to the state division of housing and community renewal as follows: on or after April first of each year commencing with April, nineteen hundred eighty-four, the commissioner of housing and community renewal**, in consultation with the director of the budget,** shall determine an amount necessary to defray the division's anticipated annual cost, and one-quarter of such amount shall be paid by such city on or before July first of such year, one-quarter of such amount on or before October first of such year, one-quarter of such amount on or before January first of the following year and one-quarter of such amount on or before March thirty-first of the following year. After the close of the fiscal year of the state, the commissioner**, in consultation with the director of the budget,** shall determine the amount of all actual costs incurred in such fiscal year and shall certify such amount to such city. If such certified amount shall differ from the amount paid by the city for such fiscal year, appropriate adjustments shall be made in the next quarterly payment to be made by such city. In the event that the amount thereof is not paid to the commissioner**, in consultation with the director of the budget,** as herein prescribed, the commissioner**, in consultation with the director of the budget,** shall certify the unpaid amount to the comptroller, and the comptroller shall, to the extent not otherwise prohibited by law, withhold such amount from any state aid payable to such city. In no event shall the amount imposed on the owners exceed twenty dollars per unit per year.

§ 2. Subdivisions d and e of section 8 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, subdivision d as amended by section 16 of part K of chapter 36 of the laws of 2019 and subdivision e as amended by section 1 of part O of chapter 57 of the laws of 2009, are amended to read as follows:

d. **Notwithstanding subdivision c of this section or any other provision of law to the contrary, whenever the state has incurred any costs as a result of administering the rent regulation program for a city having a population of one million or more in accordance with subdivision c of this section, on or after April first of each year, the commissioner of housing and community renewal, in consultation with the**

director of the budget, shall determine an amount necessary to defray the state's anticipated annual cost. In the event that the division does not send a bill to the city to defray such costs in accordance with subdivision c of this section, it shall submit to the city an invoice showing all such costs as soon as practicable after the start of the state fiscal year in which the costs are to be incurred. The director of the budget may direct any other state agency to reduce the amount of any other payment or payments owed to such city or any department, agency, or instrumentality thereof; provided however, that such reduction shall be made no sooner than thirty days after the transmittal of the invoice of costs, and shall be in an amount equal to the costs incurred by the state in administering the rent regulation program for such city in accordance with subdivision c of this section. Within thirty days of the receipt of the invoice of costs, the city may send to the division, in written form, requests for additional information relating to such costs, including any recommendations on which local assistance payment would be reduced. If the director of the budget makes such direction in accordance with this subdivision, the impacted city shall not make the payments required by subdivision c of this section, and the division of housing and community renewal shall notify such city in writing of what payment or payments will be reduced and the amount of the reduction and shall suballocate, as necessary, the value of the costs it incurred to the agency or agencies which reduces the payments to such city or any department, agency or authority thereof in accordance with this subdivision.

e. The failure to pay the prescribed assessment not to exceed twenty dollars per unit for any housing accommodation subject to this act or the New York city rent stabilization law of nineteen hundred sixty-nine shall constitute a charge due and owing such city, town or village which has imposed an annual charge for each such housing accommodation pursuant to subdivision b of this section. Any such city, town or village shall be authorized to provide for the enforcement of the collection of such charges by commencing an action or proceeding for the recovery of such fees or by the filing of a lien upon the building and lot. Such methods for the enforcement of the collection of such charges shall be the sole remedy for the enforcement of this section.

[~~e.~~] f. The division shall maintain at least one office in each county which is governed by the rent stabilization law of nineteen hundred sixty-nine or this act; provided, however, that the division shall not be required to maintain an office in the counties of Nassau, Rockland, or Richmond.

§ 3. This act shall take effect immediately.

PART J

Section 1. The labor law is amended by adding a new section 196-b to read as follows:

§ 196-b. Sick leave requirements. 1. Every employer shall be required to provide its employees with sick leave as follows:

a. For employers with four or fewer employees in any calendar year, each employee shall be provided with up to forty hours of unpaid sick leave in each calendar year; provided, however, an employer that employs four or fewer employees in any calendar year and that has a net income of greater than one million dollars in the previous tax year shall provide each employee with up to forty hours of paid sick leave pursuant to this section;

b. For employers with between five and ninety-nine employees in any calendar year, each employee shall be provided with up to forty hours of paid sick leave in each calendar year; and

c. For employers with one hundred or more employees in any calendar year, each employee shall be provided with up to fifty-six hours of paid sick leave each calendar year.

For purposes of determining the number of employees pursuant to this subdivision, a calendar year shall mean the twelve-month period from January first through December thirty-first. For all other purposes, a calendar year shall either mean the twelve-month period from January first through December thirty-first, or a regular and consecutive twelve-month period, as determined by an employer.

2. Nothing in this section shall be construed to prohibit or prevent an employer from providing an amount of sick leave, paid or unpaid, which is in excess of the requirements set forth in subdivision one of this section, or from adopting a paid leave policy that provides additional benefits to employees. An employer may elect to provide its employees with the total amount of sick leave required to fulfill its obligations pursuant to subdivision one of this section at the beginning of the calendar year, provided, however that no employer shall be permitted to reduce or revoke any such sick leave based on the number of hours actually worked by an employee during the calendar year if such employer elects pursuant to this subdivision.

3. Employees shall accrue sick leave at a rate of not less than one hour per every thirty hours worked, beginning at the commencement of employment or the effective date of this section, whichever is later, subject to the use and accrual limitations set forth in this section.

4. a. On and after January first, two thousand twenty-one and upon the oral or written request of an employee, an employer shall provide accrued sick leave for the following purposes:

(i) for a mental or physical illness, injury, or health condition of such employee or such employee's family member, regardless of whether such illness, injury, or health condition has been diagnosed or requires medical care at the time that such employee requests such leave;

(ii) for the diagnosis, care, or treatment of a mental or physical illness, injury or health condition of, or need for medical diagnosis of, or preventive care for, such employee or such employee's family member; or

(iii) for an absence from work due to any of the following reasons when the employee or employee's family member has been the victim of domestic violence pursuant to subdivision thirty-four of section two hundred ninety-two of the executive law, a family offense, sexual offense, stalking, or human trafficking:

(a) to obtain services from a domestic violence shelter, rape crisis center, or other services program;

(b) to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members;

(c) to meet with an attorney or other social services provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding;

(d) to file a complaint or domestic incident report with law enforcement;

(e) to meet with a district attorney's office;

(f) to enroll children in a new school; or

(g) to take any other actions necessary to ensure the health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.

For purposes of this subdivision, the reasons outlined above in subparagraph (a) through (g) must be related to the domestic violence, family offense, sexual offense, stalking, or human trafficking. Provided further that a person who has committed such domestic violence, family offense, sexual offense, stalking, or human trafficking shall not be eligible for leave under this subdivision for situations in which the person committed such offense and was not a victim, notwithstanding any family relationship.

b. For purposes of this section, "family member" shall mean an employee's child, spouse, domestic partner, **parent**, sibling, grandchild or grand**parent**; and the child or **parent** of an employee's spouse or domestic partner. "**Parent**" shall mean a biological, foster, step- or adoptive **parent**, or a legal guardian of an employee, or a person who stood in loco **parent**is when the employee was a minor child. "Child" shall mean a biological, adopted or foster child, a legal ward, or a child of an employee standing in loco **parent**is.

5. a. An employer may not require the disclosure of confidential information relating to a mental or physical illness, injury, or health condition of such employee or such employee's family member, or information relating to absence from work due to domestic violence, a sexual offense, stalking, or human trafficking, as a condition of providing sick leave pursuant to this section.

b. An employer may set a reasonable minimum increment for the use of sick leave which shall not exceed four hours. Employees shall receive compensation at his or her regular rate of pay, or the applicable minimum wage established pursuant to section six hundred fifty-two of this chapter, whichever is greater, for the use of paid sick leave.

6. An employee's unused sick leave shall be carried over to the following calendar year, provided, however, that: (i) an employer with fewer than one hundred employees may limit the use of sick leave to forty hours per calendar year; and (ii) an employer with one hundred or more employees may limit the use of sick leave to fifty-six hours per calendar year. Nothing in this section shall be construed to require an employer to pay an employee for unused sick leave upon such employee's termination, resignation, retirement, or other separation from employment.

7. No employer or his or her agent, or the officer or agent of any corporation, partnership, or limited liability company, or any other person, shall discharge, threaten, penalize, or in any other manner discriminate or retaliate against any employee because such employee has exercised his or her rights afforded under this section, including, but not limited to, requesting sick leave and using sick leave, consistent with the provisions of section two hundred fifteen of this chapter.

8. An employer shall not be required to provide any additional sick leave pursuant to this section if the employer has adopted a sick leave policy or time off policy that provides employees with an amount of leave which meets or exceeds the requirements set forth in subdivision one of this section and satisfies the accrual, carryover, and use requirements of this section.

9. Nothing in this section shall be construed to: a. prohibit a collective bargaining agreement entered into, on or after the effective date of this section from, in lieu of the leave provided for in this section, providing a comparable benefit for the employees covered by

such agreement in the form of paid days off; such paid days off shall be in the form of leave, compensation, other employee benefits, or some combination thereof; or

b. impede, infringe, or diminish the ability of a certified collective bargaining agent to negotiate the terms and conditions of sick leave different from the provisions of this section.

Provided, however, that in the case of either paragraph a or b of this subdivision, the agreement must specifically acknowledge the provisions of this section.

10. Upon return to work following any sick leave taken pursuant to this section, an employee shall be restored by his or her employer to the position of employment held by such employee prior to any sick leave taken pursuant to this section with the same pay and other terms and conditions of employment.

11. Upon the oral or written request of an employee, an employer shall provide a summary of the amounts of sick leave accrued and used by such employee in the current calendar year and/or any previous calendar year. The employer shall provide such information to the employee within three business days of such request.

12. Nothing in this section shall be construed to prevent a city with a population of one million or more from enacting and enforcing local laws or ordinances which meet or exceed the standard or requirements for minimum hour and use set forth in this section, as determined by the commissioner. Any paid sick leave benefits provided by a sick leave program enforced by a municipal corporation in effect as of the effective date of this section shall not be diminished or limited as a result of the enactment of this section.

13. The commissioner shall have authority to adopt regulations and issue guidance to effectuate any of the provisions of this section. Employers shall comply with regulations and guidance promulgated by the commissioner for this purpose which may include but are not limited to standards for the accrual, use, payment, and employee eligibility of sick leave.

14. The department shall conduct a public awareness outreach campaign which shall include making information available on its website and otherwise informing employers and employees of the provisions of this section.

§ 2. Subdivision 4 of section 195 of the labor law, as amended by chapter 564 of the laws of 2010, is amended to read as follows:

4. establish, maintain and preserve for not less than six years contemporaneous, true, and accurate payroll records showing for each week worked the hours worked; the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; amount of sick leave provided to each employee; and net wages for each employee. For all employees who are not exempt from overtime compensation as established in the commissioner's minimum wage orders or otherwise provided by New York state law or regulation, the payroll records shall include the regular hourly rate or rates of pay, the overtime rate or rates of pay, the number of regular hours worked, and the number of overtime hours worked. For all employees paid a piece rate, the payroll records shall include the applicable piece rate or rates of pay and number of pieces completed at each piece rate;

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of

competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that the department of labor may promulgate rules and regulations to effectuate the purposes of this act, on or before such effective date.

## PART K

Section 1. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section 131-o of the social services law, as amended by section 1 of part L of chapter 56 of the laws of 2019, are amended to read as follows:

(a) in the case of each individual receiving family care, an amount equal to at least [~~$148.00~~] $150.00 for each month beginning on or after January first, two thousand [~~nineteen~~] twenty.

(b) in the case of each individual receiving residential care, an amount equal to at least [~~$171.00~~] $174.00 for each month beginning on or after January first, two thousand [~~nineteen~~] twenty.

(c) in the case of each individual receiving enhanced residential care, an amount equal to at least [~~$204.00~~] $207.00 for each month beginning on or after January first, two thousand [~~nineteen~~] twenty.

(d) for the period commencing January first, two thousand [~~twenty~~] twenty-one, the monthly personal needs allowance shall be an amount equal to the sum of the amounts set forth in subparagraphs one and two of this paragraph:

(1) the amounts specified in paragraphs (a), (b) and (c) of this subdivision; and

(2) the amount in subparagraph one of this paragraph, multiplied by the percentage of any federal supplemental security income cost of living adjustment which becomes effective on or after January first, two thousand [~~twenty~~] twenty-one, but prior to June thirtieth, two thousand [~~twenty~~] twenty-one, rounded to the nearest whole dollar.

§ 2. Paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 2 of section 209 of the social services law, as amended by section 2 of part L of chapter 56 of the laws of 2019, are amended to read as follows:

(a) On and after January first, two thousand [~~nineteen~~] twenty, for an eligible individual living alone, [~~$858.00~~] $870.00; and for an eligible couple living alone, [~~$1,261.00~~] $1,279.00.

(b) On and after January first, two thousand [~~nineteen~~] twenty, for an eligible individual living with others with or without in-kind income, [~~$794.00~~] $806.00; and for an eligible couple living with others with or without in-kind income, [~~$1,203.00~~] $1,221.00.

(c) On and after January first, two thousand [~~nineteen~~] twenty, (i) for an eligible individual receiving family care, [~~$1,037.48~~] $1,049.48 if he or she is receiving such care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible couple receiving family care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland, two times the amount set forth in subparagraph (i) of this paragraph; or (iii) for an eligible individual receiving such care in any other county in the state, [~~$999.48~~]

$1,011.48; and (iv) for an eligible couple receiving such care in any other county in the state, two times the amount set forth in subparagraph (iii) of this paragraph.

(d) On and after January first, two thousand [~~nineteen~~] twenty, (i) for an eligible individual receiving residential care, [~~$1,206.00~~] $1,218.00 if he or she is receiving such care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible couple receiving residential care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland, two times the amount set forth in subparagraph (i) of this paragraph; or (iii) for an eligible individual receiving such care in any other county in the state, [~~$1,176.00~~] $1,188.00; and (iv) for an eligible couple receiving such care in any other county in the state, two times the amount set forth in subparagraph (iii) of this paragraph.

(e) On and after January first, two thousand [~~nineteen~~] twenty, (i) for an eligible individual receiving enhanced residential care, [~~$1,465.00~~] $1,477.00; and (ii) for an eligible couple receiving enhanced residential care, two times the amount set forth in subparagraph (i) of this paragraph.

(f) The amounts set forth in paragraphs (a) through (e) of this subdivision shall be increased to reflect any increases in federal supplemental security income benefits for individuals or couples which become effective on or after January first, two thousand [~~twenty~~] twenty-one but prior to June thirtieth, two thousand [~~twenty~~] twenty-one.

§ 3. This act shall take effect December 31, 2020.

PART L

Section 1. The family court act is amended by adding a new article 5-C to read as follows:

ARTICLE 5-C

JUDGMENTS OF PARENTAGE OF CHILDREN CONCEIVED THROUGH ASSISTED REPRODUCTION OR PURSUANT TO SURROGACY AGREEMENTS



PART 1

GENERAL PROVISIONS



§ 581-101. Purpose. The purpose of this article is to legally establish a child's relationship to his or her parents where the child is conceived through assisted reproduction except for children born to a person acting as surrogate who contributed the egg used in conception. This article and all governmental measures adopted pursuant thereto should comply with existing laws on reproductive health and bodily integrity.

§ 581-102. Definitions. (a) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse and includes but is not limited to:

1. intrauterine or vaginal insemination;
2. donation of gametes;
3. donation of embryos;
4. in vitro fertilization and transfer of embryos; and
5. intracytoplasmic sperm injection.

(b) "Child" means a born individual of any age whose **parent**age may be determined under this act or other law.

(c) "Compensation" means payment of any valuable consideration in excess of reasonable medical and ancillary costs.

(d) "Donor" means an individual who does not intend to be a **parent** who produces gametes and provides them to another person, other than the individual's spouse, for use in assisted reproduction. The term does not include a person who is a **parent** under part three of this article. Donor also includes an individual who had dispositional control of an embryo or gametes who then transfers dispositional control and releases all present and future **parent**al and inheritance rights and obligations to a resulting child.

(e) "Embryo" means a cell or group of cells containing a diploid complement of chromosomes or group of such cells, not a gamete or gametes, that has the potential to develop into a live born human being if transferred into the body of a person under conditions in which gestation may be reasonably expected to occur.

(f) "Embryo transfer" means all medical and laboratory procedures that are necessary to effectuate the transfer of an embryo into the uterine cavity.

(g) "Gamete" means a cell containing a haploid complement of DNA that has the potential to form an embryo when combined with another gamete. Sperm and eggs shall be considered gametes. A human gamete used or intended for reproduction may not contain nuclear DNA that has been deliberately altered, or nuclear DNA from one human combined with the cytoplasm or cytoplasmic DNA of another human being.

(h) "Independent escrow agent" means someone other than the parties to a surrogacy agreement and their attorneys. An independent escrow agent can, but need not, be a surrogacy program, provided such surrogacy program is owned or managed by an attorney licensed to practice law in the state of New York. If such independent escrow agent is not attorney owned, it shall be licensed, bonded and insured.

(i) "Surrogacy agreement" is an agreement between at least one intended **parent** and a person acting as surrogate intended to result in a live birth where the child will be the legal child of the intended **parent**s.

(j) "Person acting as surrogate" means an adult person, not an intended **parent**, who enters into a surrogacy agreement to bear a child who will be the legal child of the intended **parent** or **parent**s so long as the person acting as surrogate has not provided the egg used to conceive the resulting child.

(k) "Health care practitioner" means an individual licensed or certified under title eight of the education law, or a similar law of another state or country, acting within his or her scope of practice.

(l) "Intended **parent**" is an individual who manifests the intent to be legally bound as the **parent** of a child resulting from assisted reproduction or a surrogacy agreement provided he or she meets the requirements of this article.

(m) "In vitro fertilization" means the formation of a human embryo outside the human body.

(n) "**Parent**" as used in this article means an individual with a **parent**-child relationship created or recognized under this act or other law.

(o) "Participant" is an individual who either: provides a gamete that is used in assisted reproduction, is an intended **parent**, is a person acting as surrogate, or is the spouse of an intended **parent** or person acting as surrogate.

(p) "Record" means information inscribed in a tangible medium or stored in an electronic or other medium that is retrievable in perceivable form.

(q) "Retrieval" means the procurement of eggs or sperm from a gamete provider.

(r) "Spouse" means an individual married to another, or who has a legal relationship entered into under the laws of the United States or of any state, local or foreign jurisdiction, which is substantially equivalent to a marriage, including a civil union or domestic partnership.

(s) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(t) "Transfer" means the placement of an embryo or gametes into the body of a person with the intent to achieve pregnancy and live birth.

## PART 2
## JUDGMENT OF **PARENT**AGE



§ 581-201. Judgment of **parent**age. (a) A civil proceeding may be maintained to adjudicate the **parent**age of a child under the circumstances set forth in this article. This proceeding is governed by the civil practice law and rules.

(b) A judgment of **parent**age may be issued prior to birth but shall not become effective until the birth of the child.

(c) A petition for a judgment of **parent**age or non**parent**age of a child conceived through assisted reproduction may be initiated by (1) a child, or (2) a **parent**, or (3) a participant, or (4) a person with a claim to **parent**age, or (5) social services official or other governmental agency authorized by other law, or (6) a representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor, in order to legally establish the child-**parent** relationship of either a child born through assisted reproduction under part three of this article or a child born pursuant to a surrogacy agreement under part four of this article.

§ 581-202. Proceeding for judgment of **parent**age of a child conceived through assisted reproduction. (a) A proceeding for a judgment of **parent**age with respect to a child conceived through assisted reproduction may be commenced:

(1) if the intended **parent** or child resides in New York state, in the county where the intended **parent** resides any time after pregnancy is achieved or in the county where the child was born or resides; or

(2) if the intended **parent** and child do not reside in New York state, up to ninety days after the birth of the child in the county where the child was born.

(b) The petition for a judgment of **parent**age must be verified.

(c) Where a petition includes the following truthful statements, the court shall adjudicate the intended **parent** to be the **parent** of the child:

(1) a statement that an intended **parent** has been a resident of the state for at least six months or if an intended **parent** is not a New York state resident, that the child will be or was born in the state within ninety days of filing; and

(2) a statement from the gestating intended **parent** that the gestating intended **parent** became pregnant as a result of assisted reproduction; and

(3) in cases where there is a non-gestating intended **parent**, a statement from the gestating intended **parent** and non-gestating intended **parent** that the non-gestating intended **parent** consented to assisted reproduction pursuant to section 581-304 of this article; and

(4) proof of any donor's donative intent.

(d) The following shall be deemed sufficient proof of a donor's donative intent for purposes of this section:

(1) in the case of an anonymous donor or where gametes or embryos have previously been released to a gamete or embryo storage facility or in the presence of a health care practitioner, either:

(i) a statement or documentation from the gamete or embryo storage facility or health care practitioner stating or demonstrating that such gametes or embryos were anonymously donated or had previously been released; or

(ii) clear and convincing evidence that the gamete or embryo donor intended to donate gametes or embryos anonymously or intended to release such gametes or embryos to a gamete or embryo storage facility or health care practitioner; or

(2) in the case of a donation from a known donor, either: a. a record from the gamete or embryo donor acknowledging the donation and confirming that the donor has no **parent**al or proprietary interest in the gametes or embryos. The record shall be signed by the gestating intended **parent** and the gamete or embryo donor. The record may be, but is not required to be, signed:

(i) before a notary public, or

(ii) before two witnesses who are not the intended **parent**s, or

(iii) before a health care practitioner; or

b. clear and convincing evidence that the gamete or embryo donor agreed, prior to conception, with the gestating **parent** that the donor has no **parent**al or proprietary interest in the gametes or embryos.

(e)(1) In the absence of evidence pursuant to paragraph two of this subdivision, notice shall be given to the donor at least twenty days prior to the date set for the proceeding to determine the existence of donative intent by delivery of a copy of the petition and notice pursuant to section three hundred eight of the civil practice law and rules. Upon a showing to the court, by affidavit or otherwise, on or before the date of the proceeding or within such further time as the court may allow, that personal service cannot be effected at the donor's last known address with reasonable effort, notice may be given, without prior

court order therefore, at least twenty days prior to the proceeding by registered or certified mail directed to the donor's last known address. Notice by publication shall not be required to be given to a donor entitled to notice pursuant to the provisions of this section.

(2) Notwithstanding the above, where sperm is provided under the supervision of a health care practitioner to someone other than the sperm provider's intimate partner or spouse without a record of the sperm provider's intent to **parent** notice is not required.

(f) In cases not covered by subdivision (c) of this section, the court shall adjudicate the **parent**age of the child consistent with part three of this article.

(g) Where the requirements of subdivision (c) of this section are met or where the court finds the intended **parent** to be a **parent** under subdivision (e) of this section, the court shall issue a judgment of **parent**age:

(1) declaring, that upon the birth of the child, the intended **parent** or **parent**s is or are the legal **parent** or **parent**s of the child; and

(2) ordering the intended **parent** or **parent**s to assume responsibility for the maintenance and support of the child immediately upon the birth of the child; and

(3) if there is a donor, ordering that the donor is not a **parent** of the child; and

(4) ordering that:

(i) Pursuant to section two hundred fifty-four of the judiciary law, the clerk of the court shall transmit to the state commissioner of health, or for a person born in New York city, to the commissioner of health of the city of New York, on a form prescribed by the commissioner, a written notification of such entry together with such other facts as may assist in identifying the birth record of the person whose **parent**age was in issue and, if such person whose **parent**age has been determined is under eighteen years of age, the clerk shall also transmit forthwith to the registry operated by the department of social services pursuant to section three hundred seventy-two-c of the social services law a notification of such determination; and

(ii) Pursuant to section forty-one hundred thirty-eight of the public health law and NYC Public Health Code section 207.05 that upon receipt of a judgment of **parent**age the local registrar where a child is born will report the **parent**age of the child to the appropriate department of health in conformity with the court order. If an original birth certificate has already been issued, the appropriate department of health will amend the birth certificate in an expedited manner and seal the previously issued birth certificate except that it may be rendered accessible to the child at eighteen years of age or the legal **parent** or **parent**s.

§ 581-203. Proceeding for judgment of **parent**age of a child conceived pursuant to a surrogacy agreement. (a) The proceeding may be commenced (1) in any county where an intended **parent** resided any time after the surrogacy agreement was executed; (2) in the county where the child was born or resides; or (3) in the county where the surrogate resided any time after the surrogacy agreement was executed.

(b) The proceeding may be commenced at any time after the surrogacy agreement has been executed and the person acting as surrogate and all intended **parent**s are necessary parties.

(c) The petition for a judgment of **parent**age must be verified and include the following:

(1) a statement that the person acting as surrogate or at least one of the intended **parent**s has been a resident of the state for at least six months at the time the surrogacy agreement was executed; and

(2) a certification from the attorney representing the intended **parent** or **parent**s and the attorney representing the person acting as surrogate that the requirements of part four of this article have been met; and

(3) a statement from all parties to the surrogacy agreement that they knowingly and voluntarily entered into the surrogacy agreement and that the parties are jointly requesting the judgment of **parent**age.

(d) Where the court finds the statements required by subdivision (c) of this section to be true, the court shall issue a judgment of **parent**age, without additional proceedings or documentation:

(1) declaring, that upon the birth of the child born during the term of the surrogacy agreement, the intended **parent** or **parent**s are the only legal **parent** or **parent**s of the child;

(2) declaring, that upon the birth of the child born during the term of the surrogacy agreement, the person acting as surrogate, and the spouse of the person acting as surrogate, if any, is not the legal **parent** of the child;

(3) declaring that upon the birth of the child born during the term of the surrogacy agreement, the donors, if any, are not the **parent**s of the child;

(4) ordering the person acting as surrogate and the spouse of the person acting as surrogate, if any, to transfer the child to the intended **parent** or **parent**s if this has not already occurred;

(5) ordering the intended **parent** or **parent**s to assume responsibility for the maintenance and support of the child immediately upon the birth of the child; and

(6) ordering that:

(i) Pursuant to section two hundred fifty-four of the judiciary law, the clerk of the court shall transmit to the state commissioner of health, or for a person born in New York city, to the commissioner of health of the city of New York, on a form prescribed by the commissioner, a written notification of such entry together with such other facts as may assist in identifying the birth record of the person whose **parent**age was in issue and, if the person whose **parent**age has been determined is under eighteen years of age, the clerk shall also transmit to the registry operated by the department of social services pursuant to section three hundred seventy-two-c of the social services law a notification of the determination; and

(ii) Pursuant to section forty-one hundred thirty-eight of the public health law and NYC Public Health Code section 207.05 that upon receipt of a judgement of **parent**age the local registrar where a child is born will report the **parent**age of the child to the appropriate department of health in conformity with the court order. If an original birth certificate has already been issued, the appropriate department of health will amend the birth certificate in an expedited manner and seal the previously issued birth certificate except that it may be rendered accessible to the child at eighteen years of age or the legal **parent** or **parent**s.

(e) In the event the certification required by paragraph two of subdivision (c) of this section cannot be made because of a technical or non-material deviation from the requirements of this article; the court may nevertheless enforce the agreement and issue a judgment of **parent**age if the court determines the agreement is in substantial compliance with the requirements of this article. In the event that any other require-

ments of subdivision (c) of this section are not met, the court shall determine parentage according to part four of this article.

§ 581-204. Judgment of parentage for intended parents who are spouses. Notwithstanding or without limitation on presumptions of parentage that apply, a judgment of parentage may be obtained under this part by intended parents who are each other's spouse. Nothing in this section requires intended parents to be married to each other in order to be jointly declared the parents of the child.

§ 581-205. Inspection of records. Court records relating to proceedings under this article shall be sealed, provided, however, that the office of temporary and disability assistance, a child support unit of a social services district or a child support agency of another state providing child support services pursuant to title IV-d of the federal social security act, when a party to a related support proceeding and to the extent necessary to provide child support services or for the administration of the program pursuant to title IV-d of the federal social security act, may obtain a copy of a judgment of parentage. The parties to the proceeding and the child shall have the right to inspect and make copies of the entire court record, including, but not limited to, the name of the person acting as surrogate and any known donors.

§ 581-206. Jurisdiction, and exclusive continuing jurisdiction. (a) Proceedings pursuant to this article may be instituted in the supreme or family court or surrogates court.

(b) Subject to the jurisdictional standards of section seventy-six of the domestic relations law, the court conducting a proceeding under this article has exclusive, continuing jurisdiction of all matters relating to the determination of parentage until the child attains the age of one hundred eighty days.

## PART 3
## CHILD OF ASSISTED REPRODUCTION



§ 581-301. Scope of article. This article does not apply to the birth of a child conceived by means of sexual intercourse.

§ 581-302. Status of donor. A donor is not a parent of a child conceived by means of assisted reproduction where there is proof of donative intent under subdivision (d) of section 581-202 of this article.

§ 581-303. Parentage of child of assisted reproduction. (a) An individual who provides gametes for, or who consents to, assisted reproduction with the intent to be a parent of the child with the consent of the gestating parent as provided in section 581-304 of this part, is a parent of the resulting child for all legal purposes.

(b) The court shall issue a judgment of parentage pursuant to this article upon application by any participant.

§ 581-304. Consent to assisted reproduction. (a) Where the intended parent who gives birth to a child by means of assisted reproduction is a

spouse, the consent of both spouses to the assisted reproduction is presumed and neither spouse may challenge the **parent**age of the child, except as provided in section 581-305 of this part.

(b) Where the intended **parent** who gives birth to a child by means of assisted reproduction is not a spouse, the consent to the assisted reproduction must be in a record in such a manner as to indicate the mutual agreement of the intended **parent**s to conceive and **parent** a child together.

(c) The absence of a record described in subdivision (b) of this section shall not preclude a finding that such consent existed if the court finds by clear and convincing evidence that at the time of the assisted reproduction the intended **parent**s agreed to conceive and **parent** the child together.

§ 581-305. Limitation on spouses' dispute of **parent**age of child of assisted reproduction. (a) Neither spouse may challenge the marital presumption of **parent**age of a child created by assisted reproduction during the marriage unless the court finds by clear and convincing evidence that one spouse used assisted reproduction without the knowledge and consent of the other spouse.

(b) Notwithstanding the foregoing, a married individual may use assisted reproduction and the marital presumption shall not apply if the spouses:

(1) are living separate and apart pursuant to a decree or judgment of separation or pursuant to a written agreement of separation subscribed by the parties thereto and acknowledged or proved in the form required to entitle a deed to be recorded; or

(2) have been living separate and apart for at least three years prior to the use of assisted reproduction.

(c) The limitation provided in this section applies to a spousal relationship that has been declared invalid after assisted reproduction or artificial insemination.

§ 581-306. Effect of embryo disposition agreement between intended **parent**s which transfers legal rights and dispositional control to one intended **parent**. (a) An embryo disposition agreement between intended **parent**s with joint dispositional control of an embryo shall be binding under the following circumstances:

(1) it is in writing;

(2) each intended **parent** had the advice of independent legal counsel prior to its execution, which may be paid for by either intended **parent**; and

(3) where the intended **parent**s are married, transfer of legal rights and dispositional control occurs only upon divorce.

(b) The intended **parent** who transfers legal rights and dispositional control of the embryo is not a **parent** of any child conceived from the embryo unless the agreement states that he or she consents to be a **parent** and that consent is not withdrawn consistent with subdivision (c) of this section.

(c) If the intended **parent** transferring legal rights and dispositional control consents to be a **parent**, he or she may withdraw his or her consent to be a **parent** upon written notice to the embryo storage facility and to the other intended **parent** prior to transfer of the embryo. If he or she timely withdraws consent to be a **parent** he or she is not a **parent** for any purpose including support obligations but the embryo transfer may still proceed.

(d) An embryo disposition agreement or advance directive that is not in compliance with subdivision (a) of this section may still be found to

be enforceable by the court after balancing the respective interests of the parties except that the intended **parent** who divested him or herself of legal rights and dispositional control may not be declared to be a **parent** for any purpose without his or her consent. The **parent** awarded legal rights and dispositional control of the embryos shall, in this instance, be declared to be the only **parent** of the child.

§ 581-307. Effect of death of intended **parent**. If an individual who consented in a record to be a **parent** by assisted reproduction dies before the transfer of eggs, sperm, or embryos, the deceased individual is not a **parent** of the resulting child unless the deceased individual consented in a signed record that if assisted reproduction were to occur after death, the deceased individual would be a **parent** of the child, provided that the record complies with the estates, powers and trusts law. Any rights of the child born after the death of an intended **parent** may be enforced by a government agency authorized by law, including but not limited to a department of social services.

## PART 4
## SURROGACY AGREEMENT



§ 581-401. Surrogacy agreement authorized. (a) If eligible under this article to enter into a surrogacy agreement, a person acting as surrogate, the spouse of the person acting as surrogate, if applicable, and the intended **parent** or **parent**s may enter into a surrogacy agreement which will be enforceable provided the surrogacy agreement meets the requirements of this article.

(b) A surrogacy agreement shall not apply to the birth of a child conceived by means of sexual intercourse, or where the person acting as surrogate contributed the egg used in conception.

(c) A surrogacy agreement may provide for payment of compensation under part five of this article.

§ 581-402. Eligibility to enter surrogacy agreement. (a) A person acting as surrogate shall be eligible to enter into an enforceable surrogacy agreement under this article if the person acting as surrogate has met the following requirements at the time the surrogacy agreement is executed:

(1) the person acting as surrogate is at least twenty-one years of age;

(2) the person acting as surrogate is a United States citizen or a lawful permanent resident and, where at least one intended **parent** is not a resident of New York state for six months, was a resident of New York state for at least six months;

(3) the person acting as surrogate has not provided the egg used to conceive the resulting child;

(4) the person acting as surrogate has completed a medical evaluation with a health care practitioner relating to the anticipated pregnancy. Such medical evaluation shall include a screening of the medical history

of the potential surrogate including known health conditions that may pose risks to the potential surrogate or embryo during pregnancy;

(5) the person acting as surrogate has given informed consent for the surrogacy after the licensed health care practitioner inform them of the medical risks of surrogacy including the possibility of multiple births, risk of medications taken for the surrogacy, risk of pregnancy complications, psychological and psychosocial risks, and impacts on their personal lives;

(6) the person acting as surrogate, and the spouse of the person acting as surrogate, if applicable, have been represented throughout the contractual process and the duration of the contract and its execution by independent legal counsel of their own choosing who is licensed to practice law in the state of New York which shall be paid for by the intended **parent** or **parent**s except that a person acting as surrogate who is receiving no compensation may waive the right to have the intended **parent** or **parent**s pay the fee for such legal counsel. Where the intended **parent** or **parent**s are paying for the independent legal counsel of the person acting as surrogate, and the spouse of the person acting as surrogate, if applicable, a separate retainer agreement shall be prepared clearly stating that such legal counsel will only represent the person acting as surrogate and the spouse of the person acting as surrogate, if applicable, in all matters pertaining to the surrogacy agreement, that such legal counsel will not offer legal advice to any other parties to the surrogacy agreement, and that the attorney-client relationship lies with the person acting as surrogate and the spouse of the person acting as surrogate, if applicable;

(7) the person acting as surrogate has or the surrogacy agreement stipulates that the person acting as surrogate will obtain a comprehensive health insurance policy that takes effect prior to taking any medication or commencing treatment to further embryo transfer that covers preconception care, prenatal care, major medical treatments, hospitalization, and behavioral health care, and the comprehensive policy has a term that extends throughout the duration of the expected pregnancy and for twelve months after the birth of the child, a stillbirth, a miscarriage resulting in termination of pregnancy, or termination of the pregnancy; the policy shall be paid for, whether directly or through reimbursement or other means, by the intended **parent** or **parent**s on behalf of the person acting as surrogate pursuant to the surrogacy agreement, except that a person acting as surrogate who is receiving no compensation may waive the right to have the intended **parent** or **parent**s pay for the health insurance policy. The intended **parent** or **parent**s shall also pay for or reimburse the person acting as surrogate for all co-payments, deductibles and any other out-of-pocket medical costs associated with preconception, pregnancy, childbirth, or postnatal care, that accrue through twelve months after the birth of the child, a stillbirth, a miscarriage, or termination of the pregnancy. A person acting as surrogate who is receiving no compensation may waive the right to have the intended **parent** or **parent**s make such payments or reimbursements;

(8) the surrogacy agreement must provide that the intended **parent** or **parent**s shall procure and pay for a life insurance policy for the person acting as surrogate that takes effect prior to taking any medication or the commencement of medical procedures to further embryo transfer, provides a minimum benefit of seven hundred fifty thousand dollars or the maximum amount the person acting as surrogate qualifies for if less than seven hundred fifty thousand dollars, and has a term that extends

throughout the duration of the expected pregnancy and for twelve months after the birth of the child, a stillbirth, a miscarriage resulting in termination of pregnancy, or termination of the pregnancy, with a beneficiary or beneficiaries of their choosing. The policy shall be paid for, whether directly or through reimbursement or other means, by the intended **parent** or **parent**s on behalf of the person acting as surrogate pursuant to the surrogacy agreement, except that a person acting as surrogate who is receiving no compensation may waive the right to have the intended **parent** or **parent**s pay for the life insurance policy; and

(9) the person acting as surrogate meets all other requirements deemed appropriate by the commissioner of health regarding the health of the prospective surrogate.

(b) The intended **parent** or **parent**s shall be eligible to enter into an enforceable surrogacy agreement under this article if he, she or they have met the following requirements at the time the surrogacy agreement was executed:

(1) at least one intended **parent** is a United States citizen or a lawful permanent resident and was a resident of New York state for at least six months;

(2) the intended **parent** or **parent**s has been represented throughout the contractual process and the duration of the contract and its execution by independent legal counsel of his, her or their own choosing who is licensed to practice law in the state of New York; and

(3) he or she is an adult person who is not in a spousal relationship, or adult spouses together, or any two adults who are intimate partners together, except an adult in a spousal relationship is eligible to enter into an enforceable surrogacy agreement without his or her spouse if:

(i) they are living separate and apart pursuant to a decree or judgment of separation or pursuant to a written agreement of separation subscribed by the parties thereto and acknowledged or proved in the form required to entitle a deed to be recorded; or

(ii) they have been living separate and apart for at least three years prior to execution of the surrogacy agreement.

(c) where the spouse of an intended **parent** is not a required party to the agreement, the spouse is not an intended **parent** and shall not have rights or obligations to the child.

§ 581-403. Requirements of surrogacy agreement. A surrogacy agreement shall be deemed to have satisfied the requirements of this article and be enforceable if it meets the following requirements:

(a) it shall be in a signed record verified or executed before two non-party witnesses by:

(1) each intended **parent**, and

(2) the person acting as surrogate, and the spouse of the person acting as surrogate, if any, unless:

(i) the person acting as surrogate and the spouse of the person acting as surrogate are living separate and apart pursuant to a decree or judgment of separation or pursuant to a written agreement of separation subscribed by the parties thereto and acknowledged or proved in the form required to entitle a deed to be recorded; or

(ii) have been living separate and apart for at least three years prior to execution of the surrogacy agreement;

(b) it shall be executed prior to the person acting as surrogate taking any medication or the commencement of medical procedures in the furtherance of embryo transfer, provided the person acting as surrogate shall have provided informed consent to undergo such medical treatment or medical procedures prior to executing the agreement;

(c) it shall be executed by a person acting as surrogate meeting the eligibility requirements of subdivision (a) of section 581-402 of this part and by the spouse of the person acting as surrogate, unless the signature of the spouse of the person acting as surrogate is not required as set forth in this section;

(d) it shall be executed by intended **parent** or **parent**s who met the eligibility requirements of subdivision (b) of section 581-402 of this part;

(e) the person acting as surrogate and the spouse of the person acting as surrogate, if applicable, and the intended **parent** or **parent**s shall have been represented throughout the contractual process and the duration of the contract and its execution by separate, independent legal counsel of their own choosing;

(f) if the surrogacy agreement provides for the payment of compensation to the person acting as surrogate, the funds for base compensation and reasonable anticipated additional expenses shall have been placed in escrow with an independent escrow agent, who consents to the jurisdiction of New York courts for all proceedings related to the enforcement of the escrow agreement, prior to the person acting as surrogate commencing with any medical procedure other than medical evaluations necessary to determine the person acting as surrogate's eligibility;

(g) the surrogacy agreement must include information disclosing how the intended **parent** or **parent**s will cover the medical expenses of the person acting as surrogate and the child. If comprehensive health care coverage is used to cover the medical expenses, the disclosure shall include a review and summary of the health care policy provisions related to coverage and exclusions for the person acting as surrogate's pregnancy; and

(h) it shall include the following information:

(1) the date, city and state where the surrogacy agreement was executed;

(2) the first and last names of and contact information for the intended **parent** or **parent**s and of the person acting as surrogate;

(3) the first and last names of and contact information for the persons from which the gametes originated, if known. The agreement shall specify whether the gametes provided were eggs, sperm, or embryos;

(4) the name of and contact information for the licensed and registered surrogacy program handling the surrogacy agreement; and

(5) the name of and contact information for the attorney representing the person acting as surrogate, and the spouse of the person acting as surrogate, if applicable, and the attorney representing the intended **parent** or **parent**s; and

(i) the surrogacy agreement must comply with all of the following terms:

(1) As to the person acting as surrogate and the spouse of the person acting as surrogate, if applicable:

(i) the person acting as surrogate agrees to undergo embryo transfer and attempt to carry and give birth to the child;

(ii) the person acting as surrogate and the spouse of the person acting as surrogate, if applicable, agree to surrender custody of all resulting children to the intended **parent** or **parent**s immediately upon birth;

(iii) the surrogacy agreement shall include the name of the attorney representing the person acting as surrogate and, if applicable, the spouse of the person acting as surrogate;

(iv) the surrogacy agreement must include an acknowledgement by the person acting as surrogate and the spouse of the person acting as surrogate, if applicable, that they have received a copy of the Surrogate's Bill of Rights from their legal counsel;

(v) the surrogacy agreement must permit the person acting as surrogate to make all health and welfare decisions regarding themselves and their pregnancy including but not limited to, whether to consent to a cesarean section or multiple embryo transfer, and notwithstanding any other provisions in this chapter, provisions in the agreement to the contrary are void and unenforceable. This article does not diminish the right of the person acting as surrogate to terminate or continue a pregnancy;

(vi) the surrogacy agreement shall permit the person acting as a surrogate to utilize the services of a health care practitioner of the person's choosing;

(vii) the surrogacy agreement shall not limit the right of the person acting as surrogate to terminate or continue the pregnancy or reduce or retain the number of fetuses or embryos the person is carrying;

(viii) the surrogacy agreement shall provide for the right of the person acting as surrogate, upon request, to obtain counseling to address issues resulting from the person's participation in the surrogacy agreement, including, but not limited to, counseling following delivery. The cost of that counseling shall be paid by the intended **parent** or **parents**;

(ix) the surrogacy agreement must include a notice that any compensation received pursuant to the agreement may affect the person acting as surrogate's ability for public benefits or the amount of such benefits; and

(x) the surrogacy agreement shall provide that, upon the person acting as surrogate's request, the intended **parent** or **parents** have or will procure and pay for a disability insurance policy for the person acting as surrogate; the person acting as surrogate may designate the beneficiary of the person's choosing.

(2) As to the intended **parent** or **parents**:

(i) the intended **parent** or **parents** agree to accept custody of all resulting children immediately upon birth regardless of number, gender, or mental or physical condition and regardless of whether the intended embryos were transferred due to a laboratory error without diminishing the rights, if any, of anyone claiming to have a superior **parental** interest in the child; and

(ii) the intended **parent** or **parents** agree to assume responsibility for the support of all resulting children immediately upon birth; and

(iii) the surrogacy agreement shall include the name of the attorney representing the intended **parent** or **parents**; and

(iv) the surrogacy agreement shall provide that the rights and obligations of the intended **parent** or **parents** under the surrogacy agreement are not assignable; and

(v) the intended **parent** or **parents** agree to execute a will, prior to the embryo transfer, designating a guardian for all resulting children and authorizing their executor to perform the intended **parent**'s or **parents**' obligations pursuant to the surrogacy agreement.

§ 581-404. Surrogacy agreement: effect of subsequent spousal relationship. (a) After the execution of a surrogacy agreement under this article, the subsequent spousal relationship of the person acting as surrogate does not affect the validity of a surrogacy agreement, the consent of the spouse of the person acting as surrogate to the agreement shall

not be required, and the spouse of the person acting as surrogate shall not be the presumed **parent** of any resulting children.

(b) The subsequent separation or divorce of the intended **parent**s does not affect the rights, duties and responsibilities of the intended **parent**s as outlined in the surrogacy agreement. After the execution of a surrogacy agreement under this article, the subsequent spousal relationship of the intended **parent** does not affect the validity of a surrogacy agreement, and the consent of the spouse of the intended **parent** to the agreement shall not be required.

§ 581-405. Termination of surrogacy agreement. After the execution of a surrogacy agreement but before the person acting as surrogate becomes pregnant by means of assisted reproduction, the person acting as surrogate, the spouse of the person acting as surrogate, if applicable, or any intended **parent** may terminate the surrogacy agreement by giving notice of termination in a record to all other parties. Upon proper termination of the surrogacy agreement the parties are released from all obligations recited in the surrogacy agreement except that the intended **parent** or **parent**s remains responsible for all expenses that are reimbursable under the agreement which have been incurred by the person acting as surrogate through the date of termination. If the intended **parent** or **parent**s terminate the surrogacy agreement pursuant to this section after the person acting as surrogate has taken any medication or commenced treatment to further embryo transfer, such intended **parent** or **parent**s shall be responsible for paying for or reimbursing the person acting as surrogate for all co-payments, deductibles, any other out-of-pocket medical costs, and any other economic losses incurred within twelve months of the termination of the agreement and associated with taking such medication or undertaking such treatment. Unless the agreement provides otherwise, the person acting as surrogate is entitled to keep all payments received and obtain all payments to which the person is entitled up until the date of termination of the agreement. Neither a person acting as surrogate nor the spouse of the person acting as surrogate, if any, is liable to the intended **parent** or **parent**s for terminating a surrogacy agreement as provided in this section.

§ 581-406. **Parent**age under compliant surrogacy agreement. Upon the birth of a child conceived by assisted reproduction under a surrogacy agreement that complies with this part, each intended **parent** is, by operation of law, a **parent** of the child and neither the person acting as a surrogate nor the person's spouse, if any, is a **parent** of the child.

§ 581-407. Insufficient surrogacy agreement. If a surrogacy agreement does not meet the material requirements of this article, the agreement is not enforceable and the court shall determine **parent**age based on the intent of the parties, taking into account the best interests of the child. An intended **parent**'s absence of genetic connection to the child is not a sufficient basis to deny that individual a judgment of legal **parent**age.

§ 581-408. Absence of surrogacy agreement. Where there is no surrogacy agreement, the **parent**age of the child will be determined based on other laws of this state.

§ 581-409. Dispute as to surrogacy agreement. (a) Any dispute which is related to a surrogacy agreement other than disputes as to **parent**age shall be resolved by the supreme court, which shall determine the respective rights and obligations of the parties, in any proceeding initiated pursuant to this section, the court may, at its discretion, authorize the use of conferencing or mediation at any point in the proceedings.

(b) Except as expressly provided in the surrogacy agreement, the intended **parent** or **parent**s and the person acting as surrogate shall be entitled to all remedies available at law or equity in any dispute related to the surrogacy agreement.

(c) There shall be no specific performance remedy available for a breach.

## PART 5
## PAYMENT TO DONORS AND PERSONS ACTING AS SURROGATES



§ 581-501. Reimbursement. A donor who has entered into a valid agreement to be a donor may receive reimbursement from an intended **parent** or **parent**s for economic losses incurred in connection with the donation which result from the retrieval or storage of gametes or embryos.

§ 581-502. Compensation. (a) Compensation may be paid to a donor or person acting as surrogate based on medical risks, physical discomfort, inconvenience and the responsibilities they are undertaking in connection with their participation in the assisted reproduction. Under no circumstances may compensation be paid to purchase gametes or embryos or for the release of a **parent**al interest in a child.

(b) The compensation, if any, paid to a donor or person acting as surrogate must be reasonable and negotiated in good faith between the parties, and said payments to a person acting as surrogate shall not exceed the duration of the pregnancy and recuperative period of up to eight weeks after the birth of any resulting children.

(c) Compensation may not be conditioned upon the purported quality or genome-related traits of the gametes or embryos.

(d) Compensation may not be conditioned on actual genotypic or phenotypic characteristics of the donor or of any resulting children.

(e) Compensation to an embryo donor shall be limited to storage fees, transportation costs and attorneys' fees.

## PART 6
## SURROGATES' BILL OF RIGHTS



§ 581-601. Applicability. The rights enumerated in this part shall apply to any person acting as surrogate in this state, notwithstanding any surrogacy agreement, judgment of **parent**age, memorandum of understanding, verbal agreement or contract to the contrary. Except as otherwise provided by law, any written or verbal agreement purporting to waive or limit any of the rights in this part is void as against public policy. The rights enumerated in this part are not exclusive, and are in addition to any other rights provided by law, regulation, or a surrogacy agreement that meets the requirements of this article.

§ 581-602. Health and welfare decisions. A person acting as surrogate has the right to make all health and welfare decisions regarding themself and their pregnancy, including but not limited to whether to consent to a cesarean section or multiple embryo transfer, to utilize the services of a health care practitioner of their choosing, whether to

terminate or continue the pregnancy, and whether to reduce or retain the number of fetuses or embryos they are carrying.

§ 581-603. Independent legal counsel. A person acting as surrogate has the right to be represented throughout the contractual process and the duration of the surrogacy agreement and its execution by independent legal counsel of their own choosing who is licensed to practice law in the state of New York, to be paid for by the intended **parent** or **parent**s.

§ 581-604. Health insurance and medical costs. A person acting as surrogate has the right to have a comprehensive health insurance policy that covers preconception care, prenatal care, major medical treatments, hospitalization and behavioral health care for a term that extends throughout the duration of the expected pregnancy and for twelve months after the birth of the child, a stillbirth, a miscarriage resulting in termination of pregnancy, or termination of the pregnancy, to be paid for by the intended **parent** or **parent**s. The intended **parent** or **parent**s shall also pay for or reimburse the person acting as surrogate for all co-payments, deductibles and any other out-of-pocket medical costs associated with pregnancy, childbirth, or postnatal care that accrue through twelve months after the birth of the child, a stillbirth, a miscarriage, or the termination of the pregnancy. A person acting as a surrogate who is receiving no compensation may waive the right to have the intended **parent** or **parent**s make such payments or reimbursements.

§ 581-605. Counseling. A person acting as surrogate has the right to obtain a comprehensive health insurance policy that covers behavioral health care and will cover the cost of psychological counseling to address issues resulting from their participation in a surrogacy and such policy shall be paid for by the intended **parent** or **parent**s.

§ 581-606. Life insurance. A person acting as surrogate has the right to be provided a life insurance policy that takes effect prior to taking any medication or commencement of treatment to further embryo transfer, provides a minimum benefit of seven hundred fifty thousand dollars, or the maximum amount the person acting as surrogate qualifying for it less than seven hundred fifty thousand dollars, and has a term that extends throughout the duration of the expected pregnancy and for twelve months after the birth of the child, a stillbirth, a miscarriage resulting in termination of pregnancy, or termination of the pregnancy, with a beneficiary or beneficiaries of their choosing, to be paid for by the intended **parent** or **parent**s.

§ 581-607. Termination of surrogacy agreement. A person acting as surrogate has the right to terminate a surrogacy agreement prior to becoming pregnant by means of assisted reproduction pursuant to section 581-405 of this article.

## PART 7
## MISCELLANEOUS PROVISIONS



§ 581-701. Remedial. This legislation is hereby declared to be a remedial statute and is to be construed liberally to secure the beneficial interests and purposes thereof for the best interests of the child.

§ 581-702. Severability. The invalidation of any part of this legislation by a court of competent jurisdiction shall not result in the invalidation of any other part.

§ 581-703. **Parent** under section seventy of the domestic relations law. The term "**parent**" in section seventy of the domestic relations law shall include a person established to be a **parent** under this article or any other relevant law.

§ 581-704. Interpretation. Unless the context indicates otherwise, words importing the singular include and apply to several persons, parties, or things; words importing the plural include the singular.

§ 2. Section 73 of the domestic relations law is REPEALED.

§ 3. Section 121 of the domestic relations law, as added by chapter 308 of the laws of 1992, is amended to read as follows:

§ 121. Definitions. When used in this article, unless the context or subject matter manifestly requires a different interpretation:

1.[ ~~"Birth mother"~~] "Genetic surrogate" shall mean a [~~woman~~] person who gives birth to a child who is the person's genetic child pursuant to a genetic surrogate parenting [~~contract~~] agreement.

2. [~~"Genetic father" shall mean a man who provides sperm for the birth of a child born pursuant to a surrogate parenting contract.~~

~~3. "Genetic mother" shall mean a woman who provides an ovum for the birth of a child born pursuant to a surrogate parenting contract.~~

~~4. "Surrogate parenting contract"~~] "Genetic surrogate **parent**ing agreement" shall mean any agreement, oral or written, in which:

(a) a [~~woman~~] genetic surrogate agrees either to be inseminated with the sperm of a [~~man~~] person who is not [~~her husband~~] their spouse or to be impregnated with an embryo that is the product of [~~an~~] the genetic surrogate's ovum fertilized with the sperm of a [~~man~~] person who is not [~~her husband~~] their spouse; and

(b) the [~~woman~~] genetic surrogate agrees to, or intends to, surrender or consent to the adoption of the child born as a result of such insemination or impregnation.

§ 4. Section 122 of the domestic relations law, as added by chapter 308 of the laws of 1992, is amended to read as follows:

§ 122. Public policy. [~~Surrogate~~] Genetic surrogate parenting [~~contracts~~] agreements are hereby declared contrary to the public policy of this state, and are void and unenforceable.

§ 5. Section 123 of the domestic relations law, as added by chapter 308 of the laws of 1992, is amended to read as follows:

§ 123. Prohibitions and penalties. 1. No person or other entity shall knowingly request, accept, receive, pay or give any fee, compensation or other remuneration, directly or indirectly, in connection with any genetic surrogate parenting [~~contract~~] agreement, or induce, arrange or otherwise assist in arranging a genetic surrogate parenting [~~contract~~] agreement for a fee, compensation or other remuneration, except for:

(a) payments in connection with the adoption of a child permitted by subdivision six of section three hundred seventy-four of the social services law and disclosed pursuant to subdivision eight of section one hundred fifteen of this chapter; or

(b) payments for reasonable and actual medical fees and hospital expenses for artificial insemination or in vitro fertilization services incurred by the [~~mother~~] genetic surrogate in connection with the birth of the child.

2. (a) [~~A birth mother or her husband, a genetic father and his wife, and, if the genetic mother is not the birth mother, the genetic mother and her husband~~] Any party to a genetic surrogate **parent**ing agreement or the spouse of any part to a genetic surrogate **parent**ing agreement who violate this section shall be subject to a civil penalty not to exceed five hundred dollars.

(b) Any other person or entity who or which induces, arranges or otherwise assists in the formation of a **genetic** surrogate parenting contract for a fee, compensation or other remuneration or otherwise violates this section shall be subject to a civil penalty not to exceed ten thousand dollars and forfeiture to the state of any such fee, compensation or remuneration in accordance with the provisions of subdivision (a) of section seven thousand two hundred one of the civil practice law and rules, for the first such offense. Any person or entity who or which induces, arranges or otherwise assists in the formation of a **genetic** surrogate parenting contract for a fee, compensation or other remuneration or otherwise violates this section, after having been once subject to a civil penalty for violating this section, shall be guilty of a felony.

§ 6. Section 124 of the domestic relations law, as added by chapter 308 of the laws of 1992, is amended to read as follows:

§ 124. Proceedings regarding parental rights, status or obligations. In any action or proceeding involving a [~~dispute between the birth mother and (i) the genetic father, (ii) the genetic mother, (iii) both the genetic father and genetic mother, or (iv) the~~ **parent** ~~or~~ **parent**~~s of the genetic father or genetic mother, regarding~~ **parent**~~al rights, status or obligations with respect to a child born pursuant to a surrogate~~ **parent**~~ing contract~~] **purported genetic surrogacy parenting agreement, the parentage of the child will be determined based on the laws of New York state and**:

1. the court shall not consider the [~~birth mother's~~] **genetic surrogate's** participation in a **genetic** surrogate parenting [~~contract~~] **agreement** as adverse to [~~her~~] **their** parental rights, status, or obligations; and

2. the court, having regard to the circumstances of the case and of the respective parties including the parties' relative ability to pay such fees and expenses, in its discretion and in the interests of justice, may award to either party reasonable and actual counsel fees and legal expenses incurred in connection with such action or proceeding. Such award may be made in the order or judgment by which the particular action or proceeding is finally determined, or by one or more orders from time to time before the final order or judgment, or by both such order or orders and the final order or judgment; provided, however, that in any dispute involving a [~~birth mother~~] **genetic surrogate** who has executed a valid surrender or consent to the adoption, nothing in this section shall empower a court to make any award that it would not otherwise be empowered to direct.

§ 7. Section 4135 of the public health law, subdivision 1 as amended by chapter 201 of the laws of 1972, subdivision 2 as amended by chapter 398 of the laws of 1997 and subdivision 3 as added by chapter 342 of the laws of 1980, is amended to read as follows:

§ 4135. Birth certificate; child born out of wedlock. 1. (a) There shall be no specific statement on the birth certificate as to whether the child is born in wedlock or out of wedlock or as to the marital name or status of the mother.

(b) The phrase "child born out of wedlock" when used in this article, refers to a child whose father is not its mother's husband.

2. The name of the [~~putative~~] **alleged** father of a child born out of wedlock shall not be entered on the certificate of birth prior to filing without (i) an acknowledgment of [~~paternity~~] **parentage** pursuant to section one hundred eleven-k of the social services law or section four thousand one hundred thirty-five-b of this article executed by both the

mother and [~~putative~~] alleged father, and filed with the record of birth; or (ii) notification having been received by, or proper proof having been filed with, the record of birth by the clerk of a court of competent jurisdiction or the parents, or their attorneys of a judgment, order or decree relating to parentage.

3. Orders relating to parentage shall be held confidential by the commissioner and shall not be released or otherwise divulged except by order of a court of competent jurisdiction.

§ 8. Section 4135-b of the public health law, as added by chapter 59 of the laws of 1993, subdivisions 1 and 2 as amended by chapter 402 of the laws of 2013, and subdivision 3 as amended by chapter 170 of the laws of 1994, is amended to read as follows:

§ 4135-b. Voluntary acknowledgments of [~~paternity; child born out of wedlock~~] **parent**age. 1. (a) Immediately preceding or following the in-hospital birth of a child to an unmarried [~~woman~~] person or to a person who gave birth to a child conceived through assisted reproduction, the person in charge of such hospital or his or her designated representative shall provide to the [~~child's mother and putative father~~] unmarried person who gave birth to the child and the alleged genetic **parent**, if such [~~father~~] alleged genetic **parent** is readily identifiable and available, or to the person who gave birth and the other intended **parent** of a child conceived through assisted reproduction if such person is readily identifiable and available, the documents and written instructions necessary for such [~~mother~~] person or to a person who gave birth to a child conceived through assisted reproduction and [~~putative father~~] alleged persons to complete an acknowledgment of [~~paternity~~] **parent**age witnessed by two persons not related to the signatory. Such acknowledgment, if signed by both parties, at any time following the birth of a child, shall be filed with the registrar at the same time at which the certificate of live birth is filed, if possible, or anytime thereafter. Nothing herein shall be deemed to require the person in charge of such hospital or his or her designee to seek out or otherwise locate [~~a putative father~~] an alleged genetic **parent** or intended **parent** of a child conceived through assisted reproduction who is not readily identifiable or available.

(b) The following persons may sign an acknowledgment of **parent**age to establish the **parent**age of the child:

(i) An unmarried person who gave birth to the child and another person who is a genetic **parent**.

(ii) A married or unmarried person who gave birth to the child and another person who is an intended **parent** under section 581-303 of the family court act of a child conceived through assisted reproduction.

(c) An acknowledgment of **parent**age shall be in a record signed by the person who gave birth to the child and by either the genetic **parent** other than the person who gave birth to the child or a person who is a **parent** under section 581-303 of the family court act of the child conceived through assisted reproduction.

(d) An acknowledgment of **parent**age is void if, at the time of signing, any of the following are true:

(i) A person other than the signatories is a presumed **parent** of the child under section twenty-four of the domestic relations law;

(ii) A court has entered a judgment of **parent**age of the child;

(iii) Another person has signed a valid acknowledgment of **parent**age with regard to the child;

(iv) The child has a **parent** under section 581-303 of the family court act other than the signatories;

(v) A signatory is a gamete donor under section 581-302 of the family court act;

(vi) The acknowledgment is signed by a person who asserts that they are a **parent** under section 581-303 of the family court act of a child conceived through assisted reproduction, but the child was not conceived through assisted reproduction.

(e) The acknowledgment shall be executed on a form provided by the commissioner developed in consultation with the [~~appropriate~~] commissioner of the [~~department of family assistance~~] office of temporary and disability assistance, which shall: (i) include the social security number of the [~~mother and of the putative father and~~] signatories; (ii) provide in plain language [~~(i)~~] (A) a statement by the [~~mother~~] person who gave birth to the child consenting to the acknowledgment of [~~paternity~~] **parent**age and a statement that the [~~putative father~~] other signatory is the only possible [~~father~~] other genetic **parent** or that the other signatory is an intended **parent** and the child was conceived through assisted reproduction, [~~(ii)~~] (B) a statement by the [~~putative father~~], alleged genetic **parent**, if any, that he or she is the [~~biological father~~] genetic **parent** of the child, and [~~(iii)~~] (C) a statement that the signing of the acknowledgment of [~~paternity~~] **parent**age by both parties shall have the same force and effect as an order of **parent**age or filiation entered after a court hearing by a court of competent jurisdiction, including an obligation to provide support for the child except that, only if filed with the registrar of the district in which the birth certificate has been filed, will the acknowledgment have such force and effect with respect to inheritance rights; and (iii) include the name and address, if known, of any gamete donors.

[~~(b)~~] (f) Prior to the execution of an acknowledgment of [~~paternity~~] **parent**age, the [~~mother~~] person who gave birth to the child and the [~~putative father~~] other signatory shall be provided orally, which may be through the use of audio or video equipment, and in writing with such information as is required pursuant to this section with respect to their rights and the consequences of signing a voluntary acknowledgment of [~~paternity~~] **parent**age including, but not limited to:

(i) that the signing of the acknowledgment of [~~paternity~~] **parent**age shall establish the [~~paternity~~] **parent**age of the child and shall have the same force and effect as an order of [~~paternity~~] **parent**age or filiation issued by a court of competent jurisdiction establishing the duty of both parties to provide support for the child;

(ii) that if such an acknowledgment is not made, the [~~putative father~~] signatory other than the person who gave birth to the child can be held liable for support only if the family court, after a hearing, makes an order declaring that the [~~putative father~~] person is the [~~father~~] **parent** of the child whereupon the court may make an order of support which may be retroactive to the birth of the child;

(iii) that if made a respondent in a proceeding to establish [~~paternity~~] **parent**age the [~~putative father~~] signatory other than the person who gave birth to the child has a right to free legal representation if indigent;

(iv) that [~~the putative father~~] an alleged genetic **parent** has a right to a genetic marker test or to a DNA test when available;

(v) that by executing the acknowledgment, the [~~putative father~~] alleged genetic **parent** waives [~~his~~] their right to a hearing, to which [~~he~~] they would otherwise be entitled, on the issue of [~~paternity~~] **parent**age;

(vi) that a copy of the acknowledgment of [~~paternity~~] **parent**age shall be filed with the [~~putative father~~] registry [~~pursuant to~~] created by section three hundred seventy-two-c of the social services law, and that such filing may establish the child's right to inheritance from the [~~putative father~~] alleged genetic **parent** or the other intended **parent** of a child conceived through assisted reproduction pursuant to clause (B) of subparagraph two of paragraph (a) of section 4-1.2 of the estates, powers and trusts law;

(vii) that, if such acknowledgment is filed with the registrar of the district in which the birth certificate has been filed, such acknowledgment will establish inheritance rights from the [~~putative father~~] alleged genetic **parent** or the other intended **parent** of a child conceived through assisted reproduction pursuant to clause (A) of subparagraph two of paragraph (a) of section 4-1.2 of the estates, powers and trusts law;

(viii) that no further judicial or administrative proceedings are required to ratify an unchallenged acknowledgment of [~~paternity~~] **parent**age provided, however, that:

(A) A signatory to an acknowledgment of [~~paternity~~] **parent**age, who had attained the age of eighteen at the time of execution of the acknowledgment, shall have the right to rescind the acknowledgment within the earlier of sixty days from the date of signing the acknowledgment or the date of an administrative or a judicial proceeding (including, but not limited to, a proceeding to establish a support order) relating to the child in which the signatory is a party, provided that the "date of an administrative or a judicial proceeding" shall be the date by which the respondent is required to answer the petition;

(B) A signatory to an acknowledgment of [~~paternity~~] **parent**age, who had not attained the age of eighteen at the time of execution of the acknowledgment, shall have the right to rescind the acknowledgment anytime up to sixty days after the signatory's attaining the age of eighteen years or sixty days after the date on which the respondent is required to answer a petition (including, but not limited to, a petition to establish a support order) relating to the child, whichever is earlier; provided, however, that the signatory must have been advised at such proceeding of his or her right to file a petition to vacate the acknowledgment within sixty days of the date of such proceeding;

(ix) that after the expiration of the time limits set forth in clauses (A) and (B) of subparagraph (viii) of this paragraph, any of the signatories may challenge the acknowledgment of [~~paternity~~] **parent**age in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof on the party challenging the voluntary acknowledgment;

(x) that the [~~putative father and mother~~] person who gave birth to the child and the other signatory may wish to consult with attorneys before executing the acknowledgment; and that they have the right to seek legal representation and supportive services including counseling regarding such acknowledgment;

(xi) that the acknowledgment of [~~paternity~~] **parent**age may be the basis for the [~~putative father~~] signatory other than the person who gave birth to the child establishing custody and visitation rights to the child and for requiring the [~~putative father's~~] consent of the signatory other than the person who gave birth to the child prior to an adoption proceeding;

(xii) that the [~~mother's~~] refusal of the person who gave birth to the child to sign the acknowledgment shall not be deemed a failure to cooperate in establishing [~~paternity for~~] **parent**age of the child; and

(xiii) that the child may bear the last name of either parent, or any combination thereof, which name shall not affect the legal status of the child.

In addition, the governing body of such hospital shall [~~insure~~] ensure that appropriate staff shall provide to the [~~child's mother and putative father~~] person who gave birth to the child and the other signatory, prior to the [~~mother's~~] discharge from the hospital of the person who gave birth to the child, the opportunity to speak with hospital staff to obtain clarifying information and answers to their questions about [~~paternity~~] parentage establishment, and shall also provide the telephone number of the local support collection unit.

[~~(c)~~] (g) Within ten days after receiving the certificate of birth, the registrar shall furnish without charge to each parent or guardian of the child or to the [~~mother~~] person who gave birth at the address designated by her for that purpose, a certified copy of the certificate of birth and, if applicable, a certified copy of the written acknowledgment of [~~paternity~~] parentage. If the [~~mother~~] person who gave birth is in receipt of child support enforcement services pursuant to title six-A of article three of the social services law, the registrar also shall furnish without charge a certified copy of the certificate of birth and, if applicable, a certified copy of the written acknowledgment of [~~paternity~~] parentage to the social services district of the county within which the [~~mother~~] person who gave birth resides.

2. (a) When a child's [~~paternity~~] parentage is acknowledged voluntarily pursuant to section one hundred eleven-k of the social services law, the social services official shall file the executed acknowledgment with the registrar of the district in which the birth occurred and in which the birth certificate has been filed.

(b) Where a child's [~~paternity~~] parentage has not been acknowledged voluntarily pursuant to paragraph (a) of subdivision one of this section or paragraph (a) of this subdivision, the [~~child's mother and the putative father~~] person who gave birth to the child and the other signatory may voluntarily acknowledge a child's [~~paternity~~] parentage pursuant to this paragraph by signing the acknowledgment of [~~paternity~~] parentage.

(c) A signatory to an acknowledgment of [~~paternity~~] parentage, who has attained the age of eighteen at the time of execution of the acknowledgment shall have the right to rescind the acknowledgment within the earlier of sixty days from the date of signing the acknowledgment or the date of an administrative or a judicial proceeding (including, but not limited to, a proceeding to establish a support order) relating to the child in which either signatory is a party; provided that for purposes of this section, the "date of an administrative or a judicial proceeding" shall be the date by which the respondent is required to answer the petition.

(d) A signatory to an acknowledgment of [~~paternity~~] parentage, who has not attained the age of eighteen at the time of execution of the acknowledgment, shall have the right to rescind the acknowledgment anytime up to sixty days after the signatory's attaining the age of eighteen years or sixty days after the date on which the respondent is required to answer a petition (including, but not limited to, a petition to establish a support order) relating to the child in which the signatory is a party, whichever is earlier; provided, however, that the signatory must have been advised at such proceeding of his or her right to file a petition to vacate the acknowledgment within sixty days of the date of such proceeding.

(e) After the expiration of the time limits set forth in paragraphs (c) and (d) of this subdivision, any of the signatories may challenge the acknowledgment of [~~paternity~~] **parent**age in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof on the party challenging the voluntary acknowledgment. The acknowledgment shall have full force and effect once so signed. The original or a copy of the acknowledgment shall be filed with the registrar of the district in which the birth certificate has been filed.

3. (a) An acknowledgment of [~~paternity~~] **parent**age executed by [~~the mother and father of a child born out of wedlock~~] any two people eligible to sign such an acknowledgment under paragraph (b) of subdivision one of this section, married or unmarried, shall establish the [~~paternity~~] **parent**age of a child and shall have the same force and effect as an order of [~~paternity~~] **parent**age or filiation issued by a court of competent jurisdiction. Such acknowledgement shall thereafter be filed with the registrar pursuant to subdivision one or two of this section.

(b) A registrar with whom an acknowledgment of [~~paternity~~] **parent**age has been filed pursuant to subdivision one or two of this section shall file the acknowledgment with the state department of health [~~and the putative father registry~~], the New York city department of health and mental hygiene and the registry operated by the department of social services pursuant to section three hundred seventy-two-c of the social services law. If the acknowledgment includes the name and address of any known gamete donors of a child conceived through assisted reproduction, the state department of health or the New York city department of health and mental hygiene shall mail a copy to the known donors listed on the form with the social security numbers of the signatories redacted.

4. The court shall give full faith and credit to an acknowledgment of **parent**age effective in another state if the acknowledgment was in a signed record and otherwise complies with the law of the other state.

5. A new certificate of birth shall be issued if the certificate of birth of [~~a~~] the child [~~born out of wedlock~~] as defined in paragraph (b) of subdivision one of section four thousand one hundred thirty-five of this article has been filed without entry of the name of the [~~father~~] signatory other than the person who gave birth, and the commissioner thereafter receives a notarized acknowledgment of [~~paternity~~] **parent**age accompanied by the written consent of the [~~putative father and mother~~] person who gave birth to the child and other signatory to the entry of the name of such [~~father~~] person, which consent may also be to a change in the surname of the child.

6. Any reference to an acknowledgment of paternity in any law of this state shall be interpreted to mean an acknowledgment of **parent**age signed pursuant to this section or signed in another state consistent with the law of that state.

§ 9. Paragraph (e) of subdivision 1 of section 4138 of the public health law, as amended by chapter 214 of the laws of 1998, is amended to read as follows:

(e) the certificate of birth of a child born out of wedlock as defined in paragraph (b) of subdivision one of section four thousand one hundred thirty-five of this article has been filed without entry of the name of the [~~father~~] signatory other than the person who gave birth and the commissioner thereafter receives the acknowledgment of [~~paternity~~] **parent**age pursuant to section one hundred eleven-k of the social services law or section four thousand one hundred thirty-five-b of this article executed by the [~~putative father and mother~~] person who gave birth and the other signatory which authorizes the entry of the name of

such [~~father~~] other signatory, and which may also authorize a conforming change in the surname of the child.

§ 10. The article heading of article 8 of the domestic relations law, as added by chapter 308 of the laws of 1992, is amended to read as follows:

GENETIC SURROGATE PARENTING CONTRACTS

§ 11. The general business law is amended by adding a new article 44 to read as follows:

ARTICLE 44

REGULATION OF SURROGACY PROGRAMS AND ASSISTED REPRODUCTION SERVICE PROVIDERS

Section 1400. Definitions.

1401. Surrogacy programs regulated under this article.

1402. Assisted reproduction service providers regulated under this article.

1403. Conflicts of interest; prohibition on payments; funds in escrow; licensure; notice of surrogates' bill of rights.

1404. Regulations.

§ 1400. Definitions. As used in this section:

(a) The definitions in section 581-102 of the family court act shall apply.

(b) "Payment" means any type of monetary compensation or other valuable consideration including but not limited to a rebate, refund, commission, unearned discount, or profit by means of credit or other valuable consideration.

(c) "Surrogacy program" does not include any party to a surrogacy agreement or any person licensed to practice law and representing a party to the surrogacy agreement, but does include and is not limited to any agency, agent, business, or individual engaged in, arranging, or facilitating transactions contemplated by a surrogacy agreement, regardless of whether such agreement ultimately comports with the requirements of article five-C of the family court act.

§ 1401. Surrogacy programs regulated under this article. The provisions of this article apply to surrogacy programs arranging or facilitating transactions contemplated by a surrogacy agreement under part four of article five-C of the family court act if:

(a) The surrogacy program does business in New York state;

(b) A person acting as surrogate who is party to a surrogacy agreement resides in New York state during the term of the surrogacy agreement; or

(c) Any medical procedures under the surrogacy agreement are performed in New York state.

§ 1402. Assisted reproduction service providers regulated under this article. The provisions of this article apply to agents, gamete banks, fertility clinics, and other entities if:

1. The agent, gamete bank, fertility clinic, or other entity does business in this state; or

2. Any health care services performed, provided or otherwise arranged by the entity are performed in this state.

§ 1403. Conflicts of interest; prohibition on payments; funds in escrow; licensure; notice of surrogates' bill of rights. A surrogacy program to which this article applies:

(a) Shall keep all funds paid by or on behalf of the intended **parent** or **parent**s in an escrow account separate from its operating accounts; and

(b) May not be owned or managed, in any part, directly or indirectly, by any attorney representing a party to the surrogacy agreement; and

(c) May not pay or receive payment, directly or indirectly, to or from any person licensed to practice law and representing a party to the surrogacy agreement in connection with the referral of any person or party for the purpose of a surrogacy agreement; and

(d) May not pay or receive payment, directly or indirectly, to or from any health care provider providing any health services, including assisted reproduction, to a party to the surrogacy agreement; and

(e) May not be owned or managed, in any part, directly or indirectly, by any health care provider providing any health services, including assisted reproduction, to a party to the surrogacy agreement; and

(f) Shall be licensed to operate in New York state pursuant to regulations promulgated by the department of health in consultation with the department of financial services, once such regulations are promulgated and become effective; and

(g) Shall ensure that all potential parties to a surrogacy agreement, at the time of consultation with such surrogacy program, are provided with written notice of the surrogates' bill of rights enumerated in part six of article five-C of the family court act.

§ 1404. Regulations. 1. The department of health, in consultation with the department of financial services, shall promulgate rules and regulations to implement the requirements of this article regarding surrogacy programs and assisted reproduction service providers in a manner that ensures the safety and health of gamete providers and persons serving as surrogates. Such regulations shall:

(a) Require surrogacy programs to monitor compliance with surrogacy agreements eligibility and requirements in state law; and

(b) Require the surrogacy programs and assisted reproduction service providers to administer informed consent procedures that comply with regulations promulgated by the department of health under section twenty-five hundred ninety-nine-cc of the public health law.

2. The department of health shall annually report to the legislature regarding the practices of surrogacy programs and assisted reproduction service providers and all business transactions related to surrogacy and gamete provision in New York state, with recommendations for any necessary amendments to this article.

§ 12. The public health law is amended by adding a new article 25-B to read as follows:

ARTICLE 25-B

GESTATIONAL SURROGACY

Section 2599-cc. Gestational surrogacy.

§ 2599-cc. Gestational surrogacy. 1. The commissioner shall promulgate regulations on the practice of gestational surrogacy. Such regulations shall include, but not be limited to:

(a) guidelines and procedures for obtaining fully informed consent from potential persons acting as surrogates, including but not limited to a full disclosure of any known or potential health risks and mental health impacts associated with acting as a surrogate;

(b) the development and distribution, in printed form and on the department's website, of informational material relating to gestational surrogacy;

(c) the establishment of a voluntary central tracking registry of persons acting as surrogates, as reported by surrogacy programs licensed by the department pursuant to article forty-four of the general business law upon the affirmative consent of a person acting as surrogate. Such

registry shall provide a means for gathering and maintaining accurate information on the:

(i) number of times a person has acted as a surrogate;

(ii) health information of the person acting as surrogate; and

(iii) other information deemed appropriate by the commissioner;

(d) the development of guidelines, procedures or protocols, in consultation with the American college of obstetricians and gynecologists and the American society for reproductive medicine, to assist physicians in screening potential surrogates for their ability to serve as a surrogate as required under subdivision four of section 581-402 of the family court act including taking into consideration the potential surrogates family medical history and complications from prior pregnancies and known health conditions that may pose a risk to the potential surrogate during pregnancy; and

(e) the development of guidance to reduce conflicts of interest among physicians providing health care services to the surrogate.

2. All such regulations shall maintain the anonymity of the person acting as surrogate and any resulting offspring and govern access to information maintained by the registry. Such registry shall comply with all state and federal laws and regulations related to maintaining the privacy and confidentiality of records contained with the registry.

§ 13. Subdivisions 4, 5, 6, 7 and 8 of section 4365 of the public health law are renumbered subdivisions 5, 6, 7, 8 and 9 and a new subdivision 4 is added to read as follows:

4. The commissioner, in consultation with the transplant council, shall promulgate regulations on the donation of ova. Such regulations shall include, but not be limited to:

(a) guidelines and procedures for obtaining fully informed consent from potential donors, including but not limited to a full disclosure of any known or potential health risks of the ova donation process;

(b) the development and distribution, in printed form and on the department's website, of informational material relating to the donation of ova;

(c) the establishment of a voluntary central tracking registry of ova donor information, as reported by banks and storage facilities licensed pursuant to this article upon the affirmative consent of an ova donor. Such registry shall provide a means for gathering and maintaining accurate information on the:

(i) number of ova and the number of times ova have been donated from a single donor;

(ii) health information of the donor at the time of the donation; and

(iii) other information deemed appropriate by the commissioner.

In addition, all such regulations shall maintain the anonymity of the donor and any resulting offspring and govern access to information maintained by the registry. Such registry shall comply with all state and federal laws and regulations related to maintaining the privacy and confidentiality of records contained within the registry; and

(d) the development of best practices and procedures, in consultation with the American college of obstetricians and gynecologists, American society for reproductive medicine and other medical organizations, for ova donation, ova retrieval, and in vitro fertilization for the protection of the health and safety of the donor.

§ 14. Paragraph (a) of subdivision 1 of section 440 of the family court act, as amended by chapter 398 of the laws of 1997, is amended to read as follows:

(a) Any support order made by the court in any proceeding under the provisions of article five-B of this act, pursuant to a reference from the supreme court under section two hundred fifty-one of the domestic relations law or under the provisions of article four, five or five-A of this act (i) shall direct that payments of child support or combined child and spousal support collected on behalf of persons in receipt of services pursuant to section one hundred eleven-g of the social services law, or on behalf of persons in receipt of public assistance be made to the support collection unit designated by the appropriate social services district, which shall receive and disburse funds so paid; or (ii) shall be enforced pursuant to subdivision (c) of section five thousand two hundred forty-two of the civil practice law and rules at the same time that the court issues an order of support; and (iii) shall in either case, except as provided for herein, be effective as of the earlier of the date of the filing of the petition therefor, or, if the children for whom support is sought are in receipt of public assistance, the date for which their eligibility for public assistance was effective. Any retroactive amount of support due shall be support arrears/past due support and shall be paid in one sum or periodic sums, as the court directs, and any amount of temporary support which has been paid to be taken into account in calculating any amount of such retroactive support due. In addition, such retroactive child support shall be enforceable in any manner provided by law including, but not limited to, an execution for support enforcement pursuant to subdivision (b) of section fifty-two hundred forty-one of the civil practice law and rules. When a child receiving support is a public assistance recipient, or the order of support is being enforced or is to be enforced pursuant to section one hundred eleven-g of the social services law, the court shall establish the amount of retroactive child support and notify the parties that such amount shall be enforced by the support collection unit pursuant to an execution for support enforcement as provided for in subdivision (b) of section fifty-two hundred forty-one of the civil practice law and rules, or in such periodic payments as would have been authorized had such an execution been issued. In such case, the court shall not direct the schedule of repayment of retroactive support. Where such direction is for child support and [~~paternity~~] **parentage** has been established by a voluntary acknowledgment of [~~paternity~~] **parentage** as defined in section forty-one hundred thirty-five-b of the public health law, the court shall inquire of the parties whether the acknowledgment has been duly filed, and unless satisfied that it has been so filed shall require the clerk of the court to file such acknowledgment with the appropriate registrar within five business days. The court shall not direct that support payments be made to the support collection unit unless the child, who is the subject of the order, is in receipt of public assistance or child support services pursuant to section one hundred eleven-g of the social services law. Any such order shall be enforceable pursuant to section fifty-two hundred forty-one or fifty-two hundred forty-two of the civil practice law and rules, or in any other manner provided by law. Such orders or judgments for child support and maintenance shall also be enforceable pursuant to article fifty-two of the civil practice law and rules upon a debtor's default as such term is defined in paragraph seven of subdivision (a) of section fifty-two hundred forty-one of the civil practice law and rules. The establishment of a default shall be subject to the procedures established for the determination of a mistake of fact for income executions pursuant to subdivision (e) of section fifty-two hundred forty-one of the civil practice

law and rules. For the purposes of enforcement of child support orders or combined spousal and child support orders pursuant to section five thousand two hundred forty-one of the civil practice law and rules, a "default" shall be deemed to include amounts arising from retroactive support. Where permitted under federal law and where the record of the proceedings contains such information, such order shall include on its face the social security number and the name and address of the employer, if any, of the person chargeable with support provided, however, that failure to comply with this requirement shall not invalidate such order.

§ 15. Section 516-a of the family court act, as amended by chapter 398 of the laws of 1997, subdivisions (b) and (c) as amended by chapter 402 of the laws of 2013, and subdivision (d) as amended by chapter 343 of the laws of 2009, is amended to read as follows:

§ 516-a. Acknowledgment of [~~paternity~~] **parentage**. (a) An acknowledgment of [~~paternity~~] **parentage** executed pursuant to section one hundred eleven-k of the social services law or section four thousand one hundred thirty-five-b of the public health law shall establish the [~~paternity~~] **parentage** of and liability for the support of a child pursuant to this act. Such acknowledgment must be reduced to writing and filed pursuant to section four thousand one hundred thirty-five-b of the public health law with the registrar of the district in which the birth occurred and in which the birth certificate has been filed. No further judicial or administrative proceedings are required to ratify an unchallenged acknowledgment of [~~paternity~~] **parentage**.

(b) (i) Where a signatory to an acknowledgment of [~~paternity~~] **parentage** executed pursuant to section one hundred eleven-k of the social services law or section four thousand one hundred thirty-five-b of the public health law had attained the age of eighteen at the time of execution of the acknowledgment, the signatory may seek to rescind the acknowledgment by filing a petition with the court to vacate the acknowledgment within the earlier of sixty days of the date of signing the acknowledgment or the date of an administrative or a judicial proceeding (including, but not limited to, a proceeding to establish a support order) relating to the child in which the signatory is a party. For purposes of this section, the "date of an administrative or a judicial proceeding" shall be the date by which the respondent is required to answer the petition.

(ii) Where a signatory to an acknowledgment of [~~paternity~~] **parentage** executed pursuant to section one hundred eleven-k of the social services law or section four thousand one hundred thirty-five-b of the public health law had not attained the age of eighteen at the time of execution of the acknowledgment, the signatory may seek to rescind the acknowledgment by filing a petition with the court to vacate the acknowledgment anytime up to sixty days after the signatory's attaining the age of eighteen years or sixty days after the date on which the respondent is required to answer a petition (including, but not limited to, a petition to establish a support order) relating to the child in which the signatory is a party, whichever is earlier; provided, however, that the signatory must have been advised at such proceeding of his or her right to file a petition to vacate the acknowledgment within sixty days of the date of such proceeding.

(iii) Where a petition to vacate an acknowledgment of [~~paternity~~] **parentage** has been filed in accordance with paragraph (i) or (ii) of this subdivision, the court shall order genetic marker tests or DNA tests for the determination of the child's [~~paternity~~] **parentage**. No

such test shall be ordered, however, where the acknowledgment was signed by the intended **parent** of a child born through assisted reproduction pursuant to subparagraph (ii) of paragraph (b) of subdivision one of section four thousand one hundred thirty-five-b of the public health law, or upon a written finding by the court that it is not in the best interests of the child on the basis of res judicata, equitable estoppel, or the presumption of legitimacy of a child born to a married [~~woman~~] person. If the court determines, following the test, that the person who signed the acknowledgment is the [~~father~~] **parent** of the child, the court shall make a finding of [~~paternity~~] **parent**age and enter an order of [~~filiation~~] **parent**age. If the court determines that the person who signed the acknowledgment is not the [~~father~~] **parent** of the child, the acknowledgment shall be vacated.

(iv) After the expiration of the time limits set forth in paragraphs (i) and (ii) of this subdivision, any of the signatories to an acknowledgment of [~~paternity~~] **parent**age may challenge the acknowledgment in court by alleging and proving fraud, duress, or material mistake of fact. If the petitioner proves to the court that the acknowledgment of [~~paternity~~] **parent**age was signed under fraud, duress, or due to a material mistake of fact, the court shall then order genetic marker tests or DNA tests for the determination of the child's [~~paternity~~] **parent**age. No such test shall be ordered, however, where the acknowledgment was signed by the intended **parent** of a child born through assisted reproduction pursuant to subparagraph (ii) of paragraph (b) of subdivision one of section four thousand one hundred thirty-five-b of the public health law, or upon a written finding by the court that it is not in the best interests of the child on the basis of res judicata, equitable estoppel, or the presumption of legitimacy of a child born to a married [~~woman~~] person. If the court determines, following the test, that the person who signed the acknowledgment is the [~~father~~] **parent** of the child, the court shall make a finding of [~~paternity~~] **parent**age and enter an order of [~~filiation~~] **parent**age. If the court determines that the person who signed the acknowledgment is not the [~~father~~] **parent** of the child, the acknowledgment shall be vacated.

(v) If, at any time before or after a signatory has filed a petition to vacate an acknowledgment of [~~paternity~~] **parent**age pursuant to this subdivision, the signatory dies or becomes mentally ill or cannot be found within the state, neither the proceeding nor the right to commence the proceeding shall abate but may be commenced or continued by any of the persons authorized by this article to commence a [~~paternity~~] **parent**age proceeding.

(c) An acknowledgment of **parent**age is void if, at the time of signing, any of the following are true:

(i) a person other than the signatories is a presumed **parent** of the child pursuant to section twenty-four of the domestic relations law;

(ii) a court has entered a judgment of **parent**age of the child;

(iii) another person has signed a valid acknowledgment of **parent**age with regard to the child;

(iv) the child has a **parent** pursuant to section 581-303 of the family court act other than the signatories;

(v) a signatory is a gamete donor under section 581-302 of the family court act; or

(vi) the acknowledgment is signed by a person who asserts that they are a **parent** under section 581-303 of the family court act of a child conceived through assisted reproduction, but the child was not conceived through assisted reproduction.

(d) Neither signatory's legal obligations, including the obligation for child support arising from the acknowledgment, may be suspended during the challenge to the acknowledgment except for good cause as the court may find. If the court vacates the acknowledgment of [~~paternity~~] **parentage**, the court shall immediately provide a copy of the order to the registrar of the district in which the child's birth certificate is filed and also to the putative father registry operated by the department of social services pursuant to section three hundred seventy-two-c of the social services law. In addition, if the [~~mother~~] **parent** of the child who is the subject of the acknowledgment is in receipt of child support services pursuant to title six-A of article three of the social services law, the court shall immediately provide a copy of the order to the child support enforcement unit of the social services district that provides the [~~mother~~] **parent** with such services.

[~~(d)~~] (e) A determination of [~~paternity~~] **parentage** made by any other state, whether established through an administrative or judicial process or through an acknowledgment of [~~paternity~~] **parentage** signed in accordance with that state's laws, must be accorded full faith and credit pursuant to section 466(a)(11) of title IV-D of the social security act (42 U.S.C. § 666(a)(11)).

**(f) Any reference to an acknowledgment of paternity in any law of this state, or any similar instrument signed in another state consistent with the law of that state shall be interpreted to mean an acknowledgment of parentage executed pursuant to section one hundred eleven-k of the social services law, section four thousand one hundred thirty-five-b of the public health law, or signed in another state consistent with the law of that state.**

§ 16. Paragraph (b) of subdivision 1 of section 1017 of the family court act, as added by chapter 567 of the laws of 2015, is amended to read as follows:

(b) The court shall also direct the local commissioner of social services to conduct an investigation to locate any person who is not recognized to be the child's legal parent and does not have the rights of a legal parent under the laws of the state of New York but who (i) has filed with a putative father registry an instrument acknowledging [~~paternity~~] **parentage** of the child, pursuant to section 4-1.2 of the estates, powers and trusts law, or (ii) has a pending [~~paternity~~] **parentage** petition, or (iii) has been identified as a parent of the child by the child's other parent in a written sworn statement. The local commissioner of social services shall report the results of such investigation to the court and parties, including the attorney for the child.

§ 17. Section 4-1.2 of the estates, powers and trusts law, as amended by chapter 67 of the laws of 1981, the section heading, the opening paragraph of subparagraph 1 of paragraph (a), the opening paragraph of subparagraph 2 of paragraph (a) and the opening paragraph of subparagraph 3 of paragraph (a) as amended by chapter 595 of the laws of 1992, subparagraph 2 of paragraph (a) as amended by chapter 434 of the laws of 1987, clause (A) of subparagraph 2 of paragraph (a) as amended by chapter 170 of the laws of 1994, and clause (C) of subparagraph 2 of paragraph (a) and paragraph (b) as amended by chapter 64 of the laws of 2010, is amended to read as follows:

§ 4-1.2 Inheritance by non-marital children

(a) For the purposes of this article:

(1) A non-marital child is the legitimate child of his mother so that he and his issue inherit from his mother and from his maternal kindred.

(2) A non-marital child is the legitimate child of his father or non-gestating intended parent so that he and his issue inherit from [~~his father and his paternal~~] such parent and such parent's kindred if:

(A) a court of competent jurisdiction has, during the lifetime of the father, made an order of filiation or parentage declaring [~~paternity~~] parentage or the [~~mother and father~~] parentage of the child [~~have executed~~] has been established through the execution of an acknowledgment of [~~paternity~~] parentage pursuant to section four thousand one hundred thirty-five-b of the public health law, which has been filed with the registrar of the district in which the birth certificate has been filed or;

(B) the father of the child has signed an instrument acknowledging [~~paternity~~] parentage, provided that

(i) such instrument is acknowledged or executed or proved in the form required to entitle a deed to be recorded in the presence of one or more witnesses and acknowledged by such witness or witnesses, in either case, before a notary public or other officer authorized to take proof of deeds and

(ii) such instrument is filed within sixty days from the making thereof with the putative father registry established by the state department of social services pursuant to section three hundred seventy-two-c of the social services law, as added by chapter six hundred sixty-five of the laws of nineteen hundred seventy-six and

(iii) the department of social services shall, within seven days of the filing of the instrument, send written notice by registered mail to the mother and other legal guardian of such child, notifying them that an acknowledgment of [~~paternity~~] parentage instrument acknowledged or executed by such [~~father~~] parent has been duly filed or;

(C) [~~paternity~~] parentage has been established by clear and convincing evidence, which may include, but is not limited to: (i) evidence derived from a genetic marker test, or (ii) evidence that the [~~father~~] parent openly and notoriously acknowledged the child as his or her own, however nothing in this section regarding genetic marker tests shall be construed to expand or limit the current application of subdivision four of section forty-two hundred ten of the public health law.

(3) The existence of an agreement obligating the father to support the non-marital child does not qualify such child or his issue to inherit from the father in the absence of an order of filiation made or acknowledgement of [~~paternity~~] parentage as prescribed by subparagraph (2).

(4) A motion for relief from an order of filiation may be made only by the father and a motion for relief from an acknowledgement of [~~paternity~~] parentage may be made by [~~the father, mother~~] a parent or other legal guardian of such child, or the child, provided however, such motion must be made within one year from the entry of such order or from the date of written notice as provided for in subparagraph (2).

(b) If a non-marital child dies, his or her surviving spouse, issue, mother, maternal kindred, father and paternal kindred inherit and are entitled to letters of administration as if the decedent was a marital child, provided that the father and paternal kindred may inherit or obtain such letters only if the [~~paternity~~] parentage of the non-marital child has been established pursuant to any of the provisions of subparagraph (2) of paragraph (a).

§ 18. Subdivision 1, paragraph g of subdivision 2, subdivision 3, and subdivision 4 of section 111-c of the social services law, subdivision 1 as added by chapter 685 of the laws of 1975, paragraph g of subdivision 2 as added by chapter 809 of the laws of 1985, subdivision 3 as amended

by chapter 398 of the laws of 1997, and subdivision 4 as added by chapter 343 of the laws of 2009, are amended to read as follows:

1. Each social services district shall establish a single organizational unit which shall be responsible for such district's activities in assisting the state in the location of absent parents, establishment of [~~paternity~~] **parentage** and enforcement and collection of support in accordance with the regulations of the department.

g. obtain from respondent, when appropriate and in accordance with the procedures established by section one hundred eleven-k of this chapter, an acknowledgement of [~~paternity~~] **parentage** or an agreement to make support payments, or both;

3. Notwithstanding the foregoing, the social services official shall not be required to establish the [~~paternity~~] **parentage** of any child born out-of-wedlock, or to secure support for any child, with respect to whom such official has determined that such actions would be detrimental to the best interests of the child, in accordance with procedures and criteria established by regulations of the department consistent with federal law.

4. a. A social services district represents the interests of the district in performing its functions and duties as provided in this title and not the interests of any party. The interests of a district shall include, but are not limited to, establishing [~~paternity~~] **parentage**, and establishing, modifying and enforcing child support orders.

b. Notwithstanding any other provision of law, the provision of child support services pursuant to this title does not constitute nor create an attorney-client relationship between the individual receiving services and any attorney representing or appearing for the district. A social services district shall provide notice to any individual requesting or receiving services that the attorney representing or appearing for the district does not represent the individual and that the individual has a right to retain his or her own legal counsel.

c. A social services district may appear in any action to establish [~~paternity~~] **parentage**, or to establish, modify, or enforce an order of support when an individual is receiving services under this title.

§ 19. Section 111-k of the social services law, as amended by chapter 398 of the laws of 1997, paragraphs (a) and (b) of subdivision 1 as amended by chapter 214 of the laws of 1998, is amended to read as follows:

§ 111-k. Procedures relating to acknowledgments of [~~paternity~~] **parentage**, agreements to support, and genetic tests. 1. A social services official or his or her designated representative who confers with a potential respondent or respondent, hereinafter referred to in this section as the "respondent", the mother of a child born out of wedlock and any other interested persons, pursuant to section one hundred eleven-c of this title, may obtain:

(a) an acknowledgment of [~~paternity~~] **parentage** of a child, as provided for in article five-B or section five hundred sixteen-a of the family court act, by a written statement, witnessed by two people not related to the signator or as provided for in section four thousand one hundred thirty-five-b of the public health law. Prior to the execution of such acknowledgment by the child's mother and the respondent, they shall be advised, orally, which may be through the use of audio or video equipment, and in writing, of the consequences of making such an acknowledgment. Upon the signing of an acknowledgment of [~~paternity~~] **parentage** pursuant to this section, the social services official or his or her

representative shall file the original acknowledgment with the registrar.

(b) an agreement to make support payments as provided in section four hundred twenty-five of the family court act. Prior to the execution of such agreement, the respondent shall be advised, orally, which may be through the use of audio or video equipment, and in writing, of the consequences of such agreement, that the respondent can be held liable for support only if the family court, after a hearing, makes an order of support; that respondent has a right to consult with an attorney and that the agreement will be submitted to the family court for approval pursuant to section four hundred twenty-five of the family court act; and that by executing the agreement, the respondent waives any right to a hearing regarding any matter contained in such agreement.

2. (a) When the paternity of a child is contested, a social services official or designated representative may order the mother, the child, and the alleged father to submit to one or more genetic marker or DNA tests of a type generally acknowledged as reliable by an accreditation body designated by the secretary of the federal department of health and human services and performed by a laboratory approved by such an accreditation body and by the commissioner of health or by a duly qualified physician to aid in the determination of whether or not the alleged father is the father of the child. The order may be issued prior or subsequent to the filing of a petition with the court to establish paternity, shall be served on the parties by certified mail, and shall include a sworn statement which either (i) alleges [~~paternity~~] **parentage** and sets forth facts establishing a reasonable possibility of the requisite sexual contact between the parties, or (ii) denies [~~paternity~~] **parentage** and sets forth facts establishing a reasonable possibility that the party is not the father. The parties shall not be required to submit to the administration and analysis of such tests if they sign a voluntary acknowledgment of [~~paternity~~] **parentage** in accordance with paragraph (a) of subdivision one of this section, or if there has been a written finding by the court that it is not in the best interests of the child on the basis of res judicata, equitable estoppel**, the child was conceived through assisted reproduction** or the presumption of legitimacy of a child born to a married [~~woman~~] **person**.

(b) The record or report of the results of any such genetic marker or DNA test may be submitted to the family court as evidence pursuant to subdivision (e) of rule forty-five hundred eighteen of the civil practice law and rules where no timely objection in writing has been made thereto.

(c) The cost of any test ordered pursuant to this section shall be paid by the social services district provided however, that the alleged father shall reimburse the district for the cost of such test at such time as the alleged father's [~~paternity~~] **parentage** is established by a voluntary acknowledgment of [~~paternity~~] **parentage** or an order of filiation. If either party contests the results of genetic marker or DNA tests, an additional test may be ordered upon written request to the social services district and advance payment by the requesting party.

(d) The parties shall be required to submit to such tests and appear at any conference scheduled by the social services official or designee to discuss the notice of the allegation of paternity or to discuss the results of such tests. If the alleged [~~father~~] **genetic parent** fails to appear at any such conference or fails to submit to such genetic marker or DNA tests, the social services official or designee shall petition the court to establish [~~paternity~~] **parentage**, provide the court with a

copy of the records or reports of such tests if any, and request the court to issue an order for temporary support pursuant to section five hundred forty-two of the family court act.

**3. Any reference to an acknowledgment of paternity in any law of this state or any similar instrument signed in another state consistent with the law of that state shall be interpreted to mean an acknowledgment of parentage executed pursuant to this section, section four thousand one hundred thirty-five-b of the public health law or signed in another state consistent with the law of that state.**

§ 20. Subdivisions 1 and 2 of section 372-c of the social services law, as amended by chapter 139 of the laws of 1979, are amended to read as follows:

1. The department shall establish a putative father registry which shall record the names and addresses of: (a) any person adjudicated by a court of this state to be the [~~father~~] **parent** of a child born [~~out-of-wedlock~~] **out of wedlock**; (b) any person who has filed with the registry before or after the birth of a child [~~out-of-wedlock~~] **out of wedlock**, a notice of intent to claim [~~paternity~~] **parentage** of the child; (c) any person adjudicated by a court of another state or territory of the United States to be the father of an [~~out-of-wedlock~~] **out of wedlock** child, where a certified copy of the court order has been filed with the registry by such person or any other person; (d) any person who has filed with the registry an instrument acknowledging paternity pursuant to section 4-1.2 of the estates, powers and trusts law.

2. A person filing a notice of intent to claim [~~paternity~~] **parentage** of a child or an acknowledgement of paternity shall include therein his current address and shall notify the registry of any change of address pursuant to procedures prescribed by regulations of the department.

§ 21. Subdivision (a) of section 439 of the family court act, as amended by section 1 of chapter 468 of the laws of 2012, is amended to read as follows:

(a) The chief administrator of the courts shall provide, in accordance with subdivision (f) of this section, for the appointment of a sufficient number of support magistrates to hear and determine support proceedings. Except as hereinafter provided, support magistrates shall be empowered to hear, determine and grant any relief within the powers of the court in any proceeding under this article, articles five, five-A, [~~and~~] five-B **and five-C** and sections two hundred thirty-four and two hundred thirty-five of this act, and objections raised pursuant to section five thousand two hundred forty-one of the civil practice law and rules. Support magistrates shall not be empowered to hear, determine and grant any relief with respect to issues specified in section four hundred fifty-five of this article, issues of contested [~~paternity~~] **parentage** involving claims of equitable estoppel, custody, visitation including visitation as a defense, **determinations of parentage made pursuant to section 581-407 of this act,** and orders of protection or exclusive possession of the home, which shall be referred to a judge as provided in subdivision (b) or (c) of this section. Where an order of filiation is issued by a judge in a paternity proceeding and child support is in issue, the judge, or support magistrate upon referral from the judge, shall be authorized to immediately make a temporary or final order of support, as applicable. A support magistrate shall have the authority to hear and decide motions and issue summonses and subpoenas to produce persons pursuant to section one hundred fifty-three of this act, hear and decide proceedings and issue any order authorized by subdivision (g) of section five thousand two hundred forty-one of the

civil practice law and rules, issue subpoenas to produce prisoners pursuant to section two thousand three hundred two of the civil practice law and rules and make a determination that any person before the support magistrate is in violation of an order of the court as authorized by section one hundred fifty-six of this act subject to confirmation by a judge of the court who shall impose any punishment for such violation as provided by law. A determination by a support magistrate that a person is in willful violation of an order under subdivision three of section four hundred fifty-four of this article and that recommends commitment shall be transmitted to the parties, accompanied by findings of fact, but the determination shall have no force and effect until confirmed by a judge of the court.

§ 22. Subparagraph (D) of paragraph 17 of subsection (a) of section 1113 of the insurance law, as amended by chapter 551 of the laws of 1997, is amended to read as follows:

(D) **(i)(I)** Indemnifying an adoptive parent for verifiable expenses not prohibited under the law paid to or on behalf of the birth mother when either one or both of the birth parents of the child withdraw or withhold their consent to adoption. Such expenses may include maternity-connected medical or hospital expenses of the birth mother, necessary living expenses of the birth mother preceding and during confinement, travel expenses of the birth mother to arrange for the adoption of the child, legal fees of the birth mother, and any other expenses [~~which~~] **that** an adoptive parent may lawfully pay to or on behalf of the birth mother[~~.~~]**; or (II) Indemnifying an intended parent for financial loss incurred as a result of the failure by the person acting as surrogate to perform under the surrogacy contract due to death, bodily injury, sickness, disappearance of the person acting as surrogate, late miscarriage, or stillbirth. Such financial loss shall include medical and hospital expenses, insurance co-payments, deductibles, and coinsurance, necessary living expenses of the person acting as surrogate during the term of the surrogacy contract, travel expenses to arrange for the surrogacy, legal fees of the person acting as surrogate, and any other expenses that an intended parent may lawfully pay to or on behalf of the person acting as surrogate; and (ii)** For the purposes of this [~~section~~] **subparagraph** "adoptive parent" means the parent or his or her spouse seeking to adopt a child, "birth mother" means the biological mother of the child, "birth parent" means the biological mother or biological father of the child**, and the terms "donor", "intended parent", person acting as surrogate", and "surrogacy agreement" shall have the meaning set forth in section 581-102 of the family court act**; or

§ 23. Paragraph 32 of subsection (a) of section 1113 of the insurance law, as renumbered by chapter 626 of the laws of 2006, is renumbered paragraph 33 and a new paragraph 32 is added to read as follows:

**(32) "Donor medical expense insurance" means insurance indemnifying an intended parent for medical or hospital expenses that the intended parent is contractually obligated to pay under a donor agreement when the expenses result from medical complications that occur as a result of the donation of gametes. For the purpose of this paragraph, "donor", "gametes" and "intended parent" shall have the meaning set forth in section 581-102 of the family court act.**

§ 24. Subsection (a) of section 2105 of the insurance law, as amended by section 9 of part I of chapter 61 of the laws of 2011, is amended to read as follows:

(a) The superintendent may issue an excess line broker's license to any person, firm, association or corporation who or which is licensed as

an insurance broker under section two thousand one hundred four of this article, or who or which is licensed as an excess line broker in the licensee's home state, provided, however, that the applicant's home state grants non-resident licenses to residents of this state on the same basis, except that reciprocity is not required in regard to the placement of liability insurance on behalf of a purchasing group or any of its members; authorizing such person, firm, association or corporation to procure, subject to the restrictions herein provided, policies of insurance from insurers which are not authorized to transact business in this state of the kind or kinds of insurance specified in paragraphs four through fourteen, sixteen, seventeen, nineteen, twenty, twenty-two, twenty-seven, twenty-eight [~~and~~], thirty-one, and thirty-two of subsection (a) of section one thousand one hundred thirteen of this chapter and in subsection (h) of this section, provided, however, that the provisions of this section and section two thousand one hundred eighteen of this article shall not apply to ocean marine insurance and other contracts of insurance enumerated in subsections (b) and (c) of section two thousand one hundred seventeen of this article. Such license may be suspended or revoked by the superintendent whenever in his or her judgment such suspension or revocation will best promote the interests of the people of this state.

§ 25. Subsection (b) of section 4101 of the insurance law, as amended by chapter 626 of the laws of 2006, is amended to read as follows:

(b) "Non-basic kinds of insurance" means the kinds of insurance described in the following paragraphs of subsection (a) of section one thousand one hundred thirteen of this chapter numbered therein as set forth in parentheses below:

accident and health (item (i) of (3));
non-cancellable disability (item (ii) of (3));
miscellaneous property (5);
water damage (6);
collision (12);
property damage liability (14) - non-basic as to mutual companies only;
motor vehicle and aircraft physical damage (19);
inland marine as specified in marine and inland marine (20);
marine protection and indemnity (21) - non-basic as to stock companies only;
residual value (22);
credit unemployment (24);
gap (26);
prize indemnification (27);
service contract reimbursement (28);
legal services insurance (29);
involuntary unemployment insurance (30);
salary protection insurance (31);
donor medical expense insurance (32).

§ 26. Group A of table one as contained in paragraph 1 of subsection (a) of section 4103 of the insurance law, as amended by chapter 626 of the laws of 2006, is amended to read as follows:

Group A:

| | | |
|---|---|---|
| 7 | $300,000 | $150,000 |
| 8, 9, 10, 11, or 14 - for each such kind | $100,000 | $ 50,000 |
| 13 or 15 - for each such kind | $500,000 | $250,000 |
| 16 | $900,000 | $450,000 |

| | | |
|---|---|---|
| 17 | $400,000 | $200,000 |
| Basic additional amount required for any one or more of the above kinds of insurance | $100,000 | $ 50,000 |
| 3(i), 3(ii), 6{1} or 12{2} - for each such kind | $100,000 | $ 50,000 |
| 22 | $2,000,000 | $1,000,000 |
| 24 | $400,000 | $200,000 |
| 26(B) | $200,000 | $100,000 |
| 26(A), 26(C) or 26(D) - for each such kind | $600,000 | $300,000 |
| 27 | $300,000 | $150,000 |
| 28 | $2,000,000 | $1,000,000 |
| 30 | $400,000 | $200,000 |
| 31 | $100,000 | $ 50,000 |
| **32** | **$100,000** | **$ 50,000** |

§ 27. Group C of table three as contained in subsection (b) of section 4107 of the insurance law, as amended by chapter 626 of the laws of 2006, is amended to read as follows:

Group C:

| | | |
|---|---|---|
| 3(i) or 3(ii) - for each such kind | $ 100,000 | $ 100,000 |
| 22 | $3,000,000 | $2,000,000 |
| 24 | $ 300,000 | $ 300,000 |
| 26 (B) | $ 300,000 | $ 200,000 |
| 26(A), 26(C) or 26(D) - for each such kind | $ 900,000 | $ 600,000 |
| 28 | $3,000,000 | $2,000,000 |
| 6{5}, 12{6} or 14{2} - for each such kind | $ 50,000 | $ 50,000 |
| 27 | $ 300,000 | $ 150,000 |
| 30 | $ 300,000 | $ 300,000 |
| 31 | $ 100,000 | $ 100,000 |
| **32** | **$ 100,000** | **$ 100,000** |

§ 28. Section 4-1.3 of the estates, powers and trust law, as added by chapter 439 of the laws of 2014, is amended to read as follows:

§ 4-1.3 Inheritance by children conceived after the death of [~~a genetic~~] **an intended** parent

(a) When used in this article, unless the context or subject matter manifestly requires a different interpretation:

(1) [~~"Genetic~~ **parent**~~" shall mean a man who provides sperm or a woman who provides ova used to conceive a child after the death of the man or woman.~~

~~(2)~~] "Genetic material" shall mean sperm or ova provided by a genetic parent.

[~~(3) "Genetic child" shall mean a child of the sperm or ova provided by a genetic~~ **parent**~~, but only if and when such child is born.~~]

**(2) "Child" shall mean a child conceived through assisted reproduction.**

**(3) "Intended parent" shall have the same meaning as defined in section 581-102 of the family court act.**

(b) For purposes of this article, a genetic child is the child of his or her [~~genetic~~] **intended** parent or parents and, notwithstanding paragraph (c) of section 4-1.1 of this part, is a distributee of his or her [~~genetic~~] **intended** parent or parents and, notwithstanding subparagraph

(2) of paragraph (a) of section 2-1.3 of this chapter, is included in any disposition of property to persons described in any instrument of which [~~a genetic~~] an intended parent of the genetic child was the creator as the issue, children, descendants, heirs, heirs at law, next of kin, distributees (or by any term of like import) of the creator if it is established that:

(1) the [~~genetic~~] intended parent in a written instrument executed pursuant to the provisions of this section not more than seven years before the death of the [~~genetic~~] intended parent[~~:~~

~~(A)~~] expressly consented [~~to the use of his or her genetic material to posthumously conceive his or her genetic child, and~~

~~(B)~~] that if assisted reproduction were to occur after the death of the intended **parent**, the deceased individual would be a **parent** of the child; and

(2) the child was in utero no later than twenty-four months after the intended **parent**'s death or born no later than thirty-three months after the intended **parent**'s death.

(c) If the child was conceived using the genetic material of the intended **parent**, it must further be established that:

(1) the intended **parent** in a written instrument executed pursuant to the provisions of this section not more than seven years before the death of the intended **parent** authorized a person to make decisions about the use of the [~~genetic~~] intended parent's genetic material after the death of the [~~genetic~~] intended parent;

(2) the person authorized in the written instrument to make decisions about the use of the [~~genetic~~] intended parent's genetic material gave written notice, by certified mail, return receipt requested, or by personal delivery, that the [~~genetic~~] intended parent's genetic material was available for the purpose of conceiving a [~~genetic~~] child of the [~~genetic~~] intended parent, and such written notice was given;

(A) within seven months from the date of the issuance of letters testamentary or of administration on the estate of the [~~genetic~~] intended parent, as the case may be, to the person to whom such letters have issued, or, if no letters have been issued within four months of the death of the [~~genetic~~] intended parent, and

(B) within seven months of the death of the [~~genetic~~] intended parent to a distributee of the [~~genetic~~] intended parent; and

(3) the person authorized in the written instrument to make decisions about the use of the [~~genetic~~] intended parent's genetic material recorded the written instrument within seven months of the [~~genetic~~] intended parent's death in the office of the surrogate granting letters on the [~~genetic~~] intended parent's estate, or, if no such letters have been granted, in the office of the surrogate having jurisdiction to grant them[~~; and~~

~~(4) the genetic child was in utero no later than twenty-four months after the genetic **parent**'s death or born no later than thirty-three months after the genetic **parent**'s death~~].

[~~(c)~~] (d) The written instrument referred to in subparagraph (1) of paragraph (b) of this section and subparagraph (1) of paragraph (c) of this section:

(1) must be signed by the [~~genetic~~] intended parent in the presence of two witnesses who also sign the instrument referred to in subparagraph (1) of paragraph (c) of this section, both of whom are at least eighteen years of age and neither of whom is a person authorized under the instrument to make decisions about the use of the [~~genetic~~] intended parent's genetic material;

(2) may be revoked only by a written instrument signed by the [~~genetic~~] intended parent and executed in the same manner as the instrument it revokes;

(3) may not be altered or revoked by a provision in the will of the [~~genetic~~] intended parent;

(4) an instrument referred to in subparagraph (1) of paragraph (c) of this section may authorize an alternate to make decisions about the use of the [~~genetic~~] intended parent's genetic material if the first person so designated dies before the [~~genetic~~] intended parent or is unable to exercise the authority granted; [~~and~~]

(5) an instrument referred to in subparagraph (1) of paragraph (b) of this section may be substantially in the following form and must be signed and dated by the intended **parent** and properly witnessed:

I, _____,
(Your name and address)

consent to the use of assisted reproduction to conceive a child or children of mine after my death. I understand that, unless I revoke this consent and authorization in a written document signed by me in the presence of two witnesses who also sign the document, this consent and authorization will remain in effect for seven years from this day and that I cannot revoke or modify this consent and designation by any provision in my will.
Signed this day of ,

_____
(Your signature)

Statement of witnesses:
I declare that the person who signed this document is personally known to me and appears to be of sound mind and acting willingly and free from duress. He or she signed this document in my presence. I am not the person authorized in this document to control the use of the genetic material of the person who signed this document.

Witness:
Address:
Date:
Witness:
Address:
Date:

(6) may be substantially in the following form and must be signed and dated by the [~~genetic~~] intended parent and properly witnessed:
I, _____,
(Your name and address)
consent to the use of my (sperm or ova) (referred to below as my "genetic material") to conceive a child or children of mine after my death, and I authorize

_____
(Name and address of person)
to decide whether and how my genetic material is to be used to conceive a child or children of mine after my death. In the event that the

person authorized above dies before me or is unable to exercise the authority granted I designate

_____
(Name and address of person)
to decide whether and how my genetic material is to be used to conceive a child or children of mine after my death. I understand that, unless I revoke this consent and authorization in a written document signed by me in the presence of two witnesses who also sign the document, this consent and authorization will remain in effect for seven years from this day and that I cannot revoke or modify this consent and designation by any provision in my will.

Signed this day of ,

_____
(Your signature)
Statement of witnesses:
I declare that the person who signed this document is personally known to me and appears to be of sound mind and acting willingly and free from duress. He or she signed this document in my presence. I am not the person authorized in this document to control the use of the genetic material of the person who signed this document.
Witness:
Address:
Date:
Witness:
Address:
Date:

[~~(d)~~] **(e)** Any authority granted in a written instrument authorized by this section to a person who is the spouse of the [~~genetic~~] **intended** parent at the time of execution of the written instrument is revoked by a final decree or judgment of divorce or annulment, or a final decree, judgment or order declaring the nullity of the marriage between the [~~genetic~~] **intended** parent and the spouse or dissolving such marriage on the ground of absence, recognized as valid under the law of this state, or a final decree or judgment of separation, recognized as valid under the law of this state, which was rendered against the spouse.

[~~(e)~~] **(f)** Process shall not issue to a [~~genetic~~] child who is a distributee of [~~a genetic~~] **an intended** parent under sections one thousand three and one thousand four hundred three of the surrogate's court procedure act unless the child is in being at the time process issues.

[~~(f)~~] **(g)** Except as provided in paragraph (b) of this section with regard to any disposition of property in any instrument of which the [~~genetic~~] **intended** parent of a [~~genetic~~] child is the creator, for purposes of section 2-1.3 of this chapter a [~~genetic~~] child who is entitled to inherit from [~~a genetic~~] **an intended** parent under this section is a child of the [~~genetic~~] **intended** parent for purposes of a disposition of property to persons described in any instrument as the issue, children, descendants, heirs, heirs at law, next of kin, distributees (or by any term of like import) of the creator or of another. This paragraph shall apply to the wills of persons dying on or after September first, two thousand fourteen, to lifetime instruments theretofore executed which on said date are subject to the grantor's power to revoke or amend, and to all lifetime instruments executed on or after such date.

[~~(g)~~] (h) For purposes of section 3-3.3 of this chapter the terms "issue", "surviving issue" and "issue surviving" include a [~~genetic~~] child if he or she is entitled to inherit from his or her [~~genetic~~] intended parent under this section.

[~~(h)~~] (i) Where the validity of a disposition under the rule against perpetuities depends on the ability of a person to have a child at some future time, the possibility that such person may have a [~~genetic~~] child conceived using assisted reproduction shall be disregarded. This provision shall not apply for any purpose other than that of determining the validity of a disposition under the rule against perpetuities where such validity depends on the ability of a person to have a child at some future time. A determination of validity or invalidity of a disposition under the rule against perpetuities by the application of this provision shall not be affected by the later birth of a [~~genetic~~] child conceived using assisted reproduction disregarded under this provision.

[~~(i)~~] (j) The use of a genetic material after the death of the person providing such material is subject exclusively to the provisions of this section and to any valid and binding contractual agreement between such person and the facility providing storage of the genetic material and may not be the subject of a disposition in an instrument created by the person providing such material or by any other person.

§ 29. This act shall take effect February 15, 2021, provided, however, that the amendments to subdivision (a) of section 439 of the family court act made by section twenty-one of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

## PART M

Intentionally Omitted

## PART N

Section 1. Subdivision 10 of section 153 of the social services law, as amended by section 1 of subpart B of part K of chapter 56 of the laws of 2017, is amended to read as follows:

10. Expenditures made by a social services district for the maintenance of children with disabilities, placed by school districts, pursuant to section forty-four hundred five of the education law shall, if approved by the office of children and family services, be subject to [~~eighteen and four hundred twenty-four thousandths percent reimbursement by the state and thirty-eight and four hundred twenty-four thousandths percent reimbursement by school districts, except for social services districts located within a city with a population of one million or more, where such expenditures shall be subject to~~] fifty-six and eight hundred forty-eight thousandths percent reimbursement by the school district, in accordance with paragraph c of subdivision one of section forty-four hundred five of the education law, after first deducting therefrom any federal funds received or to be received on account of such expenditures, except that in the case of a student attending a state-operated school for the deaf or blind pursuant to article eighty-seven or eighty-eight of the education law who was not placed in such school by a school district such expenditures shall be subject to fifty

percent reimbursement by the [~~state~~] school district after first deducting therefrom any federal funds received or to be received on account of such expenditures [~~and there shall be no reimbursement by school districts~~]. Such expenditures shall not be subject to the limitations on state reimbursement contained in subdivision two of section one hundred fifty-three-k of this title. In the event of the failure of the school district to make the maintenance payment pursuant to the provisions of this subdivision, the state comptroller shall withhold state reimbursement to any such school district in an amount equal to the unpaid obligation for maintenance and pay over such sum to the social services district upon certification of the commissioner of the office of children and family services and the commissioner of education that such funds are overdue and owed by such school district. The commissioner of the office of children and family services, in consultation with the commissioner of education, shall promulgate regulations to implement the provisions of this subdivision.

§ 2. Paragraph b of subdivision 1 of section 4405 of the education law is REPEALED.

§ 3. This act shall take effect immediately and shall expire and be deemed repealed April 1, 2021; provided however that the amendments to subdivision 10 of section 153 of the social services law made by section one of this act, shall not affect the expiration of such subdivision and shall be deemed to expire therewith.

## PART O

Intentionally Omitted

## PART P

Section 1. The education law is amended by adding a new section 363 to read as follows:

§ 363. Curing Alzheimer's health consortium. 1. There is hereby established within the state university of New York the curing Alzheimer's health consortium. The consortium shall have as its purpose to identify genes that predict an increased risk for developing the disease, collaborating with research institutions within the state university of New York system, and the department of health, in research projects and studies to identify opportunities to develop new therapeutic treatment and cures for Alzheimer's.

2. The state university of New York shall issue a request for proposals to partner with hospitals both within the state university of New York and other not-for-profit article twenty-eight of the public health law hospitals and non-profit higher education research institutions to map the genomes of individuals suffering from or at risk of Alzheimer's.

§ 2. This act shall take effect immediately.

## PART Q

Section 1. Subdivisions 5 and 6 of section 6456 of the education law, as amended by section 1 of part U of chapter 54 of the laws of 2016 and paragraph e of subdivision 5 as amended by section 1 of part BB of chapter 56 of the laws of 2019, are amended to read as follows:

5. Moneys made available to institutions under this section shall be spent for the following purposes:

a. to provide additional services and expenses to expand opportunities through existing postsecondary opportunity programs at the state university of New York, the city university of New York, and other degree-granting higher education institutions for foster youth;

b. to provide any necessary supplemental financial aid for foster youth, which may include the cost of tuition and fees, books, transportation, housing and other expenses as determined by the commissioner to be necessary for such foster youth to attend college;

c. summer college preparation programs to help foster youth transition to college, prepare them to navigate on-campus systems, and provide preparation in reading, writing, and mathematics for foster youth who need it; [~~or~~]

d. advisement, tutoring, and academic assistance for foster youth[~~.~~]**;**

e. to provide supplemental housing and meals**, including but not limited to during intersession and summer breaks,** for foster youth[~~.~~]**; or**

**f. medical expenses including, but not limited to, primary care, behavioral health, vision and dental care which is not otherwise covered by an eligible student's health plan.**

6. Eligible institutions shall file an application for approval by the commissioner [~~no later than the first of May~~] each year demonstrating a need for such funding, including how the funding would be used and how many foster youth would be assisted with such funding. Successful applicants will be funded as provided in subdivision four of this section.

§ 2. This act shall take effect immediately.

PART R

Section 1. Subdivisions 6 and 7 of section 412 of the social services law, as added by chapter 1039 of the laws of 1973 and as renumbered by chapter 323 of the laws of 2008, are amended to read as follows:

6. An "unfounded report" means any report made pursuant to this title unless an investigation**: (i) commenced on or before December thirty-first, two thousand twenty-one** determines that some credible evidence of the alleged abuse or maltreatment exists; **or (ii) commenced on or after January first, two thousand twenty-two determines that a fair preponderance of the evidence of the alleged abuse or maltreatment exists;**

7. An "indicated report" means a report made pursuant to this title if an investigation**: (i) commenced on or before December thirty-first, two thousand twenty-one** determines that some credible evidence of the alleged abuse or maltreatment exists[~~.~~]**; or (ii) commenced on or after January first, two thousand twenty-two determines that a fair preponderance of the evidence of the alleged abuse or maltreatment exists**;

§ 2. Paragraph (c) of subdivision 2 of section 421 of the social services law, as amended by chapter 718 of the laws of 1986, is amended to read as follows:

(c) issue guidelines to assist local child protective services in the interpretation and assessment of reports of abuse and maltreatment made to the statewide central register described in section four hundred twenty-two of this article. Such guidelines shall include information, standards and criteria for the identification of [~~credible~~] evidence of alleged abuse and maltreatment **as** required to determine whether a report may be indicated **pursuant to this article**.

§ 3. The opening paragraph of paragraph (a) of subdivision 5 of section 422 of the social services law, as amended by section 7 of part D of chapter 501 of the laws of 2012, is amended to read as follows:

Unless an investigation of a report conducted pursuant to this title **that is commenced on or before December thirty-first, two thousand twenty-one** determines that there is some credible evidence of the alleged abuse or maltreatment **or unless an investigation of a report conducted pursuant to this title that is commenced on or after January first, two thousand twenty-two determines that there is a fair preponderance of the evidence that the alleged abuse or maltreatment occurred**, all information identifying the subjects of the report and other persons named in the report shall be legally sealed forthwith by the central register and any local child protective services [~~or the state agency~~] which investigated the report. Such unfounded reports may only be unsealed and made available:

§ 4. Paragraph (c) of subdivision 5 of section 422 of the social services law, as added by chapter 555 of the laws of 2000, is amended to read as follows:

(c) Notwithstanding any other provision of law, the office of children and family services may, in its discretion, grant a request to expunge an unfounded report where: (i) the source of the report was convicted of a violation of subdivision three of section 240.55 of the penal law in regard to such report; or (ii) the subject of the report presents clear and convincing evidence that affirmatively refutes the allegation of abuse or maltreatment; provided however, that the absence of [~~credible~~] **a fair preponderance of the** evidence supporting the allegation of abuse or maltreatment shall not be the sole basis to expunge the report. Nothing in this paragraph shall require the office of children and family services to hold an administrative hearing in deciding whether to expunge a report. Such office shall make its determination upon reviewing the written evidence submitted by the subject of the report and any records or information obtained from the state or local agency which investigated the allegations of abuse or maltreatment.

§ 5. Subparagraphs (ii), (iii), (iv) and (v) of paragraph (a) of subdivision 8 of section 422 of the social services law, subparagraph (ii) as amended by chapter 323 of the laws of 2008 and subparagraphs (iii), (iv) and (v) as amended by chapter 12 of the laws of 1996, are amended to read as follows:

(ii) Upon receipt of a request to amend the record of a child abuse and maltreatment report the office of children and family services shall immediately send a written request to the child protective service [~~or the state agency~~] which was responsible for investigating the allegations of abuse or maltreatment for all records, reports and other information maintained by the service [~~or state agency~~] pertaining to such indicated report. **Where a proceeding pursuant to article ten of the family court act based on the same allegations that were indicated is pending, the request to amend shall be stayed until the disposition of such family court proceeding.** The service [~~or state agency~~] shall as expeditiously as possible but within no more than twenty working days of receiving such request, forward all records, reports and other information it maintains on such indicated report to the office of children and family services**, including a copy of any petition or court order based on the allegations that were indicated**. [~~The~~] **Unless such request to amend has been stayed, the** office of children and family services shall as expeditiously as possible but within no more than fifteen working days of receiving such materials from the child protective service or state agency, review all such materials in its possession concerning the indicated report and determine, after affording such service [~~or state agency~~] a reasonable opportunity to present its views, whether there is

a fair preponderance of the evidence to find that the subject committed the act or acts of child abuse or maltreatment giving rise to the indicated report and whether, based on guidelines developed by the office of children and family services pursuant to subdivision five of section four hundred twenty-four-a of this title, such act or acts could be relevant and reasonably related to employment of the subject of the report by a provider agency, as defined by subdivision three of section four hundred twenty-four-a of this title, or relevant and reasonably related to the subject of the report being allowed to have regular and substantial contact with children who are cared for by a provider agency, or relevant and reasonably related to the approval or disapproval of an application submitted by the subject of the report to a licensing agency, as defined by subdivision four of section four hundred twenty-four-a of this title.

(iii) If it is determined at the review held pursuant to this paragraph [~~(a)~~] that there is [~~no credible~~] **not a fair preponderance of the** evidence in the record to find that the subject committed an act or acts of child abuse or maltreatment, the [~~department~~] **office of children and family services** shall amend the record to indicate that the report is "unfounded" and notify the subject forthwith.

(iv) If it is determined at the review held pursuant to this paragraph [~~(a)~~] that there is [~~some credible~~] **a fair preponderance of the** evidence in the record to find that the subject committed such act or acts but that such act or acts could not be relevant and reasonably related to the employment of the subject by a provider agency or to the subject being allowed to have regular and substantial contact with children who are cared for by a provider agency or the approval or disapproval of an application which could be submitted by the subject to a licensing agency, the [~~department~~] **office of children and family services** shall be precluded from informing a provider or licensing agency which makes an inquiry to [~~the department~~] **such office** pursuant to the provisions of section four hundred twenty-four-a of this title concerning the subject that the person about whom the inquiry is made is the subject of an indicated report of child abuse or maltreatment. The [~~department~~] **office of children and family services** shall notify forthwith the subject of the report of such determinations and that a fair hearing has been scheduled pursuant to paragraph (b) of this subdivision. The sole issue at such hearing shall be whether the subject has been shown by [~~some credible~~] **a fair preponderance of the** evidence to have committed the act or acts of child abuse or maltreatment giving rise to the indicated report.

(v) If it is determined at the review held pursuant to this paragraph [~~(a)~~] that there is [~~some credible~~] **a fair preponderance of the** evidence in the record to prove that the subject committed an act or acts of child abuse or maltreatment and that such act or acts could be relevant and reasonably related to the employment of the subject by a provider agency or to the subject being allowed to have regular and substantial contact with children cared for by a provider agency or the approval or disapproval of an application which could be submitted by the subject to a licensing agency, the [~~department~~] **office of children and family services** shall notify forthwith the subject of the report of such determinations and that a fair hearing has been scheduled pursuant to paragraph (b) of this subdivision.

§ 6. Subparagraph (ii) of paragraph (b) of subdivision 8 of section 422 of the social services law, as amended by chapter 12 of the laws of 1996, is amended to read as follows:

(ii) The burden of proof in such a hearing shall be on the child protective service [~~or the state agency~~] which investigated the report[~~, as the case may be~~]. In such a hearing, [~~the fact that there is~~] where a family court [~~finding of~~] proceeding pursuant to article ten of the family court act has occurred and where the petition for such proceeding alleges that a respondent in that proceeding committed abuse or neglect against the subject child in regard to an allegation contained in [~~the~~] a report indicated pursuant to this section: (A) where the court finds that such respondent did commit abuse or neglect there shall [~~create~~] be an irrebuttable presumption in a fair hearing held pursuant to this subdivision that said allegation is substantiated by [~~some credible~~] a fair preponderance of the evidence as to that respondent on that allegation; and (B) where such child protective service withdraws such petition with prejudice, where the family court dismisses such petition, or where the family court finds on the merits in favor of the respondent, there shall be an irrebuttable presumption in a fair hearing held pursuant to this subdivision that said allegation as to that respondent has not been proven by a fair preponderance of the evidence.

§ 7. Subparagraphs (i) and (ii) of paragraph (c) of subdivision 8 of section 422 of the social services law, as amended by chapter 12 of the laws of 1996, and the opening paragraph of subparagraph (ii) as amended by chapter 323 of the laws of 2008, are amended to read as follows:

(i) If it is determined at the fair hearing that there is [~~no credible~~] not a fair preponderance of the evidence in the record to find that the subject committed an act or acts of child abuse or maltreatment, the [~~department~~] office of children and family services shall amend the record to reflect that such a finding was made at the administrative hearing, order any child protective service [~~or state agency~~] which investigated the report to similarly amend its records of the report, and shall notify the subject forthwith of the determination.

(ii) Upon a determination made at a fair hearing [~~held on or after January first, nineteen hundred eighty-six~~] scheduled pursuant to the provisions of subparagraph (v) of paragraph (a) of this subdivision that the subject has been shown by a fair preponderance of the evidence to have committed the act or acts of child abuse or maltreatment giving rise to the indicated report, the hearing officer shall determine, based on guidelines developed by the office of children and family services pursuant to subdivision five of section four hundred twenty-four-a of this title, whether such act or acts are relevant and reasonably related to employment of the subject by a provider agency, as defined by subdivision three of section four hundred twenty-four-a of this title, or relevant and reasonably related to the subject being allowed to have regular and substantial contact with children who are cared for by a provider agency or relevant and reasonably related to the approval or disapproval of an application submitted by the subject to a licensing agency, as defined by subdivision four of section four hundred twenty-four-a of this title.

Upon a determination made at a fair hearing that the act or acts of abuse or maltreatment are relevant and reasonably related to employment of the subject by a provider agency or the subject being allowed to have regular and substantial contact with children who are cared for by a provider agency or the approval or denial of an application submitted by the subject to a licensing agency, the [~~department~~] office of children and family services shall notify the subject forthwith. The [~~department~~] office of children and family services shall inform a provider or licensing agency which makes an inquiry to [~~the department~~] such office

pursuant to the provisions of section four hundred twenty-four-a of this title concerning the subject that the person about whom the inquiry is made is the subject of an indicated child abuse or maltreatment report.

The failure to determine at the fair hearing that the act or acts of abuse and maltreatment are relevant and reasonably related to the employment of the subject by a provider agency or to the subject being allowed to have regular and substantial contact with children who are cared for by a provider agency or the approval or denial of an application submitted by the subject to a licensing agency shall preclude the [~~department~~] **office of children and family services** from informing a provider or licensing agency which makes an inquiry to [~~the department~~] **such office** pursuant to the provisions of section four hundred twenty-four-a of this title concerning the subject that the person about whom the inquiry is made is the subject of an indicated child abuse or maltreatment report.

§ 8. Paragraph (e) of subdivision 8 of section 422 of the social services law, as added by chapter 12 of the laws of 1996, is amended to read as follows:

(e) Should the [~~department~~] **office of children and family services** grant the request of the subject of the report pursuant to this subdivision either through an administrative review or fair hearing to amend an indicated report to an unfounded report[~~. Such~~]**, such** report shall be legally sealed and shall be released and expunged in accordance with the standards set forth in subdivision five of this section.

§ 9. Paragraph (e) of subdivision 1 of section 424-a of the social services law, as amended by chapter 634 of the laws of 1988, subparagraphs (i), (ii) and (iii) as amended by chapter 12 of the laws of 1996, and subparagraph (iv) as amended by section 8-a of part D of chapter 501 of the laws of 2012, is amended to read as follows:

(e) (i) Subject to the provisions of subparagraph (ii) of this paragraph, the [~~department~~] **office of children and family services** shall inform the provider or licensing agency, or child care resource and referral programs pursuant to subdivision six of this section whether or not the person is the subject of an indicated child abuse and maltreatment report only if:

[~~(a)~~] **(A) (I)** the time for the subject of the report to request an amendment of the record of the report pursuant to subdivision eight of section four hundred twenty-two has expired without any such request having been made; or

[~~(b)~~]**(II)** such request was made within such time and a fair hearing regarding the request has been finally determined by the commissioner and the record of the report has not been amended to unfound the report or delete the person as a subject of the report**; and**

**(B) (I) the person is the subject of an indicated report of child abuse; or**

**(II) the person is not the subject of an indicated report of child abuse and is the subject of a report of child maltreatment where the indication for child maltreatment occurred within less than eight years from the date of the inquiry**.

(ii) If the subject of an indicated report of child abuse or maltreatment has not requested an amendment of the record of the report [~~within the time specified in subdivision eight of section four hundred twenty-two of this title or if the subject had a fair hearing pursuant to such section prior to January first, nineteen hundred eighty-six~~] and an inquiry is made to the [~~department~~] **office of children and family services** pursuant to this subdivision concerning the subject of the

report, [~~the department~~] **such office** shall, as expeditiously as possible but within no more than ten working days of receipt of the inquiry, determine whether, in fact, the person about whom an inquiry is made is the subject of an indicated report. Upon making a determination that the person about whom the inquiry is made is the subject of an indicated report of child abuse and maltreatment, the [~~department~~] **office of children and family services** shall immediately send a written request to the child protective service or state agency which was responsible for investigating the allegations of abuse or maltreatment for all records, reports and other information maintained by the service or state agency on the subject. The service or state agency shall, as expeditiously as possible but within no more than twenty working days of receiving such request, forward all records, reports and other information it maintains on the indicated report to the [~~department~~] **office of children and family services, including a copy of any petition or court order based on the allegations that were indicated**. [~~The department~~] **Where a proceeding pursuant to article ten of the family court act is pending based on the same allegations that were indicated, the office of children and family services shall stay determination of whether there is a fair preponderance of the evidence to support the indication until the disposition of such family court proceeding. Unless such determination has been stayed, the office of children and family services** shall, within fifteen working days of receiving such records, reports and other information from the child protective service or state agency, review all records, reports and other information in its possession concerning the subject and determine whether there is [~~some credible~~] **a fair preponderance of the** evidence to find that the subject had committed the act or acts of child abuse or maltreatment giving rise to the indicated report.

(iii) If it is determined, after affording such service or state agency a reasonable opportunity to present its views, that there is [~~no credible~~] **not a fair preponderance of the** evidence in the record to find that the subject committed such act or acts, the [~~department~~] **office of children and family services** shall amend the record to indicate that the report was unfounded and notify the inquiring party that the person about whom the inquiry is made is not the subject of an indicated report. [~~If the subject of the report had a fair hearing pursuant to subdivision eight of section four hundred twenty-two of this title prior to January first, nineteen hundred eighty-six and the fair hearing had been finally determined by the commissioner and the record of the report had not been amended to unfound the report or delete the person as a subject of the report, then the department shall determine that there is some credible evidence to find that the subject had committed the act or acts of child abuse or maltreatment giving rise to the indicated report.~~]

(iv) **(A)** If it is determined after a review by the office of all records, reports and information in its possession concerning the subject of the report that there is a preponderance of the evidence to find that the subject committed the act or acts of child abuse or maltreatment giving rise to the indicated report, the office shall also determine whether such act or acts are relevant and reasonably related to issues concerning the employment of the subject by a provider agency or the subject being allowed to have regular and substantial contact with individuals cared for by a provider agency or the approval or disapproval of an application which has been submitted by the subject to a licensing agency, based on guidelines developed pursuant to subdivision five of this section. If it is determined that such act or acts are

not relevant and related to such issues, the office shall be precluded from informing the provider or licensing agency which made the inquiry to the office pursuant to this section that the person about whom the inquiry is made is the subject of an indicated report of child abuse or maltreatment.

(B) Where the subject of the report is not the subject of any indicated report of child abuse and is the subject of a report of child maltreatment where the indication for child maltreatment occurred more than eight years prior to the date of the inquiry, any such indication of child maltreatment shall be deemed to be not relevant and reasonably related to employment.

(v) If it is determined after a review by the [~~department~~] office of children and family services of all records, reports and information in its possession concerning the subject of the report that there is [~~some credible~~] a fair preponderance of the evidence to prove that the subject committed the act or acts of abuse or maltreatment giving rise to the indicated report [~~and that such act or acts are relevant and reasonably related to issues concerning the employment of the subject by a provider agency or to the subject being allowed to have regular and substantial contact with children cared for by a provider agency or the approval or disapproval of an application which has been submitted by the subject to a licensing agency, the department shall inform the inquiring party that the person about whom the inquiry is made is the subject of an indicated report of child abuse and maltreatment; the department shall also notify the subject of the inquiry of his or her fair hearing rights granted pursuant to paragraph (c) of subdivision two of this section~~] the office of children and family services shall notify the subject of the determination of such report and of the subject's right to request a fair hearing. If the subject shall request a hearing, the office of children and family services shall schedule a fair hearing and shall provide notice of the scheduled hearing date to the subject, the statewide central register and, as appropriate, to the child protective service which investigated such report.

(vi) The burden of proof in such a hearing shall be on the child protective service which investigated the report. In such a hearing, where a family court proceeding pursuant to article ten of the family court act has occurred and where the petition for such proceeding alleges that a respondent in that proceeding committed abuse or maltreatment against the subject child in regard to an allegation contained in a report indicated pursuant to this section: (A) where the court finds that such respondent did commit abuse or maltreatment there shall be an irrebuttable presumption in a fair hearing held pursuant to this subdivision that said allegation is substantiated by a fair preponderance of the evidence as to that respondent on that allegation; and (B) where such child protective service withdraws such petition with prejudice, where the family court dismisses such petition, or where the family court finds on the merits in favor of the respondent, there shall be an irrebuttable presumption in a fair hearing held pursuant to this subdivision that said allegation as to that respondent has not been proven by a fair preponderance of the evidence.

(vii) If it shall be determined at the fair hearing that there is no fair preponderance of the evidence in the record to find that the subject committed an act or acts of child abuse or maltreatment, the office of children and family services shall amend the record as to that respondent on that allegation to reflect that such a finding was made at the administrative hearing, order any child protective service which

investigated the report as to that respondent to similarly amend its records of such report, notify the subject of the determination, and notify the inquiring party that the person about whom such inquiry was made is not the subject of an indicated report on that allegation.

(viii) Upon a determination at the fair hearing that the subject has been shown, by a fair preponderance of the evidence to have committed the act or acts of child abuse or maltreatment giving rise to the indicated report, the hearing officer shall determine, based on guidelines developed by the office of children and family services pursuant to subdivision five of this section, whether such act or acts are relevant and reasonably related to the subject being allowed to have regular and substantial contact with children who are cared for by a provider agency as defined in subdivision three of this section, or relevant and reasonably related to the approval or disapproval of an application submitted by the subject to a licensing agency as defined in subdivision four of this section.

(ix) Upon a determination made at a fair hearing that the act or acts of abuse or maltreatment are relevant and reasonably related to the employment of the subject by a provider agency as defined in subdivision three of this section, the subject being allowed to have regular and substantial contact with children who are cared for by a provider agency as defined in subdivision three of this section, or relevant and reasonably related to the approval or disapproval of an application submitted by the subject to a licensing agency as defined in subdivision four of this section, the office of children and family services shall notify the subject and shall inform the inquiring party that the person about whom such inquiry was made is the subject of an indicated report of child abuse or maltreatment.

(x) The failure to determine at the fair hearing that the act or acts of abuse or maltreatment are relevant and reasonably related to the employment of the subject by a provider agency as defined in subdivision three of this section, the subject being allowed to have regular and substantial contact with children who are cared for by a provider agency as defined in subdivision three of this section, or relevant and reasonably related to the approval or disapproval of an application submitted by the subject to a licensing agency as defined in subdivision four of this section, shall preclude the office of children and family services from informing a provider agency as defined in subdivision three of this section or licensing agency as defined in subdivision four of this section that such person is the subject of an indicated report of child abuse or maltreatment on that allegation.

§ 10. Section 651-a of the family court act, as amended by chapter 12 of the laws of 1996, is amended to read as follows:

§ 651-a. Reports of child abuse and maltreatment; admissibility. In any proceeding brought pursuant to this section to determine the custody or visitation of minors, a report made to the statewide central register of child abuse and maltreatment, pursuant to title six of article six of the social services law, or a portion thereof, which is otherwise admissible as a business record pursuant to rule forty-five hundred eighteen of the civil practice law and rules shall not be admissible in evidence, notwithstanding such rule, unless an investigation of such report conducted pursuant to title six of article six of the social services law commenced on or before December thirty-first, two thousand twenty-one has determined that there is some credible evidence of the alleged abuse or maltreatment, or unless an investigation of such report conducted pursuant to title six of article six of the social services

law commenced on or after January first, two thousand twenty-two determines that there is a fair preponderance of the evidence of the alleged abuse or maltreatment, that the subject of the report has been notified that the report is indicated. In addition, if such report has been reviewed by the state commissioner of social services or his designee and has been determined to be unfounded, it shall not be admissible in evidence. If such report has been so reviewed and has been amended to delete any finding, each such deleted finding shall not be admissible. If the state commissioner of social services or his designee has amended the report to add any new finding, each such new finding, together with any portion of the original report not deleted by the commissioner or his designee, shall be admissible if it meets the other requirements of this section and is otherwise admissible as a business record. If such a report, or portion thereof, is admissible in evidence but is uncorroborated, it shall not be sufficient to make a fact finding of abuse or maltreatment in such proceeding. Any other evidence tending to support the reliability of such report shall be sufficient corroboration.

§ 11. This act shall take effect immediately; provided, however that sections one, three, four, five, six, seven, eight, nine and ten of this act shall take effect January 1, 2022. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed by the office of children and family services on or before such effective date.

PART S

Section 1. Paragraph (b) of subdivision 2 of section 576-d of the private housing finance law, as amended by chapter 428 of the laws of 2004, is amended to read as follows:

(b) the total amount of loans made to any single agricultural producer shall not exceed [~~one~~] two hundred thousand dollars per annum;

§ 2. This act shall take effect immediately.

PART T

Section 1. Paragraph c of subdivision 1 of section 656 of the private housing finance law, as amended by chapter 336 of the laws of 2019, is amended to read as follows:

c. No bonds or notes of the corporation shall be issued if upon such issuance the aggregate principal amount of bonds and notes of the corporation then outstanding exceeds the lesser of [~~fourteen~~] fifteen billion five hundred million dollars or such amount as would cause the maximum capital reserve fund requirement to exceed eighty-five million dollars; provided that, in determining such aggregate principal amounts there shall be deducted (i) all sums then available for the payment of such bonds or notes either at maturity or through the operation of a sinking fund; (ii) the aggregate principal amount of outstanding bonds issued (a) to refund notes and (b) to refund bonds, theretofore issued and then outstanding; and (iii) the aggregate principal amount of outstanding notes issued to renew notes theretofore issued and then outstanding. The provisions of the prior sentence notwithstanding, the corporation shall not issue bonds if such issuance shall cause the maximum reserve fund requirement to exceed thirty million dollars unless prior to such issuance the senate and assembly shall have adopted a concurrent resolution passed by the votes of a majority of all the members elected to each

such house and, subsequent thereto, the governor shall evidence in writing the governor's agreement with such resolution to the chairperson of the corporation, which resolution shall be in full force and effect on the date of issuance of the bonds, permitting the maximum capital reserve fund requirement to equal or exceed the amount of the maximum capital reserve fund requirement which would be effective upon the issuance of the bonds in question, but in no event shall the maximum capital reserve fund requirement exceed eighty-five million dollars.

§ 2. This act shall take effect immediately.

PART U

Section 1. Subdivision 3 of section 1 of chapter 21 of the laws of 1962, constituting the local emergency housing rent control act, as amended by chapter 657 of the laws of 1967, is amended to read as follows:

3. Local determination as to continuation of emergency. The continuation, after May thirty-first, nineteen hundred sixty-seven, of the public emergency requiring the regulation and control of residential rents and evictions within cities having a population of one million or more shall be a matter for local determination within each such city. Any such determination shall be made by the local legislative body of such city on or before April first, nineteen hundred sixty-seven and at least once in every third year thereafter following a survey which the city shall cause to be made of the supply of housing accommodations within such city, the condition of such accommodations and the need for continuing the regulation and control of residential rents and evictions within such city**, provided, however, that when the date by which such determination shall be made falls in a calendar year immediately following a calendar year during which a federal decennial census is conducted, such date shall be postponed by one year**. Such survey shall be submitted to such legislative body not less than thirty nor more than sixty days prior to the date of any such determination.

§ 2. This act shall take effect immediately.

PART V

Section 1. Subdivision 9 of section 131 of the social services law, as added by chapter 103 of the laws of 1971 and as renumbered by chapter 473 of the laws of 1978, is amended to read as follows:

9. Upon determining that a person is eligible for any form or category of public assistance, the social services official shall issue to any such person to whom payment is to be made, an appropriate [~~identification~~] **payment access** card, [~~with a photograph affixed,~~] in a form approved by the [~~department~~] **office of temporary and disability assistance**, which shall be used as the [~~department~~] **office of temporary and disability assistance**, by regulation, may prescribe for improved administration. [~~Any person, including the drawee bank, may require the presentation of such identification card as a condition for the acceptance and payment of a public assistance check.~~]

§ 2. Subparagraph (iii) of paragraph (a) of subdivision 3 of section 490 of the vehicle and traffic law, as added by chapter 575 of the laws of 2006, is amended to read as follows:

(iii) Notwithstanding any other law, rule or regulation to the contrary, a person who is **either (A)** sixty-two years of age or older and [~~who is~~] a recipient of supplemental security income benefits **or (B) a recip-**

ient of public assistance, as defined in subdivision nineteen of section two of the social services law, supplemental nutrition assistance program benefits, pursuant to section ninety-five of the social services law, or medical assistance, as defined in paragraph (a) of subdivision thirty-eight of section two of the social services law, and who has not been issued a driver's license, or whose driver's license is expired, or who surrendered his or her driver's license, shall be issued an identification card without the payment of any fee, upon submitting the appropriate application. For persons applying for an identification card pursuant to clause (B) of this subparagraph, such application shall include proof that such person is in receipt of public assistance, supplemental nutrition assistance program benefits, or medical assistance, as the case may be.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that section one of this act shall take effect July 1, 2020.

PART W

Section 1. The tax law is amended by adding a new section 171-w to read as follows:

§ 171-w. State support for the local enforcement of past-due property taxes. 1. Legislative findings. The legislature finds that local governments have limited means to enforce the collection of past-due property taxes. The legislature further finds that it is appropriate for the state to support the local enforcement of past-due property taxes by authorizing the commissioner to administer a program to disallow STAR credits and exemptions to delinquent property owners based on information reported to him or her by municipal officials.

2. Definitions. For the purposes of this section:

(a) "Delinquent property owner" means a STAR recipient whose primary residence is subject to past-due property taxes.

(b) "Past-due property taxes" means property taxes that have been levied upon a property owner's primary residence that remain unpaid one year after the last date on which they could have been paid without interest, or where such taxes are payable in installments, those taxes that remain unpaid one year after the last date on which the final installment could have been paid without interest.

(c) "STAR credit" means the basic STAR personal income tax credit authorized by subsection (eee) of section six hundred six of this chapter.

(d) "STAR exemption" means the basic STAR exemption from real property taxation authorized by section four hundred twenty-five of the real property tax law.

(e) "STAR recipient" means a property owner who is registered to receive the STAR credit in relation to his or her primary residence, or whose primary residence is receiving the STAR exemption.

3. STAR tax payment requirement; generally. Notwithstanding any provision of law to the contrary, a property owner whose primary residence is subject to past-due property taxes shall not be allowed to receive a STAR credit or STAR exemption unless the past-due property taxes are paid in full on or before a date specified by the commissioner.

4. Commissioner's authority. The commissioner is hereby authorized to develop a program to support the local enforcement of past-due property taxes by disallowing STAR credits and STAR exemptions to delinquent

property owners. The commissioner shall establish procedures for the administration of this program, which shall include the following provisions:

(a) The procedures by which municipal officials shall report past-due property taxes and property tax payments to the department.

(b) The procedures by which the department shall notify delinquent property owners of the impending disallowance of their STAR credits or exemptions due to past-due property taxes.

(c) The date by which delinquent property owners must pay their past-due property taxes in full in order to avoid disallowance of their STAR credits or exemptions.

(d) The procedures by which the commissioner shall disallow STAR credits and notify assessors of the disallowance of STAR exemptions if past-due property taxes are not paid in full by the specified date.

(e) Such other procedures as the commissioner shall deem necessary to carry out the provisions of this section.

5. Municipal reports. The commissioner's procedures regarding municipal reporting shall be subject to the following provisions:

(a) The commissioner may request and shall be entitled to receive from any municipal corporation of the state, or any agency or official thereof, such data as the commissioner deems necessary to effectuate the purposes of this section. Such information shall be submitted to the department at such time and in such manner as the commissioner may direct.

(b) In lieu of requiring municipal officials to submit their reports directly to the department, the commissioner may, in his or her discretion, require that such reports be submitted to the county director of real property tax services, who shall integrate the reports into a single file and submit it to the department at such time and in such manner as the commissioner may direct. Provided, that where the commissioner institutes such a procedure, he or she may exclude cities with one hundred twenty-five thousand inhabitants or more, so that information about past-due property taxes and property tax payments in such a city shall be reported directly to the department by a designated city official at such time and in such manner as the commissioner may direct.

(c) Reports and other records prepared pursuant to this section shall not be subject to the provisions of article six of the public officers law.

6. Notification of delinquent property owners. The commissioner's procedures regarding the notification of delinquent property owners shall be subject to the following provisions:

(a) The department shall notify a delinquent property owner by regular mail at least thirty days prior to the date by which his or her past-due property taxes must be paid in full in order to avoid disallowance of his or her STAR credit or exemption.

(b) Such notice shall include a statement that the property owner's STAR credit or exemption will be disallowed unless his or her past-due property taxes are paid in full by the date specified in the notice.

(c) To the extent practicable, such notice shall provide contact information for the local official or officials to whom the past-due property taxes may be paid.

(d) Such notice shall further state that the property owner's right to protest the disallowance of the STAR credit or exemption is limited to raising issues that constitute a "mistake of fact" as defined in subdivision nine of this section.

(e) Such notice may include such other information as the commissioner may deem necessary.

7. Timely payment of past-due property taxes. If a delinquent property owner pays his or her past-due property taxes in full on or before the date specified in such notice, the official receiving such payment shall so notify the department at such time and in such manner as prescribed by the commissioner. The property owner shall then be permitted to receive the STAR credit or exemption that would have been disallowed if timely payment had not been made. However, if the department does not learn of the payment until after it has already directed an assessor to deny a STAR exemption to a delinquent property owner, then in lieu of directing the exemption to be restored, the department may remit to the property owner payment in an amount that will reimburse the property owner for the increase in his or her school tax bill that is directly attributable to the lost STAR exemption.

8. Failure to make timely payment. (a) If the past-due taxes are not paid on or before the date specified in the notice that had been sent to the delinquent property owner, his or her STAR credit or STAR exemption shall be disallowed in accordance with the procedures established by the commissioner.

(b) The property owner shall not be eligible to participate in the STAR program again as long as the property is subject to past-due property taxes.

(c) Upon payment of the past-due property taxes in full, the official receiving such payment shall notify the department at such time and in such manner as may be prescribed by the commissioner. The commissioner shall then proceed as follows:

(i) If the property owner had previously been receiving the STAR credit, the commissioner shall allow the property owner to resume his or her participation in the STAR credit program on a prospective basis, if otherwise eligible, effective with the first taxable year commencing after such payment.

(ii) If the property owner had previously been receiving the STAR exemption, the commissioner shall allow the property owner to participate in the STAR credit program on a prospective basis, if otherwise eligible, effective with the first taxable year commencing after such payment. The property owner shall not be allowed back into the STAR exemption program.

(iii) The commissioner shall, when making the first advanced payment of a STAR credit to the property taxpayer after payment of the past-due property taxes in full, also pay to such property taxpayer the value of the STAR exemptions or STAR credits that were disallowed pursuant to paragraph a of this subdivision.

9. Mistake of fact. Notwithstanding any other provision of law, a disallowance of a STAR credit or STAR exemption pursuant to this section may only be challenged before the department on the grounds of a mistake of fact as defined in this subdivision. The taxpayer will have no right to commence a court action, administrative proceeding or any other form of legal recourse against an assessor, county director of real property tax services or other local official regarding such disallowance. For the purposes of this subdivision, "mistake of fact" is limited to claims that: (i) the individual notified is not the taxpayer at issue; or (ii) the past-due property taxes were satisfied before the date specified in the notice described in subdivision six of this section. However, nothing in this subdivision is intended to limit a taxpayer from seeking relief from joint and several liability pursuant to section six hundred

fifty-four of this chapter to the extent that he or she is eligible pursuant to that subdivision or establishing to the department that the enforcement of the underlying property taxes has been stayed by the filing of a petition pursuant to the Bankruptcy Code of 1978 (Title Eleven of the United States Code).

10. Assessors. (a) Notwithstanding any provision of law to the contrary, the department may disclose to assessors such information as the commissioner deems necessary to ensure that the STAR exemptions of delinquent property owners are disallowed as required by this section.

(b) Notwithstanding any provision of law to the contrary, an assessor shall be authorized and directed to deny a STAR exemption to a delinquent property owner upon being directed by the department to do so. If an assessor should receive such a directive after the applicable assessment roll has been filed, the assessor or other official having custody and control of that roll shall be authorized and directed to remove such exemption from such roll prior to the levy of school taxes, without regard to the provisions of title three of article five of the real property tax law or any comparable laws governing the correction of administrative errors on assessment rolls and tax rolls.

11. Recovery of STAR benefits in certain cases. The commissioner may establish procedures to be followed in cases where a STAR credit or exemption was inadvertently or erroneously provided to a delinquent property owner who was sent the notice required by subdivision six of this section, and whose past-due property taxes were not paid in full by the date specified in the notice. Such procedures shall include, but not be limited to, (a) applying the improperly received STAR credit or exemption as an offset against future STAR credits or against other personal income tax credits or personal income tax refunds to which the delinquent property owner would otherwise be entitled, and (b) pursuing any of the other remedies that are available to enforce a personal income tax debt under article twenty-two of this chapter.

§ 2. This act shall take effect immediately.

PART X

Section 1. Section 851 of the tax law is amended by adding a new subsection (d) to read as follows:

(d) If an employer determines that the election made pursuant to subsection (b) of this section was in error and such employer does not wish to participate in the program for the calendar year and has taken no action to comply with the requirements of this article, the employer may revoke the election to participate in the program. For the calendar year two thousand twenty, such revocation of the employer election may be made on or before April fifteenth, two thousand twenty. For calendar years beginning two thousand twenty-one and thereafter, such revocation of the employer election must be made no later than January fifteenth of the immediately succeeding calendar year after the employer election was made.

§ 2. This act shall take effect immediately.

PART Y

Section 1. Section 34 of part A3 of chapter 62 of the laws of 2003 amending the general business law and other laws relating to enacting major components necessary to implement the state fiscal plan for the

2003-04 state fiscal year, as amended by section 14 of part H of chapter 57 of the laws of 2017, is amended to read as follows:

§ 34. (1) Notwithstanding any inconsistent provision of law, rule or regulation and effective April 1, 2008 through March 31, [~~2020~~] 2023, the commissioner of health is authorized to transfer and the state comptroller is authorized and directed to receive for deposit to the credit of the department of health's special revenue fund - other, health care reform act (HCRA) resources fund - 061, provider collection monitoring account, within amounts appropriated each year, those funds collected and accumulated pursuant to section 2807-v of the public health law, including income from invested funds, for the purpose of payment for administrative costs of the department of health related to administration of statutory duties for the collections and distributions authorized by section 2807-v of the public health law.

(2) Notwithstanding any inconsistent provision of law, rule or regulation and effective April 1, 2008 through March 31, [~~2020~~] 2023, the commissioner of health is authorized to transfer and the state comptroller is authorized and directed to receive for deposit to the credit of the department of health's special revenue fund - other, health care reform act (HCRA) resources fund - 061, provider collection monitoring account, within amounts appropriated each year, those funds collected and accumulated and interest earned through surcharges on payments for health care services pursuant to section 2807-s of the public health law and from assessments pursuant to section 2807-t of the public health law for the purpose of payment for administrative costs of the department of health related to administration of statutory duties for the collections and distributions authorized by sections 2807-s, 2807-t, and 2807-m of the public health law.

(3) Notwithstanding any inconsistent provision of law, rule or regulation and effective April 1, 2008 through March 31, [~~2020~~] 2023, the commissioner of health is authorized to transfer and the comptroller is authorized to deposit, within amounts appropriated each year, those funds authorized for distribution in accordance with the provisions of paragraph (a) of subdivision 1 of section 2807-l of the public health law for the purposes of payment for administrative costs of the department of health related to the child health insurance plan program authorized pursuant to title 1-A of article 25 of the public health law into the special revenue funds - other, health care reform act (HCRA) resources fund - 061, child health insurance account, established within the department of health.

[~~(4) Notwithstanding any inconsistent provision of law, rule or regulation and effective April 1, 2008 through March 31, 2020, the commissioner of health is authorized to transfer and the comptroller is authorized to deposit, within amounts appropriated each year, those funds authorized for distribution in accordance with the provisions of paragraph (e) of subdivision 1 of section 2807-l of the public health law for the purpose of payment for administrative costs of the department of health related to the health occupation development and workplace demonstration program established pursuant to section 2807-h and the health workforce retraining program established pursuant to section 2807-g of the public health law into the special revenue funds - other, health care reform act (HCRA) resources fund - 061, health occupation development and workplace demonstration program account, established within the department of health.~~]

(5) Notwithstanding any inconsistent provision of law, rule or regulation and effective April 1, 2008 through March 31, [~~2020~~] 2023, the

commissioner of health is authorized to transfer and the comptroller is authorized to deposit, within amounts appropriated each year, those funds allocated pursuant to paragraph (j) of subdivision 1 of section 2807-v of the public health law for the purpose of payment for administrative costs of the department of health related to administration of the state's tobacco control programs and cancer services provided pursuant to sections 2807-r and 1399-ii of the public health law into such accounts established within the department of health for such purposes.

(6) Notwithstanding any inconsistent provision of law, rule or regulation and effective April 1, 2008 through March 31, [~~2020~~] 2023, the commissioner of health is authorized to transfer and the comptroller is authorized to deposit, within amounts appropriated each year, the funds authorized for distribution in accordance with the provisions of section 2807-l of the public health law for the purposes of payment for administrative costs of the department of health related to the programs funded pursuant to section 2807-l of the public health law into the special revenue funds - other, health care reform act (HCRA) resources fund - 061, pilot health insurance account, established within the department of health.

(7) Notwithstanding any inconsistent provision of law, rule or regulation and effective April 1, 2008 through March 31, [~~2020~~] 2023, the commissioner of health is authorized to transfer and the comptroller is authorized to deposit, within amounts appropriated each year, those funds authorized for distribution in accordance with the provisions of subparagraph (ii) of paragraph (f) of subdivision 19 of section 2807-c of the public health law from monies accumulated and interest earned in the bad debt and charity care and capital statewide pools through an assessment charged to general hospitals pursuant to the provisions of subdivision 18 of section 2807-c of the public health law and those funds authorized for distribution in accordance with the provisions of section 2807-l of the public health law for the purposes of payment for administrative costs of the department of health related to programs funded under section 2807-l of the public health law into the special revenue funds - other, health care reform act (HCRA) resources fund - 061, primary care initiatives account, established within the department of health.

(8) Notwithstanding any inconsistent provision of law, rule or regulation and effective April 1, 2008 through March 31, [~~2020~~] 2023, the commissioner of health is authorized to transfer and the comptroller is authorized to deposit, within amounts appropriated each year, those funds authorized for distribution in accordance with section 2807-l of the public health law for the purposes of payment for administrative costs of the department of health related to programs funded under section 2807-l of the public health law into the special revenue funds - other, health care reform act (HCRA) resources fund - 061, health care delivery administration account, established within the department of health.

(9) Notwithstanding any inconsistent provision of law, rule or regulation and effective April 1, 2008 through March 31, [~~2020~~] 2023, the commissioner of health is authorized to transfer and the comptroller is authorized to deposit, within amounts appropriated each year, those funds authorized pursuant to sections 2807-d, 3614-a and 3614-b of the public health law and section 367-i of the social services law and for distribution in accordance with the provisions of subdivision 9 of section 2807-j of the public health law for the purpose of payment for administration of statutory duties for the collections and distributions

authorized by sections 2807-c, 2807-d, 2807-j, 2807-k, 2807-l, 3614-a and 3614-b of the public health law and section 367-i of the social services law into the special revenue funds - other, health care reform act (HCRA) resources fund - 061, provider collection monitoring account, established within the department of health.

§ 2. Subparagraphs (iv) and (v) of paragraph (a) of subdivision 9 of section 2807-j of the public health law, as amended by section 5 of part H of chapter 57 of the laws of 2017, are amended to read as follows:

(iv) seven hundred sixty-five million dollars annually of the funds accumulated for the periods January first, two thousand through December thirty-first, two thousand [~~nineteen~~] twenty-two, and

(v) one hundred ninety-one million two hundred fifty thousand dollars of the funds accumulated for the period January first, two thousand [~~twenty~~] twenty-three through March thirty-first, two thousand [~~twenty~~] twenty-three.

§ 3. Subdivision 5 of section 168 of chapter 639 of the laws of 1996, constituting the New York Health Care Reform Act of 1996, as amended by section 1 of part H of chapter 57 of the laws of 2017, is amended to read as follows:

5. sections 2807-c, 2807-j, 2807-s and 2807-t of the public health law, as amended or as added by this act, shall expire on December 31, [~~2020~~] 2023, and shall be thereafter effective only in respect to any act done on or before such date or action or proceeding arising out of such act including continued collections of funds from assessments and allowances and surcharges established pursuant to sections 2807-c, 2807-j, 2807-s and 2807-t of the public health law, and administration and distributions of funds from pools established pursuant to sections 2807-c, 2807-j, 2807-k, 2807-l, 2807-m, 2807-s and 2807-t of the public health law related to patient services provided before December 31, [~~2020~~] 2023, and continued expenditure of funds authorized for programs and grants until the exhaustion of funds therefor;

§ 4. Subdivision 1 of section 138 of chapter 1 of the laws of 1999, constituting the New York Health Care Reform Act of 2000, as amended by section 2 of part H of chapter 57 of the laws of 2017, is amended to read as follows:

1. sections 2807-c, 2807-j, 2807-s, and 2807-t of the public health law, as amended by this act, shall expire on December 31, [~~2020~~] 2023, and shall be thereafter effective only in respect to any act done before such date or action or proceeding arising out of such act including continued collections of funds from assessments and allowances and surcharges established pursuant to sections 2807-c, 2807-j, 2807-s and 2807-t of the public health law, and administration and distributions of funds from pools established pursuant to sections 2807-c, 2807-j, 2807-k, 2807-l, 2807-m, 2807-s, 2807-t, 2807-v and 2807-w of the public health law, as amended or added by this act, related to patient services provided before December 31, [~~2020~~] 2023, and continued expenditure of funds authorized for programs and grants until the exhaustion of funds therefor;

§ 5. Section 2807-l of the public health law, as amended by section 21 of part H of chapter 57 of the laws of 2017, is amended to read as follows:

§ 2807-l. Health care initiatives pool distributions. 1. Funds accumulated in the health care initiatives pools pursuant to paragraph (b) of subdivision nine of section twenty-eight hundred seven-j of this article, or the health care reform act (HCRA) resources fund established pursuant to section ninety-two-dd of the state finance law, whichever is

applicable, including income from invested funds, shall be distributed or retained by the commissioner or by the state comptroller, as applicable, in accordance with the following.

(a) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of distributions to programs to provide health care coverage for uninsured or underinsured children pursuant to sections twenty-five hundred ten and twenty-five hundred eleven of this chapter from the respective health care initiatives pools established for the following periods in the following amounts:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, up to one hundred twenty million six hundred thousand dollars;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, up to one hundred sixty-four million five hundred thousand dollars;

(iii) from the pool for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, up to one hundred eighty-one million dollars;

(iv) from the pool for the period January first, two thousand through December thirty-first, two thousand, two hundred seven million dollars;

(v) from the pool for the period January first, two thousand one through December thirty-first, two thousand one, two hundred thirty-five million dollars;

(vi) from the pool for the period January first, two thousand two through December thirty-first, two thousand two, three hundred twenty-four million dollars;

(vii) from the pool for the period January first, two thousand three through December thirty-first, two thousand three, up to four hundred fifty million three hundred thousand dollars;

(viii) from the pool for the period January first, two thousand four through December thirty-first, two thousand four, up to four hundred sixty million nine hundred thousand dollars;

(ix) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the period January first, two thousand five through December thirty-first, two thousand five, up to one hundred fifty-three million eight hundred thousand dollars;

(x) from the health care reform act (HCRA) resources fund for the period January first, two thousand six through December thirty-first, two thousand six, up to three hundred twenty-five million four hundred thousand dollars;

(xi) from the health care reform act (HCRA) resources fund for the period January first, two thousand seven through December thirty-first, two thousand seven, up to four hundred twenty-eight million fifty-nine thousand dollars;

(xii) from the health care reform act (HCRA) resources fund for the period January first, two thousand eight through December thirty-first, two thousand ten, up to four hundred fifty-three million six hundred seventy-four thousand dollars annually;

(xiii) from the health care reform act (HCRA) resources fund for the period January first, two thousand eleven, through March thirty-first, two thousand eleven, up to one hundred thirteen million four hundred eighteen thousand dollars;

(xiv) from the health care reform act (HCRA) resources fund for the period April first, two thousand eleven, through March thirty-first, two

thousand twelve, up to three hundred twenty-four million seven hundred forty-four thousand dollars;

(xv) from the health care reform act (HCRA) resources fund for the period April first, two thousand twelve, through March thirty-first, two thousand thirteen, up to three hundred forty-six million four hundred forty-four thousand dollars;

(xvi) from the health care reform act (HCRA) resources fund for the period April first, two thousand thirteen, through March thirty-first, two thousand fourteen, up to three hundred seventy million six hundred ninety-five thousand dollars; and

(xvii) from the health care reform act (HCRA) resources fund for each state fiscal year for periods on and after April first, two thousand fourteen, within amounts appropriated.

(b) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of distributions for health insurance programs under the individual subsidy programs established pursuant to the expanded health care coverage act of nineteen hundred eighty-eight as amended, and for evaluation of such programs from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable, established for the following periods in the following amounts:

(i) (A) an amount not to exceed six million dollars on an annualized basis for the periods January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine; up to six million dollars for the period January first, two thousand through December thirty-first, two thousand; up to five million dollars for the period January first, two thousand one through December thirty-first, two thousand one; up to four million dollars for the period January first, two thousand two through December thirty-first, two thousand two; up to two million six hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three; up to one million three hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four; up to six hundred seventy thousand dollars for the period January first, two thousand five through June thirtieth, two thousand five; up to one million three hundred thousand dollars for the period April first, two thousand six through March thirty-first, two thousand seven; and up to one million three hundred thousand dollars annually for the period April first, two thousand seven through March thirty-first, two thousand nine, shall be allocated to individual subsidy programs; and

(B) an amount not to exceed seven million dollars on an annualized basis for the periods during the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine and four million dollars annually for the periods January first, two thousand through December thirty-first, two thousand two, and three million dollars for the period January first, two thousand three through December thirty-first, two thousand three, and two million dollars for the period January first, two thousand four through December thirty-first, two thousand four, and two million dollars for the period January first, two thousand five through June thirtieth, two thousand five shall be allocated to the catastrophic health care expense program.

(ii) Notwithstanding any law to the contrary, the characterizations of the New York state small business health insurance partnership program as in effect prior to June thirtieth, two thousand three, voucher program as in effect prior to December thirty-first, two thousand one,

individual subsidy program as in effect prior to June thirtieth, two thousand five, and catastrophic health care expense program, as in effect prior to June thirtieth, two thousand five, may, for the purposes of identifying matching funds for the community health care conversion demonstration project described in a waiver of the provisions of title XIX of the federal social security act granted to the state of New York and dated July fifteenth, nineteen hundred ninety-seven, may continue to be used to characterize the insurance programs in sections four thousand three hundred twenty-one-a, four thousand three hundred twenty-two-a, four thousand three hundred twenty-six and four thousand three hundred twenty-seven of the insurance law, which are successor programs to these programs.

(c) Up to seventy-eight million dollars shall be reserved and accumulated from year to year from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, for purposes of public health programs, up to seventy-six million dollars shall be reserved and accumulated from year to year from the pools for the periods January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight and January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, up to eighty-four million dollars shall be reserved and accumulated from year to year from the pools for the period January first, two thousand through December thirty-first, two thousand, up to eighty-five million dollars shall be reserved and accumulated from year to year from the pools for the period January first, two thousand one through December thirty-first, two thousand one, up to eighty-six million dollars shall be reserved and accumulated from year to year from the pools for the period January first, two thousand two through December thirty-first, two thousand two, up to eighty-six million one hundred fifty thousand dollars shall be reserved and accumulated from year to year from the pools for the period January first, two thousand three through December thirty-first, two thousand three, up to fifty-eight million seven hundred eighty thousand dollars shall be reserved and accumulated from year to year from the pools for the period January first, two thousand four through December thirty-first, two thousand four, up to sixty-eight million seven hundred thirty thousand dollars shall be reserved and accumulated from year to year from the pools or the health care reform act (HCRA) resources fund, whichever is applicable, for the period January first, two thousand five through December thirty-first, two thousand five, up to ninety-four million three hundred fifty thousand dollars shall be reserved and accumulated from year to year from the health care reform act (HCRA) resources fund for the period January first, two thousand six through December thirty-first, two thousand six, up to seventy million nine hundred thirty-nine thousand dollars shall be reserved and accumulated from year to year from the health care reform act (HCRA) resources fund for the period January first, two thousand seven through December thirty-first, two thousand seven, up to fifty-five million six hundred eighty-nine thousand dollars annually shall be reserved and accumulated from year to year from the health care reform act (HCRA) resources fund for the period January first, two thousand eight through December thirty-first, two thousand ten, up to thirteen million nine hundred twenty-two thousand dollars shall be reserved and accumulated from year to year from the health care reform act (HCRA) resources fund for the period January first, two thousand eleven through March thirty-first, two thousand eleven, and for periods on and after April first, two thousand

eleven, up to funding amounts specified below and shall be available, including income from invested funds, for:

(i) deposit by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to, to the credit of the department of health's special revenue fund - other, hospital based grants program account or the health care reform act (HCRA) resources fund, whichever is applicable, for purposes of services and expenses related to general hospital based grant programs, up to twenty-two million dollars annually from the nineteen hundred ninety-seven pool, nineteen hundred ninety-eight pool, nineteen hundred ninety-nine pool, two thousand pool, two thousand one pool and two thousand two pool, respectively, up to twenty-two million dollars from the two thousand three pool, up to ten million dollars for the period January first, two thousand four through December thirty-first, two thousand four, up to eleven million dollars for the period January first, two thousand five through December thirty-first, two thousand five, up to twenty-two million dollars for the period January first, two thousand six through December thirty-first, two thousand six, up to twenty-two million ninety-seven thousand dollars annually for the period January first, two thousand seven through December thirty-first, two thousand ten, up to five million five hundred twenty-four thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to thirteen million four hundred forty-five thousand dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve, and up to thirteen million three hundred seventy-five thousand dollars each state fiscal year for the period April first, two thousand twelve through March thirty-first, two thousand fourteen;

(ii) deposit by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to, to the credit of the emergency medical services training account established in section ninety-seven-q of the state finance law or the health care reform act (HCRA) resources fund, whichever is applicable, up to sixteen million dollars on an annualized basis for the periods January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine, up to twenty million dollars for the period January first, two thousand through December thirty-first, two thousand, up to twenty-one million dollars for the period January first, two thousand one through December thirty-first, two thousand one, up to twenty-two million dollars for the period January first, two thousand two through December thirty-first, two thousand two, up to twenty-two million five hundred fifty thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three, up to nine million six hundred eighty thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four, up to twelve million one hundred thirty thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five, up to twenty-four million two hundred fifty thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six, up to twenty million four hundred ninety-two thousand dollars annually for the period January first, two thousand seven through December thirty-first, two thousand ten, up to five million one hundred twenty-three thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to eighteen million three hundred fifty thousand dollars for the period April first, two thousand eleven

through March thirty-first, two thousand twelve, up to eighteen million nine hundred fifty thousand dollars for the period April first, two thousand twelve through March thirty-first, two thousand thirteen, up to nineteen million four hundred nineteen thousand dollars for the period April first, two thousand thirteen through March thirty-first, two thousand fourteen, and up to nineteen million six hundred fifty-nine thousand seven hundred dollars each state fiscal year for the period of April first, two thousand fourteen through March thirty-first, two thousand [~~twenty~~] twenty-three;

(iii) priority distributions by the commissioner up to thirty-two million dollars on an annualized basis for the period January first, two thousand through December thirty-first, two thousand four, up to thirty-eight million dollars on an annualized basis for the period January first, two thousand five through December thirty-first, two thousand six, up to eighteen million two hundred fifty thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, up to three million dollars annually for the period January first, two thousand eight through December thirty-first, two thousand ten, up to seven hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to two million nine hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, and up to two million nine hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand [~~twenty~~] twenty-three to be allocated (A) for the purposes established pursuant to subparagraph (ii) of paragraph (f) of subdivision nineteen of section twenty-eight hundred seven-c of this article as in effect on December thirty-first, nineteen hundred ninety-six and as may thereafter be amended, up to fifteen million dollars annually for the periods January first, two thousand through December thirty-first, two thousand four, up to twenty-one million dollars annually for the period January first, two thousand five through December thirty-first, two thousand six, and up to seven million five hundred thousand dollars for the period January first, two thousand seven through March thirty-first, two thousand seven;

(B) pursuant to a memorandum of understanding entered into by the commissioner, the majority leader of the senate and the speaker of the assembly, for the purposes outlined in such memorandum upon the recommendation of the majority leader of the senate, up to eight million five hundred thousand dollars annually for the period January first, two thousand through December thirty-first, two thousand six, and up to four million two hundred fifty thousand dollars for the period January first, two thousand seven through June thirtieth, two thousand seven, and for the purposes outlined in such memorandum upon the recommendation of the speaker of the assembly, up to eight million five hundred thousand dollars annually for the periods January first, two thousand through December thirty-first, two thousand six, and up to four million two hundred fifty thousand dollars for the period January first, two thousand seven through June thirtieth, two thousand seven; and

(C) for services and expenses, including grants, related to emergency assistance distributions as designated by the commissioner. Notwithstanding section one hundred twelve or one hundred sixty-three of the state finance law or any other contrary provision of law, such distributions shall be limited to providers or programs where, as determined by the commissioner, emergency assistance is vital to protect the life or

safety of patients, to ensure the retention of facility caregivers or other staff, or in instances where health facility operations are jeopardized, or where the public health is jeopardized or other emergency situations exist, up to three million dollars annually for the period April first, two thousand seven through March thirty-first, two thousand eleven, up to two million nine hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to two million nine hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, [~~and~~] up to two million nine hundred thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**, and up to two million nine hundred thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**. Upon any distribution of such funds, the commissioner shall immediately notify the chair and ranking minority member of the senate finance committee, the assembly ways and means committee, the senate committee on health, and the assembly committee on health;

(iv) distributions by the commissioner related to poison control centers pursuant to subdivision seven of section twenty-five hundred-d of this chapter, up to five million dollars for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, up to three million dollars on an annualized basis for the periods during the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-nine, up to five million dollars annually for the periods January first, two thousand through December thirty-first, two thousand two, up to four million six hundred thousand dollars annually for the periods January first, two thousand three through December thirty-first, two thousand four, up to five million one hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand six annually, up to five million one hundred thousand dollars annually for the period January first, two thousand seven through December thirty-first, two thousand nine, up to three million six hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, up to seven hundred seventy-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to two million five hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to three million dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, [~~and~~] up to three million dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**, and up to three million dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**; and

(v) deposit by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to, to the credit of the department of health's special revenue fund - other, miscellaneous special revenue fund - 339 maternal and child HIV services account or the health care reform act (HCRA) resources fund, whichever is applicable, for purposes of a special program for HIV services for women and children, including adolescents pursuant to section twenty-five hundred-f-one of this chapter, up to

five million dollars annually for the periods January first, two thousand through December thirty-first, two thousand two, up to five million dollars for the period January first, two thousand three through December thirty-first, two thousand three, up to two million five hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four, up to two million five hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five, up to five million dollars for the period January first, two thousand six through December thirty-first, two thousand six, up to five million dollars annually for the period January first, two thousand seven through December thirty-first, two thousand ten, up to one million two hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, and up to five million dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(d) (i) An amount of up to twenty million dollars annually for the period January first, two thousand through December thirty-first, two thousand six, up to ten million dollars for the period January first, two thousand seven through June thirtieth, two thousand seven, up to twenty million dollars annually for the period January first, two thousand eight through December thirty-first, two thousand ten, up to five million dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to nineteen million six hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to nineteen million six hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, [~~and~~] up to nineteen million six hundred thousand dollars each state fiscal year for the period of April first, two thousand seventeen through March thirty-first, two thousand twenty**, and up to nineteen million six hundred thousand dollars each state fiscal year for the period of April first, two thousand twenty through March thirty-first, two thousand twenty-three**, shall be transferred to the health facility restructuring pool established pursuant to section twenty-eight hundred fifteen of this article;

(ii) provided, however, amounts transferred pursuant to subparagraph (i) of this paragraph may be reduced in an amount to be approved by the director of the budget to reflect the amount received from the federal government under the state's 1115 waiver which is directed under its terms and conditions to the health facility restructuring program.

(e) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of distributions to organizations to support the health workforce retraining program established pursuant to section twenty-eight hundred seven-g of this article from the respective health care initiatives pools established for the following periods in the following amounts from the pools or the health care reform act (HCRA) resources fund, whichever is applicable, during the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine, up to fifty million dollars on an annualized basis, up to thirty million dollars for the period January first, two thousand through December thirty-first, two thousand, up to forty million dollars for the period January first, two thousand one through December thirty-first, two thousand one, up to fifty million dollars for the period January first, two thousand two through December thirty-first, two thou-

sand two, up to forty-one million one hundred fifty thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three, up to forty-one million one hundred fifty thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four, up to fifty-eight million three hundred sixty thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five, up to fifty-two million three hundred sixty thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six, up to thirty-five million four hundred thousand dollars annually for the period January first, two thousand seven through December thirty-first, two thousand ten, up to eight million eight hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to twenty-eight million four hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to twenty-six million eight hundred seventeen thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, [~~and~~] up to twenty-six million eight hundred seventeen thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**, and up to twenty-six million eight hundred seventeen thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**, less the amount of funds available for allocations for rate adjustments for workforce training programs for payments by state governmental agencies for inpatient hospital services.

(f) Funds shall be accumulated and transferred from as follows:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, (A) thirty-four million six hundred thousand dollars shall be transferred to funds reserved and accumulated pursuant to paragraph (b) of subdivision nineteen of section twenty-eight hundred seven-c of this article, and (B) eighty-two million dollars shall be transferred and deposited and credited to the credit of the state general fund medical assistance local assistance account;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, eighty-two million dollars shall be transferred and deposited and credited to the credit of the state general fund medical assistance local assistance account;

(iii) from the pool for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, eighty-two million dollars shall be transferred and deposited and credited to the credit of the state general fund medical assistance local assistance account;

(iv) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the period January first, two thousand through December thirty-first, two thousand four, eighty-two million dollars annually, and for the period January first, two thousand five through December thirty-first, two thousand five, eighty-two million dollars, and for the period January first, two thousand six through December thirty-first, two thousand six, eighty-two million dollars, and for the period January first, two thousand seven through December thirty-first, two thousand seven, eighty-two million dollars, and for the period January first, two thousand eight through December

thirty-first, two thousand eight, ninety million seven hundred thousand dollars shall be deposited by the commissioner, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account;

(v) from the health care reform act (HCRA) resources fund for the period January first, two thousand nine through December thirty-first, two thousand nine, one hundred eight million nine hundred seventy-five thousand dollars, and for the period January first, two thousand ten through December thirty-first, two thousand ten, one hundred twenty-six million one hundred thousand dollars, for the period January first, two thousand eleven through March thirty-first, two thousand eleven, twenty million five hundred thousand dollars, and for each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, one hundred forty-six million four hundred thousand dollars, shall be deposited by the commissioner, and the state comptroller is hereby authorized and directed to receive for deposit, to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account.

(g) Funds shall be transferred to primary health care services pools created by the commissioner, and shall be available, including income from invested funds, for distributions in accordance with former section twenty-eight hundred seven-bb of this article from the respective health care initiatives pools for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, fifteen and eighty-seven-hundredths percent;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, fifteen and eighty-seven-hundredths percent; and

(iii) from the pool for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, sixteen and thirteen-hundredths percent.

(h) Funds shall be reserved and accumulated from year to year by the commissioner and shall be available, including income from invested funds, for purposes of primary care education and training pursuant to article nine of this chapter from the respective health care initiatives pools established for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision and shall be available for distributions as follows:

(i) funds shall be reserved and accumulated:

(A) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, six and thirty-five-hundredths percent;

(B) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, six and thirty-five-hundredths percent; and

(C) from the pool for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, six and forty-five-hundredths percent;

(ii) funds shall be available for distributions including income from invested funds as follows:

(A) for purposes of the primary care physician loan repayment program in accordance with section nine hundred three of this chapter, up to five million dollars on an annualized basis;

(B) for purposes of the primary care practitioner scholarship program in accordance with section nine hundred four of this chapter, up to two million dollars on an annualized basis;

(C) for purposes of minority participation in medical education grants in accordance with section nine hundred six of this chapter, up to one million dollars on an annualized basis; and

(D) provided, however, that the commissioner may reallocate any funds remaining or unallocated for distributions for the primary care practitioner scholarship program in accordance with section nine hundred four of this chapter.

(i) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for distributions in accordance with section twenty-nine hundred fifty-two and section twenty-nine hundred fifty-eight of this chapter for rural health care delivery development and rural health care access development, respectively, from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable, for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision, and for periods on and after January first, two thousand, in the following amounts:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, thirteen and forty-nine-hundredths percent;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, thirteen and forty-nine-hundredths percent;

(iii) from the pool for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, thirteen and seventy-one-hundredths percent;

(iv) from the pool for the periods January first, two thousand through December thirty-first, two thousand two, seventeen million dollars annually, and for the period January first, two thousand three through December thirty-first, two thousand three, up to fifteen million eight hundred fifty thousand dollars;

(v) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the period January first, two thousand four through December thirty-first, two thousand four, up to fifteen million eight hundred fifty thousand dollars, for the period January first, two thousand five through December thirty-first, two thousand five, up to nineteen million two hundred thousand dollars, for the period January first, two thousand six through December thirty-first, two thousand six, up to nineteen million two hundred thousand dollars, for the period January first, two thousand seven through December thirty-first, two thousand ten, up to eighteen million one hundred fifty thousand dollars annually, for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to four million five hundred thirty-eight thousand dollars, for each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to sixteen million two hundred thousand dollars, up to sixteen million two hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, [~~and~~] up to sixteen million two hundred

thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**, and up to sixteen million two hundred thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**.

(j) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of distributions related to health information and health care quality improvement pursuant to former section twenty-eight hundred seven-n of this article from the respective health care initiatives pools established for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, six and thirty-five-hundredths percent;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, six and thirty-five-hundredths percent; and

(iii) from the pool for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, six and forty-five-hundredths percent.

(k) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for allocations and distributions in accordance with section twenty-eight hundred seven-p of this article for diagnostic and treatment center uncompensated care from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable, for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision, and for periods on and after January first, two thousand, in the following amounts:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, thirty-eight and one-tenth percent;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, thirty-eight and one-tenth percent;

(iii) from the pool for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, thirty-eight and seventy-one-hundredths percent;

(iv) from the pool for the periods January first, two thousand through December thirty-first, two thousand two, forty-eight million dollars annually, and for the period January first, two thousand three through June thirtieth, two thousand three, twenty-four million dollars;

(v) (A) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the period July first, two thousand three through December thirty-first, two thousand three, up to six million dollars, for the period January first, two thousand four through December thirty-first, two thousand six, up to twelve million dollars annually, for the period January first, two thousand seven through December thirty-first, two thousand thirteen, up to forty-eight million dollars annually, for the period January first, two thousand fourteen through March thirty-first, two thousand fourteen, up to twelve million dollars for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to forty-eight million dollars

annually, [~~and~~] for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, up to forty-eight million dollars annually**, and for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three, up to forty-eight million dollars annually**;

(B) from the health care reform act (HCRA) resources fund for the period January first, two thousand six through December thirty-first, two thousand six, an additional seven million five hundred thousand dollars, for the period January first, two thousand seven through December thirty-first, two thousand thirteen, an additional seven million five hundred thousand dollars annually, for the period January first, two thousand fourteen through March thirty-first, two thousand fourteen, an additional one million eight hundred seventy-five thousand dollars, for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, an additional seven million five hundred thousand dollars annually, [~~and~~] for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, an additional seven million five hundred thousand dollars annually**, and for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three, an additional seven million five hundred thousand dollars annually** for voluntary non-profit diagnostic and treatment center uncompensated care in accordance with subdivision four-c of section twenty-eight hundred seven-p of this article; and

(vi) funds reserved and accumulated pursuant to this paragraph for periods on and after July first, two thousand three, shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, for purposes of funding the state share of rate adjustments made pursuant to section twenty-eight hundred seven-p of this article, provided, however, that in the event federal financial participation is not available for rate adjustments made pursuant to paragraph (b) of subdivision one of section twenty-eight hundred seven-p of this article, funds shall be distributed pursuant to paragraph (a) of subdivision one of section twenty-eight hundred seven-p of this article from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable.

(l) Funds shall be reserved and accumulated from year to year by the commissioner and shall be available, including income from invested funds, for transfer to and allocation for services and expenses for the payment of benefits to recipients of drugs under the AIDS drug assistance program (ADAP) - HIV uninsured care program as administered by Health Research Incorporated from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable, established for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision, and for periods on and after January first, two thousand, in the following amounts:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, nine and fifty-two-hundredths percent;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, nine and fifty-two-hundredths percent;

(iii) from the pool for the period January first, nineteen hundred ninety-nine and December thirty-first, nineteen hundred ninety-nine, nine and sixty-eight-hundredths percent;

(iv) from the pool for the periods January first, two thousand through December thirty-first, two thousand two, up to twelve million dollars annually, and for the period January first, two thousand three through December thirty-first, two thousand three, up to forty million dollars; and

(v) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the periods January first, two thousand four through December thirty-first, two thousand four, up to fifty-six million dollars, for the period January first, two thousand five through December thirty-first, two thousand six, up to sixty million dollars annually, for the period January first, two thousand seven through December thirty-first, two thousand ten, up to sixty million dollars annually, for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to fifteen million dollars, each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to forty-two million three hundred thousand dollars and up to forty-one million fifty thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand [~~twenty~~] **twenty-three**.

(m) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of distributions pursuant to section twenty-eight hundred seven-r of this article for cancer related services from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable, established for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision, and for periods on and after January first, two thousand, in the following amounts:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, seven and ninety-four-hundredths percent;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, seven and ninety-four-hundredths percent;

(iii) from the pool for the period January first, nineteen hundred ninety-nine and December thirty-first, nineteen hundred ninety-nine, six and forty-five-hundredths percent;

(iv) from the pool for the period January first, two thousand through December thirty-first, two thousand two, up to ten million dollars on an annual basis;

(v) from the pool for the period January first, two thousand three through December thirty-first, two thousand four, up to eight million nine hundred fifty thousand dollars on an annual basis;

(vi) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the period January first, two thousand five through December thirty-first, two thousand six, up to ten million fifty thousand dollars on an annual basis, for the period January first, two thousand seven through December thirty-first, two thousand ten, up to nineteen million dollars annually, and for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to four million seven hundred fifty thousand dollars.

(n) Funds shall be accumulated and transferred from the health care reform act (HCRA) resources fund as follows: for the period April first, two thousand seven through March thirty-first, two thousand eight, and on an annual basis for the periods April first, two thousand eight through November thirtieth, two thousand nine, funds within amounts appropriated shall be transferred and deposited and credited to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, for purposes of funding the state share of rate adjustments made to public and voluntary hospitals in accordance with paragraphs (i) and (j) of subdivision one of section twenty-eight hundred seven-c of this article.

2. Notwithstanding any inconsistent provision of law, rule or regulation, any funds accumulated in the health care initiatives pools pursuant to paragraph (b) of subdivision nine of section twenty-eight hundred seven-j of this article, as a result of surcharges, assessments or other obligations during the periods January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine, which are unused or uncommitted for distributions pursuant to this section shall be reserved and accumulated from year to year by the commissioner and, within amounts appropriated, transferred and deposited into the special revenue funds - other, miscellaneous special revenue fund - 339, child health insurance account or any successor fund or account, for purposes of distributions to implement the child health insurance program established pursuant to sections twenty-five hundred ten and twenty-five hundred eleven of this chapter for periods on and after January first, two thousand one; provided, however, funds reserved and accumulated for priority distributions pursuant to subparagraph (iii) of paragraph (c) of subdivision one of this section shall not be transferred and deposited into such account pursuant to this subdivision; and provided further, however, that any unused or uncommitted pool funds accumulated and allocated pursuant to paragraph (j) of subdivision one of this section shall be distributed for purposes of the health information and quality improvement act of 2000.

3. Revenue from distributions pursuant to this section shall not be included in gross revenue received for purposes of the assessments pursuant to subdivision eighteen of section twenty-eight hundred seven-c of this article, subject to the provisions of paragraph (e) of subdivision eighteen of section twenty-eight hundred seven-c of this article, and shall not be included in gross revenue received for purposes of the assessments pursuant to section twenty-eight hundred seven-d of this article, subject to the provisions of subdivision twelve of section twenty-eight hundred seven-d of this article.

§ 6. Subdivision 1, paragraph (f) of subdivision 3, paragraphs (a) and (d) of subdivision 5 and subdivisions 5-a and 12 of section 2807-m of the public health law, subdivision 1 as amended by section 16 of part B of chapter 58 of the laws of 2008, the opening paragraph of paragraph (s) of subdivision 1 as amended by section 95 and paragraph (f) of subdivision 3 as amended by section 97 of part C of chapter 58 of the laws of 2009, paragraph (a) of subdivision 5 as amended by section 75-b of part C of chapter 58 of the laws of 2008, paragraph (d) of subdivision 5 as added by section 10-a of part E of chapter 63 of the laws of 2005, subdivision 5-a as amended by section 6 of part H of chapter 57 of the laws of 2017 and subdivision 12 as added by section 3 of part R of chapter 59 of the laws of 2016, are amended to read as follows:

1. Definitions. For purposes of this section, the following definitions shall apply, unless the context clearly requires otherwise:

(a) "Clinical research" means patient-oriented research, epidemiologic and behavioral studies, or outcomes research and health services research that is approved by an institutional review board by the time the clinical research position is filled.

(b) "Clinical research plan" means a plan submitted by a consortium or teaching general hospital for a clinical research position which demonstrates, in a form to be provided by the commissioner, the following:

(i) financial support for overhead, supervision, equipment and other resources equal to the amount of funding provided pursuant to subparagraph (i) of paragraph (b) of subdivision five-a of this section by the teaching general hospital or consortium for the clinical research position;

(ii) experience the sponsor-mentor and teaching general hospital has in clinical research and the medical field of the study;

(iii) methods, data collection and anticipated measurable outcomes of the clinical research to be performed;

(iv) training goals, objectives and experience the researcher will be provided to assess a future career in clinical research;

(v) scientific relevance, merit and health implications of the research to be performed;

(vi) information on potential scientific meetings and peer review journals where research results can be disseminated;

(vii) clear and comprehensive details on the clinical research position;

(viii) qualifications necessary for the clinical research position and strategy for recruitment;

(ix) non-duplication with other clinical research positions from the same teaching general hospital or consortium;

(x) methods to track the career of the clinical researcher once the term of the position is complete; and

(xi) any other information required by the commissioner to implement subparagraph (i) of paragraph (b) of subdivision five-a of this section.

(xii) The clinical review plan submitted in accordance with this paragraph may be reviewed by the commissioner in consultation with experts outside the department of health.

(c) "Clinical research position" means a post-graduate residency position which:

(i) shall not be required in order for the researcher to complete a graduate medical education program;

(ii) may be reimbursed by other sources but only for costs in excess of the funding distributed in accordance with subparagraph (i) of paragraph (b) of subdivision five-a of this section;

(iii) shall exceed the minimum standards that are required by the residency review committee in the specialty the researcher has trained or is currently training;

(iv) shall not be previously funded by the teaching general hospital or supported by another funding source at the teaching general hospital in the past three years from the date the clinical research plan is submitted to the commissioner;

(v) may supplement an existing research project;

(vi) shall be equivalent to a full-time position comprising of no less than thirty-five hours per week for one or two years;

(vii) shall provide, or be filled by a researcher who has formalized instruction in clinical research, including biostatistics, clinical trial design, grant writing and research ethics;

(viii) shall be supervised by a sponsor-mentor who shall either (A) be employed, contracted for employment or paid through an affiliated faculty practice plan by a teaching general hospital which has received at least one research grant from the National Institutes of Health in the past five years from the date the clinical research plan is submitted to the commissioner; (B) maintain a faculty appointment at a medical, dental or podiatric school located in New York state that has received at least one research grant from the National Institutes of Health in the past five years from the date the clinical research plan is submitted to the commissioner; or (C) be collaborating in the clinical research plan with a researcher from another institution that has received at least one research grant from the National Institutes of Health in the past five years from the date the clinical research plan is submitted to the commissioner; and

(ix) shall be filled by a researcher who is (A) enrolled or has completed a graduate medical education program, as defined in paragraph (i) of this subdivision; (B) a United States citizen, national, or permanent resident of the United States; and (C) a graduate of a medical, dental or podiatric school located in New York state, a graduate or resident in a graduate medical education program, as defined in paragraph (i) of this subdivision, where the sponsoring institution, as defined in paragraph (q) of this subdivision, is located in New York state, or resides in New York state at the time the clinical research plan is submitted to the commissioner.

(d) "Consortium" means an organization or association, approved by the commissioner in consultation with the council, of general hospitals which provide graduate medical education, together with any affiliated site; provided that such organization or association may also include other providers of health care services, medical schools, payors or consumers, and which meet other criteria pursuant to subdivision six of this section.

(e) "Council" means the New York state council on graduate medical education.

(f) "Direct medical education" means the direct costs of residents, interns and supervising physicians.

(g) "Distribution period" means each calendar year set forth in subdivision two of this section.

(h) "Faculty" means persons who are employed by or under contract for employment with a teaching general hospital or are paid through a teaching general hospital's affiliated faculty practice plan and maintain a faculty appointment at a medical school. Such persons shall not be limited to persons with a degree in medicine.

(i) "Graduate medical education program" means[~~, for purposes of subparagraph (i) of paragraph (b) of subdivision five-a of this section,~~] a post-graduate medical education residency in the United States which has received accreditation from a nationally recognized accreditation body or has been approved by a nationally recognized organization for medical, osteopathic, podiatric or dental residency programs including, but not limited to, specialty boards.

(j) "Indirect medical education" means the estimate of costs, other than direct costs, of educational activities in teaching hospitals as determined in accordance with the methodology applicable for purposes of determining an estimate of indirect medical education costs for reimbursement for inpatient hospital service pursuant to title XVIII of the federal social security act (medicare).

(k) "Medicare" means the methodology used for purposes of reimbursing inpatient hospital services provided to beneficiaries of title XVIII of the federal social security act.

(l) "Primary care" residents specialties shall include family medicine, general pediatrics, primary care internal medicine, and primary care obstetrics and gynecology. In determining whether a residency is in primary care, the commissioner shall consult with the council.

(m) "Regions", for purposes of this section, shall mean the regions as defined in paragraph (b) of subdivision sixteen of section twenty-eight hundred seven-c of this article as in effect on June thirtieth, nineteen hundred ninety-six. For purposes of distributions pursuant to subdivision five-a of this section, except distributions made in accordance with paragraph (a) of subdivision five-a of this section, "regions" shall be defined as New York city and the rest of the state.

(n) "Regional pool" means a professional education pool established on a regional basis by the commissioner from funds available pursuant to sections twenty-eight hundred seven-s and twenty-eight hundred seven-t of this article.

(o) "Resident" means a person in a graduate medical education program which has received accreditation from a nationally recognized accreditation body or in a program approved by any other nationally recognized organization for medical, osteopathic or dental residency programs including, but not limited to, specialty boards.

(p) "Shortage specialty" means a specialty determined by the commissioner, in consultation with the council, to be in short supply in the state of New York.

(q) "Sponsoring institution" means the entity that has the overall responsibility for a program of graduate medical education. Such institutions shall include teaching general hospitals, medical schools, consortia and diagnostic and treatment centers.

(r) "Weighted resident count" means a teaching general hospital's total number of residents as of July first, nineteen hundred ninety-five, including residents in affiliated non-hospital ambulatory settings, reported to the commissioner. Such resident counts shall reflect the weights established in accordance with rules and regulations adopted by the state hospital review and planning council and approved by the commissioner for purposes of implementing subdivision twenty-five of section twenty-eight hundred seven-c of this article and in effect on July first, nineteen hundred ninety-five. Such weights shall not be applied to specialty hospitals, specified by the commissioner, whose primary care mission is to engage in research, training and clinical care in specialty eye and ear, special surgery, orthopedic, joint disease, cancer, chronic care or rehabilitative services.

(s) "Adjustment amount" means an amount determined for each teaching hospital for periods prior to January first, two thousand nine by:

(i) determining the difference between (A) a calculation of what each teaching general hospital would have been paid if payments made pursuant to paragraph (a-3) of subdivision one of section twenty-eight hundred seven-c of this article between January first, nineteen hundred ninety-six and December thirty-first, two thousand three were based solely on the case mix of persons eligible for medical assistance under the medical assistance program pursuant to title eleven of article five of the social services law who are enrolled in health maintenance organizations and persons paid for under the family health plus program enrolled in approved organizations pursuant to title eleven-D of article five of the social services law during those years, and (B) the actual payments

to each such hospital pursuant to paragraph (a-3) of subdivision one of section twenty-eight hundred seven-c of this article between January first, nineteen hundred ninety-six and December thirty-first, two thousand three.

(ii) reducing proportionally each of the amounts determined in subparagraph (i) of this paragraph so that the sum of all such amounts totals no more than one hundred million dollars;

(iii) further reducing each of the amounts determined in subparagraph (ii) of this paragraph by the amount received by each hospital as a distribution from funds designated in paragraph (a) of subdivision five of this section attributable to the period January first, two thousand three through December thirty-first, two thousand three, except that if such amount was provided to a consortium then the amount of the reduction for each hospital in the consortium shall be determined by applying the proportion of each hospital's amount determined under subparagraph (i) of this paragraph to the total of such amounts of all hospitals in such consortium to the consortium award;

(iv) further reducing each of the amounts determined in subparagraph (iii) of this paragraph by the amounts specified in paragraph (t) of this subdivision; and

(v) dividing each of the amounts determined in subparagraph (iii) of this paragraph by seven.

(t) "Extra reduction amount" shall mean an amount determined for a teaching hospital for which an adjustment amount is calculated pursuant to paragraph (s) of this subdivision that is the hospital's proportionate share of the sum of the amounts specified in paragraph (u) of this subdivision determined based upon a comparison of the hospital's remaining liability calculated pursuant to paragraph (s) of this subdivision to the sum of all such hospital's remaining liabilities.

(u) "Allotment amount" shall mean an amount determined for teaching hospitals as follows:

(i) for a hospital for which an adjustment amount pursuant to paragraph (s) of this subdivision does not apply, the amount received by the hospital pursuant to paragraph (a) of subdivision five of this section attributable to the period January first, two thousand three through December thirty-first, two thousand three, or

(ii) for a hospital for which an adjustment amount pursuant to paragraph (s) of this subdivision applies and which received a distribution pursuant to paragraph (a) of subdivision five of this section attributable to the period January first, two thousand three through December thirty-first, two thousand three that is greater than the hospital's adjustment amount, the difference between the distribution amount and the adjustment amount.

(f) Effective January first, two thousand five through December thirty-first, two thousand eight, each teaching general hospital shall receive a distribution from the applicable regional pool based on its distribution amount determined under paragraphs (c), (d) and (e) of this subdivision and reduced by its adjustment amount calculated pursuant to paragraph (s) of subdivision one of this section and, for distributions for the period January first, two thousand five through December thirty-first, two thousand five, further reduced by its extra reduction amount calculated pursuant to paragraph (t) of subdivision one of this section.

(a) Up to thirty-one million dollars annually for the periods January first, two thousand through December thirty-first, two thousand three, and up to twenty-five million dollars plus the sum of the amounts speci-

fied in paragraph (n) of subdivision one of this section for the period January first, two thousand five through December thirty-first, two thousand five, and up to thirty-one million dollars annually for the period January first, two thousand six through December thirty-first, two thousand seven, shall be set aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section for supplemental distributions in each such region to be made by the commissioner to consortia and teaching general hospitals in accordance with a distribution methodology developed in consultation with the council and specified in rules and regulations adopted by the commissioner.

(d) Notwithstanding any other provision of law or regulation, for the period January first, two thousand five through December thirty-first, two thousand five, the commissioner shall distribute as supplemental payments the allotment specified in paragraph (n) of subdivision one of this section.

5-a. Graduate medical education innovations pool. (a) Supplemental distributions. (i) Thirty-one million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, shall be set aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section and shall be available for distributions pursuant to subdivision five of this section and in accordance with section 86-1.89 of title 10 of the codes, rules and regulations of the state of New York as in effect on January first, two thousand eight; provided, however, for purposes of funding the empire clinical research investigation program (ECRIP) in accordance with paragraph eight of subdivision (e) and paragraph two of subdivision (f) of section 86-1.89 of title 10 of the codes, rules and regulations of the state of New York, distributions shall be made using two regions defined as New York city and the rest of the state and the dollar amount set forth in subparagraph (i) of paragraph two of subdivision (f) of section 86-1.89 of title 10 of the codes, rules and regulations of the state of New York shall be increased from sixty thousand dollars to seventy-five thousand dollars.

(ii) For periods on and after January first, two thousand nine, supplemental distributions pursuant to subdivision five of this section and in accordance with section 86-1.89 of title 10 of the codes, rules and regulations of the state of New York shall no longer be made and the provisions of section 86-1.89 of title 10 of the codes, rules and regulations of the state of New York shall be null and void.

(b) Empire clinical research investigator program (ECRIP). Nine million one hundred twenty thousand dollars annually for the period January first, two thousand nine through December thirty-first, two thousand ten, and two million two hundred eighty thousand dollars for the period January first, two thousand eleven, through March thirty-first, two thousand eleven, nine million one hundred twenty thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to eight million six hundred twelve thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, [~~and~~] up to eight million six hundred twelve thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, **and up to eight million six hundred twelve thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three,** shall be set

aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section to be allocated regionally with two-thirds of the available funding going to New York city and one-third of the available funding going to the rest of the state and shall be available for distribution as follows:

Distributions shall first be made to consortia and teaching general hospitals for the empire clinical research investigator program (ECRIP) to help secure federal funding for biomedical research, train clinical researchers, recruit national leaders as faculty to act as mentors, and train residents and fellows in biomedical research skills based on hospital-specific data submitted to the commissioner by consortia and teaching general hospitals in accordance with clause (G) of this subparagraph. Such distributions shall be made in accordance with the following methodology:

(A) The greatest number of clinical research positions for which a consortium or teaching general hospital may be funded pursuant to this subparagraph shall be one percent of the total number of residents training at the consortium or teaching general hospital on July first, two thousand eight for the period January first, two thousand nine through December thirty-first, two thousand nine rounded up to the nearest one position.

(B) Distributions made to a consortium or teaching general hospital shall equal the product of the total number of clinical research positions submitted by a consortium or teaching general hospital and accepted by the commissioner as meeting the criteria set forth in paragraph (b) of subdivision one of this section, subject to the reduction calculation set forth in clause (C) of this subparagraph, times one hundred ten thousand dollars.

(C) If the dollar amount for the total number of clinical research positions in the region calculated pursuant to clause (B) of this subparagraph exceeds the total amount appropriated for purposes of this paragraph, including clinical research positions that continue from and were funded in prior distribution periods, the commissioner shall eliminate one-half of the clinical research positions submitted by each consortium or teaching general hospital rounded down to the nearest one position. Such reduction shall be repeated until the dollar amount for the total number of clinical research positions in the region does not exceed the total amount appropriated for purposes of this paragraph. If the repeated reduction of the total number of clinical research positions in the region by one-half does not render a total funding amount that is equal to or less than the total amount reserved for that region within the appropriation, the funding for each clinical research position in that region shall be reduced proportionally in one thousand dollar increments until the total dollar amount for the total number of clinical research positions in that region does not exceed the total amount reserved for that region within the appropriation. Any reduction in funding will be effective for the duration of the award. No clinical research positions that continue from and were funded in prior distribution periods shall be eliminated or reduced by such methodology.

(D) Each consortium or teaching general hospital shall receive its annual distribution amount in accordance with the following:

(I) Each consortium or teaching general hospital with a one-year ECRIP award shall receive its annual distribution amount in full upon completion of the requirements set forth in items (I) and (II) of clause (G) of this subparagraph. The requirements set forth in items (IV) and (V) of clause (G) of this subparagraph must be completed by the consor-

tium or teaching general hospital in order for the consortium or teaching general hospital to be eligible to apply for ECRIP funding in any subsequent funding cycle.

(II) Each consortium or teaching general hospital with a two-year ECRIP award shall receive its first annual distribution amount in full upon completion of the requirements set forth in items (I) and (II) of clause (G) of this subparagraph. Each consortium or teaching general hospital will receive its second annual distribution amount in full upon completion of the requirements set forth in item (III) of clause (G) of this subparagraph. The requirements set forth in items (IV) and (V) of clause (G) of this subparagraph must be completed by the consortium or teaching general hospital in order for the consortium or teaching general hospital to be eligible to apply for ECRIP funding in any subsequent funding cycle.

(E) Each consortium or teaching general hospital receiving distributions pursuant to this subparagraph shall reserve seventy-five thousand dollars to primarily fund salary and fringe benefits of the clinical research position with the remainder going to fund the development of faculty who are involved in biomedical research, training and clinical care.

(F) Undistributed or returned funds available to fund clinical research positions pursuant to this paragraph for a distribution period shall be available to fund clinical research positions in a subsequent distribution period.

(G) In order to be eligible for distributions pursuant to this subparagraph, each consortium and teaching general hospital shall provide to the commissioner by July first of each distribution period, the following data and information on a hospital-specific basis. Such data and information shall be certified as to accuracy and completeness by the chief executive officer, chief financial officer or chair of the consortium governing body of each consortium or teaching general hospital and shall be maintained by each consortium and teaching general hospital for five years from the date of submission:

(I) For each clinical research position, information on the type, scope, training objectives, institutional support, clinical research experience of the sponsor-mentor, plans for submitting research outcomes to peer reviewed journals and at scientific meetings, including a meeting sponsored by the department, the name of a principal contact person responsible for tracking the career development of researchers placed in clinical research positions, as defined in paragraph (c) of subdivision one of this section, and who is authorized to certify to the commissioner that all the requirements of the clinical research training objectives set forth in this subparagraph shall be met. Such certification shall be provided by July first of each distribution period;

(II) For each clinical research position, information on the name, citizenship status, medical education and training, and medical license number of the researcher, if applicable, shall be provided by December thirty-first of the calendar year following the distribution period;

(III) Information on the status of the clinical research plan, accomplishments, changes in research activities, progress, and performance of the researcher shall be provided upon completion of one-half of the award term;

(IV) A final report detailing training experiences, accomplishments, activities and performance of the clinical researcher, and data, methods, results and analyses of the clinical research plan shall be provided three months after the clinical research position ends; and

(V) Tracking information concerning past researchers, including but not limited to (A) background information, (B) employment history, (C) research status, (D) current research activities, (E) publications and presentations, (F) research support, and (G) any other information necessary to track the researcher; and

(VI) Any other data or information required by the commissioner to implement this subparagraph.

(H) Notwithstanding any inconsistent provision of this subdivision, for periods on and after April first, two thousand thirteen, ECRIP grant awards shall be made in accordance with rules and regulations promulgated by the commissioner. Such regulations shall, at a minimum:

(1) provide that ECRIP grant awards shall be made with the objective of securing federal funding for biomedical research, training clinical researchers, recruiting national leaders as faculty to act as mentors, and training residents and fellows in biomedical research skills;

(2) provide that ECRIP grant applicants may include interdisciplinary research teams comprised of teaching general hospitals acting in collaboration with entities including but not limited to medical centers, hospitals, universities and local health departments;

(3) provide that applications for ECRIP grant awards shall be based on such information requested by the commissioner, which shall include but not be limited to hospital-specific data;

(4) establish the qualifications for investigators and other staff required for grant projects eligible for ECRIP grant awards; and

(5) establish a methodology for the distribution of funds under ECRIP grant awards.

[~~(c) Ambulatory care training. Four million nine hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, four million nine hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, four million nine hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, one million two hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, four million three hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to four million sixty thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, and up to four million sixty thousand dollars each fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, shall be set aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section and shall be available for distributions to sponsoring institutions to be directed to support clinical training of medical students and residents in free-standing ambulatory care settings, including community health centers and private practices. Such funding shall be allocated regionally with two-thirds of the available funding going to New York city and one-third of the available funding going to the rest of the state and shall be distributed to sponsoring institutions in each region pursuant to a request for application or request for proposal process with preference being given to sponsoring institutions which provide training in sites located in underserved rural or inner-city areas and those that include medical students in such training.~~]

[~~(d)~~] (c) Physician loan repayment program. One million nine hundred sixty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, one million nine hundred sixty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, one million nine hundred sixty thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, four hundred ninety thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, one million seven hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to one million seven hundred five thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, [~~and~~] up to one million seven hundred five thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, **and up to one million seven hundred five thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three,** shall be set aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section and shall be available for purposes of physician loan repayment in accordance with subdivision ten of this section. Notwithstanding any contrary provision of this section, sections one hundred twelve and one hundred sixty-three of the state finance law, or any other contrary provision of law, such funding shall be allocated regionally with one-third of available funds going to New York city and two-thirds of available funds going to the rest of the state and shall be distributed in a manner to be determined by the commissioner without a competitive bid or request for proposal process as follows:

(i) Funding shall first be awarded to repay loans of up to twenty-five physicians who train in primary care or specialty tracks in teaching general hospitals, and who enter and remain in primary care or specialty practices in underserved communities, as determined by the commissioner.

(ii) After distributions in accordance with subparagraph (i) of this paragraph, all remaining funds shall be awarded to repay loans of physicians who enter and remain in primary care or specialty practices in underserved communities, as determined by the commissioner, including but not limited to physicians working in general hospitals, or other health care facilities.

(iii) In no case shall less than fifty percent of the funds available pursuant to this paragraph be distributed in accordance with subparagraphs (i) and (ii) of this paragraph to physicians identified by general hospitals.

(iv) In addition to the funds allocated under this paragraph, for the period April first, two thousand fifteen through March thirty-first, two thousand sixteen, two million dollars shall be available for the purposes described in subdivision ten of this section;

(v) In addition to the funds allocated under this paragraph, for the period April first, two thousand sixteen through March thirty-first, two thousand seventeen, two million dollars shall be available for the purposes described in subdivision ten of this section;

(vi) Notwithstanding any provision of law to the contrary, and subject to the extension of the Health Care Reform Act of 1996, sufficient funds shall be available for the purposes described in subdivision ten of this

section in amounts necessary to fund the remaining year commitments for awards made pursuant to subparagraphs (iv) and (v) of this paragraph.

[~~(e)~~] (d) Physician practice support. Four million nine hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, four million nine hundred thousand dollars annually for the period January first, two thousand nine through December thirty-first, two thousand ten, one million two hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, four million three hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to four million three hundred sixty thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, [~~and~~] up to four million three hundred sixty thousand dollars for each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, **and up to four million three hundred sixty thousand dollars for each fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three,** shall be set aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section and shall be available for purposes of physician practice support. Notwithstanding any contrary provision of this section, sections one hundred twelve and one hundred sixty-three of the state finance law, or any other contrary provision of law, such funding shall be allocated regionally with one-third of available funds going to New York city and two-thirds of available funds going to the rest of the state and shall be distributed in a manner to be determined by the commissioner without a competitive bid or request for proposal process as follows:

(i) Preference in funding shall first be accorded to teaching general hospitals for up to twenty-five awards, to support costs incurred by physicians trained in primary or specialty tracks who thereafter establish or join practices in underserved communities, as determined by the commissioner.

(ii) After distributions in accordance with subparagraph (i) of this paragraph, all remaining funds shall be awarded to physicians to support the cost of establishing or joining practices in underserved communities, as determined by the commissioner, and to hospitals and other health care providers to recruit new physicians to provide services in underserved communities, as determined by the commissioner.

(iii) In no case shall less than fifty percent of the funds available pursuant to this paragraph be distributed to general hospitals in accordance with subparagraphs (i) and (ii) of this paragraph.

[~~(e-1)~~] **(e)** Work group. For funding available pursuant to paragraphs **(c) and** (d) (e) of this subdivision:

(i) The department shall appoint a work group from recommendations made by associations representing physicians, general hospitals and other health care facilities to develop a streamlined application process by June first, two thousand twelve.

(ii) Subject to available funding, applications shall be accepted on a continuous basis. The department shall provide technical assistance to applicants to facilitate their completion of applications. An applicant shall be notified in writing by the department within ten days of receipt of an application as to whether the application is complete and if the application is incomplete, what information is outstanding. The

department shall act on an application within thirty days of receipt of a complete application.

(f) Study on physician workforce. Five hundred ninety thousand dollars annually for the period January first, two thousand eight through December thirty-first, two thousand ten, one hundred forty-eight thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, five hundred sixteen thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to four hundred eighty-seven thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, [~~and~~] up to four hundred eighty-seven thousand dollars for each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, **and up to four hundred eighty-seven thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three,** shall be set aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section and shall be available to fund a study of physician workforce needs and solutions including, but not limited to, an analysis of residency programs and projected physician workforce and community needs. The commissioner shall enter into agreements with one or more organizations to conduct such study based on a request for proposal process.

(g) Diversity in medicine/post-baccalaureate program. Notwithstanding any inconsistent provision of section one hundred twelve or one hundred sixty-three of the state finance law or any other law, one million nine hundred sixty thousand dollars annually for the period January first, two thousand eight through December thirty-first, two thousand ten, four hundred ninety thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, one million seven hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to one million six hundred five thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to one million six hundred five thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, **and up to one million six hundred five thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three,** shall be set aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section and shall be available for distributions to the Associated Medical Schools of New York to fund its diversity program including existing and new post-baccalaureate programs for minority and economically disadvantaged students and encourage participation from all medical schools in New York. The associated medical schools of New York shall report to the commissioner on an annual basis regarding the use of funds for such purpose in such form and manner as specified by the commissioner.

(h) In the event there are undistributed funds within amounts made available for distributions pursuant to this subdivision, such funds may be reallocated and distributed in current or subsequent distribution periods in a manner determined by the commissioner for any purpose set forth in this subdivision.

12. Notwithstanding any provision of law to the contrary, applications submitted on or after April first, two thousand sixteen, for the physician loan repayment program pursuant to paragraph [~~(d)~~] (c) of subdivision five-a of this section and subdivision ten of this section or the physician practice support program pursuant to paragraph [~~(e)~~] (d) of subdivision five-a of this section, shall be subject to the following changes:

(a) Awards shall be made from the total funding available for new awards under the physician loan repayment program and the physician practice support program, with neither program limited to a specific funding amount within such total funding available;

(b) An applicant may apply for an award for either physician loan repayment or physician practice support, but not both;

(c) An applicant shall agree to practice for three years in an underserved area and each award shall provide up to forty thousand dollars for each of the three years; and

(d) To the extent practicable, awards shall be timed to be of use for job offers made to applicants.

§ 7. Subdivision 7 of section 2807-m of the public health law is REPEALED.

§ 8. Subparagraph (xvi) of paragraph (a) of subdivision 7 of section 2807-s of the public health law, as amended by section 30 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

(xvi) provided further, however, for periods prior to July first, two thousand nine, amounts set forth in this paragraph shall be reduced by an amount equal to the actual distribution reductions for all facilities pursuant to paragraph (s) of subdivision one of section twenty-eight hundred seven-m of this article.

§ 9. Subdivision (c) of section 92-dd of the state finance law, as amended by section 75-f of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(c) The pool administrator shall, from appropriated funds transferred to the pool administrator from the comptroller, continue to make payments as required pursuant to sections twenty-eight hundred seven-k, twenty-eight hundred seven-m (not including payments made pursuant to [~~subparagraph (ii) of paragraph (b) and~~] paragraphs (c), (d), [~~(e)~~], (f) and (g) of subdivision five-a [~~and subdivision seven~~] of section twenty-eight hundred seven-m), and twenty-eight hundred seven-w of the public health law, paragraph (e) of subdivision twenty-five of section twenty-eight hundred seven-c of the public health law, paragraphs (b) and (c) of subdivision thirty of section twenty-eight hundred seven-c of the public health law, paragraph (b) of subdivision eighteen of section twenty-eight hundred eight of the public health law, subdivision seven of section twenty-five hundred-d of the public health law and section eighty-eight of chapter one of the laws of nineteen hundred ninety-nine.

§ 10. Subdivision 4-c of section 2807-p of the public health law, as amended by section 13 of part H of chapter 57 of the laws of 2017, is amended to read as follows:

4-c. Notwithstanding any provision of law to the contrary, the commissioner shall make additional payments for uncompensated care to voluntary non-profit diagnostic and treatment centers that are eligible for distributions under subdivision four of this section in the following amounts: for the period June first, two thousand six through December thirty-first, two thousand six, in the amount of seven million five hundred thousand dollars, for the period January first, two thousand seven through December thirty-first, two thousand seven, seven million

five hundred thousand dollars, for the period January first, two thousand eight through December thirty-first, two thousand eight, seven million five hundred thousand dollars, for the period January first, two thousand nine through December thirty-first, two thousand nine, fifteen million five hundred thousand dollars, for the period January first, two thousand ten through December thirty-first, two thousand ten, seven million five hundred thousand dollars, for the period January first, two thousand eleven though December thirty-first, two thousand eleven, seven million five hundred thousand dollars, for the period January first, two thousand twelve through December thirty-first, two thousand twelve, seven million five hundred thousand dollars, for the period January first, two thousand thirteen through December thirty-first, two thousand thirteen, seven million five hundred thousand dollars, for the period January first, two thousand fourteen through December thirty-first, two thousand fourteen, seven million five hundred thousand dollars, for the period January first, two thousand fifteen through December thirty-first, two thousand fifteen, seven million five hundred thousand dollars, for the period January first two thousand sixteen through December thirty-first, two thousand sixteen, seven million five hundred thousand dollars, for the period January first, two thousand seventeen through December thirty-first, two thousand seventeen, seven million five hundred thousand dollars, for the period January first, two thousand eighteen through December thirty-first, two thousand eighteen, seven million five hundred thousand dollars, for the period January first, two thousand nineteen through December thirty-first, two thousand nineteen, seven million five hundred thousand dollars, **for the period January first, two thousand twenty through December thirty-first, two thousand twenty, seven million five hundred thousand dollars, for the period January first, two thousand twenty-one through December thirty-first, two thousand twenty-one, seven million five hundred thousand dollars, for the period January first, two thousand twenty-two through December thirty-first, two thousand twenty-two, seven million five hundred thousand dollars,** and for the period January first, two thousand [~~twenty~~] **twenty-three** through March thirty-first, two thousand [~~twenty~~] **twenty-three**, in the amount of one million six hundred thousand dollars, provided, however, that for periods on and after January first, two thousand eight, such additional payments shall be distributed to voluntary, non-profit diagnostic and treatment centers and to public diagnostic and treatment centers in accordance with paragraph (g) of subdivision four of this section. In the event that federal financial participation is available for rate adjustments pursuant to this section, the commissioner shall make such payments as additional adjustments to rates of payment for voluntary non-profit diagnostic and treatment centers that are eligible for distributions under subdivision four-a of this section in the following amounts: for the period June first, two thousand six through December thirty-first, two thousand six, fifteen million dollars in the aggregate, and for the period January first, two thousand seven through June thirtieth, two thousand seven, seven million five hundred thousand dollars in the aggregate. The amounts allocated pursuant to this paragraph shall be aggregated with and distributed pursuant to the same methodology applicable to the amounts allocated to such diagnostic and treatment centers for such periods pursuant to subdivision four of this section if federal financial participation is not available, or pursuant to subdivision four-a of this section if federal financial participation is available. Notwithstanding section three hundred sixty-eight-a of the social

services law, there shall be no local share in a medical assistance payment adjustment under this subdivision.

§ 11. Subparagraph (xv) of paragraph (a) of subdivision 6 of section 2807-s of the public health law, as amended by section 3 of part H of chapter 57 of the laws of 2017, is amended to read as follows:

(xv) A gross annual statewide amount for the period January first, two thousand fifteen through December thirty-first, two thousand [~~twenty~~] **twenty-three**, shall be one billion forty-five million dollars.

§ 12. Subparagraph (xiii) of paragraph (a) of subdivision 7 of section 2807-s of the public health law, as amended by section 4 of part H of chapter 57 of the laws of 2017, is amended to read as follows:

(xiii) twenty-three million eight hundred thirty-six thousand dollars each state fiscal year for the period April first, two thousand twelve through March thirty-first, two thousand [~~twenty~~] **twenty-three**;

§ 13. Subdivision 6 of section 2807-t of the public health law, as amended by section 8 of part H of chapter 57 of the laws of 2017, is amended to read as follows:

6. Prospective adjustments. (a) The commissioner shall annually reconcile the sum of the actual payments made to the commissioner or the commissioner's designee for each region pursuant to section twenty-eight hundred seven-s of this article and pursuant to this section for the prior year with the regional allocation of the gross annual statewide amount specified in subdivision six of section twenty-eight hundred seven-s of this article for such prior year. The difference between the actual amount raised for a region and the regional allocation of the specified gross annual amount for such prior year shall be applied as a prospective adjustment to the regional allocation of the specified gross annual payment amount for such region for the year next following the calculation of the reconciliation. The authorized dollar value of the adjustments shall be the same as if calculated retrospectively.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, for covered lives assessment rate periods on and after January first, two thousand fifteen through December thirty-first, two thousand [~~twenty~~] **twenty-three**, for amounts collected in the aggregate in excess of one billion forty-five million dollars on an annual basis, prospective adjustments shall be suspended if the annual reconciliation calculation from the prior year would otherwise result in a decrease to the regional allocation of the specified gross annual payment amount for that region, provided, however, that such suspension shall be lifted upon a determination by the commissioner, in consultation with the director of the budget, that sixty-five million dollars in aggregate collections on an annual basis over and above one billion forty-five million dollars on an annual basis have been reserved and set aside for deposit in the HCRA resources fund. Any amounts collected in the aggregate at or below one billion forty-five million dollars on an annual basis, shall be subject to regional adjustments reconciling any decreases or increases to the regional allocation in accordance with paragraph (a) of this subdivision.

§ 14. Section 2807-v of the public health law, as amended by section 22 of part H of chapter 57 of the laws of 2017, is amended to read as follows:

§ 2807-v. Tobacco control and insurance initiatives pool distributions. 1. Funds accumulated in the tobacco control and insurance initiatives pool or in the health care reform act (HCRA) resources fund established pursuant to section ninety-two-dd of the state finance law, whichever is applicable, including income from invested funds, shall be

distributed or retained by the commissioner or by the state comptroller, as applicable, in accordance with the following:

(a) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medicaid fraud hotline and medicaid administration account, or any successor fund or account, for purposes of services and expenses related to the toll-free medicaid fraud hotline established pursuant to section one hundred eight of chapter one of the laws of nineteen hundred ninety-nine from the tobacco control and insurance initiatives pool established for the following periods in the following amounts: four hundred thousand dollars annually for the periods January first, two thousand through December thirty-first, two thousand two, up to four hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three, up to four hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four, up to four hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five, up to four hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six, up to four hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, up to four hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, up to four hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, up to four hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, up to one hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven and within amounts appropriated on and after April first, two thousand eleven.

(b) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of payment of audits or audit contracts necessary to determine payor and provider compliance with requirements set forth in sections twenty-eight hundred seven-j, twenty-eight hundred seven-s and twenty-eight hundred seven-t of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts: five million six hundred thousand dollars annually for the periods January first, two thousand through December thirty-first, two thousand two, up to five million dollars for the period January first, two thousand three through December thirty-first, two thousand three, up to five million dollars for the period January first, two thousand four through December thirty-first, two thousand four, up to five million dollars for the period January first, two thousand five through December [~~thirty-first~~] **thirty-first**, two thousand five, up to five million dollars for the period January first, two thousand six through December thirty-first, two thousand six, up to seven million eight hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, and up to eight million three hundred twenty-five thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, up to eight million five hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, up to eight million five hundred thousand dollars for the period

January first, two thousand ten through December thirty-first, two thousand ten, up to two million one hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to fourteen million seven hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to eleven million one hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, [~~and~~] up to eleven million one hundred thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**, and up to eleven million one hundred thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**.

(c) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, enhanced community services account, or any successor fund or account, for mental health services programs for case management services for adults and children; supported housing; home and community based waiver services; family based treatment; family support services; mobile mental health teams; transitional housing; and community oversight, established pursuant to articles seven and forty-one of the mental hygiene law and subdivision nine of section three hundred sixty-six of the social services law; and for comprehensive care centers for eating disorders pursuant to the former section twenty-seven hundred ninety-nine-l of this chapter, provided however that, for such centers, funds in the amount of five hundred thousand dollars on an annualized basis shall be transferred from the enhanced community services account, or any successor fund or account, and deposited into the fund established by section ninety-five-e of the state finance law; from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) forty-eight million dollars to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand, for the period January first, two thousand through December thirty-first, two thousand;

(ii) eighty-seven million dollars to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand one, for the period January first, two thousand one through December thirty-first, two thousand one;

(iii) eighty-seven million dollars to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand two, for the period January first, two thousand two through December thirty-first, two thousand two;

(iv) eighty-eight million dollars to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand three, for the period January first, two thousand three through December thirty-first, two thousand three;

(v) eighty-eight million dollars, plus five hundred thousand dollars, to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand four, and pursuant to the former section twenty-seven hundred ninety-nine-l of this chapter, for the period January first, two thousand four through December thirty-first, two thousand four;

(vi) eighty-eight million dollars, plus five hundred thousand dollars, to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand five, and pursuant to the former section twenty-seven hundred ninety-nine-l of this chapter, for the period January first, two thousand five through December thirty-first, two thousand five;

(vii) eighty-eight million dollars, plus five hundred thousand dollars, to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand six, and pursuant to former section twenty-seven hundred ninety-nine-l of this chapter, for the period January first, two thousand six through December thirty-first, two thousand six;

(viii) eighty-six million four hundred thousand dollars, plus five hundred thousand dollars, to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand seven and pursuant to the former section twenty-seven hundred ninety-nine-l of this chapter, for the period January first, two thousand seven through December thirty-first, two thousand seven; and

(ix) twenty-two million nine hundred thirteen thousand dollars, plus one hundred twenty-five thousand dollars, to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand eight and pursuant to the former section twenty-seven hundred ninety-nine-l of this chapter, for the period January first, two thousand eight through March thirty-first, two thousand eight.

(d) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of services and expenses related to the family health plus program including up to two and one-half million dollars annually for the period January first, two thousand through December thirty-first, two thousand two, for administration and marketing costs associated with such program established pursuant to clause (A) of subparagraph (v) of paragraph (a) of subdivision two of section three hundred sixty-nine-ee of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) three million five hundred thousand dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) twenty-seven million dollars for the period January first, two thousand one through December thirty-first, two thousand one; and

(iii) fifty-seven million dollars for the period January first, two thousand two through December thirty-first, two thousand two.

(e) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of services and expenses related to the family health plus program including up to two and one-half million dollars annually for the period January first, two thousand through December thirty-first, two thousand two for administration and marketing costs associated with such program established pursuant to clause (B) of subparagraph (v) of paragraph (a) of subdivision two of section three hundred sixty-nine-ee of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) two million five hundred thousand dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) thirty million five hundred thousand dollars for the period January first, two thousand one through December thirty-first, two thousand one; and

(iii) sixty-six million dollars for the period January first, two thousand two through December thirty-first, two thousand two.

(f) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medicaid fraud hotline and medicaid administration account, or any successor fund or account, for purposes of payment of administrative expenses of the department related to the family health plus program established pursuant to section three hundred sixty-nine-ee of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts: five hundred thousand dollars on an annual basis for the periods January first, two thousand through December thirty-first, two thousand six, five hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, and five hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, five hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, five hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, one hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven and within amounts appropriated on and after April first, two thousand eleven.

(g) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of services and expenses related to the health maintenance organization direct pay market program established pursuant to sections forty-three hundred twenty-one-a and forty-three hundred twenty-two-a of the insurance law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to thirty-five million dollars for the period January first, two thousand through December thirty-first, two thousand of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(ii) up to thirty-six million dollars for the period January first, two thousand one through December thirty-first, two thousand one of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(iii) up to thirty-nine million dollars for the period January first, two thousand two through December thirty-first, two thousand two of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(iv) up to forty million dollars for the period January first, two thousand three through December thirty-first, two thousand three of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(v) up to forty million dollars for the period January first, two thousand four through December thirty-first, two thousand four of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(vi) up to forty million dollars for the period January first, two thousand five through December thirty-first, two thousand five of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(vii) up to forty million dollars for the period January first, two thousand six through December thirty-first, two thousand six of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(viii) up to forty million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law; and

(ix) up to forty million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight of which fifty per centum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty per centum shall be allocated to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law.

(h) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of services and expenses related to the healthy New York individual program established pursuant to sections four thousand three hundred twenty-six and four thousand three hundred twenty-seven of the insurance law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to six million dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(ii) up to twenty-nine million dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iii) up to five million one hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iv) up to twenty-four million six hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(v) up to thirty-four million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;
(vi) up to fifty-four million eight hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;
(vii) up to sixty-one million seven hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven; and
(viii) up to one hundred three million seven hundred fifty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight.
(i) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of services and expenses related to the healthy New York group program established pursuant to sections four thousand three hundred twenty-six and four thousand three hundred twenty-seven of the insurance law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:
(i) up to thirty-four million dollars for the period January first, two thousand one through December thirty-first, two thousand one;
(ii) up to seventy-seven million dollars for the period January first, two thousand two through December thirty-first, two thousand two;
(iii) up to ten million five hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;
(iv) up to twenty-four million six hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;
(v) up to thirty-four million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;
(vi) up to fifty-four million eight hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;
(vii) up to sixty-one million seven hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven; and
(viii) up to one hundred three million seven hundred fifty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight.
(i-1) Notwithstanding the provisions of paragraphs (h) and (i) of this subdivision, the commissioner shall reserve and accumulate up to two million five hundred thousand dollars annually for the periods January first, two thousand four through December thirty-first, two thousand six, one million four hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, two million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, from funds otherwise available for distribution under such paragraphs for the services and expenses related to the pilot program for entertainment industry employees included in subsection (b) of section one thousand one hundred twenty-two of the insurance law, and an additional seven hundred thousand dollars annually for the periods January first, two thousand four through December thirty-first, two thousand six, an additional three hundred thousand dollars for the period January first, two

thousand seven through June thirtieth, two thousand seven for services and expenses related to the pilot program for displaced workers included in subsection (c) of section one thousand one hundred twenty-two of the insurance law.

(j) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of services and expenses related to the tobacco use prevention and control program established pursuant to sections thirteen hundred ninety-nine-ii and thirteen hundred ninety-nine-jj of this chapter, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to thirty million dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) up to forty million dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(iii) up to forty million dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iv) up to thirty-six million nine hundred fifty thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(v) up to thirty-six million nine hundred fifty thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(vi) up to forty million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(vii) up to eighty-one million nine hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six, provided, however, that within amounts appropriated, a portion of such funds may be transferred to the Roswell Park Cancer Institute Corporation to support costs associated with cancer research;

(viii) up to ninety-four million one hundred fifty thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, provided, however, that within amounts appropriated, a portion of such funds may be transferred to the Roswell Park Cancer Institute Corporation to support costs associated with cancer research;

(ix) up to ninety-four million one hundred fifty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(x) up to ninety-four million one hundred fifty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(xi) up to eighty-seven million seven hundred seventy-five thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(xii) up to twenty-one million four hundred twelve thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xiii) up to fifty-two million one hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(xiv) up to six million dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen; [~~and~~]

(xv) up to six million dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**; and**

**(xvi) up to six million dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**.

(k) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, health care services account, or any successor fund or account, for purposes of services and expenses related to public health programs, including comprehensive care centers for eating disorders pursuant to the former section twenty-seven hundred ninety-nine-l of this chapter, provided however that, for such centers, funds in the amount of five hundred thousand dollars on an annualized basis shall be transferred from the health care services account, or any successor fund or account, and deposited into the fund established by section ninety-five-e of the state finance law for periods prior to March thirty-first, two thousand eleven, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to thirty-one million dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) up to forty-one million dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(iii) up to eighty-one million dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iv) one hundred twenty-two million five hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(v) one hundred eight million five hundred seventy-five thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand four through December thirty-first, two thousand four;

(vi) ninety-one million eight hundred thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand five through December thirty-first, two thousand five;

(vii) one hundred fifty-six million six hundred thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand six through December thirty-first, two thousand six;

(viii) one hundred fifty-one million four hundred thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand seven through December thirty-first, two thousand seven;

(ix) one hundred sixteen million nine hundred forty-nine thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand eight through December thirty-first, two thousand eight;

(x) one hundred sixteen million nine hundred forty-nine thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand nine through December thirty-first, two thousand nine;

(xi) one hundred sixteen million nine hundred forty-nine thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand ten through December thirty-first, two thousand ten;

(xii) twenty-nine million two hundred thirty-seven thousand two hundred fifty dollars, plus an additional one hundred twenty-five thousand dollars, for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xiii) one hundred twenty million thirty-eight thousand dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve; and

(xiv) one hundred nineteen million four hundred seven thousand dollars each state fiscal year for the period April first, two thousand twelve through March thirty-first, two thousand fourteen.

(l) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the personal care and certified home health agency rate or fee increases established pursuant to subdivision three of section three hundred sixty-seven-o of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) twenty-three million two hundred thousand dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) twenty-three million two hundred thousand dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(iii) twenty-three million two hundred thousand dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iv) up to sixty-five million two hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(v) up to sixty-five million two hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(vi) up to sixty-five million two hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(vii) up to sixty-five million two hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(viii) up to sixty-five million two hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven; and

(ix) up to sixteen million three hundred thousand dollars for the period January first, two thousand eight through March thirty-first, two thousand eight.

(m) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of services and expenses related to home care workers insurance pilot demonstration programs established pursuant to subdivision two of section three hundred sixty-seven-o of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) three million eight hundred thousand dollars for the period January first, two thousand through December thirty-first, two thousand;
(ii) three million eight hundred thousand dollars for the period January first, two thousand one through December thirty-first, two thousand one;
(iii) three million eight hundred thousand dollars for the period January first, two thousand two through December thirty-first, two thousand two;
(iv) up to three million eight hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;
(v) up to three million eight hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;
(vi) up to three million eight hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;
(vii) up to three million eight hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;
(viii) up to three million eight hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven; and
(ix) up to nine hundred fifty thousand dollars for the period January first, two thousand eight through March thirty-first, two thousand eight.

(n) Funds shall be transferred by the commissioner and shall be deposited to the credit of the special revenue funds - other, miscellaneous special revenue fund - 339, elderly pharmaceutical insurance coverage program premium account authorized pursuant to the provisions of title three of article two of the elder law, or any successor fund or account, for funding state expenses relating to the program from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:
(i) one hundred seven million dollars for the period January first, two thousand through December thirty-first, two thousand;
(ii) one hundred sixty-four million dollars for the period January first, two thousand one through December thirty-first, two thousand one;
(iii) three hundred twenty-two million seven hundred thousand dollars for the period January first, two thousand two through December thirty-first, two thousand two;
(iv) four hundred thirty-three million three hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;
(v) five hundred four million one hundred fifty thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;
(vi) five hundred sixty-six million eight hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;
(vii) six hundred three million one hundred fifty thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;
(viii) six hundred sixty million eight hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(ix) three hundred sixty-seven million four hundred sixty-three thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(x) three hundred thirty-four million eight hundred twenty-five thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(xi) three hundred forty-four million nine hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(xii) eighty-seven million seven hundred eighty-eight thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xiii) one hundred forty-three million one hundred fifty thousand dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve;

(xiv) one hundred twenty million nine hundred fifty thousand dollars for the period April first, two thousand twelve through March thirty-first, two thousand thirteen;

(xv) one hundred twenty-eight million eight hundred fifty thousand dollars for the period April first, two thousand thirteen through March thirty-first, two thousand fourteen;

(xvi) one hundred twenty-seven million four hundred sixteen thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen; [~~and~~]

(xvii) one hundred twenty-seven million four hundred sixteen thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**; and**

**(xviii) one hundred twenty-seven million four hundred sixteen thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**.

(o) Funds shall be reserved and accumulated and shall be transferred to the Roswell Park Cancer Institute Corporation, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to ninety million dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) up to sixty million dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(iii) up to eighty-five million dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iv) eighty-five million two hundred fifty thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(v) seventy-eight million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(vi) seventy-eight million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(vii) ninety-one million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(viii) seventy-eight million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(ix) seventy-eight million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(x) seventy-eight million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(xi) seventy-eight million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(xii) nineteen million five hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xiii) sixty-nine million eight hundred forty thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(xiv) up to ninety-six million six hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen; [~~and~~]

(xv) up to ninety-six million six hundred thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**; and**

**(xvi) up to ninety-six million six hundred thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**.

(p) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, indigent care fund - 068, indigent care account, or any successor fund or account, for purposes of providing a medicaid disproportionate share payment from the high need indigent care adjustment pool established pursuant to section twenty-eight hundred seven-w of this article, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) eighty-two million dollars annually for the periods January first, two thousand through December thirty-first, two thousand two;

(ii) up to eighty-two million dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) up to eighty-two million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) up to eighty-two million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to eighty-two million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to eighty-two million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to eighty-two million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) up to eighty-two million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) up to eighty-two million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) up to twenty million five hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven; and

(xi) up to eighty-two million dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen.

(q) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of providing distributions to eligible school based health centers established pursuant to section eighty-eight of chapter one of the laws of nineteen hundred ninety-nine, from the tobacco control and insurance

initiatives pool established for the following periods in the following amounts:

(i) seven million dollars annually for the period January first, two thousand through December thirty-first, two thousand two;

(ii) up to seven million dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) up to seven million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) up to seven million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to seven million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to seven million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to seven million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) up to seven million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) up to seven million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) up to one million seven hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xi) up to five million six hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(xii) up to five million two hundred [~~eighty-eighty~~] **eighty-eight** thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen; [~~and~~]

(xiii) up to five million two hundred eighty-eight thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**; and**

**(xiv) up to five million two hundred eighty-eight thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**.

(r) Funds shall be deposited by the commissioner within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of providing distributions for supplementary medical insurance for Medicare part B premiums, physicians services, outpatient services, medical equipment, supplies and other health services, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) forty-three million dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) sixty-one million dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(iii) sixty-five million dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iv) sixty-seven million five hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(v) sixty-eight million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(vi) sixty-eight million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(vii) sixty-eight million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(viii) seventeen million five hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(ix) sixty-eight million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(x) sixty-eight million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(xi) sixty-eight million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(xii) seventeen million dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven; and

(xiii) sixty-eight million dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen.

(s) Funds shall be deposited by the commissioner within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of providing distributions pursuant to paragraphs (s-5), (s-6), (s-7) and (s-8) of subdivision eleven of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) eighteen million dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) twenty-four million dollars annually for the periods January first, two thousand one through December thirty-first, two thousand two;

(iii) up to twenty-four million dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iv) up to twenty-four million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(v) up to twenty-four million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(vi) up to twenty-four million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vii) up to twenty-four million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(viii) up to twenty-four million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; and

(ix) up to twenty-two million dollars for the period January first, two thousand nine through November thirtieth, two thousand nine.

(t) Funds shall be reserved and accumulated from year to year by the commissioner and shall be made available, including income from invested funds:

(i) For the purpose of making grants to a state owned and operated medical school which does not have a state owned and operated hospital on site and available for teaching purposes. Notwithstanding sections one hundred twelve and one hundred sixty-three of the state finance law, such grants shall be made in the amount of up to five hundred thousand dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) For the purpose of making grants to medical schools pursuant to section eighty-six-a of chapter one of the laws of nineteen hundred ninety-nine in the sum of up to four million dollars for the period January first, two thousand through December thirty-first, two thousand; and

(iii) The funds disbursed pursuant to subparagraphs (i) and (ii) of this paragraph from the tobacco control and insurance initiatives pool are contingent upon meeting all funding amounts established pursuant to paragraphs (a), (b), (c), (d), (e), (f), (l), (m), (n), (p), (q), (r) and (s) of this subdivision, paragraph (a) of subdivision nine of section twenty-eight hundred seven-j of this article, and paragraphs (a), (i) and (k) of subdivision one of section twenty-eight hundred seven-l of this article.

(u) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of services and expenses related to the nursing home quality improvement demonstration program established pursuant to section twenty-eight hundred eight-d of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to twenty-five million dollars for the period beginning April first, two thousand two and ending December thirty-first, two thousand two, and on an annualized basis, for each annual period thereafter beginning January first, two thousand three and ending December thirty-first, two thousand four;

(ii) up to eighteen million seven hundred fifty thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five; and

(iii) up to fifty-six million five hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six.

(v) Funds shall be transferred by the commissioner and shall be deposited to the credit of the hospital excess liability pool created pursuant to section eighteen of chapter two hundred sixty-six of the laws of nineteen hundred eighty-six, or any successor fund or account, for purposes of expenses related to the purchase of excess medical malpractice insurance and the cost of administrating the pool, including costs associated with the risk management program established pursuant to section forty-two of part A of chapter one of the laws of two thousand two required by paragraph (a) of subdivision one of section eighteen of chapter two hundred sixty-six of the laws of nineteen hundred eighty-six as may be amended from time to time, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to fifty million dollars or so much as is needed for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) up to seventy-six million seven hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) up to sixty-five million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) up to sixty-five million dollars for the period January first, two thousand five through December thirty-first, two thousand five;
(v) up to one hundred thirteen million eight hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;
(vi) up to one hundred thirty million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;
(vii) up to one hundred thirty million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;
(viii) up to one hundred thirty million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;
(ix) up to one hundred thirty million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;
(x) up to thirty-two million five hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;
(xi) up to one hundred twenty-seven million four hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;
(xii) up to one hundred twenty-seven million four hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen; [~~and~~]
(xiii) up to one hundred twenty-seven million four hundred thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty; and
**(xiv) up to one hundred twenty-seven million four hundred thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three.**
(w) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the treatment of breast and cervical cancer pursuant to paragraph [~~(v)~~] **(d)** of subdivision four of section three hundred sixty-six of the social services law, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:
(i) up to four hundred fifty thousand dollars for the period January first, two thousand two through December thirty-first, two thousand two;
(ii) up to two million one hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;
(iii) up to two million one hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;
(iv) up to two million one hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;
(v) up to two million one hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to two million one hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to two million one hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) up to two million one hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) up to two million one hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) up to five hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xi) up to two million one hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(xii) up to two million one hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen; [~~and~~]

(xiii) up to two million one hundred thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**; and**

**(xiv) up to two million one hundred thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**.

(x) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the non-public general hospital rates increases for recruitment and retention of health care workers from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) twenty-seven million one hundred thousand dollars on an annualized basis for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) fifty million eight hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) sixty-nine million three hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) sixty-nine million three hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) sixty-nine million three hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) sixty-five million three hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) sixty-one million one hundred fifty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; and

(viii) forty-eight million seven hundred twenty-one thousand dollars for the period January first, two thousand nine through November thirtieth, two thousand nine.

(y) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of grants to public general hospitals for recruitment and retention of health care workers pursuant to paragraph (b) of subdivision thirty of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) eighteen million five hundred thousand dollars on an annualized basis for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) thirty-seven million four hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) fifty-two million two hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) fifty-two million two hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) fifty-two million two hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) forty-nine million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) forty-nine million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; and

(viii) twelve million two hundred fifty thousand dollars for the period January first, two thousand nine through March thirty-first, two thousand nine.

Provided, however, amounts pursuant to this paragraph may be reduced in an amount to be approved by the director of the budget to reflect amounts received from the federal government under the state's 1115 waiver which are directed under its terms and conditions to the health workforce recruitment and retention program.

(z) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the non-public residential health care facility rate increases for recruitment and retention of health care workers pursuant to paragraph (a) of subdivision eighteen of section twenty-eight hundred eight of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) twenty-one million five hundred thousand dollars on an annualized basis for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) thirty-three million three hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) forty-six million three hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) forty-six million three hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) forty-six million three hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) thirty million nine hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) twenty-four million seven hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) twelve million three hundred seventy-five thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) nine million three hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(x) two million three hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

(aa) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of grants to public residential health care facilities for recruitment and retention of health care workers pursuant to paragraph (b) of subdivision eighteen of section twenty-eight hundred eight of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) seven million five hundred thousand dollars on an annualized basis for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) eleven million seven hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) sixteen million two hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) sixteen million two hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) sixteen million two hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) ten million eight hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) six million seven hundred fifty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; and

(viii) one million three hundred fifty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine.

(bb)(i) Funds shall be deposited by the commissioner, within amounts appropriated, and subject to the availability of federal financial participation, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for the purpose of supporting the state share of adjustments to Medicaid rates of payment for personal care services provided pursuant to paragraph (e) of subdivision two of section three hundred sixty-five-a of the social services law, for local social service districts which include a city with a population of over one million persons and computed and distributed in accordance with memorandums of understanding to be entered into between the state of New York and such local social service districts for the purpose of supporting the recruitment and retention of personal care service workers or any worker with direct patient care responsibility, from the tobacco control and insurance initiatives pool established for the following periods and the following amounts:

(A) forty-four million dollars, on an annualized basis, for the period April first, two thousand two through December thirty-first, two thousand two;

(B) seventy-four million dollars, on an annualized basis, for the period January first, two thousand three through December thirty-first, two thousand three;

(C) one hundred four million dollars, on an annualized basis, for the period January first, two thousand four through December thirty-first, two thousand four;

(D) one hundred thirty-six million dollars, on an annualized basis, for the period January first, two thousand five through December thirty-first, two thousand five;

(E) one hundred thirty-six million dollars, on an annualized basis, for the period January first, two thousand six through December thirty-first, two thousand six;

(F) one hundred thirty-six million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(G) one hundred thirty-six million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(H) one hundred thirty-six million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(I) one hundred thirty-six million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(J) thirty-four million dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(K) up to one hundred thirty-six million dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(L) up to one hundred thirty-six million dollars each state fiscal year for the period March thirty-first, two thousand fourteen through April first, two thousand seventeen; [~~and~~]

(M) up to one hundred thirty-six million dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**; and**

(N) up to one hundred thirty-six million dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three.

(ii) Adjustments to Medicaid rates made pursuant to this paragraph shall not, in aggregate, exceed the following amounts for the following periods:

(A) for the period April first, two thousand two through December thirty-first, two thousand two, one hundred ten million dollars;

(B) for the period January first, two thousand three through December thirty-first, two thousand three, one hundred eighty-five million dollars;

(C) for the period January first, two thousand four through December thirty-first, two thousand four, two hundred sixty million dollars;

(D) for the period January first, two thousand five through December thirty-first, two thousand five, three hundred forty million dollars;

(E) for the period January first, two thousand six through December thirty-first, two thousand six, three hundred forty million dollars;

(F) for the period January first, two thousand seven through December thirty-first, two thousand seven, three hundred forty million dollars;

(G) for the period January first, two thousand eight through December thirty-first, two thousand eight, three hundred forty million dollars;

(H) for the period January first, two thousand nine through December thirty-first, two thousand nine, three hundred forty million dollars;

(I) for the period January first, two thousand ten through December thirty-first, two thousand ten, three hundred forty million dollars;

(J) for the period January first, two thousand eleven through March thirty-first, two thousand eleven, eighty-five million dollars;

(K) for each state fiscal year within the period April first, two thousand eleven through March thirty-first, two thousand fourteen, three hundred forty million dollars;

(L) for each state fiscal year within the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, three hundred forty million dollars; [~~and~~]

(M) for each state fiscal year within the period April first, two thousand seventeen through March thirty-first, two thousand twenty, three hundred forty million dollars; and

(N) for each state fiscal year within the period April first, two thousand twenty through March thirty-first, two thousand twenty-three, three hundred forty million dollars.

(iii) Personal care service providers which have their rates adjusted pursuant to this paragraph shall use such funds for the purpose of recruitment and retention of non-supervisory personal care services workers or any worker with direct patient care responsibility only and are prohibited from using such funds for any other purpose. Each such personal care services provider shall submit, at a time and in a manner to be determined by the commissioner, a written certification attesting that such funds will be used solely for the purpose of recruitment and retention of non-supervisory personal care services workers or any worker with direct patient care responsibility. The commissioner is authorized to audit each such provider to ensure compliance with the written certification required by this subdivision and shall recoup any funds determined to have been used for purposes other than recruitment and retention of non-supervisory personal care services workers or any worker with direct patient care responsibility. Such recoupment shall be in addition to any other penalties provided by law.

(cc) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for the purpose of supporting the state share of adjustments to Medicaid rates of payment for personal care services provided pursuant to paragraph (e) of subdivision two of section three hundred sixty-five-a of the social services law, for local social service districts which shall not include a city with a population of over one million persons for the purpose of supporting the personal care services worker recruitment and retention program as established pursuant to section three hundred sixty-seven-q of the social services law, from the tobacco control and insurance initiatives pool established for the following periods and the following amounts:

(i) two million eight hundred thousand dollars for the period April first, two thousand two through December thirty-first, two thousand two;

(ii) five million six hundred thousand dollars, on an annualized basis, for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) eight million four hundred thousand dollars, on an annualized basis, for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) ten million eight hundred thousand dollars, on an annualized basis, for the period January first, two thousand five through December thirty-first, two thousand five;

(v) ten million eight hundred thousand dollars, on an annualized basis, for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) eleven million two hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) eleven million two hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) eleven million two hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) eleven million two hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) two million eight hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xi) up to eleven million two hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(xii) up to eleven million two hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen; [~~and~~]

(xiii) up to eleven million two hundred thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**; and**

**(xiv) up to eleven million two hundred thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**.

(dd) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of Medicaid expenditures for physician services from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to fifty-two million dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) eighty-one million two hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) eighty-five million two hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) eighty-five million two hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) eighty-five million two hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) eighty-five million two hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) eighty-five million two hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) eighty-five million two hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) eighty-five million two hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) twenty-one million three hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven; and

(xi) eighty-five million two hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen.

(ee) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the free-standing diagnostic and treatment center rate increases for recruitment and retention of health care workers pursuant to subdivision seventeen of section twenty-eight hundred seven of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) three million two hundred fifty thousand dollars for the period April first, two thousand two through December thirty-first, two thousand two;

(ii) three million two hundred fifty thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) three million two hundred fifty thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) three million two hundred fifty thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) three million two hundred fifty thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) three million two hundred fifty thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) three million four hundred thirty-eight thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) two million four hundred fifty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) one million five hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(x) three hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

(ff) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of Medicaid expenditures for disabled persons as authorized pursuant to former subparagraphs twelve and thirteen of paragraph (a) of subdivision one of section three hundred sixty-six of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) one million eight hundred thousand dollars for the period April first, two thousand two through December thirty-first, two thousand two;

(ii) sixteen million four hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) eighteen million seven hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) thirty million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) thirty million six hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) thirty million six hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) fifteen million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) fifteen million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) fifteen million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) three million seven hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xi) fifteen million dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(xii) fifteen million dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen; [~~and~~]

(xiii) fifteen million dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**; and**

**(xiv) fifteen million dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**.

(gg) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of grants to non-public general hospitals pursuant to paragraph (c) of subdivision thirty of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to one million three hundred thousand dollars on an annualized basis for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) up to three million two hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) up to five million six hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) up to eight million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to eight million six hundred thousand dollars on an annualized basis for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to two million six hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to two million six hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) up to two million six hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) up to two million six hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(x) up to six hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

(hh) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the special revenue fund - other, HCRA transfer fund, medical assistance account for purposes of providing financial assistance to residential health care

facilities pursuant to subdivisions nineteen and twenty-one of section twenty-eight hundred eight of this article, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) for the period April first, two thousand two through December thirty-first, two thousand two, ten million dollars;

(ii) for the period January first, two thousand three through December thirty-first, two thousand three, nine million four hundred fifty thousand dollars;

(iii) for the period January first, two thousand four through December thirty-first, two thousand four, nine million three hundred fifty thousand dollars;

(iv) up to fifteen million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to fifteen million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to fifteen million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to fifteen million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) up to fifteen million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) up to fifteen million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) up to three million seven hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven; and

(xi) fifteen million dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen.

(ii) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for the purpose of supporting the state share of Medicaid expenditures for disabled persons as authorized by sections 1619 (a) and (b) of the federal social security act pursuant to the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) six million four hundred thousand dollars for the period April first, two thousand two through December thirty-first, two thousand two;

(ii) eight million five hundred thousand dollars, for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) eight million five hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) eight million five hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) eight million five hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) eight million six hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) eight million five hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) eight million five hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) eight million five hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) two million one hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xi) eight million five hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(xii) eight million five hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen; [~~and~~]

(xiii) eight million five hundred thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**; and**

**(xiv) eight million five hundred thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**.

(jj) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purposes of a grant program to improve access to infertility services, treatments and procedures, from the tobacco control and insurance initiatives pool established for the period January first, two thousand two through December thirty-first, two thousand two in the amount of nine million one hundred seventy-five thousand dollars, for the period April first, two thousand six through March thirty-first, two thousand seven in the amount of five million dollars, for the period April first, two thousand seven through March thirty-first, two thousand eight in the amount of five million dollars, for the period April first, two thousand eight through March thirty-first, two thousand nine in the amount of five million dollars, and for the period April first, two thousand nine through March thirty-first, two thousand ten in the amount of five million dollars, for the period April first, two thousand ten through March thirty-first, two thousand eleven in the amount of two million two hundred thousand dollars, and for the period April first, two thousand eleven through March thirty-first, two thousand twelve up to one million one hundred thousand dollars.

(kk) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds -- other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of Medical Assistance Program expenditures from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) thirty-eight million eight hundred thousand dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) up to two hundred ninety-five million dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) up to four hundred seventy-two million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) up to nine hundred million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to eight hundred sixty-six million three hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to six hundred sixteen million seven hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to five hundred seventy-eight million nine hundred twenty-five thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; and

(viii) within amounts appropriated on and after January first, two thousand nine.

(ll) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds -- other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of Medicaid expenditures related to the city of New York from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) eighty-two million seven hundred thousand dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) one hundred twenty-four million six hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) one hundred twenty-four million seven hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) one hundred twenty-four million seven hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) one hundred twenty-four million seven hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) one hundred twenty-four million seven hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) one hundred twenty-four million seven hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) one hundred twenty-four million seven hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) one hundred twenty-four million seven hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) thirty-one million one hundred seventy-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven; and

(xi) one hundred twenty-four million seven hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen.

(mm) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding specified percentages of the state share of services and expenses related to the family health plus program in accordance with the following schedule:

(i) (A) for the period January first, two thousand three through December thirty-first, two thousand four, one hundred percent of the state share;

(B) for the period January first, two thousand five through December thirty-first, two thousand five, seventy-five percent of the state share; and

(C) for periods beginning on and after January first, two thousand six, fifty percent of the state share.

(ii) Funding for the family health plus program will include up to five million dollars annually for the period January first, two thousand three through December thirty-first, two thousand six, up to five million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, up to seven million two hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, up to seven million two hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, up to seven million two hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, up to one million eight hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to six million forty-nine thousand dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve, up to six million two hundred eighty-nine thousand dollars for the period April first, two thousand twelve through March thirty-first, two thousand thirteen, and up to six million four hundred sixty-one thousand dollars for the period April first, two thousand thirteen through March thirty-first, two thousand fourteen, for administration and marketing costs associated with such program established pursuant to clauses (A) and (B) of subparagraph (v) of paragraph (a) of subdivision two of section three hundred sixty-nine-ee of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(A) one hundred ninety million six hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(B) three hundred seventy-four million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(C) five hundred thirty-eight million four hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(D) three hundred eighteen million seven hundred seventy-five thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(E) four hundred eighty-two million eight hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(F) five hundred seventy million twenty-five thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(G) six hundred ten million seven hundred twenty-five thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(H) six hundred twenty-seven million two hundred seventy-five thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(I) one hundred fifty-seven million eight hundred seventy-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(J) six hundred twenty-eight million four hundred thousand dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve;

(K) six hundred fifty million four hundred thousand dollars for the period April first, two thousand twelve through March thirty-first, two thousand thirteen;

(L) six hundred fifty million four hundred thousand dollars for the period April first, two thousand thirteen through March thirty-first, two thousand fourteen; and

(M) up to three hundred ten million five hundred ninety-five thousand dollars for the period April first, two thousand fourteen through March thirty-first, two thousand fifteen.

(nn) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, health care services account, or any successor fund or account, for purposes related to adult home initiatives for medicaid eligible residents of residential facilities licensed pursuant to section four hundred sixty-b of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to four million dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(ii) up to six million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(iii) up to eight million dollars for the period January first, two thousand five through December thirty-first, two thousand five, provided, however, that up to five million two hundred fifty thousand dollars of such funds shall be received by the comptroller and deposited to the credit of the special revenue fund - other / aid to localities, HCRA transfer fund - 061, enhanced community services account - 05, or any successor fund or account, for the purposes set forth in this paragraph;

(iv) up to eight million dollars for the period January first, two thousand six through December thirty-first, two thousand six, provided, however, that up to five million two hundred fifty thousand dollars of such funds shall be received by the comptroller and deposited to the credit of the special revenue fund - other / aid to localities, HCRA

transfer fund - 061, enhanced community services account - 05, or any successor fund or account, for the purposes set forth in this paragraph;

(v) up to eight million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, provided, however, that up to five million two hundred fifty thousand dollars of such funds shall be received by the comptroller and deposited to the credit of the special revenue fund - other / aid to localities, HCRA transfer fund - 061, enhanced community services account - 05, or any successor fund or account, for the purposes set forth in this paragraph;

(vi) up to two million seven hundred fifty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(vii) up to two million seven hundred fifty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(viii) up to two million seven hundred fifty thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(ix) up to six hundred eighty-eight thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

(oo) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of grants to non-public general hospitals pursuant to paragraph (e) of subdivision twenty-five of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to five million dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(ii) up to five million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(iii) up to five million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(iv) up to five million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(v) up to five million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(vi) up to five million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(vii) up to five million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(viii) up to one million two hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

(pp) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purpose of supporting the provision of tax credits for long term care insurance pursuant to subdivision one of section one hundred ninety of the tax law, paragraph (a) of subdivision [~~twenty-five-a~~] **fourteen** of section two hundred [~~ten~~] **ten-B** of such law, subsection (aa) of section six hundred six of such law[~~, paragraph one of subsection (k) of section fourteen hundred fifty-six of such law~~] and paragraph one of subdivision (m) of section fifteen hundred eleven of such law, in the following amounts:

(i) ten million dollars for the period January first, two thousand four through December thirty-first, two thousand four;
(ii) ten million dollars for the period January first, two thousand five through December thirty-first, two thousand five;
(iii) ten million dollars for the period January first, two thousand six through December thirty-first, two thousand six; and
(iv) five million dollars for the period January first, two thousand seven through June thirtieth, two thousand seven.
(qq) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purpose of supporting the long-term care insurance education and outreach program established pursuant to section two hundred seventeen-a of the elder law for the following periods in the following amounts:
(i) up to five million dollars for the period January first, two thousand four through December thirty-first, two thousand four; of such funds one million nine hundred fifty thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach program and three million fifty thousand dollars shall be deposited by the commissioner, within amounts appropriated, and the comptroller is hereby authorized and directed to receive for deposit to the credit of the special revenue funds - other, HCRA transfer fund, long term care insurance resource center account of the state office for the aging or any future account designated for the purpose of implementing the long term care insurance education and outreach program and providing the long term care insurance resource centers with the necessary resources to carry out their operations;
(ii) up to five million dollars for the period January first, two thousand five through December thirty-first, two thousand five; of such funds one million nine hundred fifty thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach program and three million fifty thousand dollars shall be deposited by the commissioner, within amounts appropriated, and the comptroller is hereby authorized and directed to receive for deposit to the credit of the special revenue funds - other, HCRA transfer fund, long term care insurance resource center account of the state office for the aging or any future account designated for the purpose of implementing the long term care insurance education and outreach program and providing the long term care insurance resource centers with the necessary resources to carry out their operations;
(iii) up to five million dollars for the period January first, two thousand six through December thirty-first, two thousand six; of such funds one million nine hundred fifty thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach program and three million fifty thousand dollars shall be made available to the office for the aging for the purpose of providing the long term care insurance resource centers with the necessary resources to carry out their operations;
(iv) up to five million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven; of such funds one million nine hundred fifty thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach program and three million fifty thousand dollars shall be made available

to the office for the aging for the purpose of providing the long term care insurance resource centers with the necessary resources to carry out their operations;

(v) up to five million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; of such funds one million nine hundred fifty thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long term care insurance education and outreach program and three million fifty thousand dollars shall be made available to the office for the aging for the purpose of providing the long term care insurance resource centers with the necessary resources to carry out their operations;

(vi) up to five million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine; of such funds one million nine hundred fifty thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach program and three million fifty thousand dollars shall be made available to the office for the aging for the purpose of providing the long-term care insurance resource centers with the necessary resources to carry out their operations;

(vii) up to four hundred eighty-eight thousand dollars for the period January first, two thousand ten through March thirty-first, two thousand ten; of such funds four hundred eighty-eight thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach program.

(rr) Funds shall be reserved and accumulated from the tobacco control and insurance initiatives pool and shall be available, including income from invested funds, for the purpose of supporting expenses related to implementation of the provisions of title [~~III~~] **three** of article twenty-nine-D of this chapter, for the following periods and in the following amounts:

(i) up to ten million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(ii) up to ten million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(iii) up to ten million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(iv) up to ten million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(v) up to ten million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(vi) up to two million five hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

(ss) Funds shall be reserved and accumulated from the tobacco control and insurance initiatives pool and used for a health care stabilization program established by the commissioner for the purposes of stabilizing critical health care providers and health care programs whose ability to continue to provide appropriate services are threatened by financial or other challenges, in the amount of up to twenty-eight million dollars for the period July first, two thousand four through June thirtieth, two thousand five. Notwithstanding the provisions of section one hundred twelve of the state finance law or any other inconsistent provision of the state finance law or any other law, funds available for distribution

pursuant to this paragraph may be allocated and distributed by the commissioner, or the state comptroller as applicable without a competitive bid or request for proposal process. Considerations relied upon by the commissioner in determining the allocation and distribution of these funds shall include, but not be limited to, the following: (i) the importance of the provider or program in meeting critical health care needs in the community in which it operates; (ii) the provider or program provision of care to under-served populations; (iii) the quality of the care or services the provider or program delivers; (iv) the ability of the provider or program to continue to deliver an appropriate level of care or services if additional funding is made available; (v) the ability of the provider or program to access, in a timely manner, alternative sources of funding, including other sources of government funding; (vi) the ability of other providers or programs in the community to meet the community health care needs; (vii) whether the provider or program has an appropriate plan to improve its financial condition; and (viii) whether additional funding would permit the provider or program to consolidate, relocate, or close programs or services where such actions would result in greater stability and efficiency in the delivery of needed health care services or programs.

(tt) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of providing grants for two long term care demonstration projects designed to test new models for the delivery of long term care services established pursuant to section twenty-eight hundred seven-x of this chapter, for the following periods and in the following amounts:

(i) up to five hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(ii) up to five hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(iii) up to five hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(iv) up to one million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven; and

(v) up to two hundred fifty thousand dollars for the period January first, two thousand eight through March thirty-first, two thousand eight.

(uu) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purpose of supporting disease management and telemedicine demonstration programs authorized pursuant to section twenty-one hundred eleven of this chapter for the following periods in the following amounts:

(i) five million dollars for the period January first, two thousand four through December thirty-first, two thousand four, of which three million dollars shall be available for disease management demonstration programs and two million dollars shall be available for telemedicine demonstration programs;

(ii) five million dollars for the period January first, two thousand five through December thirty-first, two thousand five, of which three million dollars shall be available for disease management demonstration programs and two million dollars shall be available for telemedicine demonstration programs;

(iii) nine million five hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six, of which seven million five hundred thousand dollars shall be

available for disease management demonstration programs and two million dollars shall be available for telemedicine demonstration programs;

(iv) nine million five hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, of which seven million five hundred thousand dollars shall be available for disease management demonstration programs and one million dollars shall be available for telemedicine demonstration programs;

(v) nine million five hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, of which seven million five hundred thousand dollars shall be available for disease management demonstration programs and two million dollars shall be available for telemedicine demonstration programs;

(vi) seven million eight hundred thirty-three thousand three hundred thirty-three dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, of which seven million five hundred thousand dollars shall be available for disease management demonstration programs and three hundred thirty-three thousand three hundred thirty-three dollars shall be available for telemedicine demonstration programs for the period January first, two thousand nine through March first, two thousand nine;

(vii) one million eight hundred seventy-five thousand dollars for the period January first, two thousand ten through March thirty-first, two thousand ten shall be available for disease management demonstration programs.

(ww) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for the deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the general hospital rates increases for recruitment and retention of health care workers pursuant to paragraph (e) of subdivision thirty of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) sixty million five hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five; and

(ii) sixty million five hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six.

(xx) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for the deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the general hospital rates increases for rural hospitals pursuant to subdivision thirty-two of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) three million five hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(ii) three million five hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(iii) three million five hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(iv) three million five hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; and

(v) three million two hundred eight thousand dollars for the period January first, two thousand nine through November thirtieth, two thousand nine.

(yy) Funds shall be reserved and accumulated from year to year and shall be available, within amounts appropriated and notwithstanding section one hundred twelve of the state finance law and any other contrary provision of law, for the purpose of supporting grants not to exceed five million dollars to be made by the commissioner without a competitive bid or request for proposal process, in support of the delivery of critically needed health care services, to health care providers located in the counties of Erie and Niagara which executed a memorandum of closing and conducted a merger closing in escrow on November twenty-fourth, nineteen hundred ninety-seven and which entered into a settlement dated December thirtieth, two thousand four for a loss on disposal of assets under the provisions of title XVIII of the federal social security act applicable to mergers occurring prior to December first, nineteen hundred ninety-seven.

(zz) Funds shall be reserved and accumulated from year to year and shall be available, within amounts appropriated, for the purpose of supporting expenditures authorized pursuant to section twenty-eight hundred eighteen of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) six million five hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(ii) one hundred eight million three hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six, provided, however, that within amounts appropriated in the two thousand six through two thousand seven state fiscal year, a portion of such funds may be transferred to the Roswell Park Cancer Institute Corporation to fund capital costs;

(iii) one hundred seventy-one million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, provided, however, that within amounts appropriated in the two thousand six through two thousand seven state fiscal year, a portion of such funds may be transferred to the Roswell Park Cancer Institute Corporation to fund capital costs;

(iv) one hundred seventy-one million five hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(v) one hundred twenty-eight million seven hundred fifty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(vi) one hundred thirty-one million three hundred seventy-five thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(vii) thirty-four million two hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(viii) four hundred thirty-three million three hundred sixty-six thousand dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve;

(ix) one hundred fifty million eight hundred six thousand dollars for the period April first, two thousand twelve through March thirty-first, two thousand thirteen;

(x) seventy-eight million seventy-one thousand dollars for the period April first, two thousand thirteen through March thirty-first, two thousand fourteen.

(aaa) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for services and expenses related to school based health centers, in an amount up to three million five hundred thousand dollars for the period April first, two thousand six through March thirty-first, two thousand seven, up to three million five hundred thousand dollars for the period April first, two thousand seven through March thirty-first, two thousand eight, up to three million five hundred thousand dollars for the period April first, two thousand eight through March thirty-first, two thousand nine, up to three million five hundred thousand dollars for the period April first, two thousand nine through March thirty-first, two thousand ten, up to three million five hundred thousand dollars for the period April first, two thousand ten through March thirty-first, two thousand eleven, up to two million eight hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to two million six hundred forty-four thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, [~~and~~] up to two million six hundred forty-four thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**, and up to two million six hundred forty-four thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**. The total amount of funds provided herein shall be distributed as grants based on the ratio of each provider's total enrollment for all sites to the total enrollment of all providers. This formula shall be applied to the total amount provided herein.

(bbb) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of awarding grants to operators of adult homes, enriched housing programs and residences through the enhancing abilities and life experience (EnAbLe) program to provide for the installation, operation and maintenance of air conditioning in resident rooms, consistent with this paragraph, in an amount up to two million dollars for the period April first, two thousand six through March thirty-first, two thousand seven, up to three million eight hundred thousand dollars for the period April first, two thousand seven through March thirty-first, two thousand eight, up to three million eight hundred thousand dollars for the period April first, two thousand eight through March thirty-first, two thousand nine, up to three million eight hundred thousand dollars for the period April first, two thousand nine through March thirty-first, two thousand ten, and up to three million eight hundred thousand dollars for the period April first, two thousand ten through March thirty-first, two thousand eleven. Residents shall not be charged utility cost for the use of air conditioners supplied under the EnAbLe program. All such air conditioners must be operated in occupied resident rooms consistent with requirements applicable to common areas.

(ccc) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for the deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of increases in the rates for certified home health agencies, long term home health care programs, AIDS home care programs, hospice programs and managed long term care plans and approved managed long term care operating demonstrations as defined in section forty-four hundred three-f of this chapter for recruitment and retention of health care workers pursuant to subdivisions nine and ten of section thirty-six hundred fourteen of this chapter from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) twenty-five million dollars for the period June first, two thousand six through December thirty-first, two thousand six;

(ii) fifty million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(iii) fifty million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(iv) fifty million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(v) fifty million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(vi) twelve million five hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(vii) up to fifty million dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(viii) up to fifty million dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen; [~~and~~]

(ix) up to fifty million dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty**; and**

**(x) up to fifty million dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three**.

(ddd) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for the deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of increases in the medical assistance rates for providers for purposes of enhancing the provision, quality and/or efficiency of home care services pursuant to subdivision eleven of section thirty-six hundred fourteen of this chapter from the tobacco control and insurance initiatives pool established for the following period in the amount of eight million dollars for the period April first, two thousand six through December thirty-first, two thousand six.

(eee) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, to the Center for Functional Genomics at the State University of New York at Albany, for the purposes of the Adirondack network for cancer education and research in rural communities grant program to improve access to health

care and shall be made available from the tobacco control and insurance initiatives pool established for the following period in the amount of up to five million dollars for the period January first, two thousand six through December thirty-first, two thousand six.

(fff) Funds shall be made available to the empire state stem cell **trust** fund established by section ninety-nine-p of the state finance law within amounts appropriated up to fifty million dollars annually and shall not exceed five hundred million dollars in total.

(ggg) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for the purpose of supporting the state share of Medicaid expenditures for hospital translation services as authorized pursuant to paragraph (k) of subdivision one of section twenty-eight hundred seven-c of this article from the tobacco control and initiatives pool established for the following periods in the following amounts:

(i) sixteen million dollars for the period July first, two thousand eight through December thirty-first, two thousand eight; and

(ii) fourteen million seven hundred thousand dollars for the period January first, two thousand nine through November thirtieth, two thousand nine.

(hhh) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for the purpose of supporting the state share of Medicaid expenditures for adjustments to inpatient rates of payment for general hospitals located in the counties of Nassau and Suffolk as authorized pursuant to paragraph (l) of subdivision one of section twenty-eight hundred seven-c of this article from the tobacco control and initiatives pool established for the following periods in the following amounts:

(i) two million five hundred thousand dollars for the period April first, two thousand eight through December thirty-first, two thousand eight; and

(ii) two million two hundred ninety-two thousand dollars for the period January first, two thousand nine through November thirtieth, two thousand nine.

(iii) Funds shall be reserved and set aside and accumulated from year to year and shall be made available, including income from investment funds, for the purpose of supporting the New York state medical indemnity fund as authorized pursuant to title four of article twenty-nine-D of this chapter, for the following periods and in the following amounts, provided, however, that the commissioner is authorized to seek waiver authority from the federal centers for medicare and Medicaid for the purpose of securing Medicaid federal financial participation for such program, in which case the funding authorized pursuant to this paragraph shall be utilized as the non-federal share for such payments:

Thirty million dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve.

2. (a) For periods prior to January first, two thousand five, the commissioner is authorized to contract with the article forty-three insurance law plans, or such other contractors as the commissioner shall designate, to receive and distribute funds from the tobacco control and

insurance initiatives pool established pursuant to this section. In the event contracts with the article forty-three insurance law plans or other commissioner's designees are effectuated, the commissioner shall conduct annual audits of the receipt and distribution of such funds. The reasonable costs and expenses of an administrator as approved by the commissioner, not to exceed for personnel services on an annual basis five hundred thousand dollars, for collection and distribution of funds pursuant to this section shall be paid from such funds.

(b) Notwithstanding any inconsistent provision of section one hundred twelve or one hundred sixty-three of the state finance law or any other law, at the discretion of the commissioner without a competitive bid or request for proposal process, contracts in effect for administration of pools established pursuant to sections twenty-eight hundred seven-k, twenty-eight hundred seven-l and twenty-eight hundred seven-m of this article for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine may be extended to provide for administration pursuant to this section and may be amended as may be necessary.

§ 15. Paragraph (a) of subdivision 12 of section 367-b of the social services law, as amended by section 7 of part H of chapter 57 of the laws of 2017, is amended to read as follows:

(a) For the purpose of regulating cash flow for general hospitals, the department shall develop and implement a payment methodology to provide for timely payments for inpatient hospital services eligible for case based payments per discharge based on diagnosis-related groups provided during the period January first, nineteen hundred eighty-eight through March thirty-first two thousand [~~twenty~~] **twenty-three**, by such hospitals which elect to participate in the system.

§ 16. Paragraph (o) of subdivision 9 of section 3614 of the public health law, as added by section 11 of part H of chapter 57 of the laws of 2017, is amended and three new paragraphs (p), (q) and (r) are added to read as follows:

(o) for the period April first, two thousand nineteen through March thirty-first, two thousand twenty, up to one hundred million dollars[~~.~~]**;**

**(p) for the period April first, two thousand twenty through March thirty-first, two thousand twenty-one, up to one hundred million dollars;**

**(q) for the period April first, two thousand twenty-one through March thirty-first, two thousand twenty-two, up to one hundred million dollars;**

**(r) for the period April first, two thousand twenty-two through March thirty-first, two thousand twenty-three, up to one hundred million dollars.**

§ 17. Paragraph (s) of subdivision 1 of section 367-q of the social services law, as added by section 12 of part H of chapter 57 of the laws of 2017, is amended and three new paragraphs (t), (u) and (v) are added to read as follows:

(s) for the period April first, two thousand nineteen through March thirty-first, two thousand twenty, twenty-eight million five hundred thousand dollars[~~.~~]**;**

**(t) for the period April first, two thousand twenty through March thirty-first, two thousand twenty-one, up to twenty-eight million five hundred thousand dollars;**

**(u) for the period April first, two thousand twenty-one through March thirty-first, two thousand twenty-two, up to twenty-eight million five hundred thousand dollars;**

(v) for the period April first, two thousand twenty-two through March thirty-first, two thousand twenty-three, up to twenty-eight million five hundred thousand dollars.

§ 18. Section 5 of chapter 517 of the laws of 2016, amending the public health law relating to payments from the New York state medical indemnity fund, as amended by section 4 of part K of chapter 57 of the laws of 2019, is amended to read as follows:

§ 5. This act shall take effect on the forty-fifth day after it shall have become a law, provided that the amendments to subdivision 4 of section 2999-j of the public health law made by section two of this act shall take effect on June 30, 2017 and shall expire and be deemed repealed December 31, [~~2020~~] 2021.

§ 19. Section 2807-g and paragraph (e) of subdivision 1 of section 2807-l of the public health law are REPEALED.

§ 20. This act shall take effect April 1, 2020, provided, however, if this act shall become a law after such date it shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020, and further provided, that:

(a) the amendments to sections 2807-j and 2807-s of the public health law made by sections two, eight, eleven and twelve of this act shall not affect the expiration of such sections and shall expire therewith;

(b) the amendments to subdivision 6 of section 2807-t of the public health law made by section thirteen of this act shall not affect the expiration of such section and shall be deemed to expire therewith; and

(c) the amendments to paragraph (i-1) of subdivision 1 of section 2807-v of the public health law made by section fourteen of this act shall not affect the repeal of such paragraph and shall be deemed repealed therewith.

PART Z

Section 1. Subdivisions 1 and 3 of section 461-s of the social services law, subdivision 1 as amended by section 4 of part R of chapter 59 of the laws of 2016 and subdivision 3 as amended by section 6 of part A of chapter 57 of the laws of 2015, are amended to read as follows:

1. (a) The commissioner of health shall establish the enhanced quality of adult living program (referred to in this section as the "EQUAL program" or the "program") for adult care facilities. The program shall be targeted at improving the quality of life for adult care facility residents by means of grants to facilities for [~~specified~~] the purposes set forth in subparagraphs (i) and (ii) of the paragraph. The department of health, subject to the approval of the director of the budget, shall develop an allocation methodology taking into account the financial status and size of the facility [~~as well as~~], resident needs and the population of residents who receive supplemental security income, state supplemental payments, Medicaid (with respect to residents in an assisted living program), or safety net assistance. On or before June first of each year, the department shall make available the application for EQUAL program funds. Grants may be used to support the following purposes:

(i) to improve the quality of life for adult care facility residents by funding projects including, but not limited to, clothing allowances, resident training to support independent living skills, improvements in food quality, outdoor leisure projects, and culturally recreational and other leisure events; and resident quality of life, pursuant to this subparagraph, and

(ii) to improve the quality of life for adult care facility residents by financing capital improvement projects that will enhance the physical environment of the facility and promote a higher quality of life for residents. Any capital related expense generated by such capital expenditure must receive approval by the department of health, provided however, that such expenditures shall not be used to supplant the obligations of the facility operator to provide a safe, comfortable environment for residents in a good state of repair and sanitation.

(b) On or before June first of each year, the department shall make available the application for EQUAL program funds to eligible adult care facilities, as set forth in this section.

3. Prior to applying for EQUAL program funds, a facility shall receive approval of its expenditure plan from the residents' council for the facility. The residents' council shall adopt a process to identify the priorities of the residents for the use of the program funds and document residents' top preferences by means that may include a vote or survey. The plan shall detail how program funds will be used to improve resident quality of life, pursuant to subparagraph (i) of paragraph (a) of subdivision one of this section, and support sustainable enhancements to the physical environment of the facility [~~or the quality of care and services rendered to residents and may include, but not be limited to, staff training, air conditioning in residents' areas, clothing, improvements in food quality, furnishings, equipment, security, and maintenance or repairs to the facility~~] pursuant to subparagraph (ii) of paragraph (a) of this subdivision. The facility's application for EQUAL program funds shall include a signed attestation from the president or chairperson of the residents' council or, in the absence of a residents' council, at least three residents of the facility, stating that the application reflects the priorities of the residents of the facility. The department shall investigate reports of resident abuse and retaliation related to program applications and expenditures.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020.

PART AA

Section 1. Section 2807-bbb of the public health law is REPEALED.

§ 2. Subdivision 10 of section 2808 of the public health law is REPEALED.

§ 3. Subdivision 6 of section 3614 of the public health law, as added by chapter 563 of the laws of 1991, is REPEALED.

§ 4. Subdivision 4 of section 4012 of the public health law is REPEALED.

§ 5. Clause (B) of subparagraph (iii) of paragraph (e) of subdivision one of section twenty-eight hundred seven-c of the public health law is REPEALED.

§ 6. Article 27-G of the public health law is REPEALED.

§ 7. Section 95-e of the state finance law, as added by chapter 301 of the laws of 2004, subdivision 2 as amended by chapter 483 of the laws of 2015, subdivision 2-a as added by section 27-i of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

§ 95-e. The New York state autism awareness and research fund. 1. There is hereby established in the joint custody of the commissioner of taxation and finance and the comptroller, a special fund to be known as the New York state autism awareness and research fund.

2. Such fund shall consist of all revenues received pursuant to the provisions of section four hundred four-v of the vehicle and traffic law, as added by chapter three hundred one of the laws of two thousand four, all revenues received pursuant to section six hundred thirty-d of the tax law and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law. Nothing contained in this section shall prevent the state from receiving grants, gifts or bequests for the purposes of the fund as defined in this section and depositing them into the fund according to law.

2-a. On or before the first day of February each year, the commissioner of [~~health~~] **the office for people with developmental disabilities** shall provide a written report to the temporary president of the senate, speaker of the assembly, chair of the senate finance committee, chair of the assembly ways and means committee, chair of the senate committee on health, chair of the assembly health committee, the state comptroller and the public. Such report shall include how the monies of the fund were utilized during the preceding calendar year, and shall include:

(i) the amount of money disbursed from the fund and the award process used for such disbursements;

(ii) recipients of awards from the fund;

(iii) the amount awarded to each;

(iv) the purposes for which such awards were granted; and

(v) a summary financial plan for such monies which shall include estimates of all receipts and all disbursements for the current and succeeding fiscal years, along with the actual results from the prior fiscal year.

3. (a) Monies of the fund shall be expended only for autism awareness projects or autism research projects approved by the [~~department of health~~] **office for people with developmental disabilities** in New York state provided, however, that no more than ten percent of monies from such fund shall be expended on the aggregate number of autism research projects approved in a fiscal year.

(b) As used in this section, the term "autism research project" means scientific research approved by the [~~department of health~~] **office for people with developmental disabilities** into the causes and/or treatment of autism, and the term "autism awareness project" means a project approved by the [~~department of health~~] **office for people with developmental disabilities** aimed toward educating the general public about the causes, symptoms, and treatments of autism.

4. Monies shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of [~~health~~] **the office for people with developmental disabilities**.

5. To the extent practicable, the commissioner of [~~health~~] **the office for people with developmental disabilities** shall ensure that all monies received during a fiscal year are expended prior to the end of that fiscal year.

§ 8. Article 27-J of the public health law is REPEALED.

§ 9. Title E of the mental hygiene law is amended by adding a new article 30 to read as follows:

**ARTICLE 30**

**COMPREHENSIVE CARE CENTERS FOR EATING DISORDERS**

§ 30.01 Legislative findings.

The legislature hereby finds that effective diagnosis and treatment for citizens struggling with eating disorders, a complex and potentially life-threatening condition, requires a continuum of interdisciplinary providers and levels of care. Such effective diagnosis and treatment further requires the coordination and comprehensive management of an individualized plan of care specifically oriented to the distinct needs of each individual.

The legislature further finds that, while there are numerous health care providers in the state with expertise in eating disorder treatment, there is no generally accessible, comprehensive system for responding to these disorders. Due to the lack of such a system the legislature finds that treatment, information/referral, prevention and research activities are fragmented and incomplete. In addition, due to the broad, multifaceted needs of individuals with eating disorders, insurance payments for the necessary plan of care and providers is usually fragmented as well, leaving citizens with insufficient coverage for essential services and, therefore, at risk of incomplete treatment, relapse, deterioration and potential death.

The legislature therefore declares that the state take positive action to facilitate the development and public identification of provider networks and care centers of excellence to provide a coordinated, comprehensive system for the treatment of such disorders, as well as to conduct community education, prevention, information/referral and research activities. The legislature further declares that health coverage by insurers and health maintenance organizations should include covered services provided through such centers and that, to the extent possible and practicable, health plan reimbursement should be structured in a manner to facilitate the individualized, comprehensive and integrated plans of care which such centers are required to provide.

§ 30.02 Definitions.

For purposes of this article:

(a) "Eating disorder" is defined to include, but not be limited to, conditions such as anorexia nervosa, bulimia and binge eating disorder, identified as such in the ICD-9-CM International Classification of Disease or the most current edition of the Diagnostic and Statistical Manual of Mental Disorders, or other medical and mental health diagnostic references generally accepted for standard use by the medical and mental health fields.

(b) "Comprehensive care centers for eating disorders" or "comprehensive care centers" means a provider-sponsored system of care, organized by either corporate affiliation or clinical association for the common purpose of providing a coordinated, individualized plan of care for an individual with an eating disorder, across a continuum that includes all necessary non-institutional, institutional and practitioner services and treatments, from initial patient screening and evaluation, to treatment, follow-up care and support.

§ 30.03 Comprehensive care centers for eating disorders; established.

The commissioner shall provide for the public identification of comprehensive care centers for persons with eating disorders for the purposes of:

(a) Promoting the operation of a continuum of comprehensive, coordinated care for persons with eating disorders;

(b) Promoting ready access to information, referral and treatment services on eating disorders for consumers, health practitioners, providers and insurers, with access in every region of the state;

(c) Promoting community education, prevention and patient entry into care; and

(d) Promoting and coordinating regional and statewide research efforts into effective methods of education, prevention and treatment, including research on the various models of care.

§ 30.04 Qualifying criteria.

(a) In order to qualify for state identification as a comprehensive care center for eating disorders pursuant to this article, applicants must demonstrate to the commissioner's satisfaction that, at a minimum:

1. The applicant can provide a continuum of care tailored to the specialized needs of individuals with eating disorders, with such continuum including at least the following levels of care:

(i) Individual health, psychosocial and case management services, in both noninstitutional and institutional settings, from licensed and certified practitioners with demonstrated experience and expertise in providing services to individuals with eating disorders;

(ii) Medical/surgical, psychiatric and rehabilitation care in a general hospital or a hospital licensed under this chapter; provided that, whenever practicable and appropriate, the service setting for any such care shall be oriented to the specific needs, treatment and recovery of persons with eating disorders;

(iii) Residential care and services in a residential health care facility licensed under article twenty-eight of the public health law, or a facility licensed under article thirty-one of this chapter which will provide a program of care and service setting that is specifically oriented to the needs of individuals with eating disorders;

2. The care of individuals will be managed and coordinated at each level and throughout the continuum of care;

3. The applicant is able to conduct activities for community education, prevention, information/referral and research; and

4. The applicant meets such additional criteria as are established by the commissioner.

(b) Eligible applicants shall include but are not limited to providers licensed under article twenty-eight of the public health law or article thirty-one of this chapter or health or mental health practitioners licensed under title eight of the education law.

(c) The commissioner shall seek the recommendation of the commissioner of health prior to identifying an applicant as a comprehensive care center under this article.

§ 30.05 State identification of comprehensive care centers for eating disorders; commissioner's written notice.

(a) The commissioner shall identify a sufficient number of comprehensive centers to ensure adequate access to services in all regions of the state, provided that, to the extent possible, the commissioner shall identify such care centers geographically dispersed throughout the state, and provided further, however, that the commissioner shall, to the extent possible, initially identify at least three such centers.

(b) The commissioner's identification of a comprehensive care center for eating disorders under this article shall be valid for not more than a two year period from the date of issuance. The commissioner may reissue such identifications for subsequent periods of up to five years, provided that the comprehensive care center has notified the commissioner of any material changes in structure or operation based on its

original application, or since its last written notice by the commissioner, and that the commissioner is satisfied that the center continues to meet the criteria required pursuant to this article.

(c) The commissioner may suspend or revoke his or her written notice upon a determination that the comprehensive care center has not met, or would not be able to meet, the criteria required pursuant to this article, provided, however that the commissioner shall afford such center an opportunity for a hearing, in accordance section 31.17 of this chapter, to review the circumstances of and grounds for such suspension or revocation and to appeal such determination.

§ 30.06 Restricted use of title.

No person or entity shall claim, advertise or imply to consumers, health plans or other health care providers that such provider or practitioner is a state-identified comprehensive care center for eating disorders unless it is qualified pursuant to section 30.04 of this article.

§ 10. Section 31.25 of the mental hygiene law, as added by chapter 24 of the laws of 2008, is amended to read as follows:

§ 31.25 Residential services for treatment of eating disorders.

The commissioner shall establish, pursuant to regulation, licensed residential providers of treatment and/or supportive services to children, adolescents, and adults with eating disorders, as that term is defined in section [~~twenty-seven hundred ninety-nine-e of the public health law~~] 30.02 of this title. Such regulations shall be developed in consultation with representatives from each of the comprehensive care centers for eating disorders established pursuant to article [~~twenty-seven-J of the public health law~~] thirty of this chapter and licensed treatment professionals, such as physicians, psychiatrists, psychologists and therapists, with demonstrated expertise in treating patients with eating disorders.

§ 11. Paragraph 14 of subsection (k) of section 3221 of the insurance law, as added by chapter 114 of the laws of 2004, is amended to read as follows:

(14) No group or blanket policy delivered or issued for delivery in this state which provides medical, major medical or similar comprehensive-type coverage shall exclude coverage for services covered under such policy when provided by a comprehensive care center for eating disorders pursuant to article [~~twenty-seven-J of the public health~~] thirty of the mental hygiene law; provided, however, that reimbursement under such policy for services provided through such comprehensive care centers shall, to the extent possible and practicable, be structured in a manner to facilitate the individualized, comprehensive and integrated plans of care which such centers' network of practitioners and providers are required to provide.

§ 12. Subsection (dd) of section 4303 of the insurance law, as added by chapter 114 of the laws of 2004, is amended to read as follows:

(dd) No health service corporation or medical service expense indemnity corporation which provides medical, major medical or similar comprehensive-type coverage shall exclude coverage for services covered under such policy when provided by a comprehensive care center for eating disorders pursuant to article [~~twenty-seven-J of the public health~~] thirty of the mental hygiene law; provided, however, that reimbursement by such corporation for services provided through such comprehensive care centers shall, to the extent possible and practicable, be structured in a manner to facilitate the individualized, compre-

hensive and integrated plans of care which such centers' network of practitioners and providers are required to provide.

§ 13. Paragraph 27 of subsection (b) of section 4322 of the insurance law, as added by chapter 114 of the laws of 2004, is amended to read as follows:

(27) Services covered under such policy when provided by a comprehensive care center for eating disorders pursuant to article [~~twenty-seven-J of the public health~~] **thirty of the mental hygiene** law; provided, however, that reimbursement under such policy for services provided through such comprehensive care centers shall, to the extent possible and practicable, be structured in a manner to facilitate the individualized, comprehensive and integrated plans of care which such centers' network of practitioners and providers are required to provide.

§ 14. Subdivision 1 of section 154 of the labor law, as added by chapter 675 of the laws of 2007, is amended to read as follows:

1. The commissioner, in consultation with the commissioner of health and the commissioner of mental health, shall establish a child performer advisory board for the purpose of recommending guidelines for the employment of child performers and models under the age of eighteen and preventing eating disorders such as anorexia nervosa and bulimia nervosa amongst such persons. The advisory board shall consist of at least sixteen but no more than twenty members appointed by the commissioner, and shall include: representatives of professional organizations or unions representing child performers or models; employers representing child performers or models; physicians, nutritionists and mental health professionals with demonstrated expertise in treating patients with eating disorders; at least one representative from each of the comprehensive care centers for eating disorders established pursuant to article [~~twenty-seven-J of the public health~~] **thirty of the mental hygiene** law; advocacy organizations working to prevent and treat eating disorders; and other members deemed necessary by the commissioner. In addition, the commissioner of health and the commissioner of mental health, or their designees, shall serve on the advisory board. The members of the advisory board shall receive no compensation for their services but shall be reimbursed their actual and necessary expenses incurred in the performance of their duties.

§ 15. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020.

## PART BB

Section 1. Section 9 of part R of chapter 59 of the laws of 2016, amending the public health law and other laws relating to electronic prescriptions, is amended to read as follows:

§ 9. This act shall take effect immediately; provided however, that sections one and two of this act shall take effect on the first of June next succeeding the date on which it shall have become a law and shall expire and be deemed repealed [~~four years after such effective date~~] **June 1, 2023**.

§ 2. Section 4 of chapter 19 of the laws of 1998, amending the social services law relating to limiting the method of payment for prescription drugs under the medical assistance program, as amended by section 11 of part I of chapter 57 of the laws of 2017, is amended to read as follows:

§ 4. This act shall take effect 120 days after it shall have become a law and shall expire and be deemed repealed March 31, [~~2020~~] **2023**.

§ 3. Paragraph (e-1) of subdivision 12 of section 2808 of the public health law, as amended by section 12 of part I of chapter 57 of the laws of 2017, is amended to read as follows:

(e-1) Notwithstanding any inconsistent provision of law or regulation, the commissioner shall provide, in addition to payments established pursuant to this article prior to application of this section, additional payments under the medical assistance program pursuant to title eleven of article five of the social services law for non-state operated public residential health care facilities, including public residential health care facilities located in the county of Nassau, the county of Westchester and the county of Erie, but excluding public residential health care facilities operated by a town or city within a county, in aggregate annual amounts of up to one hundred fifty million dollars in additional payments for the state fiscal year beginning April first, two thousand six and for the state fiscal year beginning April first, two thousand seven and for the state fiscal year beginning April first, two thousand eight and of up to three hundred million dollars in such aggregate annual additional payments for the state fiscal year beginning April first, two thousand nine, and for the state fiscal year beginning April first, two thousand ten and for the state fiscal year beginning April first, two thousand eleven, and for the state fiscal years beginning April first, two thousand twelve and April first, two thousand thirteen, and of up to five hundred million dollars in such aggregate annual additional payments for the state fiscal years beginning April first, two thousand fourteen, April first, two thousand fifteen and April first, two thousand sixteen and of up to five hundred million dollars in such aggregate annual additional payments for the state fiscal years beginning April first, two thousand seventeen, April first, two thousand eighteen, and April first, two thousand nineteen**, and of up to five hundred million dollars in such aggregate annual additional payments for the state fiscal years beginning April first, two thousand twenty, April first, two thousand twenty-one, and April first, two thousand twenty-two**. The amount allocated to each eligible public residential health care facility for this period shall be computed in accordance with the provisions of paragraph (f) of this subdivision, provided, however, that patient days shall be utilized for such computation reflecting actual reported data for two thousand three and each representative succeeding year as applicable, and provided further, however, that, in consultation with impacted providers, of the funds allocated for distribution in the state fiscal year beginning April first, two thousand thirteen, up to thirty-two million dollars may be allocated in accordance with paragraph (f-1) of this subdivision.

§ 4. Section 18 of chapter 904 of the laws of 1984, amending the public health law and the social services law relating to encouraging comprehensive health services, as amended by section 13 of part I of chapter 57 of the laws of 2017, is amended to read as follows:

§ 18. This act shall take effect immediately, except that sections six, nine, ten and eleven of this act shall take effect on the sixtieth day after it shall have become a law, sections two, three, four and nine of this act shall expire and be of no further force or effect on or after March 31, [~~2020~~] **2023**, section two of this act shall take effect on April 1, 1985 or seventy-five days following the submission of the report required by section one of this act, whichever is later, and sections eleven and thirteen of this act shall expire and be of no further force or effect on or after March 31, 1988.

§ 5. Section 4 of part X2 of chapter 62 of the laws of 2003, amending the public health law relating to allowing for the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, as amended by section 14 of part I of chapter 57 of the laws of 2017, is amended to read as follows:

§ 4. This act shall take effect immediately; provided that the provisions of section one of this act shall be deemed to have been in full force and effect on and after April 1, 2003, and shall expire March 31, [~~2020~~] 2023 when upon such date the provisions of such section shall be deemed repealed.

§ 6. Subdivision (o) of section 111 of part H of chapter 59 of the laws of 2011, amending the public health law relating to the statewide health information network of New York and the statewide planning and research cooperative system and general powers and duties, as amended by section 15 of part I of chapter 57 of the laws of 2017, is amended to read as follows:

(o) sections thirty-eight and thirty-eight-a of this act shall expire and be deemed repealed March 31, [~~2020~~] 2023;

§ 7. Section 32 of part A of chapter 58 of the laws of 2008, amending the elder law and other laws relating to reimbursement to participating provider pharmacies and prescription drug coverage, as amended by section 16 of part I of chapter 57 of the laws of 2017, is amended to read as follows:

§ 32. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2008; provided however, that sections one, six-a, nineteen, twenty, twenty-four, and twenty-five of this act shall take effect July 1, 2008; provided however that sections sixteen, seventeen and eighteen of this act shall expire April 1, [~~2020~~] 2023; provided, however, that the amendments made by section twenty-eight of this act shall take effect on the same date as section 1 of chapter 281 of the laws of 2007 takes effect; provided further, that sections twenty-nine, thirty, and thirty-one of this act shall take effect October 1, 2008; provided further, that section twenty-seven of this act shall take effect January 1, 2009; and provided further, that section twenty-seven of this act shall expire and be deemed repealed March 31, [~~2020~~] 2023; and provided, further, however, that the amendments to subdivision 1 of section 241 of the education law made by section twenty-nine of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith and provided that the amendments to section 272 of the public health law made by section thirty of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

§ 8. Subdivision 3 of section 2999-p of the public health law, as amended by section 17 of part I of chapter 57 of the laws of 2017, is amended to read as follows:

3. The commissioner may issue a certificate of authority to an entity that meets conditions for ACO certification as set forth in regulations made by the commissioner pursuant to section twenty-nine hundred ninety-nine-q of this article. The commissioner shall not issue any new certificate under this article after December thirty-first, two thousand [~~twenty~~] twenty-four.

§ 9. Subdivision (a) of section 31 of part B of chapter 59 of the laws of 2016, amending the social services law and other laws relating to authorizing the commissioner of health to apply federally established consumer price index penalties for generic drugs, and authorizing the

commissioner of health to impose penalties on managed care plans for reporting late or incorrect encounter data, as amended by section 1 of part T of chapter 57 of the laws of 2018, is amended to read as follows:

(a) section eleven of this act shall expire and be deemed repealed March 31, [~~2020~~] 2022;

§ 10. Subdivision 1-a of section 60 of part B of chapter 57 of the laws of 2015, amending the social services law and other laws relating to supplemental rebates, as added by section 5-b of part T of chapter 57 of the laws of 2018, is amended to read as follows:

1-a. section fifty-two of this act shall expire and be deemed repealed March 31, [~~2020~~] 2025;

§ 11. Section 7 of part H of chapter 57 of the laws of 2019, amending the public health law relating to waiver of certain regulations, is amended to read as follows:

§ 7. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2019, provided, however, that section two of this act shall expire on April 1, [~~2020~~] 2021.

§ 12. Section 228 of chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, as amended by chapter 49 of the laws of 2017, is amended to read as follows:

§ 228. 1. Definitions. (a) Regions, for purposes of this section, shall mean a downstate region to consist of Kings, New York, Richmond, Queens, Bronx, Nassau and Suffolk counties and an upstate region to consist of all other New York state counties. A certified home health agency or long term home health care program shall be located in the same county utilized by the commissioner of health for the establishment of rates pursuant to article 36 of the public health law.

(b) Certified home health agency (CHHA) shall mean such term as defined in section 3602 of the public health law.

(c) Long term home health care program (LTHHCP) shall mean such term as defined in subdivision 8 of section 3602 of the public health law.

(d) Regional group shall mean all those CHHAs and LTHHCPs, respectively, located within a region.

(e) Medicaid revenue percentage, for purposes of this section, shall mean CHHA and LTHHCP revenues attributable to services provided to persons eligible for payments pursuant to title 11 of article 5 of the social services law divided by such revenues plus CHHA and LTHHCP revenues attributable to services provided to beneficiaries of Title XVIII of the federal social security act (medicare).

(f) Base period, for purposes of this section, shall mean calendar year 1995.

(g) Target period. For purposes of this section, the 1996 target period shall mean August 1, 1996 through March 31, 1997, the 1997 target period shall mean January 1, 1997 through November 30, 1997, the 1998 target period shall mean January 1, 1998 through November 30, 1998, the 1999 target period shall mean January 1, 1999 through November 30, 1999, the 2000 target period shall mean January 1, 2000 through November 30, 2000, the 2001 target period shall mean January 1, 2001 through November 30, 2001, the 2002 target period shall mean January 1, 2002 through November 30, 2002, the 2003 target period shall mean January 1, 2003 through November 30, 2003, the 2004 target period shall mean January 1, 2004 through November 30, 2004, and the 2005 target period shall mean January 1, 2005 through November 30, 2005, the 2006 target period shall mean January 1, 2006 through November 30, 2006, and the 2007 target

period shall mean January 1, 2007 through November 30, 2007 and the 2008 target period shall mean January 1, 2008 through November 30, 2008, and the 2009 target period shall mean January 1, 2009 through November 30, 2009 and the 2010 target period shall mean January 1, 2010 through November 30, 2010 and the 2011 target period shall mean January 1, 2011 through November 30, 2011 and the 2012 target period shall mean January 1, 2012 through November 30, 2012 and the 2013 target period shall mean January 1, 2013 through November 30, 2013, and the 2014 target period shall mean January 1, 2014 through November 30, 2014 and the 2015 target period shall mean January 1, 2015 through November 30, 2015 and the 2016 target period shall mean January 1, 2016 through November 30, 2016 and the 2017 target period shall mean January 1, 2017 through November 30, 2017 and the 2018 target period shall mean January 1, 2018 through November 30, 2018 and the 2019 target period shall mean January 1, 2019 through November 30, 2019 and the 2020 target period shall mean January 1, 2020 through November 30, 2020**, and the 2021 target period shall mean January 1, 2021 through November 30, 2021 and the 2022 target period shall mean January 1, 2022 through November 30, 2022 and the 2023 target period shall mean January 1, 2023 through November 30, 2023**.

2. (a) Prior to February 1, 1997, for each regional group the commissioner of health shall calculate the 1996 medicaid revenue percentages for the period commencing August 1, 1996 to the last date for which such data is available and reasonably accurate.

(b) Prior to February 1, 1998, prior to February 1, 1999, prior to February 1, 2000, prior to February 1, 2001, prior to February 1, 2002, prior to February 1, 2003, prior to February 1, 2004, prior to February 1, 2005, prior to February 1, 2006, prior to February 1, 2007, prior to February 1, 2008, prior to February 1, 2009, prior to February 1, 2010, prior to February 1, 2011, prior to February 1, 2012, prior to February 1, 2013, prior to February 1, 2014, prior to February 1, 2015, prior to February 1, 2016, prior to February 1, 2017, prior to February 1, 2018, prior to February 1, 2019, [~~and~~] prior to February 1, 2020**, prior to February 1, 2021, prior to February 1, 2022, and prior to February 1, 2023** for each regional group the commissioner of health shall calculate the prior year's medicaid revenue percentages for the period commencing January 1 through November 30 of such prior year.

3. By September 15, 1996, for each regional group the commissioner of health shall calculate the base period medicaid revenue percentage.

4. (a) For each regional group, the 1996 target medicaid revenue percentage shall be calculated by subtracting the 1996 medicaid revenue reduction percentages from the base period medicaid revenue percentages. The 1996 medicaid revenue reduction percentage, taking into account regional and program differences in utilization of medicaid and medicare services, for the following regional groups shall be equal to:

(i) one and one-tenth percentage points for CHHAs located within the downstate region;

(ii) six-tenths of one percentage point for CHHAs located within the upstate region;

(iii) one and eight-tenths percentage points for LTHHCPs located within the downstate region; and

(iv) one and seven-tenths percentage points for LTHHCPs located within the upstate region.

(b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~and~~]**,** 2020**, 2021, 2022 and 2023** for each regional group, the target medicaid revenue percentage for the respective year shall be calculated

by subtracting the respective year's medicaid revenue reduction percentage from the base period medicaid revenue percentage. The medicaid revenue reduction percentages for 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~and~~], 2020**, 2021, 2022 and 2023**, taking into account regional and program differences in utilization of medicaid and medicare services, for the following regional groups shall be equal to for each such year:

(i) one and one-tenth percentage points for CHHAs located within the downstate region;

(ii) six-tenths of one percentage point for CHHAs located within the upstate region;

(iii) one and eight-tenths percentage points for LTHHCPs located within the downstate region; and

(iv) one and seven-tenths percentage points for LTHHCPs located within the upstate region.

(c) For each regional group, the 1999 target medicaid revenue percentage shall be calculated by subtracting the 1999 medicaid revenue reduction percentage from the base period medicaid revenue percentage. The 1999 medicaid revenue reduction percentages, taking into account regional and program differences in utilization of medicaid and medicare services, for the following regional groups shall be equal to:

(i) eight hundred twenty-five thousandths (.825) of one percentage point for CHHAs located within the downstate region;

(ii) forty-five hundredths (.45) of one percentage point for CHHAs located within the upstate region;

(iii) one and thirty-five hundredths percentage points (1.35) for LTHHCPs located within the downstate region; and

(iv) one and two hundred seventy-five thousandths percentage points (1.275) for LTHHCPs located within the upstate region.

5. (a) For each regional group, if the 1996 medicaid revenue percentage is not equal to or less than the 1996 target medicaid revenue percentage, the commissioner of health shall compare the 1996 medicaid revenue percentage to the 1996 target medicaid revenue percentage to determine the amount of the shortfall which, when divided by the 1996 medicaid revenue reduction percentage, shall be called the 1996 reduction factor. These amounts, expressed as a percentage, shall not exceed one hundred percent. If the 1996 medicaid revenue percentage is equal to or less than the 1996 target medicaid revenue percentage, the 1996 reduction factor shall be zero.

(b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018 [~~and~~], 2019**, 2020, 2021, 2022 and 2023**, for each regional group, if the medicaid revenue percentage for the respective year is not equal to or less than the target medicaid revenue percentage for such respective year, the commissioner of health shall compare such respective year's medicaid revenue percentage to such respective year's target medicaid revenue percentage to determine the amount of the shortfall which, when divided by the respective year's medicaid revenue reduction percentage, shall be called the reduction factor for such respective year. These amounts, expressed as a percentage, shall not exceed one hundred percent. If the medicaid revenue percentage for a particular year is equal to or less than the target medicaid revenue percentage for that year, the reduction factor for that year shall be zero.

6. (a) For each regional group, the 1996 reduction factor shall be multiplied by the following amounts to determine each regional group's applicable 1996 state share reduction amount:

(i) two million three hundred ninety thousand dollars ($2,390,000) for CHHAs located within the downstate region;

(ii) seven hundred fifty thousand dollars ($750,000) for CHHAs located within the upstate region;

(iii) one million two hundred seventy thousand dollars ($1,270,000) for LTHHCPs located within the downstate region; and

(iv) five hundred ninety thousand dollars ($590,000) for LTHHCPs located within the upstate region.

For each regional group reduction, if the 1996 reduction factor shall be zero, there shall be no 1996 state share reduction amount.

(b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~and~~], 2020**, 2021, 2022 and 2023**, for each regional group, the reduction factor for the respective year shall be multiplied by the following amounts to determine each regional group's applicable state share reduction amount for such respective year:

(i) two million three hundred ninety thousand dollars ($2,390,000) for CHHAs located within the downstate region;

(ii) seven hundred fifty thousand dollars ($750,000) for CHHAs located within the upstate region;

(iii) one million two hundred seventy thousand dollars ($1,270,000) for LTHHCPs located within the downstate region; and

(iv) five hundred ninety thousand dollars ($590,000) for LTHHCPs located within the upstate region.

For each regional group reduction, if the reduction factor for a particular year shall be zero, there shall be no state share reduction amount for such year.

(c) For each regional group, the 1999 reduction factor shall be multiplied by the following amounts to determine each regional group's applicable 1999 state share reduction amount:

(i) one million seven hundred ninety-two thousand five hundred dollars ($1,792,500) for CHHAs located within the downstate region;

(ii) five hundred sixty-two thousand five hundred dollars ($562,500) for CHHAs located within the upstate region;

(iii) nine hundred fifty-two thousand five hundred dollars ($952,500) for LTHHCPs located within the downstate region; and

(iv) four hundred forty-two thousand five hundred dollars ($442,500) for LTHHCPs located within the upstate region.

For each regional group reduction, if the 1999 reduction factor shall be zero, there shall be no 1999 state share reduction amount.

7. (a) For each regional group, the 1996 state share reduction amount shall be allocated by the commissioner of health among CHHAs and LTHHCPs on the basis of the extent of each CHHA's and LTHHCP's failure to achieve the 1996 target medicaid revenue percentage, calculated on a provider specific basis utilizing revenues for this purpose, expressed as a proportion of the total of each CHHA's and LTHHCP's failure to achieve the 1996 target medicaid revenue percentage within the applicable regional group. This proportion shall be multiplied by the applicable 1996 state share reduction amount calculation pursuant to paragraph (a) of subdivision 6 of this section. This amount shall be called the 1996 provider specific state share reduction amount.

(b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018,

2019 [~~and~~], 2020**, 2021, 2022 and 2023** for each regional group, the state share reduction amount for the respective year shall be allocated by the commissioner of health among CHHAs and LTHHCPs on the basis of the extent of each CHHA's and LTHHCP's failure to achieve the target medicaid revenue percentage for the applicable year, calculated on a provider specific basis utilizing revenues for this purpose, expressed as a proportion of the total of each CHHA's and LTHHCP's failure to achieve the target medicaid revenue percentage for the applicable year within the applicable regional group. This proportion shall be multiplied by the applicable year's state share reduction amount calculation pursuant to paragraph (b) or (c) of subdivision 6 of this section. This amount shall be called the provider specific state share reduction amount for the applicable year.

8. (a) The 1996 provider specific state share reduction amount shall be due to the state from each CHHA and LTHHCP and may be recouped by the state by March 31, 1997 in a lump sum amount or amounts from payments due to the CHHA and LTHHCP pursuant to title 11 of article 5 of the social services law.

(b) The provider specific state share reduction amount for 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~and~~], 2020**, 2021, 2022 and 2023** respectively, shall be due to the state from each CHHA and LTHHCP and each year the amount due for such year may be recouped by the state by March 31 of the following year in a lump sum amount or amounts from payments due to the CHHA and LTHHCP pursuant to title 11 of article 5 of the social services law.

9. CHHAs and LTHHCPs shall submit such data and information at such times as the commissioner of health may require for purposes of this section. The commissioner of health may use data available from third-party payors.

10. On or about June 1, 1997, for each regional group the commissioner of health shall calculate for the period August 1, 1996 through March 31, 1997 a medicaid revenue percentage, a reduction factor, a state share reduction amount, and a provider specific state share reduction amount in accordance with the methodology provided in paragraph (a) of subdivision 2, paragraph (a) of subdivision 5, paragraph (a) of subdivision 6 and paragraph (a) of subdivision 7 of this section. The provider specific state share reduction amount calculated in accordance with this subdivision shall be compared to the 1996 provider specific state share reduction amount calculated in accordance with paragraph (a) of subdivision 7 of this section. Any amount in excess of the amount determined in accordance with paragraph (a) of subdivision 7 of this section shall be due to the state from each CHHA and LTHHCP and may be recouped in accordance with paragraph (a) of subdivision 8 of this section. If the amount is less than the amount determined in accordance with paragraph (a) of subdivision 7 of this section, the difference shall be refunded to the CHHA and LTHHCP by the state no later than July 15, 1997. CHHAs and LTHHCPs shall submit data for the period August 1, 1996 through March 31, 1997 to the commissioner of health by April 15, 1997.

11. If a CHHA or LTHHCP fails to submit data and information as required for purposes of this section:

(a) such CHHA or LTHHCP shall be presumed to have no decrease in medicaid revenue percentage between the applicable base period and the applicable target period for purposes of the calculations pursuant to this section; and

(b) the commissioner of health shall reduce the current rate paid to such CHHA and such LTHHCP by state governmental agencies pursuant to article 36 of the public health law by one percent for a period beginning on the first day of the calendar month following the applicable due date as established by the commissioner of health and continuing until the last day of the calendar month in which the required data and information are submitted.

12. The commissioner of health shall inform in writing the director of the budget and the chair of the senate finance committee and the chair of the assembly ways and means committee of the results of the calculations pursuant to this section.

§ 13. Paragraph (f) of subdivision 1 of section 64 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by chapter 49 of the laws of 2017, is amended to read as follows:

(f) Prior to February 1, 2001, February 1, 2002, February 1, 2003, February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007, February 1, 2008, February 1, 2009, February 1, 2010, February 1, 2011, February 1, 2012, February 1, 2013, February 1, 2014, February 1, 2015, February 1, 2016, February 1, 2017, February 1, 2018, February 1, 2019 [~~and~~], February 1, 2020, **February 1, 2021, February 1, 2022 and February 1, 2023,** the commissioner of health shall calculate the result of the statewide total of residential health care facility days of care provided to beneficiaries of title XVIII of the federal social security act (medicare), divided by the sum of such days of care plus days of care provided to residents eligible for payments pursuant to title 11 of article 5 of the social services law minus the number of days provided to residents receiving hospice care, expressed as a percentage, for the period commencing January 1, through November 30, of the prior year respectively, based on such data for such period. This value shall be called the 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~and~~], 2020, **2021, 2022 and 2023** statewide target percentage respectively.

§ 14. Subparagraph (ii) of paragraph (b) of subdivision 3 of section 64 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by chapter 49 of the laws of 2017, is amended to read as follows:

(ii) If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~and~~], 2020**, 2021, 2022 and 2023** statewide target percentages are not for each year at least three percentage points higher than the statewide base percentage, the commissioner of health shall determine the percentage by which the statewide target percentage for each year is not at least three percentage points higher than the statewide base percentage. The percentage calculated pursuant to this paragraph shall be called the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~and~~], 2020**, 2021, 2022 and 2023** statewide reduction percentage respectively. If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~and~~], 2020**, 2021, 2022 and 2023** statewide target percentage for the respective year is at least three percentage points higher than the statewide base percentage, the statewide reduction percentage for the respective year shall be zero.

§ 15. Subparagraph (iii) of paragraph (b) of subdivision 4 of section 64 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by chapter 49 of the laws of 2017, is amended to read as follows:

(iii) The 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~and~~], 2020, 2021, 2022 and 2023 statewide reduction percentage shall be multiplied by one hundred two million dollars respectively to determine the 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~and~~], 2020, 2021, 2022 and 2023 statewide aggregate reduction amount. If the 1998 and the 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~and~~], 2020, 2021, 2022 and 2023 statewide reduction percentage shall be zero respectively, there shall be no 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~and~~] 2020, 2021, 2022 and 2023 reduction amount.

§ 16. Subdivision (i-1) of section 79 of part C of chapter 58 of the laws of 2008, amending the social services law and the public health law relating to adjustments of rates, as amended by section 5 of chapter 49 of the laws of 2017, is amended to read as follows:

(i-1) section thirty-one-a of this act shall be deemed repealed July 1, [~~2020~~] 2023;

§ 17. Section 4 of chapter 495 of the laws of 2004, amending the insurance law and the public health law relating to the New York state health insurance continuation assistance demonstration project, as amended by section 1 of part FF of chapter 57 of the laws of 2019, is amended to read as follows:

§ 4. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that this act shall remain in effect until July 1, [~~2020~~] 2021 when upon such date the provisions of this act shall expire and be deemed repealed; provided, further, that a displaced worker shall be eligible for continuation assistance retroactive to July 1, 2004.

§ 18. Section 8 of chapter 563 of the laws of 2008, amending the education law and the public health law relating to immunizing agents to be administered to adults by pharmacists, as amended by section 3 of part DD of chapter 57 of the laws of 2018, is amended to read as follows:

§ 8. This act shall take effect on the ninetieth day after it shall have become a law and shall expire and be deemed repealed July 1, [~~2020~~] 2022.

§ 19. Section 5 of chapter 116 of the laws of 2012, amending the education law relating to authorizing a licensed pharmacist and certified nurse practitioner to administer certain immunizing agents, as amended by section 4 of part DD of chapter 57 of the laws of 2018, is amended to read as follows:

§ 5. This act shall take effect on the ninetieth day after it shall have become a law, provided, however, that the provisions of sections one, two and four of this act shall expire and be deemed repealed July 1, [~~2020~~] 2022 provided, that:

(a) the amendments to subdivision 7 of section 6527 of the education law made by section one of this act shall not affect the repeal of such subdivision and shall be deemed to be repealed therewith;

(b) the amendments to subdivision 7 of section 6909 of the education law, made by section two of this act shall not affect the repeal of such subdivision and shall be deemed to be repealed therewith;

(c) the amendments to subdivision 22 of section 6802 of the education law made by section three of this act shall not affect the repeal of such subdivision and shall be deemed to be repealed therewith; and

(d) the amendments to section 6801 of the education law made by section four of this act shall not affect the expiration of such section and shall be deemed to expire therewith.

§ 20. Section 5 of chapter 21 of the laws of 2011, amending the education law relating to authorizing pharmacists to perform collaborative drug therapy management with physicians in certain settings, as amended by section 5 of part DD of chapter 57 of the laws of 2018, is amended to read as follows:

§ 5. This act shall take effect on the one hundred twentieth day after it shall have become a law, provided, however, that the provisions of sections two, three, and four of this act shall expire and be deemed repealed July 1, [~~2020~~] 2022; provided, however, that the amendments to subdivision 1 of section 6801 of the education law made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 8 of chapter 563 of the laws of 2008, when upon such date the provisions of section one-a of this act shall take effect; provided, further, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.

§ 21. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020.

## PART CC

Section 1. Paragraphs 56 and 57 of subdivision (b) of schedule I of section 3306 of the public health law, as added by section 4 of part BB of chapter 57 of the laws of 2018, are amended to read as follows:

(56) [~~3,4-dichloro-N-{(1-dimethylamino) cyclohexylmethyl}benzamide~~] 3,4-dichloro-N-{(1-dimethylamino)cyclohexylmethyl}benzamide. Some trade or other names: AH-7921.

(57) [~~N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (Acetyl Fentanyl)~~] N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide. Some trade or other names: Acetyl Fentanyl.

§ 2. Subdivision (b) of schedule I of section 3306 of the public health law is amended by adding thirteen new paragraphs 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69 and 70 to read as follows:

(58) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide. Other name: Butyryl Fentanyl.

(59) N-{1-{2-hydroxy-2-(thiophen-2-yl)ethyl}piperidin-4-yl}-N-phenylpropionamide. Other name: Beta-Hydroxythiofentanyl.

(60) N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide. Other name: Furanyl Fentanyl.

(61) 3,4-Dichloro-N-{2-(dimethylamino) cyclohexyl}-N-methylbenzamide. Other name: U-47700.

(62) N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide. Other names: Acryl Fentanyl or Acryloylfentanyl.

(63) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide. Other names: 4-fluoroisobutyryl fentanyl, para-fluoroisobutyryl fentanyl.

(64) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide. Other names: ortho-fluorofentanyl or 2-fluorofentanyl.
(65) N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide. Other name: tetrahydrofuranyl fentanyl.
(66) 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide. Other name: methoxyacetyl fentanyl.
(67) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide. Other name: cyclopropyl fentanyl.
(68) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide. Other name: para-fluorobutyrylfentanyl.
(69) N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide. Other name: Ocfentanil.
(70) 1-cyclohexyl-4-(1,2-diphenylethyl)piperazine. Other name: MT-45.

§ 3. Subdivision (c) of schedule II of section 3306 of the public health law is amended by adding a new paragraph 29 to read as follows:

(29) Thiafentanil.

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

§ 5. This act shall take effect on the ninetieth day after it shall have become a law.

## PART DD

Section 1. Subdivisions 1 and 4 of section 1119 of the public health law, as amended by chapter 61 of the laws of 1989, are amended to read as follows:

1. At the time of submitting a plan for approval as required by this article, a filing fee computed at the rate of [~~twelve dollars and fifty cents~~] fifty dollars per lot shall be paid to the department or to the city, county or part-county health district wherein such plans are filed.

4. Notwithstanding any other provision of this title the commissioner [~~of health~~] is empowered to make administrative arrangements with the commissioner of environmental conservation for joint or cooperative administration of this title and title fifteen of article seventeen of the environmental conservation law, such that only one plan must be filed and only one fee totaling [~~twenty-five~~] one hundred dollars per lot must be paid.

§ 2. Subdivision 2 of section 3551 of the public health law, as added by chapter 378 of the laws of 1990, is amended to read as follows:

2. The department shall license each applicant who submits an application on a form prescribed by the commissioner and meets the requirements of this article and any rules or regulations promulgated pursuant to this article, upon payment of a registration fee of [~~thirty~~] one hundred twenty dollars.

§ 3. Subdivision 1 of section 3554 of the public health law, as added by chapter 378 of the laws of 1990, is amended to read as follows:

1. The commissioner shall inspect each tanning facility licensed under this article and each ultraviolet radiation device used, offered, or

made available for use in such facility, not less than biennially. The commissioner may establish a fee for such inspection, which shall not exceed [~~fifty~~] two hundred dollars per ultraviolet radiation device; provided, however, that no facility shall be required to pay any such fee on more than one occasion in any biennial registration period. The commissioner may appoint and designate, from time to time, persons to make the inspections authorized by this article.

§ 4. Paragraph (a) of subdivision 2 of section 905 of the labor law, as added by chapter 166 of the laws of 1991, is amended to read as follows:

(a) The commissioner of health shall assess a fee of no more than [~~twenty~~] fifty dollars for each asbestos safety program completion certificate requested by the training sponsor for each full asbestos safety program and a fee of no more than [~~twelve~~] thirty dollars for each asbestos safety program completion certificate requested by the training sponsor for each refresher training asbestos safety program, provided, however, that in no event shall the cost of such certificates be assessed by the sponsor against the participants.

§ 5. This act shall take effect immediately.

PART EE

Section 1. The public health law is amended by adding three new sections 1399-mm-1, 1399-mm-2, and 1399-mm-3 to read as follows:

**§ 1399-mm-1. Sale of flavored products prohibited. 1. For the purposes of this section "flavored" shall mean any vapor product intended or reasonably expected to be used with or for the consumption of nicotine, with a distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of such product or a component part thereof, including but not limited to tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, mint, wintergreen, menthol, herb or spice, or any concept flavor that imparts a taste or aroma that is distinguishable from tobacco flavor but may not relate to any particular known flavor. A vapor product intended or reasonably expected to be used with or for the consumption of nicotine, shall be presumed to be flavored if a product's retailer, manufacturer, or a manufacturer's agent or employee has made a statement or claim directed to consumers or the public, whether expressed or implied, that such product or device has a distinguishable taste or aroma other than the taste or aroma of tobacco.**

**2. No vapor products dealer, or any agent or employee of a vapor products dealer, shall sell or offer for sale at retail in the state any flavored vapor product intended or reasonably expected to be used with or for the consumption of nicotine.**

**3. Any vapor products dealer, or any agent or employee of a vapor products dealer, who violates the provisions of this section shall be subject to a civil penalty of not more than one hundred dollars for each individual package of flavored vapor product intended or reasonably expected to be used with or for the consumption of nicotine sold or offered for sale, provided, however, that with respect to a manufacturer, it shall be an affirmative defense to a finding of violation pursuant to this section that such sale or offer of sale, as applicable, occurred without the knowledge, consent, authorization, or involvement, direct or indirect, of such manufacturer. Violations of this section shall be enforced pursuant to section thirteen hundred ninety-nine-ff of**

this article, except that any person may submit a complaint to an enforcement officer that a violation of this section has occurred.

4. The provisions of this section shall not apply to any vapor products dealer, or any agent or employee of a vapor products dealer, who sells or offers for sale, or who possess with intent to sell or offer for sale, any flavored vapor product intended or reasonably expected to be used with or for the consumption of nicotine that the U.S. Food and Drug Administration has authorized to legally market as defined under 21 U.S.C. § 387j and that has received a premarket review approval order under 21 U.S.C. § 387j(c) et seq.

§ 1399-mm-2. Sale in pharmacies. 1. No tobacco product, herbal cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine, shall be sold in a pharmacy or in a retail establishment that contains a pharmacy operated as a department as defined by paragraph f of subdivision two of section sixty-eight hundred eight of the education law. Provided, however, that such prohibition on the sale of tobacco products, herbal cigarettes, or vapor products intended or reasonably expected to be used with or for the consumption of nicotine, shall not apply to any other business that owns or leases premises within any building or other facility that also contains a pharmacy or a retail establishment that contains a pharmacy operated as a department as defined by paragraph f of subdivision two of section sixty-eight hundred eight of the education law.

2. The commissioner shall have sole jurisdiction to enforce the provisions of this section. The commissioner shall have the power to assess penalties in accordance with section twelve of this chapter and pursuant to a hearing conducted in accordance with section twelve-a of this chapter. Nothing in this section shall be construed to prohibit the commissioner from commencing a proceeding for injunctive relief to compel compliance with this section.

§ 1399-mm-3. Carrier oils. 1. For the purposes of this section "carrier oils" shall mean any ingredient of a vapor product intended to control the consistency or other physical characteristics of such vapor product, to control the consistency or other physical characteristics of vapor, or to facilitate the production of vapor when such vapor product is used in an electronic cigarette. "Carrier oils" shall not include any product approved by the United States food and drug administration as a drug or medical device or manufactured and dispensed pursuant to title five-A of article thirty-three of this chapter.

2. The commissioner is authorized to promulgate rules and regulations governing the sale and distribution of carrier oils that are suspected of causing acute illness and have been identified as a chemical of concern by the United States centers for disease control and prevention. Such regulations may, to the extent deemed by the commissioner as necessary for the protection of public health, prohibit or restrict the selling, offering for sale, possessing with intent to sell, or distributing of carrier oils.

3. The provisions of this section shall not apply where preempted by federal law. Furthermore, the provisions of this section shall be severable, and if any phrase, clause, sentence, or provision is declared to be invalid, or is preempted by federal law or regulation, the validity of the remainder of this section shall not be affected thereby. If any provision of this section is declared to be inapplicable to any specific category, type, or kind of carrier oil, the provisions of this section shall nonetheless continue to apply with respect to all other carrier oils.

§ 2. Section 1399-aa of the public health law is amended by adding five new subdivisions 14, 15, 16, 17, and 18 to read as follows:

**14. "Price reduction instrument" means any coupon, voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or any other form, used for commercial purposes to receive an article, product, service, or accommodation without charge or at a discounted price.**

**15. "Listed or non-discounted price" means the price listed for cigarettes, tobacco products, or vapor products intended or reasonably expected to be used with or for the consumption of nicotine, on their packages or any related shelving, posting, advertising or display at the location where the cigarettes, tobacco products, or vapor products intended or reasonably expected to be used with or for the consumption of nicotine, are sold or offered for sale, including all applicable taxes.**

**16. "Retail dealer" means a person licensed by the commissioner of taxation and finance to sell cigarettes, tobacco products, or vapor products in this state.**

**17. "Vapor products" means any noncombustible liquid or gel, regardless of the presence of nicotine therein, that is manufactured into a finished product for use in an electronic cigarette, including any device that contains such noncombustible liquid or gel. "Vapor product" shall not include any device, or any component thereof, that does not contain such noncombustible liquid or gel, or any product approved by the United States food and drug administration as a drug or medical device, or manufactured and dispensed pursuant to title five-A of article thirty-three of this chapter.**

**18. "Vapor products dealer" means a person licensed by the commissioner of taxation and finance to sell vapor products in this state.**

§ 3. Section 1399-ll of the public health law, as added by chapter 262 of the laws of 2000, subdivisions 1 and 5 as amended and subdivision 6 as added by chapter 342 of the laws of 2013, is amended to read as follows:

§ 1399-ll. Unlawful shipment or transport of cigarettes **and vapor products**. 1. It shall be unlawful for any person engaged in the business of selling cigarettes to ship or cause to be shipped any cigarettes to any person in this state who is not: (a) a person licensed as a cigarette tax agent or wholesale dealer under article twenty of the tax law or registered retail dealer under section four hundred eighty-a of the tax law; (b) an export warehouse proprietor pursuant to chapter 52 of the internal revenue code or an operator of a customs bonded warehouse pursuant to section 1311 or 1555 of title 19 of the United States Code; or (c) a person who is an officer, employee or agent of the United States government, this state or a department, agency, instrumentality or political subdivision of the United States or this state and presents himself or herself as such, when such person is acting in accordance with his or her official duties. For purposes of this subdivision, a person is a licensed or registered agent or dealer described in paragraph (a) of this subdivision if his or her name appears on a list of licensed or registered agents or dealers published by the department of taxation and finance, or if such person is licensed or registered as an agent or dealer under article twenty of the tax law.

**1-a. It shall be unlawful for any person engaged in the business of selling vapor products to ship or cause to be shipped any vapor products intended or reasonably expected to be used with or for the consumption of nicotine to any person in this state who is not: (a) a person that**

receives a certificate of registration as a vapor products dealer under article twenty eight-C of the tax law; (b) an export warehouse proprietor pursuant to chapter 52 of the internal revenue code or an operator of a customs bonded warehouse pursuant to section 1311 or 1555 of title 19 of the United States Code; or (c) a person who is an officer, employee or agent of the United States government, this state or a department, agency, instrumentality or political subdivision of the United States or this state and presents himself or herself as such, when such person is acting in accordance with his or her official duties. For purposes of this subdivision, a person is a licensed or registered agent or dealer described in paragraph (a) of this subdivision if his or her name appears on a list of licensed or registered agents or vapor product dealers published by the department of taxation and finance, or if such person is licensed or registered as an agent or dealer under article twenty eight-C of the tax law.

2. It shall be unlawful for any common or contract carrier to knowingly transport cigarettes to any person in this state reasonably believed by such carrier to be other than a person described in paragraph (a), (b) or (c) of subdivision one of this section. For purposes of the preceding sentence, if cigarettes are transported to a home or residence, it shall be presumed that the common or contract carrier knew that such person was not a person described in paragraph (a), (b) or (c) of subdivision one of this section. It shall be unlawful for any other person to knowingly transport cigarettes to any person in this state, other than to a person described in paragraph (a), (b) or (c) of subdivision one of this section. Nothing in this subdivision shall be construed to prohibit a person other than a common or contract carrier from transporting not more than eight hundred cigarettes at any one time to any person in this state. It shall be unlawful for any common or contract carrier to knowingly transport vapor products intended or reasonably expected to be used with or for the consumption of nicotine to any person in this state reasonably believed by such carrier to be other than a person described in paragraph (a), (b) or (c) of subdivision one-a of this section. For purposes of the preceding sentence, if vapor products intended or reasonably expected to be used with or for the consumption of nicotine are transported to a home or residence, it shall be presumed that the common or contract carrier knew that such person was not a person described in paragraph (a), (b) or (c) of subdivision one-a of this section. It shall be unlawful for any other person to knowingly transport vapor products intended or reasonably expected to be used with or for the consumption of nicotine to any person in this state, other than to a person described in paragraph (a), (b) or (c) of subdivision one of this section. Nothing in this subdivision shall be construed to prohibit a person other than a common or contract carrier from transporting vapor products, provided that the amount of vapor products intended or reasonably expected to be used with or for the consumption of nicotine shall not exceed the lesser of 500 milliliters, or a total nicotine content of 3 grams at any one time to any person in this state.

3. When a person engaged in the business of selling cigarettes ships or causes to be shipped any cigarettes to any person in this state, other than in the cigarette manufacturer's original container or wrapping, the container or wrapping must be plainly and visibly marked with the word "cigarettes". When a person engaged in the business of selling vapor products ships or causes to be shipped any vapor products intended or reasonably expected to be used with or for the consumption of nico-

tine to any person in this state, other than in the vapor products manufacturer's original container or wrapping, the container or wrapping must be plainly and visibly marked with the words "vapor products".

4. Whenever a police officer designated in section 1.20 of the criminal procedure law or a peace officer designated in subdivision four of section 2.10 of such law, acting pursuant to his or her special duties, shall discover any cigarettes or vapor products intended or reasonably expected to be used with or for the consumption of nicotine which have been or which are being shipped or transported in violation of this section, such person is hereby empowered and authorized to seize and take possession of such cigarettes or vapor products intended or reasonably expected to be used with or for the consumption of nicotine, and such cigarettes or vapor products intended or reasonably expected to be used with or for the consumption of nicotine shall be subject to a forfeiture action pursuant to the procedures provided for in article thirteen-A of the civil practice law and rules, as if such article specifically provided for forfeiture of cigarettes or vapor products intended or reasonably expected to be used with or for the consumption of nicotine seized pursuant to this section as a pre-conviction forfeiture crime.

5. Any person who violates the provisions of subdivision one, one-a, or two of this section shall be guilty of a class A misdemeanor and for a second or subsequent violation shall be guilty of a class E felony. In addition to the criminal penalty, any person who violates the provisions of subdivision one, one-a, two or three of this section shall be subject to a civil penalty not to exceed the greater of (a) five thousand dollars for each such violation; [~~or~~] (b) one hundred dollars for each pack of cigarettes shipped, caused to be shipped or transported in violation of such subdivision; or (c) one hundred dollars for each vapor product intended or reasonably expected to be used with or for the consumption of nicotine shipped, caused to be shipped or transported in violation of such subdivision.

6. The attorney general may bring an action to recover the civil penalties provided by subdivision five of this section and for such other relief as may be deemed necessary. In addition, the corporation counsel of any political subdivision that imposes a tax on cigarettes or vapor products intended or reasonably expected to used with or for the consumption of nicotine may bring an action to recover the civil penalties provided by subdivision five of this section and for such other relief as may be deemed necessary with respect to any cigarettes or vapor products intended or reasonably expected to be used with or for the consumption of nicotine shipped, caused to be shipped or transported in violation of this section to any person located within such political subdivision. All civil penalties obtained in any such action shall be retained by the state or political subdivision bringing such action, provided that no person shall be required to pay civil penalties to both the state and a political subdivision with respect to the same violation of this section.

§ 4. Section 1399-bb of the public health law, as amended by chapter 508 of the laws of 2000, the section heading as amended by chapter 4 of the laws of 2018, subdivision 2 as amended by chapter 13 of the laws of 2003, and paragraphs (b), (c), and (f) of subdivision 2 and subdivisions 4 and 5 as amended by chapter 100 of the laws of 2019, is amended to read as follows:

§ 1399-bb. Distribution of tobacco products, [~~electronic cigarettes~~] vapor products, or herbal cigarettes without charge. 1. No [~~person~~]

retail dealer, or any agent or employee of a retail dealer engaged in the business of selling or otherwise distributing tobacco products, vapor products intended or reasonably expected to be used with or for the consumption of nicotine, or herbal cigarettes for commercial purposes, or any agent or employee of such [~~person~~] retail dealer, or any agent or employee of a retail dealer, shall knowingly, in furtherance of such business:

(a) distribute without charge any tobacco products, vapor products intended or reasonably expected to be used with or for the consumption of nicotine, or herbal cigarettes to any individual, provided that the distribution of a package containing tobacco products, vapor products intended or reasonably expected to be used with or for the consumption of nicotine, or herbal cigarettes in violation of this subdivision shall constitute a single violation without regard to the number of items in the package; or

(b) distribute [~~coupons~~] price reduction instruments which are redeemable for tobacco products, vapor products intended or reasonably expected to be used with or for the consumption of nicotine, or herbal cigarettes to any individual, provided that this subdivision shall not apply to coupons contained in newspapers, magazines or other types of publications, coupons obtained through the purchase of tobacco products, vapor products intended or reasonably expected to be used with or for the consumption of nicotine, or herbal cigarettes or obtained at locations which sell tobacco products, vapor products intended or reasonably expected to be used with or for the consumption of nicotine, or herbal cigarettes provided that such distribution is confined to a designated area or to coupons sent through the mail.

1-a. No retail dealer engaged in the business of selling or otherwise distributing tobacco products, herbal cigarettes, or vapor products intended or reasonably expected to be used with or for the consumption of nicotine for commercial purposes, or any agent or employee of such retail dealer, shall knowingly, in furtherance of such business:

(a) honor or accept a price reduction instrument in any transaction related to the sale of tobacco products, herbal cigarettes, or vapor products intended or reasonably expected to be used with or for the consumption of nicotine to a consumer;

(b) sell or offer for sale any tobacco products, herbal cigarettes, or vapor products intended or reasonably expected to be used with or for the consumption of nicotine to a consumer through any multi-package discount or otherwise provide to a consumer any tobacco products, herbal cigarettes, or vapor products intended or reasonably expected to be used with or for the consumption of nicotine for less than the listed price or non-discounted price in exchange for the purchase of any other tobacco products, herbal cigarettes, or vapor products intended or reasonably expected to be used with or for the consumption of nicotine by such consumer;

(c) sell, offer for sale, or otherwise provide any product other than a tobacco product, herbal cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine to a consumer for less than the listed price or non-discounted price in exchange for the purchase of a tobacco product, herbal cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine by such consumer; or

(d) sell, offer for sale, or otherwise provide a tobacco product, herbal cigarette, or vapor product intended or reasonably expected to be

used with or for the consumption of nicotine to a consumer for less than the listed price or non-discounted price.

2. The prohibitions contained in subdivision one of this section shall not apply to the following locations:

(a) private social functions when seating arrangements are under the control of the sponsor of the function and not the owner, operator, manager or person in charge of such indoor area;

(b) conventions and trade shows; provided that the distribution is confined to designated areas generally accessible only to persons over the age of twenty-one;

(c) events sponsored by tobacco, vapor product intended or reasonably expected to be used with or for the consumption of nicotine, or herbal cigarette manufacturers provided that the distribution is confined to designated areas generally accessible only to persons over the age of twenty-one;

(d) bars as defined in subdivision one of section thirteen hundred ninety-nine-n of this chapter;

(e) tobacco businesses as defined in subdivision eight of section thirteen hundred ninety-nine-aa of this article;

(f) factories as defined in subdivision nine of section thirteen hundred ninety-nine-aa of this article and construction sites; provided that the distribution is confined to designated areas generally accessible only to persons over the age of twenty-one.

3. No [~~person~~] retail dealer shall distribute tobacco products, vapor products intended or reasonably expected to be used with or for the consumption of nicotine, or herbal cigarettes at the locations set forth in paragraphs (b), (c) and (f) of subdivision two of this section unless such person gives five days written notice to the enforcement officer.

4. No [~~person~~] retail dealer engaged in the business of selling or otherwise distributing electronic cigarettes or vapor products intended or reasonably expected to be used with or for the consumption of nicotine for commercial purposes, or any agent or employee of such person, shall knowingly, in furtherance of such business, distribute without charge any electronic cigarettes to any individual under twenty-one years of age.

5. The distribution of tobacco products, electronic cigarettes, vapor products intended or reasonably expected to be used with or for the consumption of nicotine, or herbal cigarettes pursuant to subdivision two of this section or the distribution without charge of electronic cigarettes, or vapor products intended or reasonably expected to be used with or for the consumption of nicotine, shall be made only to an individual who demonstrates, through (a) a driver's license or [~~other photographic~~] non-driver identification card issued by [~~a government entity or educational institution~~] the commissioner of motor vehicles, the federal government, any United States territory, commonwealth, or possession, the District of Columbia, a state government within the United States, or a provincial government of the dominion of Canada, (b) a valid passport issued by the United States government or the government of any other country, or (c) an identification card issued by the armed forces of the United States, indicating that the individual is at least twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age; provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of a tobacco product, electronic cigarette, vapor product intended or reasonably expected to be used with or for the consumption of nicotine, or herbal cigarette or

the distribution without charge of electronic cigarettes, or vapor products intended or reasonably expected to be used with or for the consumption of nicotine to an individual.

§ 5. The public health law is amended by adding a new article 17 to read as follows:

ARTICLE 17
INGREDIENT DISCLOSURES FOR
VAPOR PRODUCTS AND E-CIGARETTES

Section 1700. Definitions.
1701. Disclosure.
1702. Penalties.

§ 1700. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Vapor products" shall mean any vapor product, as defined by section thirteen hundred ninety-nine-aa of this chapter, intended or reasonably expected to be used with or for the consumption of nicotine.

2. "Electronic cigarette" or "e-cigarette" shall have the same meaning as defined by section thirteen hundred ninety-nine-aa of this chapter.

3. "Ingredient" shall mean all of the following:

(a) any intentional additive present in any quantity in a vapor product;

(b) a byproduct or contaminant, present in a vapor product in any quantity equal to or greater than one-half of one percent of the content of such product by weight, or other amount determined by the commissioner;

(c) a byproduct present in a vapor product in any quantity less than one-half of one percent of the content of such product by weight, provided such element or compound has been published as a chemical of concern on one or more lists identified by the commissioner; and

(d) a contaminant present in a vapor product in a quantity determined by the commissioner and less than one-half of one percent of the content of such product by weight, provided such element or compound has been published as a chemical of concern on one or more lists identified by the commissioner.

4. "Intentionally added ingredient" shall mean any element or compound that a manufacturer has intentionally added to a vapor product at any point in such product's supply chain, or at any point in the supply chain of any raw material or ingredient used to manufacture such product.

5. "Byproduct" shall mean any element or compound in the finished vapor product, or in the vapor produced during consumption of a vapor product, which: (a) was created or formed during the manufacturing process as an intentional or unintentional consequence of such manufacturing process at any point in such product's supply chain, or at any point in the supply chain of any raw material or ingredient used to manufacture such product; or (b) is created or formed as an intentional or unintentional consequence of the use of an e-cigarette or consumption of a vapor product. "Byproduct" shall include, but is not limited to, an unreacted raw material, a breakdown product of an intentionally added ingredient, a breakdown product of any component part of an e-cigarette, or a derivative of the manufacturing process.

6. "Contaminant" shall mean any element or compound made present in a vapor product as an unintentional consequence of manufacturing. Contaminants include, but are not limited to, elements or compounds present in the environment which were introduced into a product, a raw material, or a product ingredient as a result of the use of an environmental medium,

such as naturally occurring water, or other materials used in the manufacturing process at any point in a product's supply chain, or at any point in the supply chain of any raw material or ingredient used to manufacture such product.

7. "Manufacturer" shall mean any person, firm, association, partnership, limited liability company, or corporation which produces, prepares, formulates, or compounds a vapor product or e-cigarette, or whose brand name is affixed to such product. In the case of a vapor product or e-cigarette imported into the United States, "manufacturer" shall mean the importer or first domestic distributor of such product if the entity that manufactures such product or whose brand name is affixed to such product does not have a presence in the United States.

§ 1701. Disclosure. 1. Manufacturers of vapor products or e-cigarettes distributed, sold, or offered for sale in this state, whether at retail or wholesale, shall furnish to the commissioner for public record and post on such manufacturer's website, in a manner prescribed by the commissioner that is readily accessible to the public and machine readable, information regarding such products pursuant to rules or regulations which shall be promulgated by the commissioner.

(a) For each vapor product, the information posted pursuant to this subdivision shall include, but shall not be limited to:

(i) a list naming each ingredient of such vapor product in descending order of predominance by weight in such product, except that ingredients present at a weight below one percent may be listed following other ingredients without respect to the order of predominance by weight;

(ii) the nature and extent of investigations and research performed by or for the manufacturer concerning the effects on human health of such product or its ingredients;

(iii) where applicable, a statement disclosing that an ingredient of such product is published as a chemical of concern on one or more lists identified by the commissioner; and

(iv) for each ingredient published as a chemical of concern on one or more lists identified by the commissioner, an evaluation of the availability of potential alternatives and potential hazards posed by such alternatives.

(b) For each e-cigarette the information posted pursuant to this subdivision shall include, but shall not be limited to:

(i) a list naming any toxic metal, including but not limited to lead, manganese, nickel, chromium, or zinc, as a constituent of any heating element included in such e-cigarette;

(ii) a list naming each byproduct that may be introduced into vapor produced during the normal use of such e-cigarette;

(iii) the nature and extent of investigations and research performed by or for the manufacturer concerning the effects on human health of such product or such ingredients;

(iv) where applicable, a statement disclosing that an ingredient is published as a chemical of concern on one or more lists identified by the commissioner; and

(v) for each constituent of any heating element identified as a toxic metal and ingredient published as a chemical of concern on one or more lists identified by the commissioner, an evaluation of the availability of potential alternatives and potential hazards posed by such alternatives.

2. Manufacturers shall furnish the information required to be posted pursuant to subdivision one of this section on or before January first, two thousand twenty-one, and every two years thereafter. In addition,

such manufacturers shall furnish such information prior to the sale of any new vapor product or e-cigarette, when the formulation of a currently disclosed product is changed such that the predominance of the ingredients in such product is changed, when any list of chemicals of concern identified by the commissioner pursuant to this article is changed to include an ingredient present in a vapor product or e-cigarette subject to this article, or at such other times as may be required by the commissioner.

3. The information required to be posted pursuant to subdivision one of this section shall be made available to the public by the commissioner and manufacturers, in accordance with this section, with the exception of those portions which a manufacturer determines, subject to the approval of the commissioner, are related to a proprietary process the disclosure of which would compromise such manufacturer's competitive position. The commissioner shall not approve any exceptions under this subdivision with respect to any ingredient published as a chemical of concern on one or more lists identified by the commissioner.

§ 1702. Penalties. Notwithstanding any other provision of this chapter, any manufacturer who violates any of the provisions of, or who fails to perform any duty imposed by, this article or any rule or regulation promulgated thereunder, shall be liable, in the case of a first violation, for a civil penalty not to exceed five thousand dollars. In the case of a second or any subsequent violation, the liability shall be for a civil penalty not to exceed ten thousand dollars for each such violation.

§ 6. Subdivision 2 and paragraphs (e) and (f) of subdivision 3 of section 1399-ee of the public health law, as amended by chapter 162 of the laws of 2002, are amended to read as follows:

2. If the enforcement officer determines after a hearing that a violation of this article has occurred, he or she shall impose a civil penalty of a minimum of three hundred dollars, but not to exceed one thousand five hundred dollars for a first violation, and a minimum of [~~five hundred~~] one thousand dollars, but not to exceed [~~one~~] two thousand five hundred dollars for each subsequent violation, unless a different penalty is otherwise provided in this article. The enforcement officer shall advise the retail dealer that upon the accumulation of three or more points pursuant to this section the department of taxation and finance shall suspend the dealer's registration. If the enforcement officer determines after a hearing that a retail dealer was selling tobacco products while their registration was suspended or permanently revoked pursuant to subdivision three or four of this section, he or she shall impose a civil penalty of twenty-five hundred dollars.

(e) Suspension. If the department determines that a retail dealer has accumulated three points or more, the department shall direct the commissioner of taxation and finance to suspend such dealer's registration for [~~six months~~] one year. The three points serving as the basis for a suspension shall be erased upon the completion of the [~~six month~~] one year penalty.

(f) Surcharge. A two hundred fifty dollar surcharge to be assessed for every violation will be made available to enforcement officers and shall be used solely for compliance checks to be conducted to determine compliance with this section.

§ 7. Paragraph 1 of subdivision h of section 1607 of the tax law, as amended by chapter 162 of the laws of 2002, is amended to read as follows:

1. A license shall be suspended for a period of [~~six months~~] one year upon notification to the division by the commissioner of health of a lottery sales agent's accumulation of three or more points pursuant to subdivision three of section thirteen hundred ninety-nine-ee of the public health law.

§ 8. Section 1399-hh of the public health law, as added by chapter 433 of the laws of 1997, is amended to read as follows:

§ 1399-hh. Tobacco and vapor product enforcement. The commissioner shall develop, plan and implement a comprehensive program to reduce the prevalence of tobacco use, and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine, use particularly among persons less than [~~eighteen~~] twenty-one years of age. This program shall include, but not be limited to, support for enforcement of this article [~~thirteen-F of this chapter~~].

1. An enforcement officer, as defined in section thirteen hundred ninety-nine-t of this chapter, may annually, on such dates as shall be fixed by the commissioner, submit an application for such monies as are made available for such purpose. Such application shall be in such form as prescribed by the commissioner and shall include, but not be limited to, plans regarding random spot checks, including the number and types of compliance checks that will be conducted, and other activities to determine compliance with this article. Each such plan shall include an agreement to report to the commissioner: the names and addresses of tobacco retailers and vendors and vapor products dealers determined to be unlicensed, if any; the number of complaints filed against licensed tobacco retail outlets and vapor products dealers; and the names of tobacco retailers and vendors and vapor products dealers who have paid fines, or have been otherwise penalized, due to enforcement actions.

2. The commissioner shall distribute such monies as are made available for such purpose to enforcement officers and, in so doing, consider the number of licensed vapor products dealers and retail locations registered to sell tobacco products within the jurisdiction of the enforcement officer and the level of proposed activities.

3. Monies made available to enforcement officers pursuant to this section shall only be used for local tobacco and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine, enforcement activities approved by the commissioner.

§ 9. Section 1399-jj of the public health law, as amended by chapter 1 of the laws of 1999, is amended to read as follows:

§ 1399-jj. Evaluation requirements. 1. The commissioner shall evaluate the effectiveness of the efforts by state and local governments to reduce the use of tobacco products and vapor products, intended or reasonably expected to be used with or for the consumption of nicotine, among minors and adults. The principal measurements of effectiveness shall include negative attitudes toward tobacco and vapor products, intended or reasonably expected to be used with or for the consumption of nicotine, use and reduction of tobacco and vapor products, intended or reasonably expected to be used with or for the consumption of nicotine, use among the general population, and given target populations.

2. The commissioner shall ensure that, to the extent practicable, the most current research findings regarding mechanisms to reduce and change attitudes toward tobacco and vapor products, intended or reasonably expected to be used with or for the consumption of nicotine, use are used in tobacco and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine, education programs administered by the department.

3. To diminish tobacco **and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine,** use among minors and adults, the commissioner shall ensure that, to the extent practicable, the following is achieved:

The department shall conduct an independent evaluation of the state-wide tobacco use prevention and control program under section thirteen hundred ninety-nine-ii of this article. The purpose of this evaluation is to direct the most efficient allocation of state resources devoted to tobacco **and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine,** education and cessation to accomplish the maximum prevention and reduction of tobacco **and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine,** use among minors and adults. Such evaluation shall be provided to the governor, the majority leader of the senate and the speaker of the assembly on or before September first, two thousand one, and annually on or before such date thereafter. The comprehensive evaluation design shall be guided by the following:

(a) sound evaluation principles including, to the extent feasible, elements of controlled experimental methods;

(b) an evaluation of the comparative effectiveness of individual program designs which shall be used in funding decisions and program modifications; and

(c) an evaluation of other programs identified by state agencies, local lead agencies, and federal agencies.

§ 10. Section 1399-kk of the public health law, as added by chapter 433 of the laws of 1997, is amended to read as follows:

§ 1399-kk. Annual tobacco **and vapor product** enforcement reporting. The commissioner shall submit to the governor and the legislature an interim tobacco control report and annual tobacco control reports which shall describe the extent of the use of tobacco products **and vapor products, intended or reasonably expected to be used with or for the consumption of nicotine,** by [~~minors~~] **those under twenty-one years of age** in the state and document the progress state and local governments have made in reducing such use among [~~minors~~] **those under twenty-one years of age**.

1. The interim tobacco control report. The commissioner shall submit to the governor and the legislature an interim tobacco control report on or before September first, nineteen hundred ninety-eight. Such interim report shall, to the extent practicable, include the following information on a county by county basis:

(a) number of licensed and registered tobacco retailers and vendors;

(b) the names and addresses of retailers and vendors who have paid fines, or have been otherwise penalized, due to enforcement actions;

(c) the number of complaints filed against licensed and registered tobacco retailers;

(d) the number of fires caused or believed to be caused by tobacco products and deaths and injuries resulting therefrom;

(e) the number and type of compliance checks conducted; and

(f) such other information as the commissioner deems appropriate.

2. The commissioner shall submit to the governor and the legislature an annual tobacco **and vapor products, intended or reasonably expected to be used with or for the consumption of nicotine,** control report which shall describe the extent of the use of tobacco products **and vapor products, intended or reasonably expected to be used with or for the consumption of nicotine,** by [~~minors~~] **those under twenty-one years of age** in the state and document the progress state and local governments have

made in reducing such use among [~~minors~~] **those under twenty-one years of age**. The annual report shall be submitted to the governor and the legislature on or before March thirty-first of each year beginning on March thirty-first, nineteen hundred ninety-nine. The annual report shall, to the extent practicable, include the following information on a county by county basis:

(a) number of licensed and registered tobacco retailers and vendors **and licensed vapor products dealers**;

(b) the names and addresses of retailers and vendors who have paid fines, or have been otherwise penalized, due to enforcement actions;

(c) the number of complaints filed against licensed and registered tobacco retailers **and licensed vapor products dealers**;

(d) the number of fires caused or believed to be caused by tobacco products **and vapor products, intended or reasonably expected to be used with or for the consumption of nicotine,** and deaths and injuries resulting therefrom;

(e) the number and type of compliance checks conducted;

(f) a survey of attitudes and behaviors regarding tobacco use among [~~minors~~] **those under twenty-one years of age**. The initial such survey shall be deemed to constitute the baseline survey;

(g) the number of tobacco **and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine,** users and estimated trends in tobacco **and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine,** use among [~~minors~~] **those under twenty-one years of age**;

(h) annual tobacco **and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine,** sales;

(i) tax revenue collected from the sale of tobacco products **and vapor products, intended or reasonably expected to be used with or for the consumption of nicotine**;

(j) the number of licensed tobacco retail outlets **and licensed vapor products dealers**;

(k) the number of cigarette vending machines;

(l) the number and type of compliance checks;

(m) the names of entities that have paid fines due to enforcement actions; and

(n) the number of complaints filed against licensed tobacco retail outlets **and licensed vapor products dealers**.

The annual tobacco **and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine,** control report shall, to the extent practicable, include the following information: (a) tobacco **and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine,** control efforts sponsored by state government agencies including money spent to educate [~~minors~~] **those under twenty-one years of age** on the hazards of tobacco **and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine,** use;

(b) recommendations for improving tobacco **and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine,** control efforts in the state; and

(c) such other information as the commissioner deems appropriate.

§ 11. The public health law is amended by adding a new section 1399-ii-1 to read as follows:

**§ 1399-ii-1. Electronic cigarette and vaping prevention, awareness and control program. The commissioner shall, in consultation and collaboration with the commissioner of education, establish and develop an**

electronic cigarette and vaping prevention, control and awareness program within the department. Such program shall be designed to educate students, parents and school personnel about the health risks associated with vapor product use and control measures to reduce the prevalence of vaping, particularly among persons less than twenty-one years of age. Such program shall include, but not be limited to, the creation of age-appropriate instructional tools and materials that may be used by all schools, and marketing and advertising materials to discourage electronic cigarette use.

§ 12. Section 1399-ii of the public health law, as amended by chapter 256 of the laws of 2019, is amended to read as follows:

§ 1399-ii. Tobacco and vapor product use prevention and control program. 1. To improve the health, quality of life, and economic well-being of all New York state citizens, there is hereby established within the department a comprehensive statewide tobacco and vapor product use prevention and control program.

2. The department shall support tobacco and vapor product use prevention and control activities including, but not limited to:

(a) Community programs to prevent and reduce tobacco use through local involvement and partnerships;

(b) School-based programs to prevent and reduce tobacco use and use of [~~electronic cigarettes~~] vapor products;

(c) Marketing and advertising to discourage tobacco, vapor product and liquid nicotine use;

(d) [~~Tobacco~~] Nicotine cessation programs for youth and adults;

(e) Special projects to reduce the disparities in smoking prevalence among various populations;

(f) Restriction of youth access to tobacco products[~~, electronic cigarettes~~] and [~~liquid nicotine~~] vapor products;

(g) Surveillance of smoking and vaping rates; and

(h) Any other activities determined by the commissioner to be necessary to implement the provisions of this section.

Such programs shall be selected by the commissioner through an application process which takes into account whether a program utilizes methods recognized as effective in reducing [~~smoking and tobacco~~] nicotine use. Eligible applicants may include, but not be limited to, a health care provider, schools, a college or university, a local public health department, a public health organization, a health care provider organization, association or society, municipal corporation, or a professional education organization.

3. (a) There shall be established a tobacco use prevention and control advisory board to advise the commissioner on tobacco use prevention and control issues and [~~electronic cigarette and liquid nicotine~~] vapor product use amongst [~~minors~~] persons less than twenty-one years of age, including methods to prevent and reduce tobacco use in the state.

(b) The board shall consist of seventeen members who shall be appointed as follows: nine members by the governor; three members by the speaker of the assembly; three members by the temporary president of the senate and one member each by the minority leader of the senate and minority leader of the assembly. Any vacancy or subsequent appointment shall be filled in the same manner and by the same appointing authority as the original appointment. The chairperson of the board shall be designated by the governor from among the members of the board.

(c) The members shall serve for terms of two years commencing on the effective date of this section. Members of the board shall receive no

compensation but shall be reimbursed for reasonable travel and other expenses incurred in the performance of their duties hereunder.

(d) The board shall meet as often as it deems necessary, but no less than four times a year. No nominee to the board shall have any past or current affiliation with the tobacco industry, vapor products industry or any industry, contractor, agent, or organization that engages in the manufacturing, marketing, distributing, or sale of tobacco products. The board shall be appointed in full within ninety days of the effective date of this section.

(e) The department shall prepare and submit to the board a spending plan for the tobacco and vapor product use prevention and control program authorized pursuant to the provisions of subdivision one of this section no later than thirty days after the submission of the budget to the legislature.

§ 13. The public health law is amended by adding a new section 1399-dd-1 to read as follows:

§ 1399-dd-1. Public display of tobacco product and electronic cigarette advertisements and smoking paraphernalia prohibited. 1. For purposes of this section:

(a) "Advertisement" means words, pictures, photographs, symbols, graphics or visual images of any kind, or any combination thereof, which bear a health warning required by federal statute, the purpose or effect of which is to identify a brand of a tobacco product, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine, a trademark of a tobacco product, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine or a trade name associated exclusively with a tobacco product, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine or to promote the use or sale of a tobacco product, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine.

(b) "Smoking paraphernalia" means any pipe, water pipe, hookah, rolling papers, electronic cigarette, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco or nicotine.

(c) "Vapor product" means any vapor product, as defined by section thirteen hundred ninety-nine-aa of this article, intended or reasonably expected to be used with or for the consumption of nicotine.

(d) "Tobacco products" shall have the same meaning as in subdivision five of section thirteen hundred ninety-nine-aa of this article.

(e) "Electronic cigarette" shall have the same meaning as in subdivision thirteen of section thirteen hundred ninety-nine-aa of this article.

2. (a) No person, corporation, partnership, sole proprietor, limited partnership, association or any other business entity may place, cause to be placed, maintain or to cause to be maintained, smoking paraphernalia or tobacco product, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine advertisements in a store front or exterior window or any door which is used for entry or egress by the public to the building or structure containing a place of business within one thousand five hundred feet of a school, provided that within New York city such prohibitions shall only apply within five hundred feet of a school.

(b) Any person, corporation, partnership, sole proprietor, limited partnership, association or any other business entity in violation of this section shall be subject to a civil penalty of not more than five

hundred dollars for a first violation and not more than one thousand dollars for a second or subsequent violation.

§ 14. The general business law is amended by adding a new section 396-aaa to read as follows:

§ 396-aaa. Public display of tobacco and electronic cigarette advertisements and smoking paraphernalia prohibited. 1. For purposes of this section:

(a) "Advertisement" means words, pictures, photographs, symbols, graphics or visual images of any kind, or any combination thereof, which bear a health warning required by federal statute, the purpose or effect of which is to identify a brand of a tobacco product, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine, a trademark of a tobacco product, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine or a trade name associated exclusively with a tobacco product, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine, or to promote the use or sale of a tobacco product, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine.

(b) "Smoking paraphernalia" means any pipe, water pipe, hookah, rolling papers, electronic cigarette, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco or nicotine.

(c) "Vapor product" means any vapor product, as defined by section thirteen hundred ninety-nine-aa of the public health law, intended or reasonably expected to be used with or for the consumption of nicotine.

(d) "Tobacco products" shall have the same meaning as in subdivision five of section thirteen hundred ninety-nine-aa of the public health law.

(e) "Electronic cigarette" shall have the same meaning as in subdivision thirteen of section thirteen hundred ninety-nine-aa of the public health law.

2. (a) No person, corporation, partnership, sole proprietor, limited partnership, association or any other business entity may place, cause to be placed, maintain or to cause to be maintained, smoking paraphernalia or tobacco product, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine, advertisements in a store front or any exterior window or any door which is used for entry or egress by the public to the building or structure containing a place of business within one thousand five hundred feet of a school, provided that within New York city such prohibitions shall only apply within five hundred feet of a school.

(b) Any person, corporation, partnership, sole proprietor, limited partnership, association or any other business entity in violation of this section shall be subject to a civil penalty of not more than five hundred dollars for a first violation and not more than one thousand dollars for a second or subsequent violation.

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

§ 16. This act shall take effect July 1, 2020; provided, however, that section one of this act shall take effect on the forty-fifth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART FF

Section 1. Subdivision 1 of section 356 of the public health law, as amended by chapter 163 of the laws of 1975, is amended to read as follows:

1. The legislative body of each county having a population of less than one hundred fifty thousand according to the nineteen hundred seventy federal decennial census or the legislative body of any county whose population shall be less than one hundred fifty thousand under any future federal decennial census, except a county in which a county or part-county health district has been established under this article or a county having a county charter, optional or alternative form of government, shall constitute the board of health of such county and shall have all the powers and duties of a board of health of a county or part-county health district including the power to appoint a full-time or part-time county health director. The county health director may serve as director of the [~~physically handicapped children's~~] **children and youth with special health care needs support services** program and may employ such persons as shall be necessary to enable [~~him~~] **the county health director** to carry into effect the orders and regulations of the board of health and the provisions of this chapter and of the sanitary code, and fix their compensation within the limits of the appropriation therefor. The members of a [~~legsiative~~] **legislative** body shall not receive additional compensation by reason of serving as members of a board of health. The county health director, so appointed, shall have all the powers and duties prescribed in section three hundred fifty-two of this [~~article~~] **title**.

§ 2. The section heading and subdivisions 1 and 2 of section 608 of the public health law, as added by chapter 901 of the laws of 1986, are amended to read as follows:

State aid; [~~physically handicapped children~~] **children and youth with special health care needs support services**. 1. Whenever the commissioner of health of any county or part-county health district or, in a county lacking a county or part-county health district, the medical director of the [~~physically handicapped children's~~] **children and youth with special health care needs support services** program, or the department of health of the city of New York, issues an authorization for medical service for a [~~physically handicapped~~] child **with physical disabilities**, such county or the city of New York shall be granted state aid in an amount of fifty per centum of the amount expended in accordance with the rules and regulations established by the commissioner, except that such state aid reimbursement may be withheld if, on post-audit and review, the commissioner finds that the medical service rendered and furnished was not in conformance with a plan submitted by the municipality and with the rules and regulations established by the commissioner or that the recipient of the medical service was not a [~~physically handicapped~~] child **with a physical disability** as defined in section two thousand five hundred eighty-one of this chapter.

2. Whenever a court of any county issues an order for medical services for any [~~physically handicapped~~] Indian child **with a physical disability**, residing on an Indian reservation, such county shall be granted state aid in the amount of one hundred percent of the amount expended in accordance with the standards established by the commissioner. Such reimbursement shall be made from any funds appropriated to the department for payment of state aid for [~~care of physically handicapped~~] children **with physical disabilities**.

§ 3. Subdivision 10 of section 2511 of the public health law, as amended by chapter 2 of the laws of 1998, is amended to read as follows:

10. Notwithstanding any other law or agreement to the contrary, and except in the case of a child or children who also becomes eligible for medical assistance, benefits under this title shall be considered secondary to any other plan of insurance or benefit program, except the [~~physically handicapped children's~~] **children and youth with special health care needs support services** program and the early intervention program, under which an eligible child may have coverage.

§ 4. This act shall take effect immediately.

## PART GG

Section 1. Paragraph (e) of subdivision 7 of section 367-a of the social services law, as amended by section 5-a of part T of chapter 57 of the laws of 2018, is amended to read as follows:

(e) During the period from April first, two thousand fifteen through March thirty-first, two thousand [~~twenty~~] **twenty-three**, the commissioner may, in lieu of a managed care provider **or pharmacy benefit manager**, negotiate directly and enter into an [~~agreement~~] **arrangement** with a pharmaceutical manufacturer for the provision of supplemental rebates relating to pharmaceutical utilization by enrollees of managed care providers pursuant to section three hundred sixty-four-j of this title and may also negotiate directly and enter into such an agreement relating to pharmaceutical utilization by medical assistance recipients not so enrolled. Such [~~rebates~~] **rebate arrangements** shall be limited to [~~drug utilization in~~] the following [~~classes~~]: antiretrovirals approved by the FDA for the treatment of HIV/AIDS [~~and~~]**, opioid dependence agents and opioid antagonists listed in a statewide formulary established pursuant to subparagraph (vii) of this paragraph,** hepatitis C agents**, high cost drugs as provided for in subparagraph (viii) of this paragraph, gene therapies as provided for in subparagraph (ix) of this paragraph, and any other class or drug designated by the commissioner** for which the pharmaceutical manufacturer has in effect a rebate [~~agreement~~] **arrangement** with the federal secretary of health and human services pursuant to 42 U.S.C. § 1396r-8, and for which the state has established standard clinical criteria. No agreement entered into pursuant to this paragraph shall have an initial term or be extended beyond the expiration or repeal of this paragraph.

(i) The manufacturer shall not [~~pay supplemental rebates to~~] **enter into any rebate arrangements with** a managed care provider, or any of a managed care provider's agents, including but not limited to any pharmacy benefit manager on the [~~two~~] **gene therapy, drug, or drug** classes [~~of drugs~~] subject to this paragraph when the state [~~is collecting supplemental rebates~~] **has a rebate arrangement in place** and standard clinical criteria are imposed on the managed care provider.

(ii) The commissioner shall establish adequate rates of reimbursement which shall take into account both the impact of the commissioner nego-

tiating such [~~rebates~~] **arrangements** and any limitations imposed on the managed care provider's ability to establish clinical criteria relating to the utilization of such drugs. In developing the managed care provider's reimbursement rate, the commissioner shall identify the amount of reimbursement for such drugs as a separate and distinct component from the reimbursement otherwise made for prescription drugs as prescribed by this section.

(iii) The commissioner shall submit a report to the temporary president of the senate and the speaker of the assembly annually by December thirty-first. The report shall analyze the adequacy of rates to managed care providers for drug expenditures related to the classes under this paragraph.

(iv) Nothing in this paragraph shall be construed to require a pharmaceutical manufacturer to enter into a [~~supplemental rebate agreement with the commissioner~~] **rebate arrangement satisfactory to the commissioner** relating to pharmaceutical utilization by enrollees of managed care providers pursuant to section three hundred sixty-four-j of this title or relating to pharmaceutical utilization by medical assistance recipients not so enrolled.

(v) All clinical criteria, including requirements for prior approval, and all utilization review determinations established by the state as described in this paragraph for [~~either of~~] the [~~drug~~] **gene therapies, drugs, or drug** classes subject to this paragraph shall be developed using evidence-based and peer-reviewed clinical review criteria in accordance with article two-A of the public health law, as applicable.

(vi) All prior authorization and utilization review determinations related to the coverage of any drug subject to this paragraph shall be subject to article forty-nine of the public health law, section three hundred sixty-four-j of this title, and article forty-nine of the insurance law, as applicable. Nothing in this paragraph shall diminish any rights relating to access, prior authorization, or appeal relating to any drug class or drug afforded to a recipient under any other provision of law.

**(vii) The department shall publish a statewide formulary of opioid dependence agents and opioid antagonists, which shall include as "preferred drugs" all drugs in such classes, which shall include all subclasses of a given drug that have a different pharmacological route of administration, provided that:**

**(A) for all drugs that are included as of the date of the enactment of this subparagraph on a formulary of a managed care provider, as defined in section three hundred sixty-four-j of this title, or in the Medicaid fee-for-service preferred drug program pursuant to section two hundred seventy-two of the public health law, the cost to the department for such drug is equal to or less than the lowest cost paid for the drug by any managed care provider or by the Medicaid fee-for-service program after the application of any rebates, as of the date that the department implements the statewide formulary established by this subparagraph. Where there is a generic version of the drug approved by the Food and Drug Administration as bioequivalent to a brand name drug pursuant to 21 U.S.C. § 355(j)(8)(B), the cost to the department for the brand and generic versions shall be equal to or less than the lower of the two maximum costs determined pursuant to the previous sentence; and**

**(B) for all drugs that are not included as of the date of the enactment of this subparagraph on a formulary of a managed care provider, as defined in section three hundred sixty-four-j of this title, or in the Medicaid fee-for-service preferred drug program pursuant to section two**

hundred seventy-two of the public health law, the department is able to obtain the drug at a cost that is equal to or less than the lowest cost to the department of other comparable drugs in the class, after the application of any rebates. Where there is a generic version of the drug approved by the Food and Drug Administration as bioequivalent to a brand name drug pursuant to 21 U.S.C. § 355(j)(8)(B), the cost to the department for the brand and generic versions shall be equal to or less than the lower of the two maximum costs determined pursuant to the previous sentence.

(viii) The commissioner may identify and refer high cost drugs, as defined in clause (D) of this subparagraph, that are not included as of the date of the enactment of this subparagraph on a formulary of a managed care provider or covered by the Medicaid fee for service of program to the drug utilization review board established by section three hundred sixty-nine-bb of this article for a recommendation as to whether a target supplemental Medicaid rebate should be paid by the manufacturer of the drug to the department and the target amount of the rebate.

(A) If the commissioner intends to refer a high cost drug to the drug utilization review board pursuant to this subparagraph, the commissioner shall notify the manufacturer of such drug and shall attempt to reach agreement with the manufacturer on a rebate arrangement satisfactory to the commissioner for the drug prior to referring the drug to the drug utilization review board for review. Such arrangement may be based on evidence based research, including, but not limited to, such research operated or conducted by or for other state governments, the federal government, the governments of other nations, and third party payers or multi-state coalitions, provided however that the department shall account for the effectiveness of the drug in treating the conditions for which it is prescribed or in improving a patient's health, quality of life, or overall health outcomes, and the likelihood that use of the drug will reduce the need for other medical care, including hospitalization.

(B) In the event that the commissioner and the manufacturer have previously agreed to a rebate arrangement for a drug pursuant to this paragraph, the drug shall not be referred to the drug utilization review board for any further rebate agreement for the duration of the previous rebate agreement, provided however, the commissioner may refer a drug to the drug utilization review board if the commissioner determines there are significant and substantiated utilization or market changes, new evidence-based research, or statutory or federal regulatory changes that warrant additional rebates. In such cases, the department shall notify the manufacturer and provide evidence of the changes or research that would warrant additional rebates, and shall attempt to reach agreement with the manufacturer on a rebate for the drug prior to referring the drug to the drug utilization review board for review.

(C) If the commissioner is unsuccessful in entering into a rebate arrangement with the manufacturer of the drug satisfactory to the department, the drug manufacturer shall in that event be required to provide to the department, on a standard reporting form developed by the department, the information as described in subdivision six of section two hundred eighty of the public health law. All information disclosed pursuant to this clause shall be considered confidential and shall not be disclosed by the department in a form that identifies a specific manufacturer or prices charged for drugs by such manufacturer.

(D) For the purposes of this subparagraph, the term "high cost drug" shall mean a brand name drug or biologic that has a launch wholesale acquisition cost of thirty thousand dollars or more per year or course of treatment, or a biosimilar drug that has a launch wholesale acquisition cost that is not at least fifteen percent lower than the referenced brand biologic at the time the biosimilar is launched, or a generic drug that has a wholesale acquisition cost of one hundred dollars or more for a thirty day supply or recommended dosage approved for labeling by the federal Food and Drug Administration, or a brand name drug or biologic that has a wholesale acquisition cost increase of three thousand dollars or more in any twelve-month period, or course of treatment if less than twelve months.

(ix) For purposes of this paragraph, a "gene therapy" is a drug (A) approved under section 505 of the Federal Food, Drug and Cosmetics Act or licensed under subsection (a) or (k) of section 351 of the Public Health Services Act; (B) that treats a rare disease or condition, as defined in 21 USC § 360bb(a)(2), that is life-threatening, as defined in 42 CFR 321.18; (C) is considered a gene therapy by the federal Food and Drug Administration for which a biologics license pursuant to 21 CFR 600-680 is held; (D) if administered in accordance with the labeling of such drug, is expected to result in either the cure of such disease or condition or a reduction in the symptoms of such disease or condition that materially improves the patient's length or quality of life; and (E) is expected to achieve the result described in clause (D) of this subparagraph after not more than three administrations.

§ 2. Paragraph (a) of subdivision 3 of section 273 of the public health law, as added by section 10 of part C of chapter 58 of the laws of 2005, is amended and a new paragraph (a-1) is added to read as follows:

(a) When a patient's health care provider prescribes a prescription drug that is not on the preferred drug list or the statewide formulary of opioid dependence agents and opioid antagonists established pursuant to subparagraph (vii) of paragraph (e) of subdivision seven of section three hundred sixty-seven-a of the social services law, the prescriber shall consult with the program to confirm that in his or her reasonable professional judgment, the patient's clinical condition is consistent with the criteria for approval of the non-preferred drug. Such criteria shall include:

(i) the preferred drug has been tried by the patient and has failed to produce the desired health outcomes;

(ii) the patient has tried the preferred drug and has experienced unacceptable side effects;

(iii) the patient has been stabilized on a non-preferred drug and transition to the preferred drug would be medically contraindicated; or

(iv) other clinical indications identified by the [~~committee for the patient's use of the non-preferred drug~~] drug utilization review board established pursuant to section three hundred sixty-nine-bb of the social services law, which shall include consideration of the medical needs of special populations, including children, elderly, chronically ill, persons with mental health conditions, and persons affected by HIV/AIDS, pregnant persons, and persons with an opioid use disorder.

(a-1) When a patient's health care provider prescribes a prescription drug that is on the statewide formulary of opioid dependence agents and opioid antagonists established pursuant to subparagraph (vii) of paragraph (e) of subdivision seven of section three hundred sixty-seven-a of the social services law, the department shall not require prior authori-

zation unless required by the department's drug use review program established pursuant to section 1927(g) of the Social Security Act.

§ 3. The opening paragraph of paragraph (a) of subdivision 6 of section 280 of the public health law, as amended by section 8 of part D of chapter 57 of the laws of 2018, is amended to read as follows:

If the drug utilization review board recommends a target rebate amount or if the commissioner identifies a drug as a high cost drug pursuant to subparagraph (vii) of paragraph (e) of subdivision 7 of section three hundred sixty-seven-a of the social services law and the department is unsuccessful in entering into a rebate [~~agreement~~] arrangement with the manufacturer of the drug satisfactory to the department, the drug manufacturer shall in that event be required to provide to the department, on a standard reporting form developed by the department, the following information:

§ 4. Paragraph (a) of subdivision 7 of section 280 of the public health law, as amended by section 8 of part B of chapter 57 of the laws of 2019, is amended to read as follows:

(a) If, after taking into account all rebates and supplemental rebates received by the department, including rebates received to date pursuant to this section, total Medicaid drug expenditures are still projected to exceed the annual growth limitation imposed by subdivision two of this section, the commissioner may: subject any drug of a manufacturer referred to the drug utilization review board under this section to prior approval in accordance with existing processes and procedures when such manufacturer has not entered into a supplemental rebate [~~agreement~~] arrangement as required by this section; direct a managed care plan to limit or reduce reimbursement for a drug provided by a medical practitioner if the drug utilization review board recommends a target rebate amount for such drug and the manufacturer has failed to enter into a rebate arrangement required by this section; direct managed care plans to remove from their Medicaid formularies [~~those~~] any drugs of a manufacturer who has a drug that the drug utilization review board recommends a target rebate amount for and the manufacturer has failed to enter into a rebate [~~agreement~~] arrangement required by this section; promote the use of cost effective and clinically appropriate drugs other than those of a manufacturer who has a drug that the drug utilization review board recommends a target rebate amount and the manufacturer has failed to enter into a rebate [~~agreement~~] arrangement required by this section; allow manufacturers to accelerate rebate payments under existing rebate contracts; and such other actions as authorized by law. The commissioner shall provide written notice to the legislature thirty days prior to taking action pursuant to this paragraph, unless action is necessary in the fourth quarter of a fiscal year to prevent total Medicaid drug expenditures from exceeding the limitation imposed by subdivision two of this section, in which case such notice to the legislature may be less than thirty days.

§ 5. Section 364-j of the social services law is amended by adding a new subdivision 38 to read as follows:

38. (a) When a patient's health care provider prescribes an opioid dependence agent or opioid antagonist that is not on the statewide formulary of opioid dependence agents and opioid antagonists, the prescriber shall consult with the managed care plan to confirm that in his or her reasonable professional judgment, the patient's clinical condition is consistent with the criteria for approval of the non-preferred or non-formulary drug. Such criteria shall include:

(i) the preferred drug has been tried by the patient and has failed to produce the desired health outcomes;

(ii) the patient has tried the preferred drug and has experienced unacceptable side effects;

(iii) the patient has been stabilized on a non-preferred drug and transition to the preferred or formulary drug would be medically contraindicated; or

(iv) other clinical indications identified by the committee for the patient's use of the non-preferred drug, which shall include consideration of the medical needs of special populations, including children, elderly, chronically ill, persons with mental health conditions, persons affected by HIV/AIDS and pregnant persons with a substance use disorder.

(b) The managed care plan shall have a process for a patient, or the patient's prescribing health care provider, to request a review for a prescription drug that is not on the statewide formulary of opioid dependence agents and opioid antagonists, consistent with 42 C.F.R. 438.210(d), or any successor regulation.

(c) A managed care plan's failure to comply with the requirements of this subdivision shall be subject to a one thousand dollar fine per violation.

§ 6. Section 364-j of the social services law is amended by adding a new subdivision 26-c to read as follows:

26-c. Managed care providers shall not require prior authorization for methadone, when used for opioid use disorder and administered or dispensed in an opioid treatment program.

§ 7. Subdivision 10 of section 273 of the public health law, as added by section 5 of part B of chapter 69 of the laws of 2016, is amended to read as follows:

10. Prior authorization shall not be required for an initial or renewal prescription for buprenorphine or injectable naltrexone for detoxification or maintenance treatment of opioid addiction unless the prescription is for a non-preferred or non-formulary form of such drug as otherwise required by section 1927(k)(6) of the Social Security Act. Further, prior authorization shall not be required for methadone, when used for opioid use disorder and administered or dispensed in an opioid treatment program.

§ 8. Subdivision 1 of section 60 of part B of chapter 57 of the laws of 2015, amending the social services law and other laws relating to supplemental rebates, as amended by section 5-b of part T of chapter 57 of the laws of 2018, is amended to read as follows:

1. section one of this act shall expire and be deemed repealed March 31, [~~2023~~] 2026;

§ 9. Subdivision (c) of section 62 of chapter 165 of the laws of 1991, amending the public health law and other laws relating to establishing payments for medical assistance, as amended by section 16 of part Z of chapter 57 of the laws of 2018, is amended to read as follows:

(c) section 364-j of the social services law, as amended by section eight of this act and subdivision 6 of section 367-a of the social services law as added by section twelve of this act shall expire and be deemed repealed on March 31, [~~2024~~] 2026 and provided further, that the amendments to the provisions of section 364-j of the social services law made by section eight of this act shall only apply to managed care programs approved on or after the effective date of this act;

§ 10. Section 11 of chapter 710 of the laws of 1988, amending the social services law and the education law relating to medical assistance eligibility of certain persons and providing for managed medical care

demonstration programs, as amended by section 18 of part Z of chapter 57 of the laws of 2018, is amended to read as follows:

§ 11. This act shall take effect immediately; except that the provisions of sections one, two, three, four, eight and ten of this act shall take effect on the ninetieth day after it shall have become a law; and except that the provisions of sections five, six and seven of this act shall take effect January 1, 1989; and except that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date; provided, however, that the provisions of section 364-j of the social services law, as added by section one of this act shall expire and be deemed repealed on and after March 31, [~~2024~~] **2026**, the provisions of section 364-k of the social services law, as added by section two of this act, except subdivision 10 of such section, shall expire and be deemed repealed on and after January 1, 1994, and the provisions of subdivision 10 of section 364-k of the social services law, as added by section two of this act, shall expire and be deemed repealed on January 1, 1995.

§ 11. This act shall take effect immediately, provided however, that:

a. the amendments to paragraph (e) of subdivision 7 of section 367-a of the social services law made by section one of this act shall not affect the repeal of such paragraph and shall be deemed expired therewith;

b. the provisions of section two of this act shall expire March 31, 2026, when upon such date the provisions of such section shall be deemed repealed;

c. the amendments to section 364-j of the social services law made by sections five and six of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

d. the statewide formulary of opioid dependence agents and opioid antagonists authorized by this act shall be implemented within six months after it shall have become a law;

e. Provided further, however, that the director of the budget may, in consultation with the commissioner of health, delay the effective dates prescribed herein for a period of time which shall not exceed 90 days following the conclusion or termination of an executive order issued pursuant to section 28 of the executive law declaring a state disaster emergency for the entire state of New York, upon such delay the director of the budget shall notify the chairs of the assembly ways and means committee and senate finance committee and the chairs of the assembly and senate health committee; provided further, however, that the director of the budget shall notify the legislative bill drafting commission upon the occurrence of a delay in the effective date of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

## PART HH

Section 1. Paragraphs (t), (v) and (w) of subdivision 2 of section 2999-cc of the public health law, paragraph (v) as added and paragraphs (t) and (w) as amended by section 1 of subpart C of part S of chapter 57 of the laws of 2018, are amended and a new paragraph (x) is added to read as follows:

(t) credentialed alcoholism and substance abuse counselors credentialed by the office of [~~alcoholism and substance abuse services~~] addiction services and supports or by a credentialing entity approved by such office pursuant to section 19.07 of the mental hygiene law;

(v) clinics licensed or certified under article sixteen of the mental hygiene law and certified and non-certified day and residential programs funded or operated by the office for people with developmental disabilities; [~~and~~]

(w) a care manager employed by or under contract to a health home program, patient centered medical home, office for people with developmental disabilities Care Coordination Organization (CCO), hospice or a voluntary foster care agency certified by the office of children and family services certified and licensed pursuant to article twenty-nine-i of this chapter; and

(x) any other provider as determined by the commissioner pursuant to regulation or, in consultation with the commissioner, by the commissioner of the office of mental health, the commissioner of the office of [~~alcoholism and substance abuse services~~] addiction services and supports, or the commissioner of the office for people with developmental disabilities pursuant to regulation.

§ 2. Subdivision 1 of section 2999-dd of the public health law, as amended by section 4 of subpart C of part S of chapter 57 of the laws of 2018, is amended to read as follows:

1. Health care services delivered by means of telehealth shall be entitled to reimbursement under section three hundred sixty-seven-u of the social services law; provided however, reimbursement for additional modalities, provider categories and originating sites specified in accordance with section twenty-nine hundred ninety-nine-ee of this article shall be contingent upon federal financial participation.

§ 3. The public health law is amended by adding a new section 2999-ee to read as follows:

§ 2999-ee. Increased application of telehealth. In order to increase the application of telehealth in behavioral health, oral health, maternity care, care management, services provided in emergency departments, and services provided to certain high-need populations to the extent such services are deemed appropriate for the populations served, and notwithstanding the definitions set forth in section twenty-nine hundred ninety-nine-cc of this article, in consultation with the commissioner of the office of children and family services, the commissioner of the office of mental health, the commissioner of the office of addiction services and supports, or the commissioner of the office for people with developmental disabilities, as applicable, the commissioner may specify in regulation additional acceptable modalities for the delivery of health care services via telehealth, including but not limited to audio-only telephone communications, online portals and survey applications, and may specify additional categories of originating sites at which a patient may be located at the time health care services are delivered to the extent such additional modalities and originating sites are deemed appropriate for the populations served.

§ 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on or after April 1, 2020. Provided further, however, that the director of the budget may, in consultation with the commissioner of health, delay the effective dates prescribed herein for a period of time which shall not exceed ninety days following the conclusion or termination of an executive order issued pursuant to section 28 of the executive law declaring a state disaster emergency for

the entire state of New York, upon such delay the director of the budget shall notify the chairs of the assembly ways and means committee and senate finance committee and the chairs of the assembly and senate health committee; provided further, however, that the director of the budget shall notify the legislative bill drafting commission upon the occurrence of a delay in the effective date of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART II

Section 1. The commissioner of health is authorized to establish the following pilot programs in one or more counties or regions of the state for the purpose of promoting social determinant of health interventions: up to three projects targeted at the provision of medically tailored meals tailored to individuals diagnosed with cancer, diabetes, heart failure and/or HIV/AIDS and who have had one or more hospitalizations within a year; up to five medical respite programs to provide care to homeless patients who are too sick to be on the streets or in a traditional shelter but not sick enough to warrant inpatient hospitalization; and a street medicine program to allow diagnostic and treatment centers licensed under article 28 of the public health law to bill for certain services provided at offsite locations in order to serve the chronically street homeless population. The requirements for which programs qualify as "medically tailored meals," "medical respite," and "street medicine" will be further defined in the course of each pilot program with a focus on providing the most effective care to participants in the program.

§ 2. This act shall take effect September 1, 2020. Provided, however, that the director of the budget may, in consultation with the commissioner of health, delay the effective date prescribed herein for a period of time which shall not exceed ninety days following the conclusion or termination of an executive order issued pursuant to section 28 of the executive law declaring a state disaster emergency for the entire state of New York and that upon such delay the director of the budget shall notify the chairs of the assembly ways and means committee and the senate finance committee and the chairs of the assembly and senate health committees; provided further, however, that the director of the budget shall notify the legislative bill drafting commission upon the occurrence of a delay in the effective date of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART JJ

Section 1. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to the following funds and/or accounts:

1. DOL-Child performer protection account (20401).
2. Proprietary vocational school supervision account (20452).
3. Local government records management account (20501).
4. Child health plus program account (20810).

5. EPIC premium account (20818).
6. Education - New (20901).
7. VLT - Sound basic education fund (20904).
8. Sewage treatment program management and administration fund (21000).
9. Hazardous bulk storage account (21061).
10. Utility environmental regulatory account (21064).
11. Federal grants indirect cost recovery account (21065).
12. Low level radioactive waste account (21066).
13. Recreation account (21067).
14. Public safety recovery account (21077).
15. Environmental regulatory account (21081).
16. Natural resource account (21082).
17. Mined land reclamation program account (21084).
18. Great lakes restoration initiative account (21087).
19. Environmental protection and oil spill compensation fund (21200).
20. Public transportation systems account (21401).
21. Metropolitan mass transportation (21402).
22. Operating permit program account (21451).
23. Mobile source account (21452).
24. Statewide planning and research cooperative system account (21902).
25. New York state thruway authority account (21905).
26. Mental hygiene program fund account (21907).
27. Mental hygiene patient income account (21909).
28. Financial control board account (21911).
29. Regulation of racing account (21912).
30. State university dormitory income reimbursable account (21937).
31. Criminal justice improvement account (21945).
32. Environmental laboratory reference fee account (21959).
33. Training, management and evaluation account (21961).
34. Clinical laboratory reference system assessment account (21962).
35. Indirect cost recovery account (21978).
36. High school equivalency program account (21979).
37. Multi-agency training account (21989).
38. Bell jar collection account (22003).
39. Industry and utility service account (22004).
40. Real property disposition account (22006).
41. Parking account (22007).
42. Courts special grants (22008).
43. Asbestos safety training program account (22009).
44. Camp Smith billeting account (22017).
45. Batavia school for the blind account (22032).
46. Investment services account (22034).
47. Surplus property account (22036).
48. Financial oversight account (22039).
49. Regulation of Indian gaming account (22046).
50. Rome school for the deaf account (22053).
51. Seized assets account (22054).
52. Administrative adjudication account (22055).
53. Federal salary sharing account (22056).
54. New York City assessment account (22062).
55. Cultural education account (22063).
56. Local services account (22078).
57. DHCR mortgage servicing account (22085).
58. Housing indirect cost recovery account (22090).

59. DHCR-HCA application fee account (22100).
60. Low income housing monitoring account (22130).
61. Corporation administration account (22135).
62. New York State Home for Veterans in the Lower-Hudson Valley account (22144).
63. Deferred compensation administration account (22151).
64. Rent revenue other New York City account (22156).
65. Rent revenue account (22158).
66. Tax revenue arrearage account (22168).
67. New York state medical indemnity fund account (22240).
68. State university general income offset account (22654).
69. Lake George park trust fund account (22751).
70. State police motor vehicle law enforcement account (22802).
71. Highway safety program account (23001).
72. DOH drinking water program account (23102).
73. NYCCC operating offset account (23151).
74. Commercial gaming revenue account (23701).
75. Commercial gaming regulation account (23702).
76. Highway use tax administration account (23801).
77. New York state secure choice administrative account (23806).
78. Fantasy sports administration account (24951).
79. Highway and bridge capital account (30051).
80. Aviation purpose account (30053).
81. State university residence hall rehabilitation fund (30100).
82. State parks infrastructure account (30351).
83. Clean water/clean air implementation fund (30500).
84. Hazardous waste remedial cleanup account (31506).
85. Youth facilities improvement account (31701).
86. Housing assistance fund (31800).
87. Housing program fund (31850).
88. Highway facility purpose account (31951).
89. Information technology capital financing account (32215).
90. New York racing account (32213).
91. Capital miscellaneous gifts account (32214).
92. New York environmental protection and spill remediation account (32219).
93. Mental hygiene facilities capital improvement fund (32300).
94. Correctional facilities capital improvement fund (32350).
95. New York State Storm Recovery Capital Fund (33000).
96. OGS convention center account (50318).
97. Empire Plaza Gift Shop (50327).
98. Centralized services fund (55000).
99. Archives records management account (55052).
100. Federal single audit account (55053).
101. Civil service EHS occupational health program account (55056).
102. Banking services account (55057).
103. Cultural resources survey account (55058).
104. Neighborhood work project account (55059).
105. Automation & printing chargeback account (55060).
106. OFT NYT account (55061).
107. Data center account (55062).
108. Intrusion detection account (55066).
109. Domestic violence grant account (55067).
110. Centralized technology services account (55069).
111. Labor contact center account (55071).
112. Human services contact center account (55072).

113. Tax contact center account (55073).
114. Department of law civil recoveries account (55074).
115. Executive direction internal audit account (55251).
116. CIO Information technology centralized services account (55252).
117. Health insurance internal service account (55300).
118. Civil service employee benefits division administrative account (55301).
119. Correctional industries revolving fund (55350).
120. Employees health insurance account (60201).
121. Medicaid management information system escrow fund (60900).
122. New York state cannabis revenue fund.
123. Behavioral health parity compliance fund.

§ 1-a. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to any account within the following federal funds, provided the comptroller has made a determination that sufficient federal grant award authority is available to reimburse such loans:

1. Federal USDA-food and nutrition services fund (25000).
2. Federal health and human services fund (25100).
3. Federal education fund (25200).
4. Federal block grant fund (25250).
5. Federal miscellaneous operating grants fund (25300).
6. Federal unemployment insurance administration fund (25900).
7. Federal unemployment insurance occupational training fund (25950).
8. Federal emergency employment act fund (26000).
9. Federal capital projects fund (31350).

§ 2. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, on or before March 31, 2021, up to the unencumbered balance or the following amounts:

Economic Development and Public Authorities:

1. $175,000 from the miscellaneous special revenue fund, underground facilities safety training account (22172), to the general fund.
2. An amount up to the unencumbered balance from the miscellaneous special revenue fund, business and licensing services account (21977), to the general fund.
3. $14,810,000 from the miscellaneous special revenue fund, code enforcement account (21904), to the general fund.
4. $3,000,000 from the general fund to the miscellaneous special revenue fund, tax revenue arrearage account (22168).

Education:

1. $2,523,000,000 from the general fund to the state lottery fund, education account (20901), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 92-c of the state finance law that are in excess of the amounts deposited in such fund for such purposes pursuant to section 1612 of the tax law.
2. $978,000,000 from the general fund to the state lottery fund, VLT education account (20904), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 92-c of the state finance law that are in excess of the amounts deposited in such fund for such purposes pursuant to section 1612 of the tax law.
3. $160,000,000 from the general fund to the New York state commercial gaming fund, commercial gaming revenue account (23701), as reimbursement for disbursements made from such fund for supplemental aid to education

pursuant to section 97-nnnn of the state finance law that are in excess of the amounts deposited in such fund for purposes pursuant to section 1352 of the racing, pari-mutuel wagering and breeding law.

4. $5,000,000 from the interactive fantasy sports fund, fantasy sports education account (24950), to the state lottery fund, education account (20901), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 92-c of the state finance law.

5. An amount up to the unencumbered balance from the charitable gifts trust fund, elementary and secondary education account (24901), to the general fund, for payment of general support for public schools pursuant to section 3609-a of the education law.

6. Moneys from the state lottery fund (20900) up to an amount deposited in such fund pursuant to section 1612 of the tax law in excess of the current year appropriation for supplemental aid to education pursuant to section 92-c of the state finance law.

7. $300,000 from the New York state local government records management improvement fund, local government records management account (20501), to the New York state archives partnership trust fund, archives partnership trust maintenance account (20351).

8. $900,000 from the general fund to the miscellaneous special revenue fund, Batavia school for the blind account (22032).

9. $900,000 from the general fund to the miscellaneous special revenue fund, Rome school for the deaf account (22053).

10. $343,400,000 from the state university dormitory income fund (40350) to the miscellaneous special revenue fund, state university dormitory income reimbursable account (21937).

11. $8,318,000 from the general fund to the state university income fund, state university income offset account (22654), for the state's share of repayment of the STIP loan.

12. $47,000,000 from the state university income fund, state university hospitals income reimbursable account (22656) to the general fund for hospital debt service for the period April 1, 2020 through March 31, 2021.

13. $25,390,000 from the miscellaneous special revenue fund, office of the professions account (22051), to the miscellaneous capital projects fund, office of the professions electronic licensing account (32222).

14. $24,000,000 from any of the state education department's special revenue and internal service funds to the miscellaneous special revenue fund, indirect cost recovery account (21978).

15. $4,200,000 from any of the state education department's special revenue or internal service funds to the capital projects fund (30000).

Environmental Affairs:

1. $16,000,000 from any of the department of environmental conservation's special revenue federal funds to the environmental conservation special revenue fund, federal indirect recovery account (21065).

2. $5,000,000 from any of the department of environmental conservation's special revenue federal funds to the conservation fund (21150) or Marine Resources Account (21151) as necessary to avoid diversion of conservation funds.

3. $3,000,000 from any of the office of parks, recreation and historic preservation capital projects federal funds and special revenue federal funds to the miscellaneous special revenue fund, federal grant indirect cost recovery account (22188).

4. $1,000,000 from any of the office of parks, recreation and historic preservation special revenue federal funds to the miscellaneous capital projects fund, I love NY water account (32212).

5. $28,000,000 from the general fund to the environmental protection fund, environmental protection fund transfer account (30451).

6. $1,800,000 from the general fund to the hazardous waste remedial fund, hazardous waste oversight and assistance account (31505).

7. An amount up to or equal to the cash balance within the special revenue-other waste management & cleanup account (21053) to the capital projects fund (30000) for services and capital expenses related to the management and cleanup program as put forth in section 27-1915 of the environmental conservation law.

8. $3,600,000 from the miscellaneous special revenue fund, public service account (22011) to the miscellaneous special revenue fund, utility environmental regulatory account (21064).

9. $4,000,000 from the general fund to the enterprise fund, state fair account (50051).

Family Assistance:

1. $7,000,000 from any of the office of children and family services, office of temporary and disability assistance, or department of health special revenue federal funds and the general fund, in accordance with agreements with social services districts, to the miscellaneous special revenue fund, office of human resources development state match account (21967).

2. $4,000,000 from any of the office of children and family services or office of temporary and disability assistance special revenue federal funds to the miscellaneous special revenue fund, family preservation and support services and family violence services account (22082).

3. $18,670,000 from any of the office of children and family services, office of temporary and disability assistance, or department of health special revenue federal funds and any other miscellaneous revenues generated from the operation of office of children and family services programs to the general fund.

4. $125,000,000 from any of the office of temporary and disability assistance or department of health special revenue funds to the general fund.

5. $2,500,000 from any of the office of temporary and disability assistance special revenue funds to the miscellaneous special revenue fund, office of temporary and disability assistance program account (21980).

6. $35,000,000 from any of the office of children and family services, office of temporary and disability assistance, department of labor, and department of health special revenue federal funds to the office of children and family services miscellaneous special revenue fund, multi-agency training contract account (21989).

7. $205,000,000 from the miscellaneous special revenue fund, youth facility per diem account (22186), to the general fund.

8. $621,850 from the general fund to the combined gifts, grants, and bequests fund, WB Hoyt Memorial account (20128).

9. $5,000,000 from the miscellaneous special revenue fund, state central registry (22028), to the general fund.

General Government:

1. $1,566,000 from the miscellaneous special revenue fund, examination and miscellaneous revenue account (22065) to the general fund.

2. $12,000,000 from the general fund to the health insurance revolving fund (55300).

3. $292,400,000 from the health insurance reserve receipts fund (60550) to the general fund.

4. $150,000 from the general fund to the not-for-profit revolving loan fund (20650).

5. $150,000 from the not-for-profit revolving loan fund (20650) to the general fund.

6. $3,000,000 from the miscellaneous special revenue fund, surplus property account (22036), to the general fund.

7. $19,000,000 from the miscellaneous special revenue fund, revenue arrearage account (22024), to the general fund.

8. $1,826,000 from the miscellaneous special revenue fund, revenue arrearage account (22024), to the miscellaneous special revenue fund, authority budget office account (22138).

9. $1,000,000 from the agencies enterprise fund, parking services account (22007), to the general fund, for the purpose of reimbursing the costs of debt service related to state parking facilities.

10. $9,628,000 from the general fund to the centralized services fund, COPS account (55013).

11. $11,460,000 from the general fund to the agencies internal service fund, central technology services account (55069), for the purpose of enterprise technology projects.

12. $10,000,000 from the general fund to the agencies internal service fund, state data center account (55062).

13. $20,000,000 from the miscellaneous special revenue fund, workers' compensation account (21995), to the miscellaneous capital projects fund, workers' compensation board IT business process design fund, (32218).

14. $12,000,000 from the agencies enterprise fund, parking services account (22007), to the centralized services, building support services account (55018).

15. $30,000,000 from the general fund to the internal service fund, business services center account (55022).

16. $8,000,000 from the general fund to the internal service fund, building support services account (55018).

17. $1,500,000 from the agencies enterprise fund, special events account (20120), to the general fund.

Health:

1. A transfer from the general fund to the combined gifts, grants and bequests fund, breast cancer research and education account (20155), up to an amount equal to the monies collected and deposited into that account in the previous fiscal year.

2. A transfer from the general fund to the combined gifts, grants and bequests fund, prostate cancer research, detection, and education account (20183), up to an amount equal to the moneys collected and deposited into that account in the previous fiscal year.

3. A transfer from the general fund to the combined gifts, grants and bequests fund, Alzheimer's disease research and assistance account (20143), up to an amount equal to the moneys collected and deposited into that account in the previous fiscal year.

4. $33,134,000 from the HCRA resources fund (20800) to the miscellaneous special revenue fund, empire state stem cell trust fund account (22161).

5. $6,000,000 from the miscellaneous special revenue fund, certificate of need account (21920), to the miscellaneous capital projects fund, healthcare IT capital subfund (32216).

6. $2,000,000 from the miscellaneous special revenue fund, vital health records account (22103), to the miscellaneous capital projects fund, healthcare IT capital subfund (32216).

7. $2,000,000 from the miscellaneous special revenue fund, professional medical conduct account (22088), to the miscellaneous capital projects fund, healthcare IT capital subfund (32216).

8. $91,304,000 from the HCRA resources fund (20800) to the capital projects fund (30000).

9. $6,550,000 from the general fund to the medical marihuana trust fund, health operation and oversight account (23755).

10. An amount up to the unencumbered balance from the miscellaneous special revenue fund, certificate of need account (21920), to the general fund.

11. An amount up to the unencumbered balance from the charitable gifts trust fund, health charitable account (24900), to the general fund, for payment of general support for primary, preventive, and inpatient health care, dental and vision care, hunger prevention and nutritional assistance, and other services for New York state residents with the overall goal of ensuring that New York state residents have access to quality health care and other related services.

12. $3,000,000 from the miscellaneous special revenue fund, New York State cannabis revenue fund, to the general fund.

13. An amount up to the unencumbered balance from the public health emergency charitable gifts trust fund to the general fund, for payment of goods and services necessary to respond to a public health disaster emergency or to assist or aid in responding to such a disaster.

Labor:

1. $600,000 from the miscellaneous special revenue fund, DOL fee and penalty account (21923), to the child performer's protection fund, child performer protection account (20401).

2. $11,700,000 from the unemployment insurance interest and penalty fund, unemployment insurance special interest and penalty account (23601), to the general fund.

3. $5,000,000 from the miscellaneous special revenue fund, workers' compensation account (21995), to the training and education program occupation safety and health fund, OSHA-training and education account (21251) and occupational health inspection account (21252).

Mental Hygiene:

1. $10,000,000 from the general fund, to the miscellaneous special revenue fund, federal salary sharing account (22056).

2. $3,800,000 from the general fund, to the agencies internal service fund, civil service EHS occupational health program account (55056).

3. $3,000,000 from the chemical dependence service fund, substance abuse services fund account (22700), to the mental hygiene capital improvement fund (32305).

Public Protection:

1. $1,350,000 from the miscellaneous special revenue fund, emergency management account (21944), to the general fund.

2. $2,087,000 from the general fund to the miscellaneous special revenue fund, recruitment incentive account (22171).

3. $22,773,000 from the general fund to the correctional industries revolving fund, correctional industries internal service account (55350).

4. $60,000,000 from any of the division of homeland security and emergency services special revenue federal funds to the general fund.

5. $11,149,000 from the miscellaneous special revenue fund, criminal justice improvement account (21945), to the general fund.

6. $115,420,000 from the state police motor vehicle law enforcement and motor vehicle theft and insurance fraud prevention fund, state police motor vehicle enforcement account (22802), to the general fund for state operation expenses of the division of state police.

7. $120,500,000 from the general fund to the correctional facilities capital improvement fund (32350).

8. $5,000,000 from the general fund to the dedicated highway and bridge trust fund (30050) for the purpose of work zone safety activities provided by the division of state police for the department of transportation.

9. $10,000,000 from the miscellaneous special revenue fund, statewide public safety communications account (22123), to the capital projects fund (30000).

10. $9,830,000 from the miscellaneous special revenue fund, legal services assistance account (22096), to the general fund.

11. $1,000,000 from the general fund to the agencies internal service fund, neighborhood work project account (55059).

12. $7,980,000 from the miscellaneous special revenue fund, fingerprint identification & technology account (21950), to the general fund.

13. $1,100,000 from the state police motor vehicle law enforcement and motor vehicle theft and insurance fraud prevention fund, motor vehicle theft and insurance fraud account (22801), to the general fund.

14. $25,000,000 from the miscellaneous special revenue fund, statewide public safety communications account (22123), to the general fund.

Transportation:

1. $31,000,000 from the general fund to the MTA financial assistance fund, mobility tax trust account (23651) for disbursements related to part NN of chapter 54 of the laws of 2016.

2. $20,000,000 from the general fund to the mass transportation operating assistance fund, public transportation systems operating assistance account (21401), of which $12,000,000 constitutes the base need for operations.

3. $727,500,000 from the general fund to the dedicated highway and bridge trust fund (30050).

4. $244,250,000 from the general fund to the MTA financial assistance fund, mobility tax trust account (23651).

5. $5,000,000 from the miscellaneous special revenue fund, transportation regulation account (22067) to the dedicated highway and bridge trust fund (30050), for disbursements made from such fund for motor carrier safety that are in excess of the amounts deposited in the dedicated highway and bridge trust fund (30050) for such purpose pursuant to section 94 of the transportation law.

6. $3,000,000 from the miscellaneous special revenue fund, traffic adjudication account (22055), to the general fund.

7. $11,721,000 from the mass transportation operating assistance fund, metropolitan mass transportation operating assistance account (21402), to the capital projects fund (30000).

8. $5,000,000 from the miscellaneous special revenue fund, transportation regulation account (22067) to the general fund, for disbursements made from such fund for motor carrier safety that are in excess of the amounts deposited in the general fund for such purpose pursuant to section 94 of the transportation law.

Miscellaneous:

1. $250,000,000 from the general fund to any funds or accounts for the purpose of reimbursing certain outstanding accounts receivable balances or fund spending expected to be incurred to maintain essential governmental operations which are in excess of available cash resulting from a reduction of dedicated revenue sources that were waived or otherwise impacted by reduced utilization directly or indirectly associated with executive order and/or societal response to the novel coronavirus, COVID-19.

2. $500,000,000 from the general fund to the debt reduction reserve fund (40000).

3. $450,000,000 from the New York state storm recovery capital fund (33000) to the revenue bond tax fund (40152).

4. $15,500,000 from the general fund, community projects account GG (10256), to the general fund, state purposes account (10050).

5. $100,000,000 from any special revenue federal fund to the general fund, state purposes account (10050).

§ 3. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, on or before March 31, 2021:

1. Upon request of the commissioner of environmental conservation, up to $12,745,400 from revenues credited to any of the department of environmental conservation special revenue funds, including $4,000,000 from the environmental protection and oil spill compensation fund (21200), and $1,834,600 from the conservation fund (21150), to the environmental conservation special revenue fund, indirect charges account (21060).

2. Upon request of the commissioner of agriculture and markets, up to $3,000,000 from any special revenue fund or enterprise fund within the department of agriculture and markets to the general fund, to pay appropriate administrative expenses.

3. Upon request of the commissioner of agriculture and markets, up to $2,000,000 from the state exposition special fund, state fair receipts account (50051) to the miscellaneous capital projects fund, state fair capital improvement account (32208).

4. Upon request of the commissioner of the division of housing and community renewal, up to $6,221,000 from revenues credited to any division of housing and community renewal federal or miscellaneous special revenue fund to the miscellaneous special revenue fund, housing indirect cost recovery account (22090).

5. Upon request of the commissioner of the division of housing and community renewal, up to $5,500,000 may be transferred from any miscellaneous special revenue fund account, to any miscellaneous special revenue fund.

6. Upon request of the commissioner of health up to $13,225,000 from revenues credited to any of the department of health's special revenue funds, to the miscellaneous special revenue fund, administration account (21982).

§ 4. On or before March 31, 2021, the comptroller is hereby authorized and directed to deposit earnings that would otherwise accrue to the general fund that are attributable to the operation of section 98-a of the state finance law, to the agencies internal service fund, banking services account (55057), for the purpose of meeting direct payments from such account.

§ 5. Notwithstanding any law to the contrary, upon the direction of the director of the budget and upon requisition by the state university of New York, the dormitory authority of the state of New York is directed to transfer, up to $22,000,000 in revenues generated from the

sale of notes or bonds, the state university income fund general revenue account (22653) for reimbursement of bondable equipment for further transfer to the state's general fund.

§ 6. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget and upon consultation with the state university chancellor or his or her designee, on or before March 31, 2021, up to $16,000,000 from the state university income fund general revenue account (22653) to the state general fund for debt service costs related to campus supported capital project costs for the NY-SUNY 2020 challenge grant program at the University at Buffalo.

§ 7. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget and upon consultation with the state university chancellor or his or her designee, on or before March 31, 2021, up to $6,500,000 from the state university income fund general revenue account (22653) to the state general fund for debt service costs related to campus supported capital project costs for the NY-SUNY 2020 challenge grant program at the University at Albany.

§ 8. Notwithstanding any law to the contrary, the state university chancellor or his or her designee is authorized and directed to transfer estimated tuition revenue balances from the state university collection fund (61000) to the state university income fund, state university general revenue offset account (22655) on or before March 31, 2021.

§ 9. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, up to $1,022,248,300 from the general fund to the state university income fund, state university general revenue offset account (22655) during the period of July 1, 2020 through June 30, 2021 to support operations at the state university.

§ 10. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, up to $20,000,000 from the general fund to the state university income fund, state university general revenue offset account (22655) during the period of July 1, 2020 to June 30, 2021 to support operations at the state university in accordance with the maintenance of effort pursuant to subparagraph (4) of paragraph h of subdivision 2 of section 355 of the education law.

§ 11. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the state university chancellor or his or her designee, up to $55,000,000 from the state university income fund, state university hospitals income reimbursable account (22656), for services and expenses of hospital operations and capital expenditures at the state university hospitals; and the state university income fund, Long Island veterans' home account (22652) to the state university capital projects fund (32400) on or before June 30, 2021.

§ 12. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller, after consultation with the state university chancellor or his or her designee, is hereby authorized and directed to transfer moneys, in the first instance, from the state university collection fund, Stony Brook hospital collection

account (61006), Brooklyn hospital collection account (61007), and Syracuse hospital collection account (61008) to the state university income fund, state university hospitals income reimbursable account (22656) in the event insufficient funds are available in the state university income fund, state university hospitals income reimbursable account (22656) to permit the full transfer of moneys authorized for transfer, to the general fund for payment of debt service related to the SUNY hospitals. Notwithstanding any law to the contrary, the comptroller is also hereby authorized and directed, after consultation with the state university chancellor or his or her designee, to transfer moneys from the state university income fund to the state university income fund, state university hospitals income reimbursable account (22656) in the event insufficient funds are available in the state university income fund, state university hospitals income reimbursable account (22656) to pay hospital operating costs or to permit the full transfer of moneys authorized for transfer, to the general fund for payment of debt service related to the SUNY hospitals on or before March 31, 2021.

§ 13. Notwithstanding any law to the contrary, upon the direction of the director of the budget and the chancellor of the state university of New York or his or her designee, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer monies from the state university dormitory income fund (40350) to the state university residence hall rehabilitation fund (30100), and from the state university residence hall rehabilitation fund (30100) to the state university dormitory income fund (40350), in an amount not to exceed $80 million from each fund.

§ 14. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to $1 billion from the unencumbered balance of any special revenue fund or account, agency fund or account, internal service fund or account, enterprise fund or account, or any combination of such funds and accounts, to the general fund. The amounts transferred pursuant to this authorization shall be in addition to any other transfers expressly authorized in the 2020-21 budget. Transfers from federal funds, debt service funds, capital projects funds, the community projects fund, or funds that would result in the loss of eligibility for federal benefits or federal funds pursuant to federal law, rule, or regulation as assented to in chapter 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to this authorization.

§ 15. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to $100 million from any non-general fund or account, or combination of funds and accounts, to the miscellaneous special revenue fund, technology financing account (22207), the miscellaneous capital projects fund, the federal capital projects account (31350), information technology capital financing account (32215), or the centralized technology services account (55069), for the purpose of consolidating technology procurement and services. The amounts transferred to the miscellaneous special revenue fund, technology financing account (22207) pursuant to this authorization shall be equal to or less than the amount of such monies intended to support information technology costs which are attributable, according to a plan, to such account made in pursuance to an appropriation by law. Transfers to the technology financing account shall be completed from amounts collected by non-general funds or

accounts pursuant to a fund deposit schedule or permanent statute, and shall be transferred to the technology financing account pursuant to a schedule agreed upon by the affected agency commissioner. Transfers from funds that would result in the loss of eligibility for federal benefits or federal funds pursuant to federal law, rule, or regulation as assented to in chapter 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to this authorization.

§ 16. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to $400 million from any non-general fund or account, or combination of funds and accounts, to the general fund for the purpose of consolidating technology procurement and services. The amounts transferred pursuant to this authorization shall be equal to or less than the amount of such monies intended to support information technology costs which are attributable, according to a plan, to such account made in pursuance to an appropriation by law. Transfers to the general fund shall be completed from amounts collected by non-general funds or accounts pursuant to a fund deposit schedule. Transfers from funds that would result in the loss of eligibility for federal benefits or federal funds pursuant to federal law, rule, or regulation as assented to in chapter 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to this authorization.

§ 17. Notwithstanding any provision of law to the contrary, as deemed feasible and advisable by its trustees, the power authority of the state of New York is authorized and directed to transfer to the state treasury to the credit of the general fund $20,000,000 for the state fiscal year commencing April 1, 2020, the proceeds of which will be utilized to support energy-related state activities.

§ 18. Notwithstanding any provision of law, rule or regulation to the contrary, the New York state energy research and development authority is authorized and directed to make the following contributions to the state treasury to the credit of the general fund on or before March 31, 2021: (a) $913,000; and (b) $23,000,000 from proceeds collected by the authority from the auction or sale of carbon dioxide emission allowances allocated by the department of environmental conservation.

§ 19. Notwithstanding any provision of law, rule or regulation to the contrary, the New York state energy research and development authority is authorized and directed to transfer five million dollars to the credit of the Environmental Protection Fund on or before March 31, 2021 from proceeds collected by the authority from the auction or sale of carbon dioxide emission allowances allocated by the department of environmental conservation.

§ 20. Subdivision 5 of section 97-rrr of the state finance law, as amended by section 21 of part TTT of chapter 59 of the laws of 2019, is amended to read as follows:

5. Notwithstanding the provisions of section one hundred seventy-one-a of the tax law, as separately amended by chapters four hundred eighty-one and four hundred eighty-four of the laws of nineteen hundred eighty-one, and notwithstanding the provisions of chapter ninety-four of the laws of two thousand eleven, or any other provisions of law to the contrary, during the fiscal year beginning April first, two thousand [~~nineteen~~] **twenty**, the state comptroller is hereby authorized and directed to deposit to the fund created pursuant to this section from amounts collected pursuant to article twenty-two of the tax law and pursuant to a schedule submitted by the director of the budget, up to

[~~$2,185,995,000~~] $2,073,116,000, as may be certified in such schedule as necessary to meet the purposes of such fund for the fiscal year beginning April first, two thousand [~~nineteen~~] twenty.

§ 21. Notwithstanding any law to the contrary, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, on or before March 31, 2021, the following amounts from the following special revenue accounts to the capital projects fund (30000), for the purposes of reimbursement to such fund for expenses related to the maintenance and preservation of state assets:

1. $43,000 from the miscellaneous special revenue fund, administrative program account (21982).

2. $1,478,000 from the miscellaneous special revenue fund, helen hayes hospital account (22140).

3. $366,000 from the miscellaneous special revenue fund, New York city veterans' home account (22141).

4. $513,000 from the miscellaneous special revenue fund, New York state home for veterans' and their dependents at oxford account (22142).

5. $159,000 from the miscellaneous special revenue fund, western New York veterans' home account (22143).

6. $323,000 from the miscellaneous special revenue fund, New York state for veterans in the lower-hudson valley account (22144).

7. $2,550,000 from the miscellaneous special revenue fund, patron services account (22163).

8. $7,300,000 from the miscellaneous special revenue fund, state university general income reimbursable account (22653).

9. $132,000,000 from the miscellaneous special revenue fund, state university revenue offset account (22655).

10. $48,000,000 from the state university dormitory income fund, state university dormitory income fund (40350).

11. $1,000,000 from the miscellaneous special revenue fund, litigation settlement and civil recovery account (22117).

§ 22. Intentionally omitted.

§ 23. Intentionally omitted.

§ 24. Section 23 of the state finance law is amended by adding a new subdivision 7 to read as follows:

7. Budget balance. (a) As used in this section, such terms shall have the following meanings:

(i) "Actual state operating funds tax receipts" shall mean the state operating fund tax receipts, reported by the state comptroller in the monthly report to the legislature on the state fund cash basis of accounting, prepared in accordance with paragraph a of subdivision nine-a of section eight of this chapter, immediately following the measurement period;

(ii) "Actual state operating funds disbursements" shall mean the state operating funds disbursements, reported by the state comptroller in the monthly report to the legislature on the state fund cash basis of accounting, prepared in accordance with paragraph a of subdivision nine-a of section eight of this chapter, immediately following the measurement period. Such disbursements shall be adjusted to include any amounts withheld pursuant to this section or any other payment reduction authorized by law, including, but not limited to, payment reductions authorized by a chapter of the laws of two thousand twenty making appropriations for aid-to-localities.

(iii) "Estimated state operating funds tax receipts" shall mean the state operating funds tax receipts estimated to be received during the measurement period by the division of the budget in the financial plan.

(iv) "Estimated state operating funds disbursements" shall mean the state operating funds disbursements, estimated to be made during the measurement period by the division of the budget in the financial plan.

(v) "Financial plan" shall mean a financial plan prepared by the division of the budget pursuant to section twenty-two of this article and this section and used for the measurement period.

(vi) "Measurement period" shall mean the period in which the difference between actual state operating funds tax receipts and estimated state operating funds tax receipts shall be measured for purposes of this section. The first measurement period shall begin on April first, two thousand twenty and end on April thirtieth, two thousand twenty. The financial plan estimates for this period shall be the executive financial plan as updated for governor's amendments and forecast revisions issued in February two thousand twenty. The second measurement period shall begin on May first and end on June thirtieth, two thousand twenty. The third measurement period shall begin on July first, two thousand twenty and end on December thirty-first, 2020. The financial plan for the second and third measurement periods shall be the enacted budget financial plan for the two thousand twenty--two thousand twenty-one fiscal year issued pursuant to this section.

(b) The executive and the legislature shall maintain a budget that is in balance in the general fund on a cash basis of accounting. For purposes of this section, the budget shall be deemed unbalanced for the fiscal year if, during any measurement period, actual state operating funds tax receipts are less than ninety-nine percent of estimated state operating funds tax receipts, or actual state operating funds disbursements are more than one hundred and one percent of estimated state operating funds disbursements, or both.

(c) Notwithstanding any provision of law to the contrary, if, on a cash basis of accounting, a general fund imbalance has occurred during any measurement period, as defined in paragraph (a) of this subdivision, the director of the budget is hereby authorized to adjust or reduce any general fund and/or state special revenue fund appropriation and related cash disbursement by any amount needed to maintain a balanced budget for the two thousand twenty--two thousand twenty-one fiscal year. Provided however that such adjustments or reductions shall be done uniformly across-the-board to the extent practicable or by specific appropriations as needed. Notwithstanding any other law to the contrary, to the extent any individual or entity is entitled to any cash disbursement which is reduced in accordance with this provision, such entitlement shall be adjusted or reduced commensurate with adjustments or reductions made by the director of the budget in accordance with this subdivision.

(d) The following types of appropriations shall be exempt from such reduction pursuant to this subdivision: (i) public assistance payments for families and individuals and payments for eligible aged, blind and disabled persons related to supplemental social security; (ii) any reductions that would violate federal law; (iii) payments of debt service and related expenses for which the state is constitutionally obligated to pay debt service or is contractually obligated to pay debt service, subject to an appropriation, including where the state has a contingent contractual obligation; and (iv) payments the state is obligated to make pursuant to court orders or judgments.

(e) Prior to any such adjustments or reductions, the director of the budget shall notify in writing the chairs of the senate finance committee and assembly ways and means committee. The legislature shall then have ten days following the receipt of such written notification to

either prepare its own plan, which may be adopted by concurrent resolution passed by both houses and implemented by the division of the budget, or if after ten days the legislature fails to adopt its own plan, the reductions to the general fund and state special revenue fund aid to localities appropriations and related disbursements identified in the division of the budget plan will go into effect automatically.

(f) Any reductions to general fund and state special revenue fund aid to localities appropriations and related cash disbursements made pursuant to this section may be paid in full or in part if one or both of the following events occur: (i) actual state operating funds tax receipts through February twenty-eighth, two thousand twenty-one are not less than ninety-eight percent of estimated state operating funds tax receipts through February twenty-eighth, two thousand twenty-one; or (ii) the federal government provides aid that the director of the budget deems sufficient to reduce or eliminate the imbalance in the general fund for the two thousand twenty--twenty-one fiscal year and does not adversely impact the budget gap in the two thousand twenty-one--twenty-two fiscal year. No such payments shall be made in part or in full until the director of the budget certifies that: the general fund has resources sufficient to make all planned payments anticipated in the financial plan including tax refunds, without the issuance of deficit bonds or notes or extraordinary cash management actions; the balances in the tax stabilization reserve and rainy day reserve (together, the "rainy day reserves") have been restored to a level equal to the level as of the start of the fiscal year; and other designated balances have been maintained, as provided by law.

§ 25. Subdivision 6 of section 4 of the state finance law, as amended by section 25 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

6. Notwithstanding any law to the contrary, at the beginning of the state fiscal year, the state comptroller is hereby authorized and directed to receive for deposit to the credit of a fund and/or an account such monies as are identified by the director of the budget as having been intended for such deposit to support disbursements from such fund and/or account made in pursuance of an appropriation by law. As soon as practicable upon enactment of the budget, the director of the budget shall, but not less than three days following preliminary submission to the chairs of the senate finance committee and the assembly ways and means committee, file with the state comptroller an identification of specific monies to be so deposited. Any subsequent change regarding the monies to be so deposited shall be filed by the director of the budget, as soon as practicable, but not less than three days following preliminary submission to the chairs of the senate finance committee and the assembly ways and means committee.

All monies identified by the director of the budget to be deposited to the credit of a fund and/or account shall be consistent with the intent of the budget for the then current state fiscal year as enacted by the legislature.

The provisions of this subdivision shall expire on March thirty-first, two thousand [~~twenty~~] twenty-two.

§ 26. Subdivision 4 of section 40 of the state finance law, as amended by section 26 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

4. Every appropriation made from a fund or account to a department or agency shall be available for the payment of prior years' liabilities in such fund or account for fringe benefits, indirect costs, and telecommu-

nications expenses and expenses for other centralized services fund programs without limit. Every appropriation shall also be available for the payment of prior years' liabilities other than those indicated above, but only to the extent of one-half of one percent of the total amount appropriated to a department or agency in such fund or account.

The provisions of this subdivision shall expire March thirty-first, two thousand [~~twenty~~] twenty-two.

§ 26-a. Subdivision 5 of section 4 of the state finance law, as amended by section 16 of part PP of chapter 56 of the laws of 2009, is amended to read as follows:

5. No money or other financial resources shall be transferred or temporarily loaned from one fund to another without specific statutory authorization for such transfer or temporary loan, except that money or other financial resources of a fund may be temporarily loaned to the general fund during the state fiscal year provided that such loan shall be repaid in full no later than [~~(a) four months after it was made or (b) by~~] the end of the same fiscal year in which it was made, [~~whichever period is shorter,~~] so that an accurate accounting and reporting of the balance of financial resources in each fund may be made. The comptroller is hereby authorized to temporarily loan money from the general fund or any other fund to the fund/accounts that are authorized to receive a loan. Such loans shall be limited to the amounts immediately required to meet disbursements, made in pursuance of an appropriation by law and authorized by a certificate of approval issued by the director of the budget with copies thereof filed with the comptroller and the chair of the senate finance committee and the chair of the assembly ways and means committee. The director of the budget shall not issue such a certificate unless he or she shall have determined that the amounts to be so loaned are receivable on account. When making loans, the comptroller shall establish appropriate accounts and if the loan is not repaid by the end of the month, provide on or before the fifteenth day of the following month to the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee, an accurate accounting and report of the financial resources of each such fund at the end of such month. Within ten days of the receipt of such accounting and reporting, the director of the budget shall provide the comptroller and the chair of the senate finance committee and the chair of the assembly ways and means committee an expected schedule of repayment by fund and by source for each outstanding loan. Repayment shall be made by the comptroller from the first cash receipt of this fund.

§ 27. Notwithstanding any other law, rule, or regulation to the contrary, the state comptroller is hereby authorized and directed to use any balance remaining in the mental health services fund debt service appropriation, after payment by the state comptroller of all obligations required pursuant to any lease, sublease, or other financing arrangement between the dormitory authority of the state of New York as successor to the New York state medical care facilities finance agency, and the facilities development corporation pursuant to chapter 83 of the laws of 1995 and the department of mental hygiene for the purpose of making payments to the dormitory authority of the state of New York for the amount of the earnings for the investment of monies deposited in the mental health services fund that such agency determines will or may have to be rebated to the federal government pursuant to the provisions of the internal revenue code of 1986, as amended, in order to enable such agency to maintain the exemption from federal income taxation on the

interest paid to the holders of such agency's mental services facilities improvement revenue bonds. Annually on or before each June 30th, such agency shall certify to the state comptroller its determination of the amounts received in the mental health services fund as a result of the investment of monies deposited therein that will or may have to be rebated to the federal government pursuant to the provisions of the internal revenue code of 1986, as amended.

§ 28. Subdivision 1 of section 16 of part D of chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, as amended by section 28 of part TTT of chapter 59 of the laws of 2019, is amended to read as follows:

1. Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding the provisions of section 18 of section 1 of chapter 174 of the laws of 1968, the New York state urban development corporation is hereby authorized to issue bonds, notes and other obligations in an aggregate principal amount not to exceed [~~eight billion four hundred ninety-four million nine hundred seventy-nine thousand~~] **eight billion eight hundred seventeen million two hundred ninety-nine thousand** dollars [~~$8,494,979,000~~] **$8,817,299,000**, and shall include all bonds, notes and other obligations issued pursuant to chapter 56 of the laws of 1983, as amended or supplemented. The proceeds of such bonds, notes or other obligations shall be paid to the state, for deposit in the correctional facilities capital improvement fund to pay for all or any portion of the amount or amounts paid by the state from appropriations or reappropriations made to the department of corrections and community supervision from the correctional facilities capital improvement fund for capital projects. The aggregate amount of bonds, notes or other obligations authorized to be issued pursuant to this section shall exclude bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued, the proceeds of which were paid to the state for all or a portion of the amounts expended by the state from appropriations or reappropriations made to the department of corrections and community supervision; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than [~~eight billion four hundred ninety-four million nine hundred seventy-nine thousand~~] **eight billion eight hundred seventeen million two hundred ninety-nine thousand** dollars [~~$8,494,979,000~~] **$8,817,299,000**, only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purposes hereof, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the corporation including estimated accrued interest from the sale thereof.

§ 29. Subdivision (a) of section 27 of part Y of chapter 61 of the laws of 2005, relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, as amended by section 32 of part TTT of chapter 59 of the laws of 2019, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding any provisions of law to the contrary, the urban development corporation is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [~~two hundred seventy-one million six hundred thousand~~] three hundred twenty-three million one hundred thousand dollars [~~$271,600,000~~] $323,100,000, excluding bonds issued to finance one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing capital projects including IT initiatives for the division of state police, debt service and leases; and to reimburse the state general fund for disbursements made therefor. Such bonds and notes of such authorized issuer shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to such authorized issuer for debt service and related expenses pursuant to any service contract executed pursuant to subdivision (b) of this section and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 30. Subdivision 3 of section 1285-p of the public authorities law, as amended by section 35 of part TTT of chapter 59 of the laws of 2019, is amended to read as follows:

3. The maximum amount of bonds that may be issued for the purpose of financing environmental infrastructure projects authorized by this section shall be [~~five billion six hundred thirty-eight million ten thousand~~] six billion three hundred seventy-four million ten thousand dollars [~~$5,638,010,000~~] $6,374,010,000, exclusive of bonds issued to fund any debt service reserve funds, pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay bonds or notes previously issued. Such bonds and notes of the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision one of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 31. Subdivision (a) of section 48 of part K of chapter 81 of the laws of 2002, relating to providing for the administration of certain funds and accounts related to the 2002-2003 budget, as amended by section 36 of part TTT of chapter 59 of the laws of 2019, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000 but notwithstanding the provisions of section 18 of the urban development corporation act, the corporation is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [~~two hundred eighty-six million~~] three hundred fourteen million dollars [~~$286,000,000~~] $314,000,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds

or notes previously issued, for the purpose of financing capital costs related to homeland security and training facilities for the division of state police, the division of military and naval affairs, and any other state agency, including the reimbursement of any disbursements made from the state capital projects fund, and is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [~~$952,800,000 nine hundred fifty-two million eight hundred thousand~~] $1,115,800,000 one billion one hundred fifteen million eight hundred thousand dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing improvements to State office buildings and other facilities located statewide, including the reimbursement of any disbursements made from the state capital projects fund. Such bonds and notes of the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision (b) of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 32. Paragraph (c) of subdivision 19 of section 1680 of the public authorities law, as amended by section 38 of part TTT of chapter 59 of the laws of 2019, is amended to read as follows:

(c) Subject to the provisions of chapter fifty-nine of the laws of two thousand, the dormitory authority shall not issue any bonds for state university educational facilities purposes if the principal amount of bonds to be issued when added to the aggregate principal amount of bonds issued by the dormitory authority on and after July first, nineteen hundred eighty-eight for state university educational facilities will exceed [~~thirteen billion eight hundred forty-one million eight hundred sixty-four thousand~~] fourteen billion seven hundred forty-one million eight hundred sixty-four thousand dollars [~~$13,841,864,000~~] $14,741,864,000; provided, however, that bonds issued or to be issued shall be excluded from such limitation if: (1) such bonds are issued to refund state university construction bonds and state university construction notes previously issued by the housing finance agency; or (2) such bonds are issued to refund bonds of the authority or other obligations issued for state university educational facilities purposes and the present value of the aggregate debt service on the refunding bonds does not exceed the present value of the aggregate debt service on the bonds refunded thereby; provided, further that upon certification by the director of the budget that the issuance of refunding bonds or other obligations issued between April first, nineteen hundred ninety-two and March thirty-first, nineteen hundred ninety-three will generate long term economic benefits to the state, as assessed on a present value basis, such issuance will be deemed to have met the present value test noted above. For purposes of this subdivision, the present value of the aggregate debt service of the refunding bonds and the aggregate debt service of the bonds refunded, shall be calculated by utilizing the true interest cost of the refunding bonds, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds from the payment dates thereof to the date of issue of the refunding bonds to the purchase price of the refunding bonds, including interest accrued thereon prior to the issuance thereof. The maturity of such

bonds, other than bonds issued to refund outstanding bonds, shall not exceed the weighted average economic life, as certified by the state university construction fund, of the facilities in connection with which the bonds are issued, and in any case not later than the earlier of thirty years or the expiration of the term of any lease, sublease or other agreement relating thereto; provided that no note, including renewals thereof, shall mature later than five years after the date of issuance of such note. The legislature reserves the right to amend or repeal such limit, and the state of New York, the dormitory authority, the state university of New York, and the state university construction fund are prohibited from covenanting or making any other agreements with or for the benefit of bondholders which might in any way affect such right.

§ 33. Paragraph (c) of subdivision 14 of section 1680 of the public authorities law, as amended by section 39 of part TTT of chapter 59 of the laws of 2019, is amended to read as follows:

(c) Subject to the provisions of chapter fifty-nine of the laws of two thousand, (i) the dormitory authority shall not deliver a series of bonds for city university community college facilities, except to refund or to be substituted for or in lieu of other bonds in relation to city university community college facilities pursuant to a resolution of the dormitory authority adopted before July first, nineteen hundred eighty-five or any resolution supplemental thereto, if the principal amount of bonds so to be issued when added to all principal amounts of bonds previously issued by the dormitory authority for city university community college facilities, except to refund or to be substituted in lieu of other bonds in relation to city university community college facilities will exceed the sum of four hundred twenty-five million dollars and (ii) the dormitory authority shall not deliver a series of bonds issued for city university facilities, including community college facilities, pursuant to a resolution of the dormitory authority adopted on or after July first, nineteen hundred eighty-five, except to refund or to be substituted for or in lieu of other bonds in relation to city university facilities and except for bonds issued pursuant to a resolution supplemental to a resolution of the dormitory authority adopted prior to July first, nineteen hundred eighty-five, if the principal amount of bonds so to be issued when added to the principal amount of bonds previously issued pursuant to any such resolution, except bonds issued to refund or to be substituted for or in lieu of other bonds in relation to city university facilities, will exceed [~~eight billion six hundred seventy-four million two hundred fifty-six thousand~~] nine billion two hundred twenty-two million seven hundred thirty-two thousand dollars [~~$8,674,256,000~~] $9,222,732,000. The legislature reserves the right to amend or repeal such limit, and the state of New York, the dormitory authority, the city university, and the fund are prohibited from covenanting or making any other agreements with or for the benefit of bondholders which might in any way affect such right.

§ 34. Subdivision 10-a of section 1680 of the public authorities law, as amended by section 40 of part TTT of chapter 59 of the laws of 2019, is amended to read as follows:

10-a. Subject to the provisions of chapter fifty-nine of the laws of two thousand, but notwithstanding any other provision of the law to the contrary, the maximum amount of bonds and notes to be issued after March thirty-first, two thousand two, on behalf of the state, in relation to any locally sponsored community college, shall be [~~one billion five million six hundred two thousand~~] one billion fifty-one million six

hundred forty thousand dollars [~~$1,005,602,000~~] $1,051,640,000. Such amount shall be exclusive of bonds and notes issued to fund any reserve fund or funds, costs of issuance and to refund any outstanding bonds and notes, issued on behalf of the state, relating to a locally sponsored community college.

§ 35. Subdivision 1 of section 17 of part D of chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, as amended by section 41 of part TTT of chapter 59 of the laws of 2019, is amended to read as follows:

1. Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding the provisions of section 18 of section 1 of chapter 174 of the laws of 1968, the New York state urban development corporation is hereby authorized to issue bonds, notes and other obligations in an aggregate principal amount not to exceed eight hundred [~~four~~] forty million [~~six~~] three hundred fifteen thousand dollars [~~$804,615,000~~] $840,315,000, which authorization increases the aggregate principal amount of bonds, notes and other obligations authorized by section 40 of chapter 309 of the laws of 1996, and shall include all bonds, notes and other obligations issued pursuant to chapter 211 of the laws of 1990, as amended or supplemented. The proceeds of such bonds, notes or other obligations shall be paid to the state, for deposit in the youth facilities improvement fund, to pay for all or any portion of the amount or amounts paid by the state from appropriations or reappropriations made to the office of children and family services from the youth facilities improvement fund for capital projects. The aggregate amount of bonds, notes and other obligations authorized to be issued pursuant to this section shall exclude bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued, the proceeds of which were paid to the state for all or a portion of the amounts expended by the state from appropriations or reappropriations made to the office of children and family services; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than eight hundred [~~four~~] forty million [~~six~~] three hundred fifteen thousand dollars [~~$804,615,000~~] $840,315,000, only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purposes hereof, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the corporation including estimated accrued interest from the sale thereof.

§ 36. Paragraph b of subdivision 2 of section 9-a of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, as amended by section 42 of part TTT of chapter 59 of the laws of 2019, is amended to read as follows:

b. The agency shall have power and is hereby authorized from time to time to issue negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the agency, shall be necessary, after taking into account other moneys which may be available for the purpose, to provide sufficient funds to the facilities development corporation, or any successor agency, for the financing or refinancing of or for the design, construction, acquisition, reconstruction, rehabilitation or improvement of mental health services facilities pursuant to paragraph a of this subdivision, the payment of interest on mental health services improvement bonds and mental health services improvement notes issued for such purposes, the establishment of reserves to secure such bonds and notes, the cost or premium of bond insurance or the costs of any financial mechanisms which may be used to reduce the debt service that would be payable by the agency on its mental health services facilities improvement bonds and notes and all other expenditures of the agency incident to and necessary or convenient to providing the facilities development corporation, or any successor agency, with funds for the financing or refinancing of or for any such design, construction, acquisition, reconstruction, rehabilitation or improvement and for the refunding of mental hygiene improvement bonds issued pursuant to section 47-b of the private housing finance law; provided, however, that the agency shall not issue mental health services facilities improvement bonds and mental health services facilities improvement notes in an aggregate principal amount exceeding [~~nine billion three hundred thirty-three million three hundred eight thousand~~] nine billion nine hundred twenty-seven million two hundred seventy-six thousand dollars [~~$9,333,308,000~~] $9,927,276,000, excluding mental health services facilities improvement bonds and mental health services facilities improvement notes issued to refund outstanding mental health services facilities improvement bonds and mental health services facilities improvement notes; provided, however, that upon any such refunding or repayment of mental health services facilities improvement bonds and/or mental health services facilities improvement notes the total aggregate principal amount of outstanding mental health services facilities improvement bonds and mental health facilities improvement notes may be greater than [~~nine billion three hundred thirty-three million three hundred eight thousand~~] nine billion nine hundred twenty-seven million two hundred seventy-six thousand dollars [~~$9,333,308,000~~] $9,927,276,000, only if, except as hereinafter provided with respect to mental health services facilities bonds and mental health services facilities notes issued to refund mental hygiene improvement bonds authorized to be issued pursuant to the provisions of section 47-b of the private housing finance law, the present value of the aggregate debt service of the refunding or repayment bonds to be issued shall not exceed the present value of the aggregate debt service of the bonds to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated

accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. Such bonds, other than bonds issued to refund outstanding bonds, shall be scheduled to mature over a term not to exceed the average useful life, as certified by the facilities development corporation, of the projects for which the bonds are issued, and in any case shall not exceed thirty years and the maximum maturity of notes or any renewals thereof shall not exceed five years from the date of the original issue of such notes. Notwithstanding the provisions of this section, the agency shall have the power and is hereby authorized to issue mental health services facilities improvement bonds and/or mental health services facilities improvement notes to refund outstanding mental hygiene improvement bonds authorized to be issued pursuant to the provisions of section 47-b of the private housing finance law and the amount of bonds issued or outstanding for such purposes shall not be included for purposes of determining the amount of bonds issued pursuant to this section. The director of the budget shall allocate the aggregate principal authorized to be issued by the agency among the office of mental health, office for people with developmental disabilities, and the office of [~~alcoholism and substance abuse services~~] **addiction services and supports**, in consultation with their respective commissioners to finance bondable appropriations previously approved by the legislature.

§ 37. Subdivision (a) of section 28 of part Y of chapter 61 of the laws of 2005, relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, as amended by section 43 of part TTT of chapter 59 of the laws of 2019, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding any provisions of law to the contrary, one or more authorized issuers as defined by section 68-a of the state finance law are hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [~~ninety-two million~~] **one hundred fifty-seven million** dollars [~~$92,000,000~~] **$157,000,000**, excluding bonds issued to finance one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing capital projects for public protection facilities in the Division of Military and Naval Affairs, debt service and leases; and to reimburse the state general fund for disbursements made therefor. Such bonds and notes of such authorized issuer shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to such authorized issuer for debt service and related expenses pursuant to any service contract executed pursuant to subdivision (b) of this section and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 38. Section 53 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by section 46 of part TTT of chapter 59 of the laws of 2019, is amended to read as follows:

§ 53. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the acquisition of equipment,

including but not limited to the creation or modernization of information technology systems and related research and development equipment, health and safety equipment, heavy equipment and machinery, the creation or improvement of security systems, and laboratory equipment and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [~~ninety-three million~~] **one hundred ninety-three million** dollars [~~$93,000,000~~] **$193,000,000**, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the urban development corporation in undertaking the financing for project costs for the acquisition of equipment, including but not limited to the creation or modernization of information technology systems and related research and development equipment, health and safety equipment, heavy equipment and machinery, the creation or improvement of security systems, and laboratory equipment and other state costs associated with such capital projects, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the urban development corporation agree, so as to annually provide to the dormitory authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

§ 39. Subdivision (b) of section 11 of chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, as amended by section 1 of part K of chapter 39 of the laws of 2019, is amended to read as follows:

(b) Any service contract or contracts for projects authorized pursuant to sections 10-c, 10-f, 10-g and 80-b of the highway law and section 14-k of the transportation law, and entered into pursuant to subdivision (a) of this section, shall provide for state commitments to provide annually to the thruway authority a sum or sums, upon such terms and

conditions as shall be deemed appropriate by the director of the budget, to fund, or fund the debt service requirements of any bonds or any obligations of the thruway authority issued to fund or to reimburse the state for funding such projects having a cost not in excess of [~~ten billion eight hundred five million seven hundred seventy-eight thousand~~] **eleven billion three hundred forty-nine million eight hundred seventy-five thousand** dollars [~~$10,805,778,000~~] **$11,349,875,000** cumulatively by the end of fiscal year [~~2019-20~~] **2020-21**.

§ 40. Subdivision 1 of section 1689-i of the public authorities law, as amended by section 2 of part K of chapter 39 of the laws of 2019, is amended to read as follows:

1. The dormitory authority is authorized to issue bonds, at the request of the commissioner of education, to finance eligible library construction projects pursuant to section two hundred seventy-three-a of the education law, in amounts certified by such commissioner not to exceed a total principal amount of two hundred [~~fifty-one~~] **sixty-five** million dollars [~~$251,000,000~~] **$265,000,000**.

§ 41. Section 44 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 3 of part K of chapter 39 of the laws of 2019, is amended to read as follows:

§ 44. Issuance of certain bonds or notes. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the regional economic development council initiative, the economic transformation program, state university of New York college for nanoscale and science engineering, projects within the city of Buffalo or surrounding environs, the New York works economic development fund, projects for the retention of professional football in western New York, the empire state economic development fund, the clarkson-trudeau partnership, the New York genome center, the cornell university college of veterinary medicine, the olympic regional development authority, projects at nano Utica, onondaga county revitalization projects, Binghamton university school of pharmacy, New York power electronics manufacturing consortium, regional infrastructure projects, high tech innovation and economic development infrastructure program, high technology manufacturing projects in Chautauqua and Erie county, an industrial scale research and development facility in Clinton county, upstate revitalization initiative projects, downstate revitalization initiative, market New York projects, fairground buildings, equipment or facilities used to house and promote agriculture, the state fair, the empire state trail, the moynihan station development project, the Kingsbridge armory project, strategic economic development projects, the cultural, arts and public spaces fund, water infrastructure in the city of Auburn and town of Owasco, a life sciences laboratory public health initiative, not-for-profit pounds, shelters and humane societies, arts and cultural facilities improvement program, restore New York's communities initiative, heavy equipment, economic development and infrastructure projects, Roosevelt Island operating corporation capital projects, Lake Ontario regional projects, Pennsylvania station and other transit projects and other state costs associated with such projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [~~nine billion eight hundred twenty-one million six hundred thirty-six thousand~~] **ten billion three hundred thirty-four million eight hundred fifty-one thousand** dollars [~~$9,821,636,000~~] **$10,334,851,000**,

excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the corporation in undertaking the financing for project costs for the regional economic development council initiative, the economic transformation program, state university of New York college for nanoscale and science engineering, projects within the city of Buffalo or surrounding environs, the New York works economic development fund, projects for the retention of professional football in western New York, the empire state economic development fund, the clarkson-trudeau partnership, the New York genome center, the cornell university college of veterinary medicine, the olympic regional development authority, projects at nano Utica, onondaga county revitalization projects, Binghamton university school of pharmacy, New York power electronics manufacturing consortium, regional infrastructure projects, New York State Capital Assistance Program for Transportation, infrastructure, and economic development, high tech innovation and economic development infrastructure program, high technology manufacturing projects in Chautauqua and Erie county, an industrial scale research and development facility in Clinton county, upstate revitalization initiative projects, downstate revitalization initiative, market New York projects, fairground buildings, equipment or facilities used to house and promote agriculture, the state fair, the empire state trail, the moynihan station development project, the Kingsbridge armory project, strategic economic development projects, the cultural, arts and public spaces fund, water infrastructure in the city of Auburn and town of Owasco, a life sciences laboratory public health initiative, not-for-profit pounds, shelters and humane societies, arts and cultural facilities improvement program, restore New York's communities initiative, heavy equipment, economic development and infrastructure projects, Roosevelt Island operating corporation capital projects, Lake Ontario regional projects, Pennsylvania station and other transit projects and other state costs associated with such projects the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation agree, so as to annually provide to the dormitory authority and the corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appro-

priation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the corporation as security for its bonds and notes, as authorized by this section.

§ 42. Subdivision 1 of section 386-b of the public authorities law, as amended by section 4 of part K of chapter 39 of the laws of 2019, is amended to read as follows:

1. Notwithstanding any other provision of law to the contrary, the authority, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of financing peace bridge projects and capital costs of state and local highways, parkways, bridges, the New York state thruway, Indian reservation roads, and facilities, and transportation infrastructure projects including aviation projects, non-MTA mass transit projects, and rail service preservation projects, including work appurtenant and ancillary thereto. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [~~four billion six hundred forty-eight million~~] six billion nine hundred forty-two million four hundred sixty-three thousand dollars [~~$4,648,000,000~~] $6,942,463,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority, the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority, the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 43. Paragraph (a) of subdivision 2 of section 47-e of the private housing finance law, as amended by section 8 of part K of chapter 39 of the laws of 2019, is amended to read as follows:

(a) Subject to the provisions of chapter fifty-nine of the laws of two thousand, in order to enhance and encourage the promotion of housing programs and thereby achieve the stated purposes and objectives of such housing programs, the agency shall have the power and is hereby authorized from time to time to issue negotiable housing program bonds and notes in such principal amount as shall be necessary to provide sufficient funds for the repayment of amounts disbursed (and not previously reimbursed) pursuant to law or any prior year making capital appropriations or reappropriations for the purposes of the housing program; provided, however, that the agency may issue such bonds and notes in an aggregate principal amount not exceeding [~~six billion two hundred ninety million five hundred ninety-nine thousand~~] six billion five hundred thirty-one million five hundred twenty-three thousand dollars [~~$6,290,599,000~~] $6,531,523,000, plus a principal amount of bonds issued to fund the debt service reserve fund in accordance with the debt service reserve fund requirement established by the agency and to fund any other reserves that the agency reasonably deems necessary for the security or marketability of such bonds and to provide for the payment of fees and other charges and expenses, including underwriters' discount, trustee and rating agency fees, bond insurance, credit enhancement and liquidity enhancement related to the issuance of such

bonds and notes. No reserve fund securing the housing program bonds shall be entitled or eligible to receive state funds apportioned or appropriated to maintain or restore such reserve fund at or to a particular level, except to the extent of any deficiency resulting directly or indirectly from a failure of the state to appropriate or pay the agreed amount under any of the contracts provided for in subdivision four of this section.

§ 44. Subdivision 1 of section 50 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 5 of part K of chapter 39 of the laws of 2019, is amended to read as follows:

1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs undertaken by or on behalf of special act school districts, state-supported schools for the blind and deaf, approved private special education schools, non-public schools, community centers, day care facilities, residential camps, day camps, and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed one hundred [~~thirty~~] **fifty-five** million dollars [~~$130,000,000~~] **$155,000,000**, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 45. Subdivision 1 of section 47 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 27 of part TTT of chapter 59 of the laws of 2019, is amended to read as follows:

1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the office of information technology services, department of law, and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [~~six~~] **eight** hundred [~~seventy-seven~~] **thirty** million [~~three hundred~~] fifty-four thousand dollars, [~~$677,354,000~~] **$830,054,000** excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for

purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 46. Paragraph (b) of subdivision 4 of section 72 of the state finance law, as amended by section 43 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

(b) On or before the beginning of each quarter, the director of the budget may certify to the state comptroller the estimated amount of monies that shall be reserved in the general debt service fund for the payment of debt service and related expenses payable by such fund during each month of the state fiscal year, excluding payments due from the revenue bond tax fund. Such certificate may be periodically updated, as necessary. Notwithstanding any provision of law to the contrary, the state comptroller shall reserve in the general debt service fund the amount of monies identified on such certificate as necessary for the payment of debt service and related expenses during the current or next succeeding quarter of the state fiscal year. Such monies reserved shall not be available for any other purpose. Such certificate shall be reported to the chairpersons of the Senate Finance Committee and the Assembly Ways and Means Committee. The provisions of this paragraph shall expire June thirtieth, two thousand [~~twenty~~] **twenty-three**.

§ 47. Section 2 of the state finance law is amended by adding a new subdivision 1-a to read as follows:

**1-a. "Business day". Any day of the year which is not a Saturday, Sunday or legal holiday in the state of New York and not a day on which banks are authorized or obligated to be closed in the city of New York.**

§ 48. Paragraph a of subdivision 4 of section 57 of the state finance law, as amended by section 39 of part JJ of chapter 56 of the laws of 2010, is amended to read as follows:

a. Such bonds shall be sold at par, at par plus a premium, or at a discount to the bidder offering the lowest interest cost to the state, taking into consideration any premium or discount and, in the case of refunding bonds, the bona fide initial public offering price, not less than [~~four nor more than fifteen days, Sundays excepted,~~] **two business days** after **the publication of** a notice of [~~such~~] sale [~~has been published~~] at least once in a definitive trade publication of the municipal bond industry published on each business day in the state of New York which is generally available **in electronic or physical form** to participants in the municipal bond industry, which notice shall state the terms of the sale. The comptroller may not change the terms of the sale unless notice of such change is sent via a definitive trade wire service of the municipal bond industry which, in general, makes available information regarding activity and sales of municipal bonds and is generally available to participants in the municipal bond industry, at least one hour prior to the time of the sale as set forth in the original notice of sale. In so changing the terms or conditions of a sale the comptroller may send notice by such wire service that the sale will be delayed by up to thirty days, provided that wire notice of the new sale date will be given at least one business day prior to the new time when bids will be accepted. In such event, no new notice of sale shall be required to be published. Notwithstanding the provisions of section three hundred five of the state technology law or any other law, if the notice of sale contains a provision that bids will only be accepted electronically in the manner provided in such notice of sale, the comptroller shall not be required to accept non-electronic bids in any form. Advertisements shall contain a provision to the effect that

the state comptroller, in his or her discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the state comptroller is authorized to negotiate a private sale or readvertise for bids in the form and manner above described as many times as, in his or her judgment, may be necessary to effect a satisfactory sale. Notwithstanding the foregoing provisions of this paragraph, whenever in the judgment of the comptroller the interests of the state will be served thereby, he or she may sell state bonds at private sale at par, at par plus a premium, or at a discount. The comptroller shall promulgate regulations governing the terms and conditions of any such private sales, which regulations shall include a provision that he or she give notice to the governor, the temporary president of the senate, and the speaker of the assembly, of his or her intention to conduct a private sale of obligations pursuant to this section not less than [~~five~~] two business days prior to such sale or the execution of any binding agreement to effect such sale.

§ 49. Subdivision (a) of section 211 of the civil practice law and rules, as amended by chapter 267 of the laws of 1970, is amended to read as follows:

(a) On a bond. An action to recover principal or interest upon a written instrument evidencing an indebtedness of the state of New York or of any person, association or public or private corporation, originally sold by the issuer after publication of an advertisement for bids for the issue in [~~a newspaper of general circulation~~] electronic or physical form and secured only by a pledge of the faith and credit of the issuer, regardless of whether a sinking fund is or may be established for its redemption, must be commenced within twenty years after the cause of action accrues. This subdivision does not apply to actions upon written instruments evidencing an indebtedness of any corporation, association or person under the jurisdiction of the public service commission, the commissioner of transportation, the interstate commerce commission, the federal communications commission, the civil aeronautics board, the federal power commission, or any other regulatory commission or board of a state or of the federal government. This subdivision applies to all causes of action, including those barred on April eighteenth, nineteen hundred fifty, by the provisions of the civil practice act then effective.

§ 49-a. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 54 to read as follows:

§ 54. 1. Findings and declaration of need. (a) The state of New York finds and determines that the global spread of the COVID-19 coronavirus disease is having and is expected to continue to have a significant impact on the health and welfare of individuals in the state as well as a significant financial impact on the state. The serious threat posed by the COVID-19 coronavirus disease has caused governments, including the state, to adopt policies, regulations and procedures to suspend various legal requirements in order to (i) respond to and mitigate the impact of the outbreak, and (ii) provide temporary relief to individuals, including the deferral of the federal income tax payment deadline from April 15, 2020 to a later date in the calendar year. The state of New York further finds and determines that certain fiscal management authorization measures should be authorized and established.

(b) Notwithstanding any other provision of law to the contrary, including, specifically, the provisions of chapter 59 of the laws of 2000 and section sixty-seven-b of the state finance law, the dormitory

authority of the state of New York and the corporation are hereby authorized to issue until December 31, 2020, notes with a maturity no later than March 31, 2021, to be designated as personal income tax revenue or bond anticipation notes, in one or more series in an aggregate principal amount not to exceed eight billion dollars, excluding notes issued to finance one or more debt service reserve funds, to pay costs of issuance of such notes, and notes issued to renew, refund or otherwise repay such notes previously issued, for the purpose of temporarily financing budgetary needs of the state following the federal government deferral of the federal income tax payment deadline from April 15, 2020 to a later date in the calendar year. Such purpose shall constitute an authorized purpose under subdivision two of section sixty-eight-a of the state finance law for all purposes of article five-C of the state finance law with respect to the notes, renewal notes, refunding notes and any state personal income tax revenue bonds issued to refinance any notes, renewal notes, refunding notes authorized by this paragraph. On or before their maturity, such notes may be renewed or refunded once with renewal or refunding notes for an additional period not to exceed one year from the date of renewal or refunding. If on or before the maturity date of such notes or such renewal or refunding notes, the director of the division of the budget shall determine that all or a portion of such notes or such renewal or refunding notes shall be refinanced on a long term basis, such notes or such renewal or refunding notes may be refinanced with state personal income tax revenue bonds in one or more series in an aggregate principal amount not to exceed the then outstanding principal amount of such notes or such renewal or refunding notes plus an amount necessary to finance one or more debt service reserve funds and to pay costs of issuance of such refunding bonds, notwithstanding any other provision of law to the contrary, including, specifically, the provisions of chapter fifty-nine of the laws of two thousand and section sixty-seven-b of the state finance law. For so long as any notes, renewal or refunding notes or such refunding bonds authorized by this paragraph shall remain outstanding, including any state-supported debt issued to refinance the refunding bonds authorized by this paragraph, the restrictions, limitations and requirements contained in article five-B of the state finance law shall not apply.

(c) Such notes, renewal or refunding notes and refunding bonds of the dormitory authority and the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the corporation for debt service and related expenses pursuant to any financing agreement described in paragraph (d) of this subdivision, and such notes, renewal or refunding notes and refunding bonds shall contain on the face thereof a statement to such effect. Such notes, renewal or refunding notes and any refunding bonds issued to refinance such notes and/or any renewal or refunding notes on a subordinate basis shall be secured by subordinate payments from the revenue bond tax fund established pursuant to section ninety-two-z of the state finance law. Refunding bonds issued to refinance any such notes and/or renewal or refunding notes on a parity basis with outstanding state personal income tax revenue bonds shall be issued only in accordance with the provisions of the applicable resolution of the dormitory authority or the corporation authorizing the issuance of state personal income tax revenue bonds and shall be secured by payments from the revenue bond tax fund on a parity with such outstanding state

personal income tax revenue bonds. Except for purposes of complying with the internal revenue code, any interest income earned on note proceeds shall only be used to pay debt service on such notes. All of the provisions of the dormitory authority act and the New York state urban development corporation act relating to notes and bonds which are not inconsistent with the provisions of this section shall apply to notes and bonds authorized by paragraph (b) of this subdivision, including but not limited to the power to establish adequate reserves therefor and to issue renewal notes, refunding notes and refunding bonds, in any case subject to the final maturity limitation for such notes set forth in paragraph (b) of this subdivision. The issuance of any notes, renewal or refunding notes and refunding bonds authorized by paragraph (b) of this subdivision shall further be subject to the approval of the director of the division of the budget.

(d) Notwithstanding any other law, rule or regulation to the contrary but subject to the limitations contained in paragraph (b) of this subdivision, in order to assist the dormitory authority and the corporation in undertaking the administration and financing of such notes, renewal or refunding notes and refunding bonds, the director of the budget is hereby authorized to supplement any existing financing agreement with the dormitory authority and the corporation, or to enter into a new financing agreement with the dormitory authority and the corporation, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation shall agree, so as to annually provide to the dormitory authority and the corporation, in the aggregate, a sum not to exceed the annual debt service payments and related expenses required for any notes, renewal or refunding notes and refunding bonds issued pursuant to this section. Any financing agreement supplemented or entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purposes, subject to annual appropriation by the legislature. Any such financing agreement or any payments made or to be made thereunder may be assigned or pledged by the dormitory authority and the corporation as security for the notes, renewal and refunding notes and refunding bonds authorized by paragraph (b) of this subdivision.

(e) Notwithstanding any other provision of law to the contrary, including specifically the provisions of subdivision 3 of section 67-b of the state finance law, no capital work or purpose shall be required for any issuance of personal income tax revenue or bond anticipation notes, renewal or refunding notes or refunding bonds issued by the dormitory authority and the corporation pursuant to this section.

(f) Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the general fund, all proceeds of personal income tax revenue or bond anticipation notes issued by the dormitory authority and the New York state urban development corporation pursuant to this section.

2. Effect of inconsistent provisions. Insofar as the provisions of this section are inconsistent with the provisions of any other law, general, special, or local, the provisions of this section shall be controlling.

3. Severability; construction. The provisions of this section shall be severable, and if the application of any clause, sentence, paragraph,

subdivision, section or part of this section to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this section or remainder thereof, as the case may be, to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 49-b. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 55 to read as follows:

§ 55. 1. Findings and declaration of need. (a) The state of New York finds and determines that the global spread of the COVID-19 coronavirus disease is having and is expected to continue to have a significant impact on the health and welfare of individuals in the state as well as a significant financial impact on the state. The serious threat posed by the COVID-19 coronavirus disease has caused governments, including the state, to adopt policies, regulations and procedures to suspend various legal requirements in order to: (i) respond to and mitigate the impact of the outbreak; and (ii) address budgetary pressures to the state arising from anticipated shortfalls and deferrals in the state's fiscal 2021 financial plan receipts, thereby requiring that certain fiscal management authorization measures be authorized and established.

(b) Notwithstanding any other provision of law to the contrary, including, specifically, the provisions of chapter 59 of the laws of 2000 and section 67-b of the state finance law, during the state's 2021 fiscal year, the dormitory authority of the state of New York and the urban development corporation are authorized to: (i) enter into commitments with financial institutions for the establishment of one or more line of credit facilities and other similar revolving financing arrangements not in excess of three billion dollars in aggregate principal amount outstanding at any one time; (ii) draw, at one or more times at the direction of the director of the budget, upon such line of credit facilities and provide to the state the amounts so drawn for the purpose of assisting the state to temporarily finance its budgetary needs; and (iii) secure repayment of such draws under such line of credit facilities with a service contract of the state, which payment obligation thereunder shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent moneys are available and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such payment obligation is subject to annual appropriation by the legislature. Any line of credit facility agreements entered by the dormitory authority of the state of New York and/or the urban development corporation with financial institutions pursuant to this section may contain such provisions that the dormitory authority of the state of New York and/or the urban development corporation deem necessary or desirable for the establishment of such credit facilities. The maximum original term of any line of credit facility shall be one year from the date of incurrence; provided however that any such line of credit facility may be extended, renewed or refinanced for up to two additional one year terms. If on or before the maturity date of the original term of such line of credit facility or any renewal or extension term thereof, the director of the division of the budget shall determine that all or a portion of any outstanding line of credit facility shall be refinanced

on a long-term basis, the dormitory authority of the state of New York and/or the urban development corporation are authorized to refinance such line of credit facility with state personal income tax revenue bonds and/or state service contract bonds in one or more series in an aggregate principal amount not to exceed the then outstanding principal amount of such line of credit facility and any accrued interest thereon, plus an amount necessary to finance one or more debt service reserve funds and to pay costs of issuance of such state personal income tax revenue bonds and/or state service contract bonds.

(c) Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the general fund, all amounts provided by the dormitory authority of the state of New York and/or the urban development corporation to the state from draws made on any line of credit facility authorized by paragraph (b) of this subdivision.

(d) Notwithstanding any other provision of law to the contrary, including specifically the provisions of subdivision 3 of section 67-b of the state finance law, no capital work or purpose shall be required for any indebtedness incurred in connection with any line of credit facility authorized by paragraph (b) of this subdivision and any extensions or renewals thereof, or for any state personal income tax revenue bonds and/or state service contract bonds issued to refinance any of the foregoing, or for any service contract entered into in connection with any line of credit facility, all in accordance with this section.

(e) Notwithstanding any other provision of law to the contrary, for so long as any such line of credit facility shall remain outstanding, the restrictions, limitations and requirements contained in article 5-B of the state finance law shall not apply. In addition, such restrictions, limitations and requirements shall not apply to any state personal income tax revenue bonds and/or state service contract bonds issued to refund such line of credit facility for so long as such state personal income tax revenue bonds and/or state service contract bonds shall remain outstanding, including any state-supported debt issued to refund such state personal income tax revenue bonds and/or state service contract bonds. Any such line of credit facility, including any extensions or renewals thereof, and any state personal income tax revenue bonds and/or state service contract bonds issued to refund such line of credit facilities shall be deemed to be incurred or issued for an authorized purpose within the meaning of subdivision 2 of section 68-a of the state finance law. As applicable, all of the provisions of the state finance law, the dormitory authority act and the New York state urban development corporation act relating to notes and bonds which are not inconsistent with the provisions of this section shall apply to any issuance of state personal income tax revenue bonds and/or state service contract bonds issued to refinance any line of credit facility authorized by paragraph (b) of this subdivision. The issuance of any state personal income tax revenue bonds and/or state service contract bonds issued to refinance any such line of credit facility shall further be subject to the approval of the director of the division of the budget.

(f) Any draws on a line of credit facility authorized by paragraph (b) of this subdivision shall only be made and the service contract entered into in connection with such line of credit facilities shall only be executed and delivered to the dormitory authority of the state of New York and/or the urban development corporation if the legislature has enacted sufficient appropriation authority to provide for the repayment of all amounts expected to be drawn by the dormitory authority of the

state of New York and/or the urban development corporation under such line of credit facility during fiscal year 2021. Amounts repaid under a line of credit facility during fiscal year 2021 may be re-borrowed during such fiscal year provided that the legislature has enacted sufficient appropriation authority to provide for the repayment of any such re-borrowed amounts. Neither the dormitory authority of the state of New York nor the urban development corporation shall have any financial liability for the repayment of draws under any line of credit facility authorized by paragraph (b) of this subdivision beyond the moneys received for such purpose under the service contract authorized by paragraph (g) of this subdivision.

(g) The director of the budget is authorized to enter into one or more service contracts or other agreements, none of which shall exceed 30 years in duration, with the dormitory authority of the state of New York and/or the urban development corporation, upon such terms and conditions as the director of the budget and dormitory authority of the state of New York and/or the urban development corporation shall agree. Any service contract or other agreements entered into pursuant to this paragraph shall provide for state commitments to provide annually to the dormitory authority of the state of New York and/or the urban development corporation a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget and the dormitory authority of the state of New York and/or the urban development corporation, to fund the payment of amounts due under any line of credit facility and any state personal income tax revenue bonds and/or state service contract bonds issued to refinance such line of credit facility. Any such service contract or other agreements shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent moneys are available and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such obligation is subject to annual appropriation by the legislature.

(h) Any service contract or other agreements entered into pursuant to paragraph (g) of this subdivision or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority of the state of New York and/or the urban development corporation as security for any related payment obligation it may have with one or more financial institutions in connection with a line of credit facility authorized by paragraph (b) of this subdivision.

(i) In addition to the foregoing, the director of the budget, the dormitory authority of the state of New York and the urban development corporation shall each be authorized to enter into such other agreements and to take or cause to be taken such additional actions as are necessary or desirable to effectuate the purposes of the transactions contemplated by a line of credit facility and the related service contract.

(j) No later than seven days after a draw occurs on the line of credit facility, the director of the budget shall provide notification of such draw to the president pro tempore of the senate and the speaker of the assembly.

(k) The authorization, establishment and use by the dormitory authority of the state of New York and the urban development corporation of a line of credit facility authorized by paragraph (b) of this subdivision, and the execution, sale and issuance of state personal income tax revenue bonds and/or state service contract bonds to refinance any such line

of credit facility shall not be deemed an action, as such term is defined in article 8 of the environmental conservation law, for the purposes of such article. Such exemption shall be strictly limited in its application to such financing activities of the dormitory authority of the state of New York and the urban development corporation undertaken pursuant to this section and does not exempt any other entity from compliance with such article.

(l) Nothing contained in this section shall be construed to limit the abilities of the director of the budget and the authorized issuers of state-supported debt to perform their respective obligations on existing service contracts or other agreements entered into prior to April 1, 2020.

2. Effect of inconsistent provisions. Insofar as the provisions of this section are inconsistent with the provisions of any other law, general, special, or local, the provisions of this act shall be controlling.

3. Severability; construction. The provisions of this section shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this section to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this section or remainder thereof, as the case may be, to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 49-c. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 56 to read as follows:

§ 56. State-supported debt; 2021. 1. In light of the significant impact that the global spread of the COVID-19 coronavirus disease is having and is expected to continue to have on the health and welfare of individuals in the state as well as on the financial condition of the state, and notwithstanding any other provision of law to the contrary, the dormitory authority of the state of New York and the urban development corporation are each authorized to issue state-supported debt pursuant to article 5-C of the state finance law to assist the state to manage its financing needs during its 2021 fiscal year, without regard to any restrictions, limitations and requirements contained in article 5-B of the state finance law, other than subdivision 4 of section 67-b of such article, and such state-supported debt shall be deemed to be issued for an authorized purpose within the meaning of subdivision 2 of section 68-a of the state finance law for all purposes of article 5-C of the state finance law. Furthermore, any bonds issued directly by the state during the state's 2021 fiscal year shall be issued without regard to any restrictions, limitations and requirements contained in article 5-B of the state finance law, other than subdivision 4 of section 67-b of such article. For so long as any state-supported debt issued during the state's 2021 fiscal year shall remain outstanding, including any state-supported debt issued to refund state-supported debt issued during such fiscal year, the restrictions, limitations and requirements contained in article 5-B of the state finance law, other than subdivision 4 of section 67-b of such article, shall not apply.

2. Effect of inconsistent provisions. Insofar as the provisions of this section are inconsistent with the provisions of any other law,

general, special, or local, the provisions of this act shall be controlling.

3. Severability; construction. The provisions of this section shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this section to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this section or remainder thereof, as the case may be, to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 50. Intentionally omitted.

§ 51. Intentionally omitted.

§ 52. Intentionally omitted.

§ 52-a. The state finance law is amended by adding a new section 99-hh to read as follows:

§ 99-hh. Public health emergency charitable gifts trust fund. 1. There is hereby established in the joint custody of the commissioner of taxation and finance and the state comptroller a special fund to be known as the "public health emergency charitable gifts trust fund".

2. The public health emergency charitable gifts trust fund shall consist of monetary grants, gifts or bequests received by the state for the purposes of the fund, and all other moneys credited or transferred thereto from any other fund or source. Moneys of such fund shall be expended only for goods and services necessary to respond to a public health disaster emergency or to assist or aid in responding to such a disaster. Nothing in this section shall prevent the state from soliciting and receiving grants, gifts or bequests for the purposes of such fund and depositing them into the fund according to law.

3. Moneys in such fund shall be kept separate from and shall not be commingled with any other moneys in the custody of the comptroller or the commissioner of taxation and finance. Any moneys of the fund not required for immediate use may, at the discretion of the comptroller, in consultation with the director of the budget, be invested by the comptroller in obligations of the United States or the state, or in obligations the principal and interest on which are guaranteed by the United States or by the state. Any income earned by the investment of such moneys shall be added to and become a part of, and shall be used for the purposes of such fund.

§ 53. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020; provided, however, that the provisions of sections one, one-a, two, three, four, five, six, seven, eight, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty-one, twenty-four, and twenty-six-a of this act shall expire March 31, 2021 when upon such date the provisions of such sections shall be deemed repealed.

PART KK

Section 1. Subdivisions 14-a and 22 of section 2807 of the public health law are REPEALED.

§ 2. Paragraph (c) of subdivision 8 of section 2807-c of the public health law, as amended by chapter 731 of the laws of 1993, is amended to read as follows:

(c) In order to reconcile capital related inpatient expenses included in rates of payment based on a budget to actual expenses and statistics for the rate period for a general hospital, rates of payment for a general hospital shall be adjusted to reflect the dollar value of the difference between capital related inpatient expenses included in the computation of rates of payment for a prior rate period based on a budget and actual capital related inpatient expenses for such prior rate period, each as determined in accordance with paragraph (a) of this subdivision, adjusted to reflect increases or decreases in volume of service in such prior rate period compared to statistics applied in determining the capital related inpatient expenses component of rates of payment based on a budget for such prior rate period. **For rates effective on and after April first, two thousand twenty, the budgeted capital-related expenses add-on as described in paragraph (a) of this subdivision, based on a budget submitted in accordance to paragraph (a) of this subdivision, shall be reduced by five percent relative to the rate in effect on such date; and the actual capital expenses add-on as described in paragraph (a) of this subdivision, based on actual expenses and statistics through appropriate audit procedures in accordance with paragraph (a) of this subdivision shall be reduced by five percent relative to the rate in effect on such date. For any rate year, all reconciliation add-on amounts calculated on and after April first, two thousand twenty shall be reduced by ten percent, and all reconciliation recoupment amounts calculated on or after April first, two thousand twenty shall increase by ten percent.** Notwithstanding any inconsistent provision of subparagraph (i) of paragraph (e) of subdivision nine of this section, capital related inpatient expenses of a general hospital included in the computation of rates of payment based on a budget shall not be included in the computation of a volume adjustment made in accordance with such subparagraph. Adjustments to rates of payment for a general hospital made pursuant to this paragraph shall be made in accordance with paragraph (c) of subdivision eleven of this section. Such adjustments shall not be carried forward except for such volume adjustment as may be authorized in accordance with subparagraph (i) of paragraph (e) of subdivision nine of this section for such general hospital.

§ 3. Subdivision 5-d of section 2807-k of the public health law, as amended by section 6 of part H of chapter 57 of the laws of 2019, is amended to read as follows:

5-d. (a) Notwithstanding any inconsistent provision of this section, section twenty-eight hundred seven-w of this article or any other contrary provision of law, and subject to the availability of federal financial participation, for periods on and after January first, two thousand [~~**thirteen**~~] **twenty**, through March thirty-first, two thousand [~~**twenty**~~] **twenty-three**, all funds available for distribution pursuant to this section, except for funds distributed pursuant to subparagraph (v) of paragraph (b) of subdivision five-b of this section, and all funds available for distribution pursuant to section twenty-eight hundred seven-w of this article, shall be reserved and set aside and distributed in accordance with the provisions of this subdivision.

(b) The commissioner shall promulgate regulations, and may promulgate emergency regulations, establishing methodologies for the distribution of funds as described in paragraph (a) of this subdivision and such regulations shall include, but not be limited to, the following:

(i) Such regulations shall establish methodologies for determining each facility's relative uncompensated care need amount based on unin-

sured inpatient and outpatient units of service from the cost reporting year two years prior to the distribution year, multiplied by the applicable medicaid rates in effect January first of the distribution year, as summed and adjusted by a statewide cost adjustment factor and reduced by the sum of all payment amounts collected from such uninsured patients, and as further adjusted by application of a nominal need computation that shall take into account each facility's medicaid inpatient share.

(ii) Annual distributions pursuant to such regulations for the two thousand [~~thirteen~~] twenty through two thousand [~~twenty~~] twenty-two calendar years shall be in accord with the following:

(A) one hundred thirty-nine million four hundred thousand dollars shall be distributed as Medicaid Disproportionate Share Hospital ("DSH") payments to major public general hospitals; and

(B) nine hundred [~~ninety-four~~] sixty-nine million nine hundred thousand dollars as Medicaid DSH payments to eligible general hospitals, other than major public general hospitals.

For the calendar years two thousand twenty through two thousand twenty-two, the total distributions to eligible general hospitals, other than major public general hospitals, shall be subject to an aggregate reduction of one hundred fifty million dollars annually, provided that eligible general hospitals, other than major public general hospitals, that qualify as enhanced safety net hospitals under section two thousand eight hundred seven-c of this article shall not be subject to such reduction.

Such reduction shall be determined by a methodology to be established by the commissioner. Such methodology may take into account the payor mix of each non-public general hospital, including the percentage of inpatient days paid by Medicaid.

(iii)[~~(A) Such regulations shall establish transition adjustments to the distributions made pursuant to clauses (A) and (B) of subparagraph (ii) of this paragraph such that no facility experiences a reduction in indigent care pool payments pursuant to this subdivision that is greater than the percentages, as specified in clause (C) of this subparagraph as compared to the average distribution that each such facility received for the three calendar years prior to two thousand thirteen pursuant to this section and section twenty-eight hundred seven-w of this article.~~

~~(B) Such regulations shall also establish adjustments limiting the increases in indigent care pool payments experienced by facilities pursuant to this subdivision by an amount that will be, as determined by the commissioner and in conjunction with such other funding as may be available for this purpose, sufficient to ensure full funding for the transition adjustment payments authorized by clause (A) of this subparagraph.~~

~~(C) No facility shall experience a reduction in indigent care pool payments pursuant to this subdivision that: for the calendar year beginning January first, two thousand thirteen, is greater than two and one-half percent; for the calendar year beginning January first, two thousand fourteen, is greater than five percent; and, for the calendar year beginning on January first, two thousand fifteen, is greater than seven and one-half percent, and for the calendar year beginning on January first, two thousand sixteen, is greater than ten percent; and for the calendar year beginning on January first, two thousand seventeen, is greater than twelve and one-half percent; and for the calendar year beginning on January first, two thousand eighteen, is greater than fifteen percent; and for the calendar year beginning on January first,~~

~~two thousand nineteen, is greater than seventeen and one-half percent; and for the calendar year beginning on January first, two thousand twenty, is greater than twenty percent~~] For calendar years two thousand twenty through two thousand twenty-two, sixty-four million six hundred thousand dollars shall be distributed to eligible general hospitals, other than major public general hospitals, that experience a reduction in indigent care pool payments pursuant to this subdivision, and that qualify as enhanced safety net hospitals under section two thousand eight hundred seven-c of this article as of April first, two thousand twenty. Such distribution shall be established pursuant to regulations promulgated by the commissioner and shall be proportional to the reduction experienced by the facility.

(iv) Such regulations shall reserve one percent of the funds available for distribution in the two thousand fourteen and two thousand fifteen calendar years, and for calendar years thereafter, pursuant to this subdivision, subdivision fourteen-f of section twenty-eight hundred seven-c of this article, and sections two hundred eleven and two hundred twelve of chapter four hundred seventy-four of the laws of nineteen hundred ninety-six, in a "financial assistance compliance pool" and shall establish methodologies for the distribution of such pool funds to facilities based on their level of compliance, as determined by the commissioner, with the provisions of subdivision nine-a of this section.

(c) The commissioner shall annually report to the governor and the legislature on the distribution of funds under this subdivision including, but not limited to:

(i) the impact on safety net providers, including community providers, rural general hospitals and major public general hospitals;

(ii) the provision of indigent care by units of services and funds distributed by general hospitals; and

(iii) the extent to which access to care has been enhanced.

§ 4. Paragraph (b) of subdivision 35 of section 2807-c of the public health law is amended by adding a new subparagraph (iv-a) to read as follows:

(iv-a) Effective April first, two thousand twenty, such rates for public general hospitals or public health systems, other than those operated by the state of New York or the state university of New York, located in a city having a population of one million or more shall include a rate add-on that reflects reimbursement for costs, to the extent permitted under 42 CFR 447.272(b)(1) and based on actual utilization of services. Such rate add-on shall be contingent upon federal financial participation and approval, and subject to the terms of a binding memorandum of understanding executed between the department of health and the public general hospital or public health system receiving the rate add-on. If payment of such rate add-on is projected to cause Medicaid disbursements for such period to exceed the projected department of health Medicaid state funds in the enacted budget financial plan pursuant to subdivision three of section twenty-three of the state finance law, as determined by the director of the budget, or memorandum of understanding is not executed or is breached, the commissioner, in consultation with the director of budget, may either cancel or reduce payment of such rate add-on to achieve compliance with the enacted budget financial plan.

§ 5. Paragraph (e) of subdivision 2-a of section 2807 of the public health law is amended by adding a new subparagraph (iv) to read as follows:

**(iv) Effective April first, two thousand twenty, regulations issued pursuant to this paragraph for public general hospitals or public health systems, other than those operated by the state of New York or the state university of New York, located in a city having a population of one million or more shall reflect additional reimbursement for costs, to the extent permitted under 42 CFR 447.321(b)(1) and based on actual utilization of services. Such rate add-on shall be contingent upon federal financial participation and approval, and subject to the terms of a binding memorandum of understanding executed between the department of health and the public general hospital or public health system receiving the rate add-on. If payment of such rate add-on is projected to cause Medicaid disbursements for such period to exceed the projected department of health Medicaid state funds in the enacted budget financial plan pursuant to subdivision three of section twenty-three of the state finance law, as determined by the director of the budget, or the memorandum of understanding is not executed or is breached, the commissioner, in consultation with the director of the budget, may either cancel or reduce payment of such rate add-on to achieve compliance with the enacted budget financial plan.**

§ 6. Notwithstanding any inconsistent provision of law or regulation to the contrary, and subject to the availability of federal financial participation pursuant to title XIX of the federal social security act, effective for the period April 1, 2020 through March 31, 2021, and state fiscal years thereafter, the department of health is authorized to pay a rate adjustment either directly as fee for service medical assistance payments to, or to managed care organizations authorized under article 44 of the public health law or article 43 of the insurance law that have in their network, public general hospitals, as defined in subdivision 10 of section 2801 of the public health law, other than those operated by the state of New York or the state university of New York, located in a city with a population of over 1 million, as medical assistance payments for inpatient services pursuant to title 11 of article 5 of the social services law for patients eligible for federal financial participation under title XIX of the federal social security act, contingent upon the execution of a memorandum of understanding between the department of health and the New York city health and hospitals corporation. The memorandum of understanding shall govern the terms, conditions, criteria and methodologies for such rate adjustments and shall, at a minimum, set forth: (a) the estimated amounts to be paid pursuant to such rate adjustment; (b) the timing and methodology by which the city of New York will fund any local share contribution, consistent with section 1905(cc) of the federal social security act, or any successor provision, toward the aggregate amount to be paid as part of the rate adjustment; and (c) the methodology by which the anticipated total amount to be paid through such rate adjustment will be funded in advance through an estimated local share contribution and then reconciled with actual utilization of services and application of the annual upper payment limit demonstration to the extent required by the secretary of the United States Department of Health and Human Services pursuant to 42 CFR 431.16, or any successor provision. If the annual upper payment limit demonstration yields an amount that is less than the aggregate amount paid in the rate adjustment provided by the public health law, then the rate adjustment shall be reduced to reflect the demonstration amount and other actions as authorized by the memorandum of understanding. If the annual upper payment limit demonstration yields an amount that is more than the aggregate amount paid in the rate adjustment provided by the public

health law, the rate adjustment shall be adjusted to reflect the demonstration amount.

§ 7. Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, and subject to the availability of federal financial participation pursuant to title XIX of the federal social security act, effective for the period April 1, 2020 through March 31, 2021, and state fiscal years thereafter, the department of health is authorized to increase the operating cost component of rates of payment for general hospital outpatient services and general hospital emergency room services issued pursuant to paragraph (g) of subdivision 2 of section 2807 of the public health law for public general hospitals, as defined in subdivision 10 of section 2801 of the public health law, other than those operated by the state of New York or the state university of New York, and located in a city with a population over one million, as a rate adjustment either directly as fee for service medical assistance payments or to managed care organizations authorized under article 44 of the public health law or article 43 of the insurance law that have in their network such hospitals, as medical assistance payments for outpatient services pursuant to title 11 of article 5 of the social services law for patients eligible for federal financial participation under title XIX of the federal social security act, contingent upon the execution of a memorandum of understanding between the department of health and the New York city health and hospitals corporation. The memorandum of understanding shall govern the terms, conditions, criteria and methodologies for such rate adjustments and shall, at a minimum, set forth: (a) the estimated amounts to be paid pursuant to this rate adjustment; (b) the timing and methodology by which the city of New York will fund any local share contribution, consistent with section 1905(cc) of the federal social security act, or any successor provision, toward the aggregate amount to be paid as part of the rate adjustment; and (c) the methodology by which the anticipated total amount to be paid through such rate adjustment will be funded in advance through an estimated local share contribution and then reconciled with actual utilization of services and application of the annual upper payment limit demonstration to the extent required by the secretary of the United States Department of Health and Human Services pursuant to 42 CFR 431.16, or any successor provision. If the annual upper payment limit demonstration yields an amount that is less than the aggregate amount paid in the rate adjustment provided by the public health law, then the rate adjustment shall be reduced to reflect the demonstration amount and other actions as authorized by the memorandum of understanding. If the annual upper payment limit demonstration yields an amount that is more than the aggregate amount paid in the rate adjustment provided by the public health law, the rate adjustment shall be adjusted to reflect the demonstration amount.

§ 8. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020, provided, further that sections three through nine of this act shall expire and be deemed repealed March 31, 2023; provided further, however, that the director of the budget may, in consultation with the commissioner of health, delay the effective dates prescribed herein for a period of time which shall not exceed ninety days following the conclusion or termination of an executive order issued pursuant to section 28 of the executive law declaring a state disaster emergency for the entire state of New York, upon such delay the director of budget shall notify the chairs of the assembly ways and means committee and senate finance committee

and the chairs of the assembly and senate health committee; provided further, however, that the director of the budget shall notify the legislative bill drafting commission upon the occurrence of a delay in the effective date of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART LL

Section 1. Intentionally omitted.

§ 2. Subdivision 4 of section 365-h of the social services law, as separately amended by section 50 of part B and section 24 of part D of chapter 57 of the laws of 2015, is amended to read as follows:

4. **(a)** The commissioner of health is authorized to assume responsibility from a local social services official for the provision and reimbursement of transportation costs under this section. If the commissioner elects to assume such responsibility, the commissioner shall notify the local social services official in writing as to the election, the date upon which the election shall be effective and such information as to transition of responsibilities as the commissioner deems prudent. The commissioner is authorized to contract with a transportation manager or managers to manage transportation services in any local social services district, other than transportation services provided or arranged for enrollees of managed long term care plans issued certificates of authority under section forty-four hundred three-f of the public health law. Any transportation manager or managers selected by the commissioner to manage transportation services shall have proven experience in coordinating transportation services in a geographic and demographic area similar to the area in New York state within which the contractor would manage the provision of services under this section. Such a contract or contracts may include responsibility for: review, approval and processing of transportation orders; management of the appropriate level of transportation based on documented patient medical need; and development of new technologies leading to efficient transportation services. If the commissioner elects to assume such responsibility from a local social services district, the commissioner shall examine and, if appropriate, adopt quality assurance measures that may include, but are not limited to, global positioning tracking system reporting requirements and service verification mechanisms. Any and all reimbursement rates developed by transportation managers under this subdivision shall be subject to the review and approval of the commissioner.

**(b)(i) Subject to federal financial participation, for periods on and after April first, two thousand twenty-one, in order to more cost-effectively provide non-emergency transportation to Medicaid beneficiaries who need access to medical care and services, the commissioner is authorized to contract with one or more transportation management brokers to manage such transportation on a statewide or regional basis, as determined by the commissioner, in accordance with the federal social security act as follows:**

**(A) The transportation management broker or brokers shall be selected through a competitive bidding process based on an evaluation of the broker's experience, performance, references, resources, qualifications and costs; provided, however, that the department's selection process**

shall be memorialized in a procurement record as defined in section one hundred sixty-three of the state finance law;

(B) The transportation management broker or brokers shall have oversight procedures to monitor Medicaid beneficiary access and complaints and ensure that enrolled Medicaid transportation providers are licensed, qualified, competent and courteous.

(C) The transportation management broker or brokers shall be subject to regular auditing and oversight by the department in order to ensure the quality of the transportation services provided and adequacy of Medicaid beneficiary access to medical care and services.

(D) The transportation management broker or brokers shall comply with requirements related to prohibitions on referrals and conflicts of interest required by the federal social security act.

(ii) The transportation management broker or brokers may be paid a per member per month capitated fee or a combination of capitation and fixed cost reimbursement and the contract shall include, but not be limited to, responsibility for:

(A) establishing a network of high-quality Medicaid enrolled providers; provided, however, that in developing such network the transportation management broker shall evaluate the qualifications of current Medicaid transportation providers on a priority basis for participation in its network, and leverage reputable transportation providers with a proven record of serving Medicaid beneficiaries with high-quality services;

(B) continuing outreach to Medicaid enrolled providers to assess and resolve service quality issues;

(C) developing mandatory corrective actions for any Medicaid enrolled provider that falls under quality performance standards;

(D) establishing a prior approval process which shall include verifying Medicaid eligibility and reviewing, approving and processing transportation orders;

(E) managing the appropriate level of transportation based on documented patient medical need to ensure that Medicaid beneficiaries are using the most medically appropriate mode of transportation, including public transportation, which shall be maximized statewide, including in rural areas; provided that when determining the appropriate level of transportation, the transportation management broker shall ensure that patients have reasonable and timely access to medically appropriate transportation services;

(F) implementing technologies to effectuate efficient transportation services, such as GPS, to improve match to mode of transportation;

(G) establishing fees to reimburse enrolled Medicaid transportation providers;

(H) adjudicating and paying claims submitted by enrolled Medicaid transportation providers;

(I) reporting on performance encompassing all aspects of the transportation program, including but not limited to Medicaid beneficiary complaints including the length of time to make a compliant, wait times related to the receipt of services by a recipient, and tracking medical justifications to modes of transportation provided;

(J) collaborating with Medicaid beneficiaries and consumer groups to identify and resolve issues to increase consumer satisfaction;

(K) auditing cancellation data on a quarterly basis to ensure accuracy;

(L) coordinating medical benefits and transportation with Medicaid managed care organizations, including development of value based payments for transportation services; and

(M) such contracts shall include penalties for incorrect denials, unresolved complaint rates, unfulfilled trips, and any other criteria determined by the commissioner and specified in the competitive bidding process.

(iii) A transportation management broker with which the commissioner contracts shall file with the commissioner a bond issued by an insurer authorized to write fidelity and surety insurance in this state, in an amount and form to be determined by the commissioner. The purpose of the surety bond shall be to provide the sole source of recourse to providers of Medicaid transportation services, other than the transportation management broker, that cannot receive payment for services properly provided if the transportation management broker becomes insolvent. To the extent permitted by law, the surety bond shall provide that any funds that remain after such provider liabilities are satisfied shall be paid to that state.

(iv) A transportation management broker with which the commissioner contracts shall provide to Medicaid enrolled providers annually a conspicuous written disclosure that states the following: "The New York State Department of Health has contracted with this transportation management broker to arrange non-emergency transportation for Medicaid beneficiaries who need access to medical care and services and is paying the transportation management broker a per member per month capitated fee or a combination of capitation and fixed cost reimbursement. This transportation management broker is not licensed by the New York State Department of Financial Services as an insurer and is not subject to its supervision as an insurer. This transportation management broker is not protected by New York security funds and there will not be any right to recover against the department of health, department of financial services, or this state in the event of the transportation management broker's insolvency.

(v) To the extent practicable, the competitive bidding and contracting process maybe completed by April first, two thousand twenty-one; provided, however, such contract may be effective at some date after April first, two thousand twenty-one, if the process takes longer to complete.

(vi) Responsibility for transportation services provided or arranged for enrollees of managed long term care plans issued certificates of authority under section forty-four hundred three-f of the public health law, not including a program designated as a Program of All-Inclusive Care for the Elderly (PACE) as authorized by Federal Public law 1053-33, subtitle I of title IV of the Balanced Budget Act of 1997, and, at the commissioner's discretion, other plans that integrate benefits for dually eligible Medicare and Medicaid beneficiaries based on a demonstration by the plan that inclusion of transportation within the benefit package will result in cost efficiencies and quality improvement, shall be transferred to a transportation management broker that has a contract with the commissioner in accordance with this paragraph. Providers of adult day health care may elect to, but shall not be required to, use the services of the transportation management broker.

§ 2-a. For periods on and after April 1, 2020, Medicaid transportation rates for the taxi/livery/van (non-ambulette) category of service in effect on April 1, 2020 shall be reduced by 7.5%, relative to rates in effect on March 31, 2020, and for periods on and after December 1,

2020, such rates in effect on November 30, 2020, shall be further reduced by 7.5%, relative to rates in effect on March 31, 2020; provided, however, such rate reductions may be adjusted if the commissioner of health determines there are Medicaid transportation access issues in a region, including rural areas.

§ 2-b. Providers of adult day health care may elect to, but shall not be required to, use the services of the transportation manager or managers described in section 365-h of the social services law.

§ 3. The commissioner of health shall seek, pursuant to a state plan amendment, authorization to establish and administer a program for the federal financial participation in reimbursement for ground emergency medical transportation services provided to Medicaid beneficiaries by eligible transportation providers on a voluntary basis. The commissioner of health may promulgate regulations, including emergency regulations, in order to implement the provisions of this section.

1. Such program shall establish a payment methodology for supplemental reimbursement that shall require the eligible transportation provider file cost reports and data as required by the commissioner of health, and certify that:

(a) in accordance with 42 C.F.R. section 433.51 or any successor regulation, the claimed expenditures for the ground emergency medical transportation services are eligible for federal financial participation; and

(b) the amount certified pursuant to paragraph (a) of this subdivision when combined with amounts received from all other sources of reimbursement from the Medicaid program does not exceed one hundred percent of actual costs, as determined in accordance with the Medicaid state plan, for ground emergency transportation services.

2. Eligible transportation providers receiving supplemental reimbursement pursuant to this subdivision shall not receive non-comparable cost reimbursement for the Medicaid costs associated with ambulance services as provided in subparagraph (i) of paragraph (b) of subdivision 35 of section 2807-c of the public health law and as may be further defined regulations issued by the commissioner of health and shall not report such costs as Medicaid reimbursable costs in the institutional cost report.

3. For the purposes of this section, an "eligible transportation provider" shall mean:

(a) a provider who provides ground emergency medical transportation services to Medicaid beneficiaries; and

(b) is enrolled as a Medicaid provider for the period being claimed; and

(c) is owned or operated by the state, a political subdivision or local government, that employs or contracts with persons or entities licensed to provide emergency medical services in New York state, and includes private entities to the extent permissible under federal law.

§ 4. Section 365-h of the social services law is amended by adding a new subdivision 6 to read as follows:

**6. (a) The commissioner of health shall require transportation providers enrolled in the Medicaid program and specified by the commissioner pursuant to regulation, to report the costs incurred in providing transportation services to Medicaid beneficiaries pursuant to this section; provided, however, this requirement shall only apply if there is no transportation management broker contract authorized in subdivision four of this section. The commissioner shall specify the frequency and format of such reports and determine the type and amount of information required to be submitted, including supporting documentation, provided**

that such reports shall be no more frequent than quarterly. The commissioner shall give all transportation providers no less than ninety calendar days' notice before such reports are due.

(b) If the commissioner determines that the cost report submitted by a Medicaid transportation provider is inaccurate or incomplete, the commissioner shall notify such provider in writing and advise the provider of the correction or additional information that the provider must submit. The provider shall submit the corrected or additional information within thirty calendar days from the date the provider receives the notice.

(c) The commissioner shall grant a provider an additional thirty calendar days to submit the original cost report, or corrected or additional information required pursuant to paragraph (b) of this subdivision only when the provider submits a written request to the commissioner for an extension prior to the due date and establishes to the satisfaction of the commissioner that the provider cannot submit the cost report or corrected or additional information by the due date for reasons beyond the provider's control.

§ 5. Intentionally omitted.

§ 6. Intentionally omitted.

§ 7. Intentionally omitted.

§ 8. Intentionally omitted.

§ 9. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020; provided, however, that section two of this act shall take effect April 1, 2021; provided, further that the amendments to subdivisions 4 and 6 of section 365-h of the social services law made by sections two and four of this act shall be subject to the expiration and reversion of such section pursuant to subdivision (a) of section 40 of part B of chapter 109 of the laws of 2010, as amended; provided further, however, that the director of the budget may, in consultation with the commissioner of health, delay the effective dates prescribed herein for a period of time which shall not exceed ninety days following the conclusion or termination of an executive order issued pursuant to section 28 of the executive law declaring a state disaster emergency for the entire state of New York, upon such delay the director of the budget shall notify the chairs of the assembly ways and means committee and the senate finance committee and the chairs of the assembly and senate health committee; provided further, however, that the director of the budget shall notify the legislative bill drafting commission upon the occurrence of a delay in the effective date of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART MM

Section 1. Intentionally omitted.

§ 2. Subparagraphs (i) and (ii) of paragraph (e) of subdivision 2 of section 365-a of the social services law, as amended by section 36-a of part B of chapter 57 of the laws of 2015, are amended to read as follows:

(i) personal care services, including personal emergency response services, shared aide and an individual aide, subject to the provisions of subparagraphs (ii), (iii), [~~and~~] (iv), (v) and (vi) of this para-

graph, furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for [~~the mentally retarded~~] **individuals with intellectual disabilities**, or institution for mental disease, as determined to meet the recipient's needs for assistance when cost effective and appropriate, and when prescribed by a **qualified independent** physician **selected or approved by the department of health**, in accordance with the recipient's plan of treatment and provided by individuals who are qualified to provide such services, who are supervised by a registered nurse and who are not members of the recipient's family, and furnished in the recipient's home or other location;

(ii) the commissioner is authorized to adopt standards, pursuant to emergency regulation, for the provision [~~and~~], management **and assessment** of services available under this paragraph for individuals whose need for such services exceeds a specified level to be determined by the commissioner**, and who with the provision of such services is capable of safely remaining in the community in accordance with the standards set forth in Olmstead v. LC by Zimring, 527 US 581 (1999) and consider whether an individual is capable of safely remaining in the community**;

§ 2-a. Paragraph (e) of subdivision 2 of section 365-a of the social services law is amended by adding two new subparagraphs (v) and (vi) to read as follows:

**(v) subject to the availability of federal financial participation, personal care services other than personal emergency response services available pursuant to this paragraph shall be available only to individuals assessed as needing at least limited assistance with physical maneuvering with more than two activities of daily living, or for individuals with a dementia or Alzheimer's diagnosis, assessed as needing at least supervision with more than one activity of daily living, as defined and determined by using an evidenced based validated assessment instrument approved by the commissioner and in accordance with regulations of the department and any applicable state and federal laws by an independent assessor. The provisions of this subparagraph shall only apply to individuals who receive an initial authorization for such services on or after October first, two thousand twenty;**

**(vi) In establishing any standards for the provision, management or assessment of personal care services the state shall meet the standards set forth in Olmstead v. LC by Zimring, 527 US 581 (1999) and consider whether an individual is capable of safely remaining in the community;**

§ 2-b. Paragraph (a) of subdivision 2 of section 365-f of the social services law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

(a) is eligible for long term care and services provided by a certified home health agency, long term home health care program or AIDS home care program authorized pursuant to article thirty-six of the public health law, or is eligible for personal care services provided pursuant to this article**, and who with the provision of such services is capable of safely remaining in the community in accordance with the standards set forth in Olmstead v. LC by Zimring, 527 US 581 (1999) and consider whether an individual is capable of safely remaining in the community**;

§ 3. Paragraph (c) of subdivision 2 of section 365-f of the social services law, as amended by chapter 511 of the laws of 2015, is amended to read as follows:

(c) has been determined by the social services district, pursuant to an assessment of the person's appropriateness for the program, conducted with an appropriate long term home health care program, a certified home

health agency, or an AIDS home care program or pursuant to the personal care program, as being in need of home care services or private duty nursing and **as needing at least limited assistance with physical maneuvering with more than two activities of daily living, or for persons with a dementia or Alzheimer's diagnosis, as needing at least supervision with more than one activity of daily living, provided that the provisions related to activities of daily living in this paragraph shall only apply to persons who initially seek eligibility for the program on or after October first, two thousand twenty, and who** is able and willing or has a designated representative, including a legal guardian able and willing to make informed choices, or a designated relative or other adult who is able and willing to assist in making informed choices, as to the type and quality of services, including but not limited to such services as nursing care, personal care, transportation and respite services; and

§ 4. Paragraph (a) of subdivision 6 of section 4403-f of the public health law, as amended by section 41-b of part H of chapter 59 of the laws of 2011, is amended to read as follows:

(a) An applicant shall be issued a certificate of authority as a managed long term care plan upon a determination by the commissioner that the applicant complies with the operating requirements for a managed long term care plan under this section. The commissioner shall issue no more than seventy-five certificates of authority to managed long term care plans pursuant to this section. **Nothing in this section shall be construed as requiring the department to contract with or to contract for a particular line of business with an entity certified under this section for the provision of services available under title eleven of article five of the social services law.**

§ 5. Subdivision 6 of section 4403-f of the public health law is amended by adding three new paragraphs (d), (e) and (f) to read as follows:

**(d) (i) Effective April first, two thousand twenty, and expiring March thirty-first, two thousand twenty-two, the commissioner shall place a moratorium on the processing and approval of applications seeking a certificate of authority as a managed long term care plan pursuant to this section, including applications seeking authorization to expand an existing managed long term care plan's approved service area or scope of eligible enrollee populations. Such moratorium shall not apply to:**

**(A) applications submitted to the department prior to January first, two thousand twenty;**

**(B) applications seeking approval to transfer ownership or control of an existing managed long term care plan;**

**(C) applications demonstrating to the commissioner's satisfaction that submission of the application for consideration would be appropriate to address a serious concern with care delivery, such as a lack of adequate access to managed long term care plans in a geographic area or a lack of adequate and appropriate care, language and cultural competence, or special needs services; and**

**(D) applications seeking to operate under the PACE (Program of All-Inclusive Care for the Elderly) model as authorized by federal public law 105-33, subtitle I of title IV of the Balanced Budget Act of 1997, or to serve individuals dually eligible for services and benefits under titles XVIII and XIX of the federal social security act in conjunction with an affiliated Medicare Dual Eligible Special Needs Plan, based on the need for such plans and the experience of applicants in serving dually eligible individuals as determined by the commissioner in their discretion.**

(ii) For the duration of the moratorium, the commissioner shall assess the public need for managed long term care plans that are not integrated with an affiliated Medicare plan, the ability of such plans to provide high quality and cost effective care for their membership, and based on such assessment develop a process and conduct an orderly wind-down and elimination of such plans, which shall coincide with the expiration of the moratorium unless the commissioner determines that a longer wind-down period is needed.

(e) For the duration of the moratorium under paragraph (d) of this subdivision, the commissioner shall establish, and enforce by means of a premium withholding equal to three percent of the base rate, an annual cap on total enrollment (enrollment cap) for each managed long term care plan, subject to subparagraphs (ii) and (iii) of this paragraph, based on a percentage of each plan's reported enrollment as of October first, two thousand twenty.

(i) The specific percentage of each plan's enrollment cap shall be established by the commissioner based on: (A) the ability of individuals eligible for such plans to access health and long term care services, (B) plan quality of care scores, (C) historical plan disenrollment, (D) the projected growth of individuals eligible for such plans in different regions of the state, (E) historical plan enrollment of patients with varying levels of need and acuity, and (F) other factors in the commissioner's discretion to ensure compliance with federal requirements, appropriate access to plan services, and choice by eligible individuals.

(ii) In the event that a plan exceeds its annual enrollment cap, the commissioner is authorized under this paragraph to retain all or a portion of the premium withheld based on the amount over which a plan exceeds its enrollment cap. Penalties assessed pursuant to this subdivision shall be determined by regulation.

(iii) The commissioner may not establish an annual cap on total enrollment under this paragraph for plans' lines of business operating under the PACE (Program of All-Inclusive Care for the Elderly) model as authorized by federal public law 105-33, subtitle I of title IV of the Balanced Budget Act of 1997, or that serve individuals dually eligible for services and benefits under titles XVIII and XIX of the federal social security act in conjunction with an affiliated Medicare Dual Eligible Special Needs Plan.

(f) In implementing the provisions of paragraphs (d) and (e) of this subdivision, the commissioner shall, to the extent practicable, consider and select methodologies that seek to maximize continuity of care and minimize disruption to the provider labor workforce, and shall, to the extent practicable and consistent with the ratios set forth herein, continue to support contracts between managed long term care plans and licensed home care services agencies that are based on a commitment to quality and value.

§ 5-a. Subparagraph (vi) of paragraph (b) of subdivision 7 of section 4403-f of the public health law, as added by section 41-b of part H of chapter 59 of the laws of 2011, is amended to read as follows:

(vi) persons required to enroll in the managed long term care program or other care coordination model established pursuant to this paragraph shall have no less than thirty days to select a managed long term care provider, and shall be provided with information to make an informed choice. Where a participant has not selected such a provider, the commissioner shall assign such participant to a managed long term care provider, taking into account consistency with any prior community-based direct care workers having recently served the recipient, quality

performance criteria, capacity and geographic accessibility. During the period prior to receiving services from a managed long term care provider assigned under this subparagraph, the person may receive services under fee for service Medicaid.

§ 6. Paragraph (b) of subdivision 7 of section 4403-f of the public health law is amended by adding a new subparagraph (iii) to read as follows:

(iii) Notwithstanding and in addition to any provision of subparagraph (i) of this paragraph and subject to any federal requirements, persons dually eligible for medical assistance and benefits under the federal Medicare program who are enrolled in a Medicare Dual Eligible Special Needs Plan and who do not require community-based long term care services, as specified by the commissioner, for a continuous period of more than one hundred and twenty days shall be required to enroll with an available affiliated plan certified pursuant to this section when program features and reimbursement rates are approved by the commissioner.

§ 7. Subdivision 4-a of section 71 of part C of chapter 60 of the laws of 2014, amending the social services law relating to fair hearings within the Fully Integrated Duals Advantage program, as amended by chapter 106 of the laws of 2018, is amended to read as follows:

4-a. section twenty-two of this act shall take effect April 1, 2014, and shall be deemed expired January 1, [~~2021~~] 2024;

§ 8. Subdivision 2-a of section 22 of the social services law, as added by section 22 of part C of chapter 60 of the laws of 2014, is amended to read as follows:

2-a. With regard to fair hearings held in connection with appeals [~~under the fully integrated duals advantage demonstration program~~] for integrated fair hearing and appeals processes for individuals dually eligible for medical assistance and benefits available under titles XVIII and XIX of the federal social security act, the commissioner may contract for the sole purpose of assisting staff of the office for such purpose.

§ 9. Subdivision 1 of section 4013 of the public health law, as added by section 26 of part J of chapter 82 of the laws of 2002, is amended to read as follows:

1. The commissioner shall, subject to the provisions of subdivision two of this section, increase medical assistance rates of payment by up to three percent for hospice services provided on and after December first, two thousand two, for purposes of improving recruitment and retention of non-supervisory workers or workers with direct patient care responsibility.

§ 10. The public health law is amended by adding a new section 3605-c to read as follows:

§ 3605-c. Authorization to enroll and provide medical assistance. 1. A licensed home care services agency (LHCSA) shall not enroll as a provider in the medical assistance program operated pursuant to title eleven of article five of the social services law or provide or claim for services pursuant thereto, whether provided under the state plan, a waiver thereto or through a managed care organization, without being authorized to do so by contract with the department entered into pursuant to this section. Authorization under this section shall not substitute for or duplicate the requirements of licensure under this article or the screening and enrollment process required for participation in the medical assistance program.

2. Notwithstanding any inconsistent provision of section one hundred sixty-three of the state finance law, or sections one hundred forty-two and one hundred forty-three of the economic development law, the commissioner shall enter into a sufficient number of contracts with LHCSAs to ensure medical assistance recipients have access to care and services, provided, however, that:

(a) the department shall post on its website for a period of no less than thirty days:

(i) a description of the proposed services to be provided pursuant to the contract or contracts;

(ii) the criteria for selection of LHCSA contractors, including but not limited to: licensure under this article, the ability to appropriately serve medical assistance recipients as determined by the commissioner, a geographic distribution of LHCSAs to ensure access statewide including in rural and underserved areas, demonstrated cultural and language competencies specific to the population of recipients and those of the available workforce, ability to provide timely assistance to recipients, experience serving individuals with disabilities, efficient and economic administration of LHCSA services, and demonstrated compliance with all applicable federal and state laws and regulations including, but not limited to, past compliance with labor law and existing wage and labor standards, and compliance with equal employment opportunity requirements and anti-discrimination laws;

(iii) the period of time during which a prospective contractor may seek selection, which shall be no less than thirty days after such information is first posted on the website; and

(iv) the manner by which a prospective contractor may submit a proposal for selection, which may include submission by electronic means;

(b) the commissioner shall review in a timely fashion all reasonable and responsive submissions that are received from prospective contractors;

(c) the commissioner shall select such contractors that, in the commissioner's discretion, are best suited to efficiently and economically administer medical assistance services;

(d) all decisions made and approaches taken pursuant to this section shall be documented in a procurement record as defined in section one hundred sixty-three of the state finance law;

(e) the commissioner may institute a continuous recruitment process provided that the information required under paragraph (a) of this subdivision remains on the department's website for the entire duration of the recruitment process, until such date as the commissioner may determine upon no less than ten days notice being posted on the website; and

(f) the commissioner may reoffer contracts under the same terms of this subdivision, if determined necessary by the commissioner, on a statewide or regional basis.

3. (a) The department may terminate a LHCSA's contract under this section or suspend or limit the LHCSA's rights and privileges under the contract upon thirty day's written notice to the LHCSA if the commissioner finds that the LHCSA has failed to comply with the provisions of this section or any regulations promulgated hereunder. The written notice shall include:

(i) a description of the conduct and the issues related thereto that have been identified as failure of compliance; and

(ii) the time frame of the conduct that fails compliance.

(b) Notwithstanding paragraph (a) of this subdivision, upon determining that a medical assistance recipient's health or safety would be imminently endangered by the continued operation or actions of the LHCSA, the commissioner may terminate the LHCSA's contract or suspend or limit the LHCSA's rights and privileges under the contract immediately upon written notice.

(c) All orders or determinations under this subdivision shall be subject to review as provided in article seventy-eight of the civil practice law and rules.

(d) Any procedural rights or privileges afforded pursuant to this subdivision shall apply only to actions taken under this subdivision with respect to compliance with the terms of the contract. Actions taken under this subdivision shall not constitute and shall not be construed to constitute an action with respect to a LHCSA's licensure or enrollment in the medical assistance program, which the department may undertake separately or in conjunction with an action pursuant to this subdivision.

4. The provisions of this section shall not apply unless any and all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of services that would be provided by LHCSAs in accordance with the terms of contracts entered into pursuant to this section.

§ 11. Section 365-a of the social services law is amended by adding a new subdivision 10 to read as follows:

10. The department of health shall establish or procure the services of an independent assessor or assessors no later than October 1, 2022, in a manner and schedule as determined by the commissioner of health, to take over from local departments of social services, Medicaid Managed Care providers, and Medicaid managed long term care plans performance of assessments and reassessments required for determining individuals' needs for personal care services, including as provided through the consumer directed personal assistance program, and other services or programs available pursuant to the state's medical assistance program as determined by such commissioner for the purpose of improving efficiency, quality, and reliability in assessment and to determine individuals' eligibility for Medicaid managed long term care plans. Notwithstanding the provisions of section one hundred sixty-three of the state finance law, or sections one hundred forty-two and one hundred forty-three of the economic development law, or any contrary provision of law, contracts may be entered or the commissioner may amend and extend the terms of a contract awarded prior to the effective date and entered into pursuant to subdivision twenty-four of section two hundred six of the public health law, as added by section thirty-nine of part C of chapter fifty-eight of the laws of two thousand eight, and a contract awarded prior to the effective date and entered into to conduct enrollment broker and conflict-free evaluation services for the Medicaid program, if such contract or contract amendment is for the purpose of procuring such assessment services from an independent assessor; provided, however, in the case of a contract entered into after the effective date of this section, that:

(a) The department of health shall post on its website, for a period of no less than thirty days:

(i) A description of the proposed services to be provided pursuant to the contract or contracts;

(ii) The criteria for selection of a contractor or contractors including, but not limited to, being unaffiliated with any entity certified

under article forty-four of the public health law or any service provider licensed under article thirty-six of the public health law, demonstrated cultural and linguistic competence, experience in evaluating the service needs of individuals with disabilities seeking to live in the community, and demonstrated compliance with all applicable state and federal laws. Furthermore, the selection criteria shall consider and give preference to whether a prospective contractor is a not-for-profit organization;

(iii) The period of time during which a prospective contractor may seek selection, which shall be no less than thirty days after such information is first posted on the website; and

(iv) The manner by which a prospective contractor may submit a proposal for selection, which may include submission by electronic means;

(b) All reasonable and responsive submissions that are received from prospective contractors in a timely fashion shall be reviewed by the commissioner of health;

(c) The commissioner of health shall select such contractor or contractors that are best suited to serve the purposes of this section and the needs of recipients; and

(d) All decisions made and approaches taken pursuant to this section shall be documented in a procurement record as defined in section one hundred sixty-three of the state finance law.

§ 12. Section 8 of part C of chapter 57 of the laws of 2018, amending the social services law and the public health law relating to health homes and penalties for managed care providers, is amended to read as follows:

§ 8. Notwithstanding any inconsistent provision of [~~sections 112 and~~] section 163 of the state finance law, or sections 142 and 143 of the economic development law, or any other contrary provision of law, excepting the 13 responsible vendor requirements of the state finance law, including, but not limited to, sections 163 and 139-k of the state finance law, the commissioner of health is authorized to amend or otherwise extend the terms of a contract awarded prior to the effective date and entered into pursuant to subdivision 24 of section 206 of the public health law, as added by section 39 of part C of chapter 58 of the laws of 2008, and a contract awarded prior to the effective date and entered into to conduct enrollment broker and conflict-free evaluation services for the Medicaid program, both for a period of three years, without a competitive bid or request for proposal process, upon determination that the existing contractor is qualified to continue to provide such services, and provided that efficiency savings are achieved during the period of extension; and provided, further, that the department of health shall submit a request for applications for such contract during the time period specified in this section and may terminate the contract identified herein prior to expiration of the extension authorized by this section.

§ 13. Clause (vi) of subparagraph 1 of paragraph (e) of subdivision 5 of section 366 of the social services law, as added by section 26-a of part C of chapter 109 of the laws of 2006, is amended and two new clauses (xi) and (xii) are added to read as follows:

(vi) "look-back period" means the sixty-month period immediately preceding the date that an institutionalized individual is both institutionalized and has applied for medical assistance, or in the case of a non-institutionalized individual, subject to federal approval, the thirty-month period immediately preceding the date that such non-institu-

tionalized individual applies for medical assistance coverage of long term care services. Nothing herein precludes a review of eligibility for retroactive authorization for medical expenses incurred during the three months prior to the month of application for medical assistance.

(xi) "non-institutionalized individual" means an individual who is not an institutionalized individual, as defined in clause (vii) of this subparagraph.

(xii) "long term care services" means home health care services, private duty nursing services, personal care services, assisted living program services and such other services for which medical assistance is otherwise available under this chapter which are designated as long term care services in the regulations of the department.

§ 14. The opening paragraph of subparagraph 3 of paragraph (e) of subdivision 5 of section 366 of the social services law, as added by section 26-a of part C of chapter 109 of the laws of 2006, is amended to read as follows:

In determining the medical assistance eligibility of an institutionalized individual, any transfer of an asset by the individual or the individual's spouse for less than fair market value made within or after the look-back period shall render the individual ineligible for nursing facility services for the period of time specified in subparagraph five of this paragraph. In determining the medical assistance eligibility of a non-institutionalized individual, any transfer of an asset by the individual or the individual's spouse for less than fair market value made within or after the look-back period shall render the individual ineligible for community based long term care services for the period of time specified in subparagraph five of this paragraph. For purposes of this paragraph:

§ 15. Intentionally omitted.

§ 16. Intentionally omitted.

§ 17. The opening paragraph of subdivision 2 of section 365-f of the social services law, as amended by section 38 of part D of chapter 58 of the laws of 2009, is amended to read as follows:

All eligible individuals receiving home care [~~shall be provided notice of the availability of the program, and no less frequently than annually thereafter, and~~] shall have the opportunity to apply for participation in the program no less than annually. Each social services district shall file an implementation plan with the commissioner of the department of health, which shall be updated annually. Such updates shall be submitted no later than November thirtieth of each year. Beginning on June thirtieth, two thousand nine, the plans and updates submitted by districts shall require the approval of the department. Implementation plans shall include district enrollment targets, describe methods for the provision of notice and assistance to interested individuals eligible for enrollment in the program, and shall contain such other information as shall be required by the department. An "eligible individual", for purposes of this section is a person who:

§ 18. Clauses 12 and 13 of subparagraph (v) of paragraph (b) of subdivision 7 of section 4403-f of the public health law, as amended by section 5 of part B of chapter 57 of the laws of 2018, are amended and a new clause 14 is added to read as follows:

(12) Native Americans; [~~and~~]

(13) a person who is permanently placed in a nursing home for a consecutive period of three months or more. In implementing this provision, the department shall continue to support service delivery and outcomes that result in community living for enrollees[~~.~~]; and

(14) a person who has not been assessed as needing at least limited assistance with physical maneuvering with more than two activities of daily living, or for individuals with a dementia or Alzheimer's diagnosis, assessed as needing at least supervision with more than one activity of daily living, as defined and determined using an evidenced based validated assessment instrument approved by the commissioner and in accordance with applicable state and federal law and regulations of the department, provided that the provisions of this clause shall not apply to a person who has been continuously enrolled in a managed long term care program beginning prior to October first, two thousand twenty.

§ 19. Paragraph (d) of subdivision 1 of section 4403-f of the public health law, as amended by section 41 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

(d) "Health and long term care services" means services including, but not limited to home and community-based and institution-based long term care and ancillary services (that shall include medical supplies and nutritional supplements) that are necessary to meet the needs of persons whom the plan is authorized to enroll. The managed long term care plan may also cover primary care [~~and~~], acute care and behavioral health services if so authorized.

§ 20. The department of health shall establish or procure services of an independent panel or panels of clinical professionals no later than October 1, 2022, in a manner and schedule as determined by the commissioner of health, to provide as appropriate independent physician or other applicable clinician orders for personal care services, including as provided through the consumer directed personal assistance program, available pursuant to the state's medical assistance program and to determine eligibility for the consumer directed personal assistance program. Notwithstanding the provisions of section 163 of the state finance law, or sections 142 and 143 of the economic development law, or any contrary provision of law, contracts may be entered or the commissioner may amend and extend the terms of a contract awarded prior to the effective date and entered into pursuant to subdivision twenty-four of section two hundred six of the public health law, as added by section thirty-nine of part C of chapter fifty-eight of the laws of two thousand eight, and a contract awarded prior to the effective date and entered into to conduct enrollment broker and conflict-free evaluation services for the Medicaid program, if such contract or contract amendment is for the purpose of establishing an independent panel or panels of clinical professionals as described in this section; provided, however, in the case of a contract entered into after the effective date of this section, that:

(a) The department of health shall post on its website, for a period of no less than 30 days:

(i) A description of the proposed services to be provided pursuant to the contract or contracts;

(ii) The criteria for selection of a contractor or contractors;

(iii) The period of time during which a prospective contractor may seek to be selected by the department of health, which shall be no less than 30 days after such information is first posted on the website; and

(iv) The manner by which a prospective contractor may submit a proposal for selection, which may include submission by electronic means;

(b) All reasonable and responsive submissions that are received from prospective contractors in timely fashion shall be reviewed by the commissioner of health; and

(c) The commissioner of health shall select such contractor or contractors that, in such commissioner's discretion, are best suited to serve the purposes of this section and the needs of recipients; and

(d) all decisions made and approaches taken pursuant to this section shall be documented in a procurement record as defined in section one hundred sixty-three of the state finance law.

§ 21. The department of health shall develop, directly or through procurement, and shall implement an evidenced based validated uniform task-based assessment tool no later than April 1, 2021, to assist managed care plans and local departments of social services to make appropriate and individualized determinations for utilization of home care services in accordance with applicable state and federal law and regulations, including the number of personal care services and consumer directed personal assistance hours of care each day, provided pursuant to the state's medical assistance program, and how Medicaid recipients' needs for assistance with activities of daily living can be met, such as through telehealth, provided that services rendered via telehealth meet equivalent quality and safety standards of services provided through non-electronic means, and other available alternatives, including family and social supports. Notwithstanding the provisions of section 163 of the state finance law, or sections 142 and 143 of the economic development law, or any contrary provision of law, a contract may be entered without a competitive bid or request for proposal process if such contract is for the purpose of developing the evidence based validated uniform task-based assessment tool described in this section, provided that:

(a) The department of health shall post on its website, for a period of no less than 30 days:

(i) A description of the evidence based validated uniform task-based assessment tool to be developed pursuant to the contract;

(ii) The criteria for contractor selection;

(iii) The period of time during which a prospective contractor may seek to be selected by the department of health, which shall be no less than 30 days after such information is first posted on the website; and

(iv) The manner by which a prospective contractor may submit a proposal for selection, which may include submission by electronic means;

(b) All reasonable and responsive submissions that are received from prospective contractors in a timely fashion shall be reviewed by the commissioner of health;

(c) The commissioner of health shall select such contractor that is best suited to serve the purposes of this section and the needs of recipients; and

(d) All decisions made and approaches taken pursuant to this section shall be documented in a procurement record as defined in section one hundred sixty-three of the state finance law.

§ 22. Subparagraph (iv) of paragraph (g) of subdivision 7 of section 4403-f of the public health law, as amended by section 41-b of part H of chapter 59 of the laws of 2011, is amended to read as follows:

(iv) Continued enrollment in a managed long term care plan or demonstration paid for by government funds shall be based upon a comprehensive assessment of the medical, social and environmental needs of the recipient of the services. Such assessment shall be performed at least [~~every six months~~] annually by the managed long term care plan serving the enrollee. The commissioner shall prescribe the forms on which the assessment will be made.

§ 23. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020; provided, however, that sections two, two-a, two-b, three, thirteen and fourteen of this act shall take effect October 1, 2020; provided further, however, that the amendments to section 4403-f of the public health law made by sections four, five, five-a, six, eighteen, nineteen and twenty-two of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided further, however, that the amendments to paragraph (b) of subdivision 7 of section 4403-f of the public health law made by section eighteen of this act shall not affect the expiration of such paragraph and shall expire therewith; provided further, however, that the director of the budget may, in consultation with the commissioner of health, delay the effective dates prescribed herein for a period of time which shall not exceed ninety days following the conclusion or termination of an executive order issued pursuant to section 28 of the executive law declaring a state disaster emergency for the entire state of New York, upon such delay the director of the budget shall notify the chairs of the assembly ways and means committee and senate finance committee and the chairs of the assembly and senate health committee; provided further, however, that the director of the budget shall notify the legislative bill drafting commission upon the occurrence of a delay in the effective date of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART NN

Section 1. Subparagraph (iv) of paragraph (b) of subdivision 2-b of section 2808 of the public health law, as amended by section 14 of part OO of chapter 57 of the laws of 2008, is amended to read as follows:

(iv) The capital cost component of rates on and after January first, two thousand nine shall**: (A)** fully reflect the cost of local property taxes and payments made in lieu of local property taxes, as reported in each facility's cost report submitted for the year two years prior to the rate year[~~.~~]**; (B) provided, however, notwithstanding any inconsistent provision of this article, commencing April first, two thousand twenty for rates of payment for patients eligible for payments made by state governmental agencies, the capital cost component determined in accordance with this subparagraph and inclusive of any shared savings for eligible facilities that elect to refinance their mortgage loans pursuant to paragraph (d) of subdivision two-a of this section, shall be reduced by the commissioner by five percent.**

§ 2. Paragraph d of subdivision 20 of section 2808 of the public health law, as added by section 8 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

d. Notwithstanding any contrary provision of law, rule or regulation, for rate periods on and after April first, two thousand eleven, the commissioner may reduce or eliminate the payment factor for return on or return of equity in the capital cost component of Medicaid rates of payment for services provided by residential health care facilities**, and for rate periods on and after April first, two thousand twenty, there shall be no payment factor for residual equity reimbursement in the capital cost component of Medicaid rates of payment for services provided by residential health care facilities**.

§ 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020; provided further, however, that the director of the budget may, in consultation with the commissioner of health, delay the effective dates prescribed herein for a period of time which shall not exceed ninety days following the conclusion or termination of an executive order issued pursuant to section 28 of the executive law declaring a state disaster emergency for the entire state of New York, upon such delay the director of the budget shall notify the chairs of the assembly ways and means committee and senate finance committee and the chairs of the assembly and senate health committees; provided further, however, that the director of the budget shall notify the legislative bill drafting commission upon the occurrence of a delay in the effective date of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART OO

Section 1. Section 3614-c of the public health law, as amended by section 5 of part S of chapter 57 of the laws of 2017, subdivision 2 as amended by section 10 of part G of chapter 57 of the laws of 2019, is amended to read as follows:

§ 3614-c. Home care worker wage parity. 1. As used in this section, the following terms shall have the following meaning:

(a) "Living wage law" means any law enacted by Nassau, Suffolk or Westchester county or a city with a population of one million or more which establishes a minimum wage for some or all employees who perform work on contracts with such county or city.

(b) "Total compensation" means all wages and other direct compensation paid to or provided on behalf of the employee including, but not limited to, wages, health, education or pension benefits, supplements in lieu of benefits and compensated time off, except that it does not include employer taxes or employer portion of payments for statutory benefits, including but not limited to FICA, disability insurance, unemployment insurance and workers' compensation.

(c) "Prevailing rate of total compensation" means the average hourly amount of total compensation paid to all home care aides covered by whatever collectively bargained agreement covers the greatest number of home care aides in a city with a population of one million or more. For purposes of this definition, any set of collectively bargained agreements in such city with substantially the same terms and conditions relating to total compensation shall be considered as a single collectively bargained agreement.

(d) "Home care aide" means a home health aide, personal care aide, home attendant, personal assistant performing consumer directed personal assistance services pursuant to section three hundred sixty-five-f of the social services law, or other licensed or unlicensed person whose primary responsibility includes the provision of in-home assistance with activities of daily living, instrumental activities of daily living or health-related tasks; provided, however, that home care aide does not include any individual (i) working on a casual basis, or (ii) (except for a person employed under the consumer directed personal assistance program under section three hundred sixty-five-f of the social services law) who is a relative through blood, marriage or adoption of: (1) the

employer; or (2) the person for whom the worker is delivering services, under a program funded or administered by federal, state or local government.

(e) "Managed care plan" means any managed care program, organization or demonstration covering personal care or home health aide services, and which receives premiums funded, in whole or in part, by the New York state medical assistance program, including but not limited to all Medicaid managed care, Medicaid managed long term care, Medicaid advantage, and Medicaid advantage plus plans and all programs of all-inclusive care for the elderly.

(f) "Episode of care" means any service unit reimbursed, in whole or in part, by the New York state medical assistance program, whether through direct reimbursement or covered by a premium payment, and which covers, in whole or in part, any service provided by a home care aide, including but not limited to all service units defined as visits, hours, days, months or episodes.

(g) "Cash portion of the minimum rate of home care aide total compensation" means the minimum amount of home care aide total compensation that may be paid in cash wages, as determined by the department in consultation with the department of labor.

(h) "Benefit portion of the minimum rate of home care aide total compensation" means the portion of home care aide total compensation that may be paid in cash or health, education or pension benefits, wage differentials, supplements in lieu of benefits and compensated time off, as determined by the department in consultation with the department of labor. Cash wages paid pursuant to increases in the state or federal minimum wage cannot be used to satisfy the benefit portion of the minimum rate of home care aide total compensation.

**(i) "Fiscal intermediary" means a fiscal intermediary in the consumer directed personal assistance program under section three hundred sixty-five-f of the social services law.**

2. Notwithstanding any inconsistent provision of law, rule or regulation, no payments by government agencies shall be made to certified home health agencies, long term home health care programs, managed care plans, [~~the consumer directed personal assistance program under section three hundred sixty-five-f of the social services law~~] **fiscal intermediaries**, the nursing home transition and diversion waiver program under section three hundred sixty-six of the social services law, or the traumatic brain injury waiver program under section [~~two thousand seven~~] **twenty-seven** hundred forty of this chapter for any episode of care furnished, in whole or in part, by any home care aide who is compensated at amounts less than the applicable minimum rate of home care aide total compensation established pursuant to this section.

3. (a) The minimum rate of home care aide total compensation in a city with a population of one million or more shall be:

(i) for the period March first, two thousand twelve through February twenty-eighth, two thousand thirteen, ninety percent of the total compensation mandated by the living wage law of such city;

(ii) for the period March first, two thousand thirteen through February twenty-eighth, two thousand fourteen, ninety-five percent of the total compensation mandated by the living wage law of such city;

(iii) for the period March first, two thousand fourteen through March thirty-first two thousand sixteen, no less than the prevailing rate of total compensation as of January first, two thousand eleven, or the total compensation mandated by the living wage law of such city, whichever is greater;

(iv) for all periods on or after April first, two thousand sixteen, the cash portion of the minimum rate of home care aide total compensation shall be ten dollars or the minimum wage as laid out in paragraph (a) of subdivision one of section six hundred fifty-two of the labor law, whichever is higher. The benefit portion of the minimum rate of home care aide total compensation shall be four dollars and nine cents.

(b) The minimum rate of home care aide total compensation in the counties of Nassau, Suffolk and Westchester shall be:

(i) for the period March first, two thousand thirteen through February twenty-eighth, two thousand fourteen, ninety percent of the total compensation mandated by the living wage law as set on March first, two thousand thirteen of a city with a population of a million or more;

(ii) for the period March first, two thousand fourteen through February twenty-eighth, two thousand fifteen, ninety-five percent of the total compensation mandated by the living wage law as set on March first, two thousand fourteen of a city with a population of a million or more;

(iii) for the period March first, two thousand fifteen, through February twenty-eighth, two thousand sixteen, one hundred percent of the total compensation mandated by the living wage law as set on March first, two thousand fifteen of a city with a population of a million or more;

(iv) for all periods on or after March first, two thousand sixteen, the cash portion of the minimum rate of home care aide total compensation shall be ten dollars or the minimum wage as laid out in paragraph (b) of subdivision one of section six hundred fifty-two of the labor law, whichever is higher. The benefit portion of the minimum rate of home care aide total compensation shall be three dollars and twenty-two cents.

4. The terms of this section shall apply equally to services provided by home care aides who work on episodes of care as direct employees of certified home health agencies, long term home health care programs, or managed care plans, or as employees of licensed home care services agencies, limited licensed home care services agencies, or [~~the consumer directed personal assistance program under section three hundred sixty-five-f of the social services law~~] **fiscal intermediaries**, or under any other arrangement.

5. No payments by government agencies shall be made to certified home health agencies, **licensed home care services agencies,** long term home health care programs, managed care plans, [~~or the consumer directed personal assistance program under section three hundred sixty-five-f of the social services law,~~] **fiscal intermediaries** for any episode of care without the certified home health agency, **licensed home care services agency,** long term home health care program, managed care plan or the [~~consumer directed personal assistance program~~] **fiscal intermediary,** having delivered prior written certification to the commissioner **annually, at a time prescribed by the commissioner**, on forms prepared by the department in consultation with the department of labor, that all services provided under each episode of care **during the period covered by the certification** are in full compliance with the terms of this section and any regulations promulgated pursuant to this section **and that no portion of the dollars spent or to be spent to satisfy the wage or benefit portion under this section shall be returned to the certified home health agency, licensed home care services agency, long term home health care program, managed care plan, or fiscal intermediary, related persons or entities, other than to a home care aide as defined in this**

section to whom the wage or benefits are due, as a refund, dividend, profit, or in any other manner. Such written certification shall also verify that the certified home health agency, long term home health care program, or managed care plan has received from the licensed home care services agency, fiscal intermediary, or other third party an annual statement of wage parity hours and expenses on a form provided by the department of labor accompanied by an independently-audited financial statement verifying such expenses.

6. If a certified home health agency [~~or~~], long term home health care program or managed care plan elects to provide home care aide services through contracts with licensed home care services agencies, fiscal intermediaries, or through other third parties, provided that the episode of care on which the home care aide works is covered under the terms of this section, the certified home health agency, long term home health care program, or managed care plan [~~must obtain~~] shall include in its contracts, a requirement that it be provided with a written certification, verified by oath, from the licensed home care services agency, fiscal intermediary, or other third party, on forms prepared by the department in consultation with the department of labor, which attests to the licensed home care services agency's, fiscal intermediary's, or other third party's compliance with the terms of this section. Such [~~certifications~~] contracts shall also obligate the licensed home care services agency, fiscal intermediary, or other third party to provide the certified home health agency, long term home health care program, or managed care plan [~~to obtain, on no less than a quarterly basis,~~] all information from the licensed home care services agency, fiscal intermediary or other third [~~parties~~] party necessary to verify compliance with the terms of this section, which shall include an annual compliance statement of wage parity hours and expenses on a form provided by the department of labor accompanied by an independently-audited financial statement verifying such expenses. Such annual statements shall be available no less than annually for the previous calendar year, at a time as prescribed by the commissioner. Such certifications [~~and~~], the information [~~exchanged pursuant to them~~] necessary to verify compliance, and the annual compliance statement and financial statements shall be retained by all certified home health agencies, long term home health care programs, or managed care plans, and all licensed home care services agencies, fiscal intermediaries, or other third parties for a period of no less than ten years, and made available to the department upon request. Any licensed home care services agency, fiscal intermediary, or other third party who shall upon oath verify any statement required to be transmitted under this section and any regulations promulgated pursuant to this section which is known by such party to be false shall be guilty of perjury and punishable as provided by the penal law.

6-a. The certified home health agency, long term home health care program, or managed care plan shall review and assess the annual compliance statement of wage parity hours and expenses and make a written referral to the department of labor for any reasonably suspected failures of licensed home care services agencies, fiscal intermediaries, or third parties to conform to the wage parity requirements of this section.

7. The commissioner shall distribute to all certified home health agencies, long term home health care programs, managed care plans, licensed home care services agencies, and fiscal intermediaries [~~in the consumer directed personal assistance program under section three~~

~~hundred sixty-five-f of the social services law,~~] official notice of the minimum rates of home care aide compensation at least one hundred twenty days prior to the effective date of each minimum rate for each social services district covered by the terms of this section.

7-a. Any certified home health agency, licensed home care services agency, long term home health care program, managed care plan, or fiscal intermediary, or other third party that willfully pays less than such stipulated minimums regarding wages and supplements, as established in this section, shall be guilty of a misdemeanor and upon conviction shall be punished, for a first offense by a fine of five hundred dollars or by imprisonment for not more than thirty days, or by both fine and imprisonment; for a second offense by a fine of one thousand dollars, and in addition thereto the contract on which the violation has occurred shall be forfeited; and no such person or corporation shall be entitled to receive any sum nor shall any officer, agent or employee of the state pay the same or authorize its payment from the funds under his or her charge or control to any person or corporation for work done upon any contract, on which the certified home health agency, licensed home care services agency, long term home health care program, managed care plan, or fiscal intermediary, or other third party has been convicted of a second offense in violation of the provisions of this section.

8. The commissioner is authorized to promulgate regulations, and may promulgate emergency regulations, to implement the provisions of this section.

9. Nothing in this section should be construed as applicable to any service provided by certified home health agencies, licensed home care services agencies, long term home health care programs, managed care plans, or [~~consumer directed personal assistance program under section three hundred sixty-five-f of the social services law~~] fiscal intermediaries except for all episodes of care reimbursed in whole or in part by the New York Medicaid program.

10. No certified home health agency, managed care plan, or long term home health care program[~~, or fiscal intermediary in the consumer directed personal assistance program under section three hundred sixty-five-f of the social services law~~] shall be liable for recoupment of payments or any other penalty under this section for services provided through a licensed home care services agency, fiscal intermediary, or other third party with which the certified home health agency, long term home health care program, or managed care plan has a contract because the licensed agency, fiscal intermediary, or other third party failed to comply with the provisions of this section if the certified home health agency, long term home health care program, or managed care plan[~~, or fiscal intermediary~~] has reasonably and in good faith collected certifications and all information required pursuant to [~~subdivisions five and six of~~] this section and conducts the monitoring and reporting required by this section.

§ 1-a. Section 3614-c of the public health law is amended by adding a new subdivision 5-a to read as follows:

5-a. No portion of the dollars spent or to be spent to satisfy the wage or benefit portion under this section shall be returned to the certified home health agency, licensed home care services agency, long term home health care program, managed care plan, or fiscal intermediary, related persons or entities, other than to a home care aide as defined in this section to whom the wage or benefits are due, as a refund, dividend, profit, or in any other manner.

§ 2. Paragraph (a) of subdivision 1 and subdivisions 3 and 4 of section 195 of the labor law, as amended by a chapter of the laws of 2020, amending the labor law relating to additional information provided to employees on public work contracts, as proposed in legislative bills numbers S. 7307 and A. 9000, are amended to read as follows:

(a) provide his or her employees, in writing in English and in the language identified by each employee as the primary language of such employee, at the time of hiring, a notice containing the following information: the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; allowances, if any, claimed as part of the minimum wage, including tip, meal, or lodging allowances; **the benefit portion of the minimum rate of home care aide total compensation as defined in section thirty-six hundred fourteen-c of the public health law ("home care aide benefits"), if applicable;** prevailing wage supplements, if any, claimed as part of any prevailing wage or similar requirement pursuant to article eight of this chapter; the regular pay day designated by the employer in accordance with section one hundred ninety-one of this article; the name of the employer; any "doing business as" names used by the employer; the physical address of the employer's main office or principal place of business, and a mailing address if different; the telephone number of the employer; plus such other information as the commissioner deems material and necessary. Where such prevailing wage supplements are claimed, **or such home care aide benefits are provided,** the notice shall identify, for each type of supplement claimed **or each type of home care aide benefits provided**: (i) the hourly rate claimed; (ii) the type of supplement **or type of home care aide benefits**, including when applicable, but not limited to, pension or healthcare; (iii) the names and addresses of the person or entity providing such supplement **or such home care aide benefits**; and (iv) the agreement, if any, requiring or providing for such supplement **or such home care aide benefits**, together with information on how copies of such agreements or summaries thereof may be obtained **by an employee**. Each time the employer provides such notice to an employee, the employer shall obtain from the employee a signed and dated written acknowledgement, in English and in the primary language of the employee, of receipt of this notice, which the employer shall preserve and maintain for six years. Such acknowledgement shall include an affirmation by the employee that the employee accurately identified his or her primary language to the employer, and that the notice provided by the employer to such employee pursuant to this subdivision was in the language so identified or otherwise complied with paragraph (c) of this subdivision, and shall conform to any additional requirements established by the commissioner with regard to content and form. For all employees who are not exempt from overtime compensation as established in the commissioner's minimum wage orders or otherwise provided by New York state law or regulation, the notice must state the regular hourly rate and overtime rate of pay;

3. furnish each employee with a statement with every payment of wages, listing the following: the dates of work covered by that payment of wages; name of employee; name of employer; address and phone number of employer; rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; **the benefit portion of the minimum rate of home care aide total compensation as defined in section thirty-six hundred fourteen-c of the public health law ("home care aide benefits"), if applicable;** prevailing

wage supplements, if any, claimed as part of any prevailing wage or similar requirement pursuant to article eight of this chapter; and net wages. Where such prevailing wage supplements are claimed**, or such home care aide benefits are provided**, the statement shall either: (i) identify the type of each supplement claimed**, or the type of each home care aide benefits provided,** and the hourly rate for each; or (ii) be accompanied by a copy of the applicable notice required under subdivisions one and two of this section. For all employees who are not exempt from overtime compensation as established in the commissioner's minimum wage orders or otherwise provided by New York state law or regulation, the statement shall include the regular hourly rate or rates of pay; the overtime rate or rates of pay; the number of regular hours worked, and the number of overtime hours worked. For all employees paid a piece rate, the statement shall include the applicable piece rate or rates of pay and number of pieces completed at each piece rate. Upon the request of an employee, an employer shall furnish an explanation in writing of how such wages were computed;

4. establish, maintain and preserve for not less than six years contemporaneous, true, and accurate payroll records showing for each week worked the hours worked; the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; **the benefit portion of the minimum rate of home care aide total compensation as defined in section thirty-six hundred fourteen-c of the public health law ("home care aide benefits"), if applicable;** prevailing wage supplements, if any, claimed as part of any prevailing wage or similar requirement pursuant to article eight of this chapter; and net wages for each employee. Where such prevailing wage supplements are claimed, **or such home care aide benefits are provided,** the payroll records shall include copies of all notices required by subdivisions one and two of this section. For all employees who are not exempt from overtime compensation as established in the commissioner's minimum wage orders or otherwise provided by New York state law or regulation, the payroll records shall include the regular hourly rate or rates of pay, the overtime rate or rates of pay, the number of regular hours worked, and the number of overtime hours worked. For all employees paid a piece rate, the payroll records shall include the applicable piece rate or rates of pay and number of pieces completed at each piece rate;

§ 3. This act shall take effect immediately; provided, however, that sections one and two of this act shall take effect on October 1, 2020, provided, however, that if a chapter of the laws of 2020, amending the labor law relating to additional information provided to employees on public work contracts, as proposed in legislative bills numbers S. 7307 and A. 9000, shall not have taken effect on or before such date, then section two of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2020 takes effect; provided further, however, that the director of the budget may, in consultation with the commissioner of health, delay the effective date prescribed herein for a period of time which shall not exceed ninety days following the conclusion or termination of an executive order issued pursuant to section 28 of the executive law declaring a state disaster emergency for the entire state of New York, upon such delay the director of the budget shall notify the chairs of the assembly ways and means committee and senate finance committee and the chairs of the assembly and senate health committees; provided further, however, that the director of the

budget shall notify the legislative bill drafting commission upon the occurrence of a delay in the effective date of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART PP

Section 1. The social services law is amended by adding a new section 364-n to read as follows:

**§ 364-n. Diabetes and chronic disease self-management pilot program. The commissioner of health may establish a diabetes and chronic disease self-management pilot program in one or more counties or regions of the state for the purpose of improving clinical outcomes. Payments under such program may be made for education, consultation, and peer support services for persons with chronic health conditions, as defined by the commissioner, to be eligible to receive such services. The commissioner is authorized to establish fees for such counseling services, subject to the approval of the director of the division of the budget. The provisions of this section shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation for the costs of services provided under this section.**

§ 2. Section 367-r of the social services law, as amended by section 58-a of part A of chapter 57 of the laws of 2006, subdivision 1-a as amended by section 10 of part C of chapter 109 of the laws of 2006, is amended to read as follows:

§ 367-r. Private duty nursing services worker recruitment and retention program. 1. **(a) The commissioner of health, with the approval of the director of the budget, shall establish fees for the reimbursement of private duty nursing services.**

**(b)** The commissioner of health shall, subject to the provisions of **paragraph (b) of** subdivision two of this section and to the availability of federal financial participation, increase medical assistance rates of payment by three percent for services provided on and after December first, two thousand two, for private duty nursing services for the purposes of improving recruitment and retention of private duty nurses.

[~~1-a.~~] **2.** Medically fragile children. **(a)** In addition, the commissioner shall further increase rates for private duty nursing services that are provided to medically fragile children to ensure the availability of such services to such children. In establishing rates of payment under this subdivision, the commissioner shall consider the cost neutrality of such rates as related to the cost effectiveness of caring for medically fragile children in a non-institutional setting as compared to an institutional setting. Medically fragile children shall, for the purposes of this subdivision, have the same meaning as in subdivision three-a of section thirty-six hundred fourteen of the public health law. Such increased rates for services rendered to such children may take into consideration the elements of cost, geographical differentials in the elements of cost considered, economic factors in the area in which the private duty nursing service is provided, costs associated with the provision of private duty nursing services to medically fragile children, and the need for incentives to improve services and institute economies and such increased rates shall be payable only to those private duty nurses who can demonstrate, to the satisfaction of the

department of health, satisfactory training and experience to provide services to such children. Such increased rates shall be determined based on application of the case mix adjustment factor for AIDS home care program services rates as determined pursuant to applicable regulations of the department of health. The commissioner may promulgate regulations to implement the provisions of this subdivision.

[~~2.~~] **(b)** Private duty nursing services providers which have their rates adjusted pursuant to **paragraph (b) of subdivision one of** this section **and paragraph (a) of this subdivision** shall use such funds solely for the purposes of recruitment and retention of private duty nurses or to ensure the delivery of private duty nursing services to medically fragile children and are prohibited from using such funds for any other purpose. Funds provided under **paragraph (b) of subdivision one of** this section **and paragraph (a) of this subdivision** are not intended to supplant support provided by a local government. Each such provider, with the exception of self-employed private duty nurses, shall submit, at a time and in a manner to be determined by the commissioner of health, a written certification attesting that such funds will be used solely for the purpose of recruitment and retention of private duty nurses or to ensure the delivery of private duty nursing services to medically fragile children. The commissioner of health is authorized to audit each such provider to ensure compliance with the written certification required by this subdivision and shall recoup all funds determined to have been used for purposes other than recruitment and retention of private duty nurses or the delivery of private duty nursing services to medically fragile children. Such recoupment shall be in addition to any other penalties provided by law.

**(c) The commissioner of health shall, subject to the provisions of paragraph (b) of this subdivision, and the provisions of subdivision three of this section, and subject to the availability of federal financial participation, annually increase fees for the fee-for-service reimbursement of private duty nursing services provided to medically fragile children by fee-for-service private duty nursing services providers who enroll and participate in the provider directory pursuant to subdivision three of this section, over a period of three years, commencing October first, two thousand twenty, by one-third annual increments, until such fees for reimbursement equal the final benchmark payment designed to ensure adequate access to the service. In developing such benchmark the commissioner of health may utilize the average two thousand eighteen Medicaid managed care payments for reimbursement of such private duty nursing services. The commissioner may promulgate regulations to implement the provisions of this paragraph.**

**3. Provider directory for fee-for-service private duty nursing services provided to medically fragile children. The commissioner of health is authorized to establish a directory of qualified providers for the purpose of promoting the availability and ensuring delivery of fee-for-service private duty nursing services to medically fragile children and individuals transitioning out of such category of care. Qualified providers enrolling in the directory shall ensure the availability and delivery of and shall provide such services to those individuals as are in need of such services, and shall receive increased reimbursement for such services pursuant to paragraph (c) of subdivision two of this section. The directory shall offer enrollment to all private duty nursing services providers to promote and ensure the participation in the directory of all nursing services providers available to serve medically fragile children.**

§ 3. Paragraph (h) of subdivision 2 of section 365-a of the social services law, as amended by section 5 of part A of chapter 57 of the laws of 2018, is amended to read as follows:

(h) speech therapy, and when provided at the direction of a physician or nurse practitioner, physical therapy including related rehabilitative services and occupational therapy; [~~**provided, however, that speech therapy and occupational therapy each shall be limited to coverage of twenty visits per year; physical therapy shall be limited to coverage of forty visits per year; such limitation shall not apply to persons with developmental disabilities or, notwithstanding any other provision of law to the contrary, to persons with traumatic brain injury;**~~]

§ 4. Paragraph (b) of subdivision 4 of section 365-a of the social services law, as amended by chapter 444 of the laws of 1979, is amended to read as follows:

(b) care and services of chiropractors and supplies related to the practice of chiropractic**, except as provided for by the commissioner pursuant to a pilot program approved under federal law and regulation**;

§ 5. The commissioner of health is authorized to establish pilot programs in one or more counties or regions of the state for the purpose of promoting the use of alternatives to opioid treatment for individuals suffering from chronic lower back pain by offering access to nonpharmacologic treatments such as acupuncture and chiropractic services. Such access may be provided in select areas that have the highest need for such services and for select populations. The provisions of this section shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of services provided under this section.

§ 6. Subdivision 2 of section 365-a of the social services law is amended by adding a new paragraph (hh) to read as follows:

**(hh) The commissioner is authorized to establish one or more maternal health promotion pilot programs in one or more counties or regions of the state, for the purpose of providing Medicaid reimbursement of the prenatal maternal childbirth education and preparation classes for enrollees, and transportation to and from such classes, for the purpose of improving maternal outcomes and reducing maternal-infant mortality. The commissioner is authorized to establish fees for the reimbursement of such classes, subject to the approval of the state director of the budget.**

§ 7. This act shall take effect October 1, 2020. Provided, however, that:

1. the director of the budget may, in consultation with the commissioner of health, delay the effective date prescribed herein for a period of time which shall not exceed ninety days following the conclusion or termination of an executive order issued pursuant to section 28 of article 2-B of the executive law declaring a state disaster emergency for the entire state of New York, upon such delay the director of the budget shall notify the chairs of the assembly ways and means committee and senate finance committee and the chairs of the assembly and senate health committee; provided further, however, that the director of the budget shall notify the legislative bill drafting commission upon any delay of such effective date in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law; and

2. provided that the division of budget shall notify the legislative bill drafting commission upon the occurrence of the necessary approvals under federal law and regulation provided for in section one of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART QQ

Section 1. Subdivision 4 of section 145-b of the social services law, as amended by section 51 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

4. (a) The **Medicaid inspector general, in consultation with the** department of health**,** may require the payment of a monetary penalty as restitution to the medical assistance program by any person who fails to comply with the standards of the medical assistance program or [~~of~~] **standards of** generally accepted medical practice in a substantial number of cases or grossly and flagrantly violated such standards and**:**

**(i)** receives, or causes to be received by another person, payment from the medical assistance program when such person knew, or had reason to know, that:

[~~(i)~~] **(A)** the payment involved the providing or ordering of care, services or supplies that were medically improper, unnecessary or in excess of the documented medical needs of the person to whom they were furnished;

[~~(ii)~~] **(B)** the care, services or supplies were not provided as claimed;

[~~(iii)~~] **(C)** the person who ordered [~~or~~]**,** prescribed**, or furnished the** care, services or supplies which [~~was~~] **were** medically improper, unnecessary or in excess of the documented medical need of the person to whom they were furnished was suspended or excluded from the medical assistance program at the time the care, services or supplies were furnished; or

[~~(iv)~~] **(D)** the services or supplies for which payment was received were not, in fact, provided**; or**

**(ii) such person fails to grant timely access to facilities and records, upon reasonable notice, to the Medicaid inspector general, the Medicaid fraud control unit of the attorney general's office, or the department of health for the purpose of audits, investigations, reviews, or other statutory functions. For purposes of this subparagraph, "reasonable notice" means a written request made by a properly identified agent of the Medicaid inspector general, the Medicaid fraud control unit of the attorney general's office, or the department of health either, during hours that the individual or entity is open for business, or mailed to the individual or entity to an address on file with the department of health or last known address. The request shall include a statement of the authority for the request, the definition of "reasonable notice", and the penalties for failure to comply;**

**(iii) such person knew or should have known that an overpayment has been identified and does not report, return and explain the overpayment in accordance with subdivision six of section three hundred sixty-three-d of this article;**

**(iv) such person arranges or contracts, by employment, agreement, or otherwise, with an individual or entity that the person knows or should know is suspended or excluded from the medical assistance program at the**

time such arrangement or contract regarding activities related to the medical assistance program is made.

(v) For purposes of this paragraph, "person" as used in subparagraph (i) does not include recipients of the medical assistance program; and "person" as used in subparagraphs (ii) -- (iv), is as defined in paragraph (e) of subdivision (6) of section three hundred sixty-three-d of this chapter.

(b) [~~For each claim, the department of health is authorized to recover any overpayment, unauthorized payment, or otherwise inappropriate payment and if twenty-five percent or more of those claims which were the subject of an audit by the department of health result in overpayments, unauthorized payments or otherwise inappropriate payments and for which the claims were submitted by a person for payment under the medical assistance program, the department may also impose a monetary penalty against any person, or persons, who received the overpayment, unauthorized payment, or otherwise inappropriate payment for such claim. If less than twenty-five percent of identified claims result in overpayments, unauthorized payments or otherwise inappropriate payments then the department of health may recover such monies or may impose a monetary penalty, but not both. In addition, the department of health is also authorized to recover any overpayment, unauthorized payment, or otherwise inappropriate payment and impose a monetary penalty against any person, or persons, other than a recipient of an item or service under the medical assistance program, who caused the overpayment, unauthorized payment, or otherwise inappropriate payment to be received by the other person or persons. All of the foregoing actions may be taken by the department of health for the same claim.~~] In determining the amount of any monetary penalty to be imposed, the Medicaid inspector general, in consultation with the department of health [~~must~~], shall take into consideration the following:

(i) the number and total value of the claims for payment from the medical assistance program which were the underlying basis of the determination to impose a monetary penalty;

(ii) the effect, if any, on the quality of medical care provided to recipients of medical assistance as a result of the acts of the person;

(iii) the degree of culpability of the person in committing the proscribed actions and any mitigating circumstances;

(iv) any prior violations committed by the person relating to the medical assistance program, Medicare or other social services programs which resulted in either a criminal or administrative sanction, penalty, or recoupment; and

(v) any other facts relating to the nature and seriousness of the violations including any exculpatory facts. [~~However, in no event can the department of health recover overpayments, unauthorized payments, or otherwise inappropriate payments from any person, or persons, for a single claim, in an amount that exceeds the amount paid for such claim. In~~]

(c) (i) For subparagraphs (i), (iii), and (iv) of paragraph (a) of this subdivision, in no event shall the monetary penalty imposed exceed ten thousand dollars for each item or service which was the subject of the determination herein, except that where a penalty under this section has been imposed on a person within the previous five years, such penalty shall not exceed thirty thousand dollars for each item or service which was the subject of the determination herein.

[~~(c)~~] (ii) For subparagraph (ii) of paragraph (a) of this subdivision, in no event shall the monetary penalty exceed fifteen thousand dollars for each day of the failure described in such subparagraph.

(d) Amounts collected pursuant to this subdivision shall be apportioned between the local social services district and the state in accordance with the regulations of the department of health.

(e) For the purposes of this subdivision, "gross and flagrant violation" shall mean conduct which has an adverse effect on the fiscal integrity of the medical assistance program and:

(i) which substantially impairs the delivery of high quality medical care, services, or supplies; or

(ii) which substantially impairs the oversight and administration of the program.

(f) A person against whom a monetary penalty is imposed pursuant to this subdivision shall be entitled to notice and an opportunity to be heard, including the right to request a hearing pursuant to section twenty-two of this chapter.

§ 2. Subdivision 2 of section 363-d of the social services law, as added by chapter 442 of the laws of 2006, is amended to read as follows:

2. Every provider of medical assistance program items and services that is subject to subdivision four of this section shall adopt and implement a compliance program. The office of Medicaid inspector general shall create and make available on its website guidelines, which may include a model compliance program, that reflect the requirements of this section. Such [~~program shall at a minimum be applicable to billings to and payments from the medical assistance program but need not be confined to such matters~~] compliance programs shall meet the requirements included in this subdivision as a condition of payment from the medical assistance program. The compliance program required pursuant to this section may be a component of more comprehensive compliance activities by the medical assistance provider so long as the requirements of this section are met. [~~A compliance program shall include the following elements:~~

~~(a) written policies and procedures that describe compliance expectations as embodied in a code of conduct or code of ethics, implement the operation of the compliance program, provide guidance to employees and others on dealing with potential compliance issues, identify how to communicate compliance issues to appropriate compliance personnel and describe how potential compliance problems are investigated and resolved;~~

~~(b) designate an employee vested with responsibility for the day-to-day operation of the compliance program; such employee's duties may solely relate to compliance or may be combined with other duties so long as compliance responsibilities are satisfactorily carried out; such employee shall report directly to the entity's chief executive or other senior administrator and shall periodically report directly to the governing body on the activities of the compliance program;~~

~~(c) training and education of all affected employees and persons associated with the provider, including executives and governing body members, on compliance issues, expectations and the compliance program operation; such training shall occur periodically and shall be made a part of the orientation for a new employee, appointee or associate, executive and governing body member;~~

~~(d) communication lines to the responsible compliance position, as described in paragraph (b) of this subdivision, that are accessible to all employees, persons associated with the provider, executives and~~

~~governing body members, to allow compliance issues to be reported; such communication lines shall include a method for anonymous and confidential good faith reporting of potential compliance issues as they are identified;~~

~~(e) disciplinary policies to encourage good faith participation in the compliance program by all affected individuals, including policies that articulate expectations for reporting compliance issues and assist in their resolution and outline sanctions for: (1) failing to report suspected problems; (2) participating in non-compliant behavior; or (3) encouraging, directing, facilitating or permitting non-compliant behavior; such disciplinary policies shall be fairly and firmly enforced;~~

~~(f) a system for routine identification of compliance risk areas specific to the provider type, for self-evaluation of such risk areas, including internal audits and as appropriate external audits, and for evaluation of potential or actual non-compliance as a result of such self-evaluations and audits;~~

~~(g) a system for responding to compliance issues as they are raised; for investigating potential compliance problems; responding to compliance problems as identified in the course of self-evaluations and audits; correcting such problems promptly and thoroughly and implementing procedures, policies and systems as necessary to reduce the potential for recurrence; identifying and reporting compliance issues to the department or the office of Medicaid inspector general; and refunding overpayments;~~

~~(h) a policy of non-intimidation and non-retaliation for good faith participation in the compliance program, including but not limited to reporting potential issues, investigating issues, self-evaluations, audits and remedial actions, and reporting to appropriate officials as provided in sections seven hundred forty and seven hundred forty-one of the labor law.~~] Every provider shall adopt and implement an effective compliance program, which shall include measures that prevent, detect, and correct non-compliance with medical assistance program requirements as well as measures that prevent, detect, and correct fraud, waste, and abuse. The compliance program shall include the following requirements:

(a) Written policies, procedures, and standards of conduct that:

(1) articulate the organization's commitment to comply with all applicable federal and state standards;

(2) describe compliance expectations as embodied in the standards of conduct;

(3) implement the operation of the compliance program;

(4) provide guidance to employees and others on dealing with potential compliance issues;

(5) identify how to communicate compliance issues to appropriate compliance personnel;

(6) describe how potential compliance issues are investigated and resolved by the organization;

(7) include a policy of non-intimidation and non-retaliation for good faith participation in the compliance program, including but not limited to reporting potential issues, investigating issues, conducting self-evaluations, audits and remedial actions, and reporting to appropriate officials; and

(8) all requirements listed under 42 U.S.C.1396-a(a)(68).

(b) Designation of a compliance officer and a compliance committee who report directly and are accountable to the organization's chief executive or other senior management.

(c)(1) Each provider shall establish and implement effective training and education for its compliance officer and organization employees, the chief executive and other senior administrators, managers and governing body members.

(2) Such training and education shall occur at a minimum annually and shall be made a part of the orientation for a new employee and new appointment of a chief executive, manager, or governing body member.

(d) Establishment and implementation of effective lines of communication, ensuring confidentiality, between the compliance officer, members of the compliance committee, the organization's employees, managers and governing body, and the organizations first tier, downstream, and related entities. Such lines of communication shall be accessible to all and allow compliance issues to be reported including a method for anonymous and confidential good faith reporting of potential compliance issues as they are identified.

(e) Well-publicized disciplinary standards through the implementation of procedures which encourage good faith participation in the compliance program by all affected individuals.

(f) Establishment and implementation of an effective system for routine monitoring and identification of compliance risks. The system should include internal monitoring and audits and, as appropriate, external audits, to evaluate the organization's compliance with the medical assistance program requirements and the overall effectiveness of the compliance program.

(g) Establishment and implementation of procedures and a system for promptly responding to compliance issues as they are raised, investigating potential compliance problems as identified in the course of self-evaluations and audits, correcting such problems promptly and thoroughly to reduce the potential for recurrence, and ensure ongoing compliance with the medical assistance programs requirements.

§ 3. Subdivision 3 of section 363-d of the social services law is amended by adding two new paragraphs (d) and (e) to read as follows:

(d)(1) In the first instance of the Medicaid inspector general's determination that the provider, including a Medicaid managed care provider, that has failed to adopt and implement a compliance program which satisfactorily meets the requirements of this section, the Medicaid inspector general may impose a monetary penalty of five thousand dollars per calendar month, for a maximum of twelve calendar months against a provider, including Medicaid managed care providers.

(2) The Medicaid inspector general may impose a monetary penalty of up to ten thousand dollars per calendar month, for a maximum of twelve calendar months against a provider, including a Medicaid managed care provider, that has failed to adopt and implement a compliance program which satisfactorily meets the requirements of this section, if a penalty was previously imposed under subparagraph one of this paragraph within the previous five years.

(e) A provider, including a Medicaid managed care provider, against whom a monetary penalty is imposed pursuant to paragraph (d) of this subdivision shall be entitled to notice and an opportunity to be heard, including the right to request a hearing pursuant to section twenty-two of this chapter.

§ 4. Subdivision 4 of section 363-d of the social services law, as added by chapter 442 of the laws of 2006, is amended to read as follows:

4. [~~The Medicaid inspector general, in consultation with the department of health, shall promulgate regulations establishing those provid-~~

~~ers~~] Providers that shall be subject to the provisions of this section [~~including~~] include, but are not limited to[~~,~~] :

(a) those subject to the provisions of articles twenty-eight and thirty-six of the public health law[~~,~~];

(b) those subject to the provisions of articles sixteen and thirty-one of the mental hygiene law[~~,~~];

(c) notwithstanding the provisions of section forty-four hundred fourteen of the public health law, managed care providers, as defined in section three hundred sixty-four-j of this title and includes managed long-term care plans; and

(d) other providers of care, services and supplies under the medical assistance program for which the medical assistance program is a substantial portion of their business operations.

§ 5. Section 363-d of the social services law is amended by adding three new subdivisions 5, 6 and 7 to read as follows:

5. (a) The Medicaid inspector general, in consultation with the department of health, shall promulgate any regulations necessary to implement this section.

(b) The Medicaid inspector general shall accept programs and processes implemented pursuant to section forty-four hundred fourteen of the public health law as satisfying the obligations of this section and the regulations promulgated thereunder when such programs and processes incorporate the objectives contemplated by this section.

6. (a) If a person has received an overpayment under the medical assistance program, the person shall:

(1) report and return the overpayment to the department; and

(2) notify the Medicaid inspector general in writing of the reason for the overpayment.

(b) An overpayment shall be reported and returned under paragraph (a) of this subdivision by the later of: (1) the date which is sixty days after the date on which the overpayment was identified; or (2) the date any corresponding cost report is due, if applicable. A person has identified an overpayment when the person has or should have through the exercise of reasonable diligence, determined that the person has received an overpayment and quantified the amount of the overpayment. A person should have determined that the person received an overpayment and quantified the amount of the overpayment if the person fails to exercise reasonable diligence and the person in fact received an overpayment.

(c) The deadline for returning overpayments shall be tolled when the following occurs:

(1) the Medicaid inspector general acknowledges receipt of a submission to the Medicaid inspector general's self-disclosure program under subdivision seven of this section, and shall remain tolled until such time as a self-disclosure and compliance agreement, pursuant to subdivision seven of this section is fully executed, the person withdraws from the self-disclosure program, the person repays the overpayment and any interest due, or the person is removed from the self-disclosure program by the Medicaid inspector general; or

(2) in the absence of a finding of fraud a person may repay an overpayment through installment payments as described in subdivision seven of this section and shall remain tolled until such time as the provider repays the overpayment and any interest due, the Medicaid inspector general rejects the installment payment schedule requested by the provider, or the provider fails to comply with the terms of the installment payment schedule.

(d) Any overpayment retained by a person after the deadline for reporting and returning the overpayment under paragraph (b) of this subdivision shall be subject to a monetary penalty pursuant to subdivision four of section one hundred forty-five-b of this article.

(e) For purposes of this subdivision, "person" means a provider of services or supplies, managed care provider, as defined in paragraph (b) of subdivision one of section three hundred sixty-four-j of this title and includes managed long-term care plans, and does not include recipients of the medical assistance program.

7. Self-disclosure program. (a) Notwithstanding the provisions of any other law to the contrary, there is hereby established a voluntary self-disclosure program to be administered by the Medicaid inspector general, in consultation with the commissioner, for all persons described in this section owing any overpayment to the medical assistance program.

(b) For purposes of this subdivision, "person" means any person providing services or receiving payment under the medical assistance program, a managed care provider as defined in paragraph (b) of subdivision one of section three hundred sixty-four-j of this title, including managed long-term care plans, and any subcontractors or network providers thereof.

(c) In order to be eligible to participate in the self-disclosure program, a person shall satisfy the following conditions:

(1) the person is not currently under audit, investigation or review by the Medicaid inspector general, unless the overpayment and the related conduct being disclosed does not relate to the Medicaid inspector general's audit, investigation or review;

(2) the person is disclosing an overpayment and related conduct that the Medicaid inspector general has not determined, calculated, researched or identified at the time of the disclosure;

(3) the overpayment and related conduct is reported by the deadline specified in subdivision six of this section; and

(4) the person is not currently a party to any criminal investigation being conducted by the deputy attorney general for the Medicaid fraud control unit or an agency of the United States government or any political subdivision thereof.

(d) Notwithstanding subdivision three of section one hundred forty-five-b of this article, the Medicaid inspector general may waive interest on any overpayment reported, returned, and explained by an eligible person under this subdivision. Furthermore, an eligible person's good faith participation in the self-disclosure program may be considered as a mitigating factor in the determination of an administrative enforcement action.

(e) To participate in the self-disclosure program, an eligible person shall apply by submitting a self-disclosure statement in the form and manner prescribed by the Medicaid inspector general. The statement shall contain all the information required by the Medicaid inspector general to effectively administer the self-disclosure program.

(f) (1) The eligible person shall pay the overpayment amount determined by the Medicaid inspector general to the department within fifteen days of the Medicaid inspector general notifying the person of the amount due.

(2) In the event the Medicaid inspector general is satisfied that the person cannot make immediate full payment of the disclosed overpayment, the Medicaid inspector general may permit the person to repay the overpayment and any interest due through installment payments. The Medicaid inspector general may require a financial disclosure statement setting

forth information concerning the person's current assets, liabilities, earnings, and other financial information before entering into an installment payment plan with the person.

(3) If the person and the overpayment are eligible under the self-disclosure program, the Medicaid inspector general shall be authorized to enter into a self-disclosure and compliance agreement with the person. The self-disclosure and compliance agreement shall be in a form to be established by the Medicaid inspector general and include such terms as the Medicaid inspector general shall require for the repayment of the person's disclosed overpayment and enable and require the person to comply with the requirements of the medical assistance program in the future. The person shall execute the self-disclosure and compliance agreement within fifteen days of receiving said agreement from the Medicaid inspector general, or such other timeframe permitted by the Medicaid inspector general, provided however, that such other period is not less than fifteen days.

(4) If the person provides false material information or omits material information in his or her submissions to the Medicaid inspector general, or attempts to defeat or evade an overpayment due pursuant to the self-disclosure and compliance agreement executed under this subdivision, or fails to comply with the terms of the self-disclosure and compliance agreement, or refuses to execute the self-disclosure and compliance agreement in the timeframes specified under this section, such agreement shall be deemed rescinded and the provider's participation in the self-disclosure program terminated.

(5) A person against whom a self-disclosure and compliance agreement is rescinded and participation in the self-disclosure program is terminated pursuant to subparagraph four of this paragraph shall be entitled to notice.

(g) The Medicaid inspector general, in consultation with the commissioner, may promulgate regulations, issue forms and instructions, and take any and all other actions necessary to implement the provisions of the self-disclosure program established under this section to maximize public awareness and participation in such program.

§ 6. Paragraph (b) of subdivision 2 of section 367-a of the social services law, as amended by section 116 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(b) Any inconsistent provision of this chapter or other law notwithstanding, upon furnishing assistance under this title to any applicant or recipient of medical assistance, the local social services district or the department shall be subrogated, to the extent of the expenditures by such district or department for medical care furnished, to any rights such person may have to medical support or reimbursement from liable third parties, including but not limited to health insurers, self-insured plans, group health plans, service benefit plans, managed care organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service. For purposes of this section, the term medical support shall mean the right to support specified as support for the purpose of medical care by a court or administrative order. The right of subrogation does not attach to insurance benefits paid or provided under any health insurance policy prior to the receipt of written notice of the exercise of subrogation rights by the carrier issuing such insurance, nor shall such right of subrogation attach to any benefits which may be claimed by a social services official or the department, by agreement or other established procedure, directly from

an insurance carrier. No right of subrogation to insurance benefits available under any health insurance policy shall be enforceable unless written notice of the exercise of such subrogation right is received by the carrier within three years from the date services for which benefits are provided under the policy or contract are rendered. Liable third parties shall not deny a claim made by a social services official or the department in conformance with this paragraph solely on the basis of the date of submission of the claim, the type or format of the claim form, a failure to obtain prior authorization, or a failure to present proper documentation at the point-of-sale that is the basis of the claim. Liable third parties shall respond to a request for payment within sixty calendar days after receipt of written proof of loss or claim for payment for health care services provided to a recipient of Medicaid who is covered by the third party and shall not charge a fee to process or adjudicate a claim. The local social services district or the department shall also notify the carrier when the exercise of subrogation rights has terminated because a person is no longer receiving assistance under this title. Such carrier shall establish mechanisms to maintain the confidentiality of all individually identifiable information or records. Such carrier shall limit the use of such information or record to the specific purpose for which such disclosure is made, and shall not further disclose such information or records.

§ 7. Section 364-j of the social services law is amended by adding two new subdivisions 38 and 39 to read as follows:

38. Penalties for the submission of misstated cost reports. (a) For purposes of this subdivision, managed care provider shall also include managed long-term care plans.

(b) The Medicaid inspector general may, in his or her discretion and in consultation with the commissioner, impose a penalty on a managed care provider whose filed cost report contained a misstatement of fact including:

(i) unsubstantiated or improper costs;

(ii) number of member months;

(iii) number of events.

For purposes of this paragraph, number of events shall include, but not be limited to understated births or deliveries.

(c) (i) For misstatements found in subparagraph (i) of paragraph (b) of this subdivision, the penalty shall be equal to the amount of the misstatement multiplied by two.

(ii) For misstatements found in subparagraph (ii) of paragraph (b) of this subdivision, the penalty shall be the amount of the premium capitation paid by the department for the region per member month.

(iii) For misstatements found in subparagraph (iii) of paragraph (b) of this subdivision, the penalty shall be the amount of the supplemental capitation paid by the department for the region per member event.

(d) Any penalty imposed under this subdivision may be recovered by the department in any manner authorized by law.

(e) The managed care provider against whom a penalty is imposed pursuant to this subdivision shall be entitled to notice and an opportunity to be heard in accordance with section twenty-two of this chapter.

39. Medicaid fraud, waste and abuse prevention. (a) For purposes of this subdivision, managed care provider shall also include managed long-term care plans.

(b) Managed care providers shall adopt and implement policies and procedures designed to detect and prevent fraud, waste and abuse. This shall include the adoption and implementation of a compliance program as

required by section three hundred sixty-three-d of this title and the terms of the contract between the managed care provider and the state, and for managed care providers with an enrolled population of one thousand or more persons in the aggregate in any given year, the establishment of a special investigation unit which will have primary responsibility for implementing the managed care provider's policies and procedures to detect and prevent fraud, waste and abuse, as it relates to the managed care provider's participation in the medical assistance program.

(c) The managed care provider shall coordinate its fraud, waste and abuse prevention activities with the Medicaid inspector general and the department of health. The Medicaid inspector general, in consultation with the department of health, may promulgate regulations establishing standards and requirements for the operation of managed care provider fraud, waste and abuse prevention activities, including requirements for special investigation units. The provisions of this subdivision notwithstanding, the managed care provider shall continue to comply with all the requirements of section forty-four hundred fourteen of the public health law.

§ 8. Section 3613 of the public health law is amended by adding a new subdivision 1-a to read as follows:

1-a. Each home care services worker shall obtain an individual unique identifier from the state by or before a date determined by the commissioner in consultation with the Medicaid inspector general. Any personal information submitted to obtain such unique identifier shall be maintained as confidential pursuant to article six-A of the public officers law ("New York state privacy protection law").

§ 9. Subdivision 3 of section 365-f of the social services law, as amended by chapter 511 of the laws of 2015, is amended to read as follows:

3. Division of responsibilities. Eligible individuals who elect to participate in the program assume the responsibility for services under such program as mutually agreed to by the eligible individual and provider and as documented in the eligible individual's record, including, but not limited to, recruiting, hiring and supervising their personal assistants. For the purposes of this section, personal assistant shall mean an adult who has obtained an individual unique identifier from the state by or before a date determined by the commissioner of health in consultation with the Medicaid inspector general, and provides services under this section to the eligible individual under the eligible individual's instruction, supervision and direction or under the instruction, supervision and direction of the eligible individual's designated representative, provided that a person legally responsible for an eligible individual's care and support, an eligible individual's spouse or designated representative may not be the personal assistant for the eligible individual; however, a personal assistant may include any other adult relative of the eligible individual, provided, however, that the program determines that the services provided by such relative are consistent with an individual's plan of care and that the aggregate cost for such services does not exceed the aggregate costs for equivalent services provided by a non-relative personal assistant. Any personal information submitted to obtain such unique identifier shall be maintained as confidential pursuant to article six-A of the public officers law ("New York state privacy protection law"). Such individuals shall be assisted as appropriate with service coverage, supervision, advocacy and management. Providers shall not be liable for fulfillment

of responsibilities agreed to be undertaken by the eligible individual. This subdivision, however, shall not diminish the participating provider's liability for failure to exercise reasonable care in properly carrying out its responsibilities under this program, which shall include monitoring such individual's continuing ability to fulfill those responsibilities documented in his or her records. Failure of the individual to carry out his or her agreed to responsibilities may be considered in determining such individual's continued appropriateness for the program.

§ 10. Subparagraph (C) of paragraph 3 of subsection (e) of section 3212 of the insurance law, as amended by section 117-b of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(C) No right of subrogation to insurance benefits available under any health insurance policy shall be enforceable unless written notice of the exercise of such subrogation right is received by the carrier within three years from the date services for which benefits are provided under the policy or contract are rendered. An insurer shall not deny a claim made in conformance with paragraph (b) of subdivision two of section three hundred sixty-seven-a of the social services law solely on the basis of the date of submission of the claim, the type or format of the claim form, **a failure to obtain prior authorization,** or a failure to present proper documentation at the point-of-sale that is the basis of the claim.

§ 11. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020; provided however, section three of this act shall apply to compliance reviews for calendar years beginning on or after January 1, 2021; provided further, section seven of this act shall apply to cost reports submitted for calendar years beginning on or after January 1, 2014; provided further, however, the amendments to section 364-j of the social services law made by section seven of this act, shall not affect the repeal of such section and shall be deemed repealed therewith; and provided further, however, that the director of the budget may, in consultation with the commissioner of health, delay the effective dates prescribed herein for a period of time which shall not exceed ninety days following the conclusion or termination of an executive order issued pursuant to section 28 of the executive law declaring a state disaster emergency for the entire state of New York, and upon such delay the director of the budget shall notify the chairs of the assembly ways and means committee and senate finance committee and the chairs of the assembly and senate health committee; and provided further, however, that the director of the budget shall notify the legislative bill drafting commission upon the occurrence of a delay in the effective date of this act, in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART RR

Section 1. Subdivision (b) of section 25-z of the general city law, as amended by section 3 of part E of chapter 61 of the laws of 2017, is amended and a new subdivision (g) is added to read as follows:

(b) No eligible business shall be authorized to receive a credit under any local law enacted pursuant to this article until the premises with respect to which it is claiming the credit meet the requirements in the

definition of eligible premises and until it has obtained a certification of eligibility from the mayor of such city or an agency designated by such mayor, and an annual certification from such mayor or an agency designated by such mayor as to the number of eligible aggregate employment shares maintained by such eligible business that may qualify for obtaining a tax credit for the eligible business' taxable year. Any written documentation submitted to such mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Such local law may provide for application fees to be determined by such mayor or such agency or agencies. No such certification of eligibility shall be issued under any local law enacted pursuant to this article to an eligible business on or after July first, two thousand [~~twenty~~] twenty-five unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease particular premises or a parcel on which will be constructed such premises or already owned such premises or parcel;

(2) prior to such date improvements have been commenced on such premises or parcel, which improvements will meet the requirements of subdivision (e) of section twenty-five-y of this article relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such particular premises; and

(4) such business relocates to such particular premises not later than thirty-six months or, in a case in which the expenditures made for the improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

**(g) For the duration of the benefit period, a recipient of a credit under any local law enacted pursuant to this article shall file annually, along with the aforementioned original and annual certificates of eligibility, the average wage and benefits offered to the applicable relocated employees used in determining eligible aggregate employment shares, pursuant to subdivision (i) of section twenty-five-y of this article. The department shall have the authority to require that statements filed under this subdivision be certified.**

§ 2. Subdivision (b) of section 25-ee of the general city law, as amended by section 4 of part E of chapter 61 of the laws of 2017, is amended and a new subdivision (e) is added to read as follows:

(b) No eligible business or special eligible business shall be authorized to receive a credit against tax under any local law enacted pursuant to this article until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor of such city or any agency designated by such mayor, and an annual certification from such mayor or an agency designated by such mayor as to the number of eligible aggregate employment shares maintained by such eligible business or such special eligible business that may qualify for obtaining a tax credit for the eligible business' taxable year. No special eligible business shall be authorized to receive a credit against tax under the provisions of this article unless the number of relocated employee base shares calculated pursuant to subdivision (o) of section twenty-five-dd of this article is equal to or great-

er than the lesser of twenty-five percent of the number of New York city base shares calculated pursuant to subdivision (p) of such section and two hundred fifty employment shares. Any written documentation submitted to such mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Such local law may provide for application fees to be determined by such mayor or such agency or agencies. No certification of eligibility shall be issued under any local law enacted pursuant to this article to an eligible business on or after July first, two thousand [~~twenty~~] **twenty-five** unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease premises in the eligible Lower Manhattan area or a parcel on which will be constructed such premises;

(2) prior to such date improvements have been commenced on such premises or parcel, which improvements will meet the requirements of subdivision (e) of section twenty-five-dd of this article relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such premises; and

(4) such business relocates to such premises as provided in subdivision (j) of section twenty-five-dd of this article not later than thirty-six months or, in a case in which the expenditures made for the improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

**(e) For the duration of the benefit period, the recipient of benefits shall file annually, along with the aforementioned original and annual certificates of eligibility, the average wage and benefits offered to the applicable relocated employees used in determining eligible aggregate employment shares, pursuant to subdivision (i) of section twenty-five-y of this chapter. The department shall have the authority to require that statements filed under this subdivision be certified.**

§ 3. Subdivision (b) of section 22-622 of the administrative code of the city of New York, as amended by section 5 of part E of chapter 61 of the laws of 2017, is amended to read as follows:

(b) No eligible business shall be authorized to receive a credit against tax or a reduction in base rent subject to tax under the provisions of this chapter, and of title eleven of the code as described in subdivision (a) of this section, until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor or an agency designated by the mayor, and an annual certification from the mayor or an agency designated by the mayor as to the number of eligible aggregate employment shares maintained by such eligible business that may qualify for obtaining a tax credit for the eligible business' taxable year. Any written documentation submitted to the mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Application fees for such certifications shall be determined by the mayor or such agency or agencies. No certification of eligibility shall be issued to an eligible business on or after July first, two thousand [~~twenty~~] **twenty-five** unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease particular premises or a parcel on

which will be constructed such premises or already owned such premises or parcel;

(2) prior to such date improvements have been commenced on such premises or parcel which improvements will meet the requirements of subdivision (e) of section 22-621 of this chapter relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such particular premises; and

(4) such business relocates to such particular premises not later than thirty-six months or, in a case in which the expenditures made for improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

§ 4. Section 22-622 of the administrative code of the city of New York is amended by adding a new subdivision (g) to read as follows:

**(g) For the duration of the benefit period, the recipient of benefits shall file annually, along with the aforementioned original and annual certificates of eligibility, the average wage and benefits offered to the applicable relocated employees used in determining eligible aggregate employment shares, pursuant to subdivision (i) of section 22-621 of this chapter. The department shall have the authority to require that statements filed under this subdivision be certified.**

§ 5. Subdivision (b) of section 22-624 of the administrative code of the city of New York, as amended by section 6 of part E of chapter 61 of the laws of 2017, is amended and a new subdivision (e) is added to read as follows:

(b) No eligible business or special eligible business shall be authorized to receive a credit against tax under the provisions of this chapter, and of title eleven of the code as described in subdivision (a) of this section, until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor or an agency designated by the mayor, and an annual certification from the mayor or an agency designated by the mayor as to the number of eligible aggregate employment shares maintained by such eligible business or special eligible business that may qualify for obtaining a tax credit for the eligible business' taxable year. No special eligible business shall be authorized to receive a credit against tax under the provisions of this chapter and of title eleven of the code unless the number of relocated employee base shares calculated pursuant to subdivision (o) of section 22-623 of this chapter is equal to or greater than the lesser of twenty-five percent of the number of New York city base shares calculated pursuant to subdivision (p) of such section 22-623, and two hundred fifty employment shares. Any written documentation submitted to the mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Application fees for such certifications shall be determined by the mayor or such agency or agencies. No certification of eligibility shall be issued to an eligible business on or after July first, two thousand [~~twenty~~] **twenty-five** unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease premises in the eligible Lower Manhattan area or a parcel on which will be constructed such premises;

(2) prior to such date improvements have been commenced on such premises or parcel, which improvements will meet the requirements of subdivision (e) of section 22-623 of this chapter relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such premises; and

(4) such business relocates to such premises not later than thirty-six months or, in a case in which the expenditures made for the improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

**(e) For the duration of the benefit period, the recipient of benefits shall file annually, along with the aforementioned original and annual certificates of eligibility, the average wage and benefits offered to the applicable relocated employees used in determining eligible aggregate employment shares, pursuant to subdivision (i) of section 22-623 of this chapter. The department shall have the authority to require that statements filed under this subdivision be certified.**

§ 6. This act shall take effect immediately.

PART SS

Section 1. Subdivision 3 of section 489-cccccc of the real property tax law is amended by adding a new paragraph (d) to read as follows:

**(d) Self-storage facilities. For purposes of this title, "self-storage facility" shall mean any real property or a portion thereof that is designed and used for the purpose of occupying storage space by occupants who are to have access thereto for the purpose of storing and removing personal property, pursuant to subdivision one of section one hundred eighty-two of the lien law. No benefits shall be granted pursuant to this title for construction work on real property where any portion of such property is to be used as a self-storage facility.**

§ 2. Subdivision 4 and paragraph (c) of subdivision 5 of section 489-cccccc of the real property tax law, as added by chapter 119 of the laws of 2008, are amended to read as follows:

4. Hotel uses. Benefits shall be available for commercial construction work or renovation construction work on a building or structure for the property's square footage used to provide lodging and support services for transient guests**, provided the applicant is not otherwise disqualified pursuant to paragraph (c) of subdivision five of this section, or section four hundred eighty-nine-eeeeee or four hundred eighty-nine-iii-iii of this title**.

(c) Applicant affidavit. No benefits pursuant to this title shall be granted for any construction work unless the applicant provides, together with the final application, an affidavit setting forth the following information:

(i) a statement that within the seven years immediately preceding the date of the preliminary application for benefits, neither the applicant, nor any person owning a substantial interest in the property as defined in subparagraph (iii) of this paragraph, nor any officer, director or general partner of the applicant or such person was finally adjudicated by a court of competent jurisdiction to have violated section two hundred thirty-five of the real property law or any section of article one hundred fifty of the penal law or any similar arson law of another state with respect to any building, or **finally adjudicated by a compe-**

tent authority, agency, or a court of competent jurisdiction to have violated any state, city, or municipal business regulations or ordinances related to payment of taxes, payment of wages, or fraudulent representation to governmental entities, or was an officer, director or general partner of a person at the time such person was finally adjudicated to have violated such [~~law~~] state, city, or municipal laws, business regulations, and ordinances related to payment of taxes, payment of wages, or fraudulent representation to governmental entities; and

(ii) a statement setting forth any pending charges alleging violation of section two hundred thirty-five of the real property law or any section of article one hundred fifty of the penal law or any similar arson law of another jurisdiction with respect to any building and pending charges alleging violation of state, city, or municipal business regulations or ordinances related to payment of taxes, payment of wages, or fraudulent representation to governmental entities by the applicant or any person owning a substantial interest in the property as defined in subparagraph (iii) of this paragraph, or any officer, director or general partner of the applicant or such person.

(iii) "Substantial interest" as used in this subdivision shall mean ownership and control of an interest of ten percent or more in a property or any person owning a property.

(iv) If any person described in the statement required by subparagraph (ii) of this paragraph is finally adjudicated by a court of competent jurisdiction to be guilty of any charge listed in such statement, the recipient shall cease to be eligible for benefits pursuant to this title and shall pay with interest any taxes for which an abatement was claimed pursuant to this title.

§ 3. Paragraph (a) of subdivision 1 of section 489-dddddd of the real property tax law, as amended by section 25 of part E of chapter 61 of the laws of 2017, is amended to read as follows:

(a) Application for benefits pursuant to this title may be made immediately following the effective date of a local law enacted pursuant to this title and continuing until March first, two thousand [~~twenty-two~~] twenty-five.

§ 4. Subdivision 3 of section 489-dddddd of the real property tax law, as amended by section 26 of part E of chapter 61 of the laws of 2017, is amended to read as follows:

3. (a) No benefits pursuant to this title shall be granted for construction work performed pursuant to a building permit issued after April first, two thousand [~~twenty-two~~] twenty-five.

(b) If no building permit was required, then no benefits pursuant to this title shall be granted for construction work that is commenced after April first, two thousand [~~twenty-two~~] twenty-five.

§ 5. Subdivision 1 of section 489-eeeeee of the real property tax law, as amended by chapter 28 of the laws of 2011, is amended and a new subdivision 4 is added to read as follows:

1. Continuing use. For the duration of the benefit period, the recipient of benefits shall file biennially with the department, on or before the appropriate taxable status date, a statement of the continuing use of such property and any changes in use that have occurred, provided, however, that any recipient of benefits receiving benefits for property defined as a peaking unit shall file such statement biannually. Such filings shall include a statement that the recipient has not been found by a competent authority, agency or court to have violated state, city, or municipal business regulations or ordinances related to payment of taxes, payment of wages, or fraudulent representation to governmental

entities. This statement shall be in a form determined by the department and may be in any format the department determines, in its discretion, is appropriate, including electronic format. The department shall have authority to terminate such benefits upon failure of a recipient to file such statement by the appropriate taxable status date. The burden of proof shall be on the recipient to establish continuing eligibility for benefits and the department shall have the authority to require that statements filed under this subdivision be certified.

4. Business operation data. A recipient shall biennially file a report with the department, on or before the appropriate taxable status date, regarding certain business operation data relating to the recipient's economic impact and outcomes for the duration of the benefit period, provided, however, that any recipient of benefits for property defined as a peaking unit shall file such statement biannually. Such report shall contain information including, but not limited to, tenancy data, information regarding employment creation and job retention and any other information deemed relevant by the department.

§ 6. Section 489-iiiiii of the real property tax law, as added by chapter 119 of the laws of 2008, is amended to read as follows:

§ 489-iiiiii. Code violations; suspension, termination or revocation of benefits. 1. [~~A local law enacted pursuant to this title may provide that abatement~~] Abatement benefits shall be suspended, terminated or revoked if the recipient is found to have failed to cure violations of [~~the~~] applicable building, fire, or air pollution control codes on the property for which benefits have been granted[~~. Such local law shall define the circumstances where benefits may be suspended, terminated or revoked and provide procedures for benefit suspension, termination or revocation~~] or any state, city, or municipal business regulations or ordinances in a manner specified by local law or ordinance related to payment of taxes, payment of wages, or fraudulent representation to governmental entities.

2. Abatement benefits shall be suspended, terminated or revoked if the recipient is found to have violated any provision of article fifteen of the executive law by a competent authority, agency or court.

3. All taxes plus interest required to be paid retroactively pursuant to this title shall constitute a tax lien as of the date it is determined such taxes and interest are owed. Interest shall be calculated from the date the taxes would have been due but for the abatement claimed pursuant to this title at the interest rate imposed by such city for non-payment of property tax.

§ 7. Subdivision 2 of section 489-jjjjjj of the real property tax law, as added by chapter 119 of the laws of 2008, is amended to read as follows:

2. An application, certificate, report or other document delivered by an applicant or recipient hereunder contains a false or misleading statement as to a material fact or omits to state any material fact necessary to make the statements not false or misleading, and may declare any applicant or recipient who makes such false or misleading statement or omission ineligible for future tax abatements for this property or another property; or

3. A recipient is found to have failed to cure any violation of state, city, or municipal business regulations or ordinances related to payment of taxes, payment of wages, or fraudulent representation to governmental entities.

§ 8. Paragraph 1 of subdivision a of section 11-271 of the administrative code of the city of New York, as amended by section 27 of part E of chapter 61 of the laws of 2017, is amended to read as follows:

(1) Application for benefits pursuant to this part may be made immediately following the effective date of the local law that added this section and continuing until March first, two thousand [~~twenty-two~~] twenty-five.

§ 9. Subdivision c of section 11-271 of the administrative code of the city of New York, as amended by section 28 of part E of chapter 61 of the laws of 2017, is amended to read as follows:

c. (1) No benefits pursuant to this part shall be granted for construction work performed pursuant to a building permit issued after April first, two thousand [~~twenty-two~~] twenty-five.

(2) If no building permit was required, then no benefits pursuant to this part shall be granted for construction work that is commenced after April first, two thousand [~~twenty-two~~] twenty-five.

§ 10. This act shall take effect immediately; provided that section one of this act shall apply to projects for which the first building permit is issued after July 1, 2020 or if no permit is required, for which construction commences after July 1, 2020.

PART TT

Section 1. Section 2-122-a of the election law is amended by adding two new subdivisions 13 and 14 to read as follows:

13. Notwithstanding any inconsistent provision of law to the contrary, prior to forty-five days before the actual date of a presidential primary election, if a candidate for office of the president of the United States who is otherwise eligible to appear on the presidential primary ballot to provide for the election of delegates to a national party convention or a national party conference in any presidential election year, publicly announces that they are no longer seeking the nomination for the office of president of the United States, or if the candidate publicly announces that they are terminating or suspending their campaign, or if the candidate sends a letter to the state board of elections indicating they no longer wish to appear on the ballot, the state board of elections may determine by such date that the candidate is no longer eligible and omit said candidate from the ballot; provided, however, that for any candidate of a major political party, such determination shall be solely made by the commissioners of the state board of elections who have been appointed on the recommendation of such political party or the legislative leaders of such political party, and no other commissioner of the state board of elections shall participate in such determination.

14. Notwithstanding any inconsistent provision of law, candidates for delegates and/or alternate delegates who are pledged to candidates of the office of president of the United States who have been omitted pursuant to subdivision thirteen of this section shall also be omitted from the certificate required by section 4-110 of this chapter and/or shall be determined to not be a candidate pursuant to section 4-114 of this chapter. Upon a timely determination of the state board pursuant to subdivision thirteen of this section any prior certification shall be amended forthwith. There shall be no substitution of any candidate omitted pursuant to subdivision thirteen of this section or this subdivision.

§ 2. This act shall take effect immediately provided, however, that the amendments to section 2-122-a of the election law made by section one of this act shall not affect the repeal of such section and shall be repealed therewith.

PART UU

Section 1. Subdivision 3-a of section 500.10 of the criminal procedure law, as added by section 1-e of part JJJ of chapter 59 of the laws of 2019, is amended and a new subdivision 3-b is added to read as follows:

3-a. "Release under non-monetary conditions." A court releases a principal under non-monetary conditions when, having acquired control over a person, it authorizes the person to be at liberty during the pendency of the criminal action or proceeding involved under conditions ordered by the court, which shall be the least restrictive conditions that will reasonably assure the principal's return to court **and reasonably assure the principal's compliance with court conditions. A principal shall not be required to pay for any part of the cost of release on non-monetary conditions**. Such conditions may include, among other conditions reasonable under the circumstances:

**(a)** that the principal be in contact with a pretrial services agency serving principals in that county;

**(b)** that the principal abide by reasonable, specified restrictions on travel that are reasonably related to an actual risk of flight from the jurisdiction**, or that the principal surrender his or her passport**;

**(c)** that the principal refrain from possessing a firearm, destructive device or other dangerous weapon;

**(d)** that, when it is shown pursuant to subdivision four of section 510.45 of this title that no other realistic [~~monetary~~] **non-monetary** condition or set of non-monetary conditions will suffice to reasonably assure the person's return to court, the person be placed in reasonable pretrial supervision with a pretrial services agency serving principals in that county;

**(e) that the principal refrain from associating with certain persons who are connected with the instant charge, including, when appropriate, specified victims, witnesses, or co-defendants;**

**(f) that the principal be referred to a pretrial services agency for placement in mandatory programming, including counseling, treatment, and intimate partner violence intervention programs. Where applicable, the court may direct the principal be removed to a hospital pursuant to section 9.43 of the mental hygiene law;**

**(g) that the principal make diligent efforts to maintain employment, housing, or enrollment in school or educational programming;**

**(h) that the principal obey an order of protection issued by the court, including an order issued pursuant to section 530.11 of this title;**

**(i) that the principal obey conditions set by the court addressed to the safety of a victim of a family offense as defined in section 530.11 of this title including conditions that may be requested by or on behalf of the victim; and**

**(j)** that, when it is shown pursuant to paragraph (a) of subdivision four of section 510.40 of this title that no other realistic non-monetary condition or set of non-monetary conditions will suffice to reasonably assure the principal's return to court, the principal's location be monitored with an approved electronic monitoring device, in accordance with such subdivision four of section 510.40 of this title. [~~A principal~~

~~shall not be required to pay for any part of the cost of release on non-monetary conditions.~~]

3-b. Subdivision three-a of this section presents a non-exclusive list of conditions that may be considered and imposed by law, singularly or in combination, when reasonable under the circumstances of the defendant, the case, and the situation of the defendant. The court need not necessarily order one or more specific conditions first before ordering one or more or additional conditions.

§ 2. Subdivision 4 of section 510.10 of the criminal procedure law, as added by section 2 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

4. Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or, where the defendant is charged with a qualifying offense which is a felony, the court may commit the principal to the custody of the sheriff. A principal stands charged with a qualifying offense for the purposes of this subdivision when he or she stands charged with:

(a) a felony enumerated in section 70.02 of the penal law, other than [~~burglary in the second degree as defined in subdivision two of section 140.25 of the penal law or~~] robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling;

(b) a crime involving witness intimidation under section 215.15 of the penal law;

(c) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law;

(d) a class A felony defined in the penal law[~~, other than in article two hundred twenty of such law with the exception of section 220.77 of such law~~], provided that for class A felonies under article two hundred twenty of the penal law, only class A-I felonies shall be a qualifying offense;

(e) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law, or a crime involving incest as defined in section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred thirty of such law;

(f) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article one hundred twenty-five of the penal law;

(g) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support of terrorism in the second degree as defined in section 470.23 of the penal law; money laundering in support of terrorism in the third degree as defined in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law;

(h) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of

the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this [~~article~~] title; [~~or~~]

(i) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal law;

(j) any crime that is alleged to have caused the death of another person;

(k) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this title;

(l) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law;

(m) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime as defined in section 485.05 of the penal law;

(n) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;

(o) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law;

(p) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law;

(q) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;

(r) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision;

(s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law; or

(t) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance or

released under conditions for a separate felony or class A misdemeanor involving harm to an identifiable person or property, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision.

§ 3. Paragraph (b) of subdivision 1 of section 530.20 of the criminal procedure law, as added by section 16 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

(b) Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or, where the defendant is charged with a qualifying offense which is a felony, the court may commit the principal to the custody of the sheriff. The court shall explain its choice of release, release with conditions, bail or remand on the record or in writing. A principal stands charged with a qualifying offense when he or she stands charged with:

(i) a felony enumerated in section 70.02 of the penal law, other than [~~burglary in the second degree as defined in subdivision two of section 140.25 of the penal law or~~] robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling;

(ii) a crime involving witness intimidation under section 215.15 of the penal law;

(iii) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law;

(iv) a class A felony defined in the penal law, [~~other than in article two hundred twenty of such law with the exception of section 220.77 of such law~~] provided, that for class A felonies under article two hundred twenty of such law, only class A-I felonies shall be a qualifying offense;

(v) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law or a crime involving incest as defined in section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred thirty of such law;

(vi) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article one hundred twenty-five of the penal law;

(vii) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support of terrorism in the second degree as defined in section 470.23 of the penal law; money laundering in support of terrorism in the third degree as defined in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law;

(viii) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section

215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article; [~~or~~]

(ix) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law**, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal law;**

**(x) any crime that is alleged to have caused the death of another person;**

**(xi) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article;**

**(xii) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law;**

**(xiii) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime as defined in section 485.05 of the penal law;**

**(xiv) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;**

**(xv) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law;**

**(xvi) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law;**

**(xvii) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;**

**(xviii) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision;**

**(xix) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law; or**

**(xx) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance or released under conditions for a separate felony or class A misdemeanor**

involving harm to an identifiable person or property, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision.

§ 4. Subdivision 4 of section 530.40 of the criminal procedure law, as added by section 18 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

4. Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or, where the defendant is charged with a qualifying offense which is a felony, the court may commit the principal to the custody of the sheriff. The court shall explain its choice of release, release with conditions, bail or remand on the record or in writing. A principal stands charged with a qualifying offense for the purposes of this subdivision when he or she stands charged with:

(a) a felony enumerated in section 70.02 of the penal law, other than [~~burglary in the second degree as defined in subdivision two of section 140.25 of the penal law or~~] robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling;

(b) a crime involving witness intimidation under section 215.15 of the penal law;

(c) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law;

(d) a class A felony defined in the penal law, [~~other than in article two hundred twenty of such law with the exception of section 220.77 of such law~~] provided that for class A felonies under article two hundred twenty of such law, only class A-I felonies shall be a qualifying offense;

(e) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law or a crime involving incest as defined in section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred thirty of such law;

(f) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article one hundred twenty-five of the penal law;

(g) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support of terrorism in the second degree as defined in section 470.23 of the penal law; money laundering in support of terrorism in the third degree as defined in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law;

(h) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of

criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article; [~~or~~]

(i) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal law;

(j) any crime that is alleged to have caused the death of another person;

(k) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article;

(l) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law;

(m) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime as defined in section 485.05 of the penal law;

(n) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;

(o) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law;

(p) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law;

(q) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;

(r) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision;

(s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law; or

(t) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance or released under conditions for a separate felony or class A misdemeanor involving harm to an identifiable person or property, provided, however,

that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision.

§ 5. Section 216 of the judiciary law is amended by adding a new subdivision 5 to read as follows:

5. The chief administrator of the courts, in conjunction with the division of criminal justice services, shall collect data and report every six months regarding pretrial release and detention. Such data and report shall contain information categorized by gender, racial and ethnic background; regarding the nature of the criminal offenses, including the top charge of each case; the number and type of charges in each defendant's criminal record; the number of individuals released on recognizance; the number of individuals released on non-monetary conditions, including the conditions imposed; the number of individuals committed to the custody of a sheriff prior to trial; the rates of failure to appear and rearrest; the outcome of such cases or dispositions; the length of the pretrial detention stay and any other such information as the chief administrator and the division of criminal justice services may find necessary and appropriate. Such report shall aggregate the data collected by county; court, including city, town and village courts; and judge. The data shall be disaggregated in order to protect the identity of individual defendants. The report shall be released publicly and published on the websites of the office of court administration and the division of criminal justice services. The first report shall be published twelve months after this subdivision shall have become a law, and shall include data from the first six months following the enactment of this section. Reports for subsequent periods shall be published every six months thereafter.

§ 6. The executive law is amended by adding a new section 837-u to read as follows:

§ 837-u. The division of criminal justice services, in conjunction with the chief administrator of the courts, shall collect data and report annually regarding pretrial release and detention. Such data and report shall contain information categorized by gender, racial and ethnic background; regarding the nature of the criminal offenses, including the top charge of each case; the number and type of charges in each defendant's criminal record; the number of individuals released on recognizance; the number of individuals released on non-monetary conditions, including the conditions imposed; the number of individuals committed to the custody of a sheriff prior to trial; the rates of failure to appear and rearrest; the outcome of such cases or dispositions; whether the defendant was represented by counsel at every court appearance regarding the defendant's securing order; the length of the pretrial detention stay and any other such information as the chief administrator and the division of criminal justice services may find necessary and appropriate. Such annual report shall aggregate the data collected by county; court, including city, town and village courts; and judge. The data shall be disaggregated in order to protect the identity of individual defendants. The report shall be released publicly and published on the websites of the office of court administration and the division of criminal justice services. The first report shall be published eighteen months after this section shall have become a law, and shall include data from the first twelve months following the enactment of this section. Reports for subsequent years shall be published annually on or before that date thereafter.

§ 7. Paragraph (c) of subdivision 4 of section 510.40 of the criminal procedure law, as added by section 6 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

(c) Electronic monitoring of the location of a principal may be conducted only by a public entity under the supervision and control of a county or municipality or a non-profit entity under contract to the county, municipality or the state. A county or municipality shall be authorized to enter into a contract with another county or municipality in the state to monitor principals under non-monetary conditions of release in its county, but counties, municipalities and the state shall not contract with any private for-profit entity for such purposes. **Counties, municipalities and the state may contract with a private for-profit entity to supply electronic monitoring devices or other items, provided that any interaction with persons under electronic monitoring or the data produced by such monitoring shall be conducted solely by employees of a county, municipality, the state, or a non-profit entity under contract with such county, municipality or the state.**

§ 8. Subdivision 1 of section 150.40 of the criminal procedure law, as amended by section 1-c of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

1. An appearance ticket must be made returnable at a date as soon as possible, but in no event later than twenty days from the date of issuance[~~,~~]**; or at the next scheduled session of the appropriate local criminal court if such session is scheduled to occur more than twenty days from the date of issuance;** or at a later date, with the court's permission due to enrollment in a pre-arraignment diversion program. The appearance ticket shall be made returnable in a local criminal court designated in section 100.55 of this title as one with which an information for the offense in question may be filed.

§ 9. Section 530.45 of the criminal procedure law is amended by adding a new subdivision 2-a to read as follows:

**2-a. Notwithstanding the provisions of subdivision four of section 510.10, paragraph (b) of subdivision one of section 530.20 and subdivision four of section 530.40 of this title, when a defendant charged with an offense that is not such a qualifying offense is convicted, whether by guilty plea or verdict, in such criminal action or proceeding of an offense that is not a qualifying offense, the court may, in accordance with law, issue a securing order: releasing the defendant on the defendant's own recognizance or under non-monetary conditions where authorized, fix bail, or remand the defendant to the custody of the sheriff where authorized.**

§ 10. The opening paragraph of section 530.50 of the criminal procedure law is designated subdivision 1 and a new subdivision 2 is added to read as follows:

**2. Notwithstanding the provisions of subdivision four of section 510.10, paragraph (b) of subdivision one of section 530.20 and subdivision four of section 530.40 of this title, when a defendant charged with an offense that is not such a qualifying offense applies, pending determination of an appeal, for an order of recognizance or release on non-monetary conditions, where authorized, or fixing bail, a judge identified in subdivision two of section 460.50 or paragraph (a) of subdivision one of section 460.60 of this chapter may, in accordance with law, and except as otherwise provided by law, issue a securing order: releasing the defendant on the defendant's own recognizance or under non-monetary conditions where authorized, fixing bail, or remanding the defendant to the custody of the sheriff where authorized.**

§ 11. Section 510.43 of the criminal procedure law, as added by section 7 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

§ 510.43 Court appearances: additional notifications.

1. The court or, upon direction of the court, a certified pretrial services agency, shall notify all principals released under non-monetary conditions and on recognizance of all court appearances in advance by text message, telephone call, electronic mail or first class mail. The chief administrator of the courts shall, pursuant to subdivision one of section 10.40 of this chapter, develop a form which shall be offered to the principal at court appearances. On such form, which upon completion shall be retained in the court file, the principal may select one such preferred manner of notice.

2. Such form may request the information necessary for the defendant to be provided with notice in accordance with such single, selected manner of notice. After notice of such consequence, a defendant who intentionally declines to provide the information necessary for the defendant to be provided with such notice pursuant to this section shall forfeit the opportunity to receive such notice until such information is timely provided. Any failure by the court or certified pretrial services agency to provide notice of a scheduled court appearance in the manner provided in this section shall not in and of itself constitute grounds or authorization for the defendant to fail to appear for such scheduled court appearance.

§ 12. This act shall take effect on the ninetieth day after it shall have become a law.

PART VV

Section 1. Subdivision 2 of section 65.10 of the penal law is amended by adding a new paragraph (k-2) to read as follows:

(k-2) (i) Refrain, upon sentencing for a crime involving unlawful sexual conduct committed against a metropolitan transportation authority passenger, customer, or employee or a crime involving assault against a metropolitan transportation authority employee, committed in or on any facility or conveyance of the metropolitan transportation authority or a subsidiary thereof or the New York city transit authority or a subsidiary thereof, from using or entering any of such authority's subways, trains, buses or other conveyances or facilities specified by the court for a period of up to three years, or a specified period of such probation or conditional discharge, whichever is less. For purposes of this section, a crime involving assault shall mean an offense described in article one hundred twenty of this chapter which has as an element the causing of physical injury or serious physical injury to another as well as the attempt thereof.

(ii) The court may, in its discretion, suspend, modify or cancel a condition imposed under this paragraph in the interest of justice at any time. If the person depends on the authority's subways, trains, buses, or other conveyances or facilities for trips of necessity, including, but not limited to, travel to or from medical or legal appointments, school or training classes or places of employment, obtaining food, clothing or necessary household items, or rendering care to family members, the court may modify such condition to allow for a trip or trips as in its discretion are necessary.

(iii) A person at liberty and subject to a condition under this paragraph who applies, within thirty days after the date such condition

becomes effective, for a refund of any prepaid fare amounts rendered unusable in whole or in part by such condition including, but not limited to, a monthly pass, shall be issued a refund of the amounts so prepaid.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the metropolitan transportation authority may adopt any rules, regulations, policies or procedures necessary to implement this act prior to the effective date of this act.

PART WW

Section 1. Legislative findings and intent. The legislature hereby finds, determines and declares the following:

The planning, development and operation of the Hudson River Park as a public park continues to be a matter of state concern and importance to the state. As detailed in the 1998 law creating the park and the trust, chapter 592 of the laws of 1998, the creation, development, operation and maintenance of the Hudson River Park will enhance and protect the natural, cultural and historic aspects of the Hudson River, enhance and afford quality public access to the river, allow for an array of cultural and recreational programs and provide a host of other public benefits. The changes to the 1998 law by this act are intended to, after decades of delay and inaction, finally effectuate the park's general project plan as defined in chapter 592 of the laws of 1998, which continues to be the operative planning document guiding park development, protection and reuse of a portion of the Hudson River waterfront in lower Manhattan south of 59th street, and are intended to ensure the realization of that vision and the park's continuing viability for years to come. Nothing herein is intended to alter or override any prior determinations concerning park planning, development or operation.

§ 2. Paragraph (c) of subdivision 9 of section 7 of chapter 592 of the laws of 1998, constituting the Hudson river park act, as amended by chapter 517 of the laws of 2013, is amended to read as follows:

(c) [~~The city of New York shall use best efforts to relocate the tow pound on Pier 76. Subsequent to relocation of the tow pound, the city of New York shall promptly convey to the trust a possessory interest in Pier 76 consistent with such interest previously conveyed with respect to other portions of the park, provided that at least fifty percent of the Pier 76 footprint shall be used for park uses that are limited to passive and active open space and which shall be contiguous to water and provided further that the remaining portion shall be for park/commercial use. Upon such conveyance, Pier 76 shall become part of the park.~~] (i) On or before July 1, 2020, the city of New York shall convey to the state of New York under the jurisdiction of the office of parks, recreation and historic preservation its interest in Pier 76, who, upon such conveyance shall immediately lease a possessory interest to the trust. Upon such conveyance, Pier 76 shall become part of the park and shall remain part of the park under the operational control of the trust and following redevelopment at least fifty percent of the Pier 76 footprint shall be used for park uses that are limited to passive and active open space and which shall be contiguous to water; and provided further that the remaining portion shall be for park/commercial use. (ii) The city of New York shall, prior to December 31, 2020, cease using or occupying Pier 76 for any purposes. Should the city of New York continue to use or occupy Pier 76 for any purpose subsequent to December 31, 2020, the city of New York shall (A) compensate the trust in the amount of twelve

million dollars, and (B) beginning February 1, 2021, pay fees in the amount of three million dollars for each complete or partial month of occupancy. (iii) On or after the effective date of the chapter of the laws of 2020 which amended this paragraph, the trust shall be entitled to timely and reasonable access to Pier 76 for the purpose of conducting assessments and inspections necessary to further redevelopment of Pier 76 following its inclusion in the park. (iv) Beginning July 1, 2020, the city of New York shall periodically prepare and submit a report to the state of New York, with a copy to the trust, detailing actions taken by the city of New York to relocate the tow pound. In the event that the city provides demonstrable evidence of its effort to relocate the tow pound or any other city uses of Pier 76, initiation of and compliance with land use review processes and environmental review processes, such as, issuance of a request for qualifications or request for proposals for design or construction services for the project; and initiation and completion of construction of, and relocation to a replacement tow pound, the state of New York, in its sole discretion, may waive the fees assessed in subparagraph (iii) of this paragraph. (v) This paragraph may be enforced by a court of competent jurisdiction and in any suit brought by the state, through the attorney general, the trust shall not be a necessary party.

§ 3. This act shall take effect immediately.

PART XX

Section 1. The insurance law is amended by adding a new section 111 to read as follows:

§ 111. Investigation by the superintendent with respect to prescription drugs. (a) Whenever it shall appear to the superintendent, either upon complaint or otherwise, that in the advertisement, purchase or sale within this state of any prescription drug, which is contemplated to be paid by a policy approved by the department for offering within the state, has increased over the course of any twelve months by more than fifty percent to an amount greater than five dollars per unit and if it is suspected that any person, partnership, corporation, company, trust or association, or any agent or employee thereof, shall have employed, or employs, or is about to employ any device, scheme or artifice to defraud or for obtaining money or property by means of any false pretense, representation or promise, or that any person, partnership, corporation, company, trust or association, or any agent or employee thereof, shall have made, makes or attempts to make within or from this state or shall have engaged in or engages in or is about to engage in any practice or transaction or course of business relating to the purchase, exchange, or sale of prescription drugs which is fraudulent or in violation of law and which has operated or which would operate as a fraud upon the purchaser, or that any agent or employee thereof, has sold or offered for sale or is attempting to sell or is offering for sale any prescription drug for which the price has increased fifty percent over the prior calendar year to an amount greater than five dollars per unit, and the superintendent believes it to be in the public interest that an investigation be made, he or she may in their sole discretion either require or permit such person, partnership, corporation, company, trust or association, or any agent or employee thereof, to file with the department a statement in writing under oath or otherwise as to all the facts and circumstances concerning the price increase which he or she believes it to be in the public interest to investigate,

and for that purpose may prescribe forms upon which such statements shall be made. The superintendent may also require such other data and information as he or she may deem relevant and may make such special and independent investigations as he or she may deem necessary in connection with the matter.

(b) In addition to any other power granted by law, the superintendent, his or her deputy or other officer designated by the superintendent is empowered to subpoena witnesses, compel their attendance, examine them under oath and require the production of any books or papers which he or she deems relevant or material to the inquiry. Such power of subpoena shall be enforced as though the subpoena were issued under section three hundred six of the financial services law.

(c) If any person, partnership, corporation, company, trust or association, fails to submit a written statement required by the superintendent under subsection (a) of this section or fails to comply with a subpoena issued pursuant to subsection (b) of this section, the superintendent may, after notice and a hearing, levy a civil penalty not to exceed to one thousand dollars per day that the failure continues.

(d) Notwithstanding any law to the contrary, any information obtained in an investigation under this section shall be confidential and shall not be subject to disclosure by the department except to the drug accountability board, which may review the information and, as necessary, include any such information in its report. The superintendent may also disclose any such information necessary to protect the public, but such disclosures shall to the greatest extent possible not identify a specific manufacturer or prices charged for drugs by such manufacturer.

§ 2. The insurance law is amended by adding a new section 202 to read as follows:

§ 202. Drug accountability board. (a) A nine member drug accountability board is hereby created in the department.

(b) The members of the board shall be appointed by the superintendent, provided however that one member shall be appointed at the suggestion of the temporary president of the senate and one member shall be appointed at the suggestion of the speaker of the assembly, and shall serve a three-year term. Members may be reappointed upon the completion of other terms. In making appointments to the board the superintendent shall give consideration to persons:

(1) licensed and actively engaged in the practice of medicine in the state;

(2) licensed and actively practicing in pharmacy in the state;

(3) with expertise in drug utilization review who are health care professionals licensed under title eight of the education law and who are pharmacologists;

(4) that are consumers or consumer representatives of organizations with a regional or statewide constituency and who have been involved in activities related to health care consumer advocacy;

(5) who are health care economists;

(6) who are actuaries; and

(7) who are experts from the department of health.

(c) The superintendent shall designate a person from the department to serve as chairperson of the board.

(d) Members of the board and all its agents shall be deemed to be an "employee" for purposes of section seventeen of the public officers law.

(e) (1) The department shall have authority on all fiscal matters relating to the board.

(2) The board may utilize or request assistance of any state agency or authority subject to the approval of the superintendent.

(f) (1) Whenever the superintendent determines it would aid an investigation under section one hundred eleven of this chapter, the superintendent shall refer a drug to the board for a report thereon to be prepared.

(2) If a drug is referred to the board under paragraph one of this subsection the board shall determine:

(A) the drug's impact on the premium costs for commercial insurance in this state, and the drug's affordability and value to the public;

(B) whether increases in the price of the drug over time were significant and unjustified;

(C) whether the drug may be priced disproportionately to its therapeutic benefits; and

(D) any other question the superintendent may certify to the board in aid of an investigation under section one hundred eleven of this chapter.

(3) In formulating its determinations, the board may consider:

(A) publicly available information relevant to the pricing of the drug;

(B) information supplied by the department relevant to the pricing of the drug;

(C) information relating to value-based pricing;

(D) the seriousness and prevalence of the disease or condition that is treated by the drug;

(E) the extent of utilization of the drug;

(F) the effectiveness of the drug in treating the conditions for which it is prescribed, or in improving a patient's health, quality of life, or overall health outcomes;

(G) the likelihood that use of the drug will reduce the need for other medical care, including hospitalization;

(H) the average wholesale price, wholesale acquisition cost, retail price of the drug, and the cost of the drug to the Medicaid program minus rebates received by the state;

(I) in the case of generic drugs, the number of pharmaceutical manufacturers that produce the drug;

(J) whether there are pharmaceutical equivalents to the drug;

(K) information supplied by the manufacturer, if any, explaining the relationship between the pricing of the drug and the cost of development of the drug and/or the therapeutic benefit of the drug, or that is otherwise pertinent to the manufacturer's pricing decision; any such information provided shall be considered confidential and shall not be disclosed by the drug utilization review board in a form that identifies a specific manufacturer or prices charged for drugs by such manufacturer; and

(L) information from the department of health, including from the drug utilization review board.

(4) Following its review, the board shall report its findings to the superintendent. Such report shall include the determinations required by paragraph two of this subsection and any other information required by the superintendent.

(g) Notwithstanding any law to the contrary, the papers and information considered by the board and any report thereof shall be confidential and not subject to disclosure. The superintendent, in his or her sole discretion, may determine that the release of the board's report would not harm an ongoing investigation and would be in the public

interest, and thereafter may release the report or any portion thereof to the public.

(h) The superintendent may call a public hearing on the determinations of the board, notice of such hearing shall be given to the manufacturer of the drug and shall be published on the website of the department for not less than fifteen days before the hearing.

§ 3. The superintendent of financial services may promulgate any regulations necessary to interpret the provisions of this act, including but not limited to regulations relating to the operations of the drug accountability board.

§ 4. This act shall take effect immediately.

PART YY

Section 1. Paragraphs 1 and 2 of subsection (a) of section 605 of the financial services law, as amended by chapter 377 of the laws of 2019, are amended to read as follows:

(1) When a health care plan receives a bill for emergency services from a non-participating physician or hospital, including a bill for inpatient services which follow an emergency room visit, the health care plan shall pay an amount that it determines is reasonable for the emergency services, including inpatient services which follow an emergency room visit, rendered by the non-participating physician or hospital, in accordance with section three thousand two hundred twenty-four-a of the insurance law, except for the insured's co-payment, coinsurance or deductible, if any, and shall ensure that the insured shall incur no greater out-of-pocket costs for the emergency services, including inpatient services which follow an emergency room visit, than the insured would have incurred with a participating physician or hospital [~~pursuant to subsection (c) of section three thousand two hundred forty-one of the insurance law~~]. If an insured assigns benefits to a non-participating physician or hospital in relation to emergency services, including inpatient services which follow an emergency room visit, provided by such non-participating physician or hospital, the non-participating physician or hospital may bill the health care plan for the [~~emergency~~] services rendered. Upon receipt of the bill, the health care plan shall pay the non-participating physician or hospital the amount prescribed by this section and any subsequent amount determined to be owed to the physician or hospital in relation to the emergency services provided, including inpatient services which follow an emergency room visit.

(2) A non-participating physician or hospital or a health care plan may submit a dispute regarding a fee or payment for emergency services, including inpatient services which follow an emergency room visit, for review to an independent dispute resolution entity.

§ 2. Paragraph 1 of subsection (b) of section 605 of the financial services law, as amended by chapter 377 of the laws of 2019, is amended to read as follows:

(1) A patient that is not an insured or the patient's physician may submit a dispute regarding a fee for emergency services, including inpatient services which follow an emergency room visit, for review to an independent dispute resolution entity upon approval of the superintendent.

§ 3. Section 606 of the financial services law, as added by section 26 of part H of chapter 60 of the laws of 2014, is amended to read as follows:

§ 606. Hold harmless and assignment of benefits [~~for surprise bills~~] for insureds. (a) When an insured assigns benefits for a surprise bill in writing to a non-participating physician that knows the insured is insured under a health care plan, the non-participating physician shall not bill the insured except for any applicable copayment, coinsurance or deductible that would be owed if the insured utilized a participating physician.

(b) When an insured assigns benefits for emergency services, including inpatient services which follow an emergency room visit, to a non-participating physician or hospital that knows the insured is insured under a health care plan, the non-participating physician or hospital shall not bill the insured except for any applicable copayment, coinsurance or deductible that would be owed if the insured utilized a participating physician or hospital.

§ 4. The civil practice law and rules is amended by adding a new section 213-d to read as follows:

§ 213-d. Actions to be commenced within three years; medical debt. An action on a medical debt by a hospital licensed under article twenty-eight of the public health law or a health care professional authorized under title eight of the education law shall be commenced within three years of treatment.

§ 5. Subsection (j) of section 3217-b of the insurance law, as added by chapter 297 of the laws of 2012, is amended to read as follows:

(j) (1) [~~An~~] No insurer shall [~~not~~] by contract, written policy or procedure, or by any other means, deny payment to a general hospital certified pursuant to article twenty-eight of the public health law for a claim for medically necessary inpatient services [~~resulting from an emergency admission~~], observation services, or emergency department services provided by a general hospital solely on the basis that the general hospital did not [~~timely notify~~] comply with certain administrative requirements of such insurer [~~that the services had been provided~~] with respect to those services.

(2) Nothing in this subsection shall preclude a general hospital and an insurer from agreeing to certain administrative requirements [~~for~~] relating to payment for inpatient services, observation services, or emergency department services, including but not limited to timely notification that medically necessary inpatient services [~~resulting from an emergency admission~~] have been provided and to reductions in payment for failure to comply with certain administrative requirements including timely [~~notify~~] notification; provided, however that: [~~(i)~~] (A) any requirement for timely notification must provide for a reasonable extension of timeframes for notification for [~~emergency~~] services provided on weekends or federal holidays, [~~(ii)~~] (B) any agreed to reduction in payment for failure to meet administrative requirements, including timely [~~notify~~] notification shall not exceed [~~the lesser of two thousand dollars or twelve~~] seven and one-half percent of the payment amount otherwise due for the services provided, and [~~(iii)~~] (C) any agreed to reduction in payment for failure to meet administrative requirements including timely [~~notify~~] notification shall not be imposed if the patient's insurance coverage could not be determined by the hospital after reasonable efforts at the time the [~~inpatient~~] services were provided.

(3) The provisions of this subsection shall not apply to the denial of a claim: (A) based on a reasonable belief by an insurer of fraud or intentional misconduct resulting in misrepresentation of patient diagnosis or the services provided, or abusive billing; (B) when required by a

state or federal government program or coverage that is provided by this state or a municipality thereof to its respective employees, retirees or members; (C) that is a duplicate claim, that is a claim submitted late pursuant to subsection (g) of section thirty-two hundred twenty-four-a of this article, or is for services for a benefit that is not covered under the insured's policy or for a patient determined to be ineligible for coverage; (D) except in the case of medically necessary inpatient services resulting from an emergency admission, where there is not an existing participating provider agreement between an insurer and a general hospital; or (E) where the hospital has repeatedly and systematically, over the previous twelve month period, failed to seek prior authorization for services for which prior authorization was required.

(4) For purposes of this subsection, an "administrative requirement" shall not include requirements: (A) imposed on an insurer or provider pursuant to federal or state laws, regulations or guidance; or (B) established by the state or federal government applicable to insurers offering benefits under a state or federal government program.

(5) The prohibition on denials set forth in this subsection shall not apply to claims for services for which a request for preauthorization was denied by the insurer prior to delivery of the service.

§ 6. Subsection (k) of section 4325 of the insurance law, as added by chapter 297 of the laws of 2012, is amended to read as follows:

(k) (1) [~~A~~] No corporation organized under this article shall [~~not~~] by written contract, written policy or procedure, or by any other means, deny payment to a general hospital certified pursuant to article twenty-eight of the public health law for a claim for medically necessary inpatient services [~~resulting from an emergency admission~~], observation services, or emergency department services provided by a general hospital solely on the basis that the general hospital did not [~~timely notify~~] comply with certain administrative requirements of such [~~insurer that the services had been provided~~] corporation with respect to those services.

(2) Nothing in this subsection shall preclude a general hospital and a corporation from agreeing to certain administrative requirements [~~for~~] relating to payment for inpatient services, observation services, or emergency department services, including, but not limited to timely notification that medically necessary inpatient services [~~resulting from an emergency admission~~] have been provided and to reductions in payment for failure to comply with certain administrative requirements including timely [~~notify~~] notification; provided, however that: [~~(i)~~] (A) any requirement for timely notification must provide for a reasonable extension of timeframes for notification for [~~emergency~~] services provided on weekends or federal holidays, [~~(ii)~~] (B) any agreed to reduction in payment for failure to meet administrative requirements including timely [~~notify~~] notification shall not exceed [~~the lesser of two thousand dollars or twelve~~] seven and one-half percent of the payment amount otherwise due for the services provided, and [~~(iii)~~] (C) any agreed to reduction in payment for failure to meet administrative requirements including timely notification shall not be imposed if the patient's insurance coverage could not be determined by the hospital after reasonable efforts at the time the [~~inpatient~~] services were provided.

(3) The provisions of this subsection shall not apply to the denial of a claim: (A) based on a reasonable belief of a corporation of fraud or intentional misconduct resulting in misrepresentation of patient diagnosis or the services provided, or abusive billing by a corporation; (B) when required by a state or federal government program or coverage that

is provided by this state or a municipality thereof to its respective employees, retirees or members; (C) that is a duplicate claim, is a claim submitted late pursuant to subsection (g) of section thirty-two hundred twenty-four-a of this article, or is for services for a benefit that is not covered under the insured's contract or for a patient determined to be ineligible for coverage; (D) except in the case of medically necessary inpatient services resulting from an emergency admission, where there is not an existing participating provider agreement between such corporation and a general hospital; or (E) where the hospital has repeatedly and systematically, over the previous twelve month period, failed to seek prior authorization for services for which prior authorization was required.

(4) For purposes of this subsection, an "administrative requirement" shall not include requirements: (A) imposed on a corporation or provider pursuant to federal or state laws, regulations or guidance; (B) established by the state or federal government applicable to corporations offering benefits under a state or federal government program.

(5) The prohibition on denials set forth in this subsection shall not apply to claims for services for which a request for preauthorization was denied by the corporation prior to delivery of the service.

§ 7. Subdivision 8 of section 4406-c of the public health law, as added by chapter 297 of the laws of 2012, is amended to read as follows:

8. (a) [~~A~~] No health care plan shall [~~not~~] by contract, written policy or procedure, or by any other means, deny payment to a general hospital certified pursuant to article twenty-eight of this chapter for a claim for medically necessary inpatient services [~~resulting from an emergency admission~~], observation services, or emergency department services provided by a general hospital solely on the basis that the general hospital did not [~~timely notify such health care plan that the services had been provided~~] comply with certain administrative requirements of such health care plan with respect to those services.

(b) Nothing in this subdivision shall preclude a general hospital and a health care plan from agreeing to certain administrative requirements [~~for~~] relating to payment for inpatient services, observation services, or emergency department services, including, but not limited to, timely notification that medically necessary inpatient services [~~resulting from an emergency admission~~] have been provided and to reductions in payment for failure to comply with certain administrative requirements including timely [~~notify~~] notification; provided, however that: (i) any requirement for timely notification must provide for a reasonable extension of timeframes for notification for [~~emergency~~] services provided on weekends or federal holidays, (ii) any agreed to reduction in payment for failure to meet administrative requirements, including timely [~~notify~~] notification shall not exceed [~~the lesser of two thousand dollars or twelve~~] seven and one-half percent of the payment amount otherwise due for the service provided, and (iii) any agreed to reduction in payment for failure to meet administrative requirements including timely notification shall not be imposed if the patient's coverage could not be determined by the hospital after reasonable efforts at the time the [~~inpatient~~] services were provided.

(c) The provisions of this subdivision shall not apply to the denial of a claim: (i) based on a reasonable belief of a health care plan of fraud or intentional misconduct resulting in a misrepresentation of patient diagnosis or the services provided, or abusive billing; (ii) when required by a state or federal government program or coverage that is provided by this state or a municipality thereof to its respective

employees, retirees or members; (iii) that is a duplicate claim, is a claim submitted late pursuant to subsection (g) of section thirty-two hundred twenty-four-a of the insurance law, or is for services for a benefit that is not covered under the insured's contract or for a patient determined to be ineligible for coverage; (iv) except in the case of medically necessary inpatient services resulting from an emergency admission, where there is not an existing participating provider agreement between a health care plan and a general hospital; or (v) where the hospital has repeatedly and systematically, over the previous twelve month period, failed to seek prior authorization for services for which prior authorization was required.

(d) For purposes of this subdivision, an "administrative requirement" shall not include requirements: (i) imposed on a health care plan or provider pursuant to federal or state laws, regulations or guidance; or (ii) established by the state or federal government applicable to health care plans offering benefits under a state or federal government program.

(e) The prohibition on denials set forth in this subdivision shall not apply to claims for services for which a request for preauthorization was denied by the health care plan prior to delivery of the service.

§ 8. Subsection (b) of section 3224-a of the insurance law, as amended by chapter 237 of the laws of 2009, is amended to read as follows:

(b) In a case where the obligation of an insurer or an organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law to pay a claim or make a payment for health care services rendered is not reasonably clear due to a good faith dispute regarding the eligibility of a person for coverage, the liability of another insurer or corporation or organization for all or part of the claim, the amount of the claim, the benefits covered under a contract or agreement, or the manner in which services were accessed or provided, an insurer or organization or corporation shall pay any undisputed portion of the claim in accordance with this subsection and notify the policyholder, covered person or health care provider in writing, and through the internet or other electronic means for claims submitted in that manner, within thirty calendar days of the receipt of the claim:

(1) that it is not obligated to pay the claim or make the medical payment, stating the specific reasons why it is not liable; or

(2) to request all additional information needed to determine liability to pay the claim or make the health care payment; and

(3) of the specific type of plan or product the policyholder or covered person is enrolled in; provided that nothing in this section shall authorize discrimination based on the source of payment.

Upon receipt of the information requested in paragraph two of this subsection or an appeal of a claim or bill for health care services denied pursuant to paragraph one of this subsection, an insurer or organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law shall comply with subsection (a) of this section; provided, that if the insurer or organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law determines that payment or additional payment is due on the claim, such payment shall be made to the policyholder or covered person or health care provider within fifteen days of the determination.

§ 9. Subsection (d) of section 3224-a of the insurance law, as amended by chapter 666 of the laws of 1997 and paragraph 2 as amended by section 57-b of part A of chapter 56 of the laws of 2013, is amended to read as follows:

(d) For the purposes of this section:

(1) "policyholder" shall mean a person covered under such policy or a representative designated by such person; [~~and~~]

(2) "health care provider" shall mean an entity licensed or certified pursuant to article twenty-eight, thirty-six or forty of the public health law, a facility licensed pursuant to article nineteen or thirty-one of the mental hygiene law, a fiscal intermediary operating under section three hundred [~~sixty-five-f~~] **sixty-five** of the social services law, a health care professional licensed, registered or certified pursuant to title eight of the education law, a dispenser or provider of pharmaceutical products, services or durable medical equipment, or a representative designated by such entity or person**;**

**(3) "plan or product" shall mean:**

**(i) Medicaid coverage provided pursuant to section three hundred sixty-four-j of the social services law;**

**(ii) a child health insurance plan certified pursuant to section twenty-five hundred eleven of the public health law;**

**(iii) basic health program coverage certified pursuant to section three hundred sixty-nine-gg of the social services law, including the specific rating group the policyholder or covered person is enrolled in;**

**(iv) coverage purchased on the New York insurance exchange established pursuant to section two hundred sixty-eight-b of the public health law; and**

**(v) any other comprehensive health insurance coverage subject to article thirty-two, forty-three, or forty-seven of this chapter, or article forty-four of the public health law; and**

**(4) "emergency services" shall have the meaning set forth in subparagraph (D) of paragraph nine of subsection (i) of section three thousand two hundred sixteen of this article, subparagraph (D) of paragraph four of subsection (k) of section three thousand two hundred twenty-one of this article and subparagraph (D) of paragraph two of subsection (a) of section four thousand three hundred three of this chapter.**

§ 10. Subsection (i) of section 3224-a of the insurance law, as added by chapter 297 of the laws of 2012, is amended to read as follows:

(i) Except where the parties have developed a mutually agreed upon process for the reconciliation of coding disputes that includes a review of submitted medical records to ascertain the correct coding for payment, a general hospital certified pursuant to article twenty-eight of the public health law shall, upon receipt of payment of a claim for which payment has been adjusted based on a particular coding to a patient including the assignment of diagnosis and procedure, have the opportunity to submit the affected claim with medical records supporting the hospital's initial coding of the claim within thirty days of receipt of payment. Upon receipt of such medical records, an insurer or an organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law shall review such information to ascertain the correct coding for payment **based on national coding guidelines accepted by the centers for Medicare and Medicaid services or the American medical association, to the extent there are codes for such services, including ICD-10 guidelines to the extent available,** and process the claim**, including the correct coding,** in accordance with the timeframes set

forth in subsection (a) of this section. In the event the insurer, organization, or corporation processes the claim consistent with its initial determination, such decision shall be accompanied by a statement of the insurer, organization or corporation setting forth the specific reasons why the initial adjustment was appropriate. An insurer, organization, or corporation that increases the payment based on the information submitted by the general hospital, [~~but fails to do so in accordance with the timeframes set forth in subsection (a) of this section,~~] shall pay to the general hospital interest on the amount of such increase at the rate set by the commissioner of taxation and finance for corporate taxes pursuant to paragraph one of [~~subdivision~~] subsection (e) of section one thousand ninety-six of the tax law, to be computed from [~~the end of the forty-five day period after resubmission of the additional medical record information~~] the date thirty days after initial receipt of the claim if transmitted electronically or forty-five days after initial receipt of the claim if transmitted by paper or facsimile. Provided, however, a failure to remit timely payment shall not constitute a violation of this section. Neither the initial or subsequent processing of the claim by the insurer, organization, or corporation shall be deemed an adverse determination as defined in section four thousand nine hundred of this chapter if based solely on a coding determination. Nothing in this subsection shall apply to those instances in which the insurer or organization, or corporation has a reasonable suspicion of fraud or abuse or when an insurer, organization, or corporation engages in reasonable fraud, waste and abuse detection efforts; provided, however, to the extent any subsequent payment adjustments are made as a result of the fraud, waste and abuse detection processes or efforts, such payment adjustments shall be consistent on the coding guidelines required by this subsection.

§ 11. Section 3224-a of the insurance law is amended by adding a new subsection (k) to read as follows:

(k) The superintendent, in conjunction with the commissioner of health, shall convene a health care administrative simplification workgroup. The workgroup shall consist of stakeholders, including but not limited to, insurers, hospitals, physicians and consumers or their representatives, to study and evaluate mechanisms to reduce health care administrative costs and complexities through standardization, simplification and technology. Areas to be examined by the workgroup shall include claims submission and payment, claims attachments, preauthorization practices, provider credentialing, insurance eligibility verification, and access to electronic medical records. The workgroup shall report on its findings and recommendations to the superintendent, the commissioner of health, the speaker of the assembly and the temporary president of the senate within eighteen months of the effective date of this subsection.

§ 12. The insurance law is amended by adding a new section 345 to read as follows:

§ 345. Health care claims reports. An insurer authorized to write accident and health insurance in the state, a corporation organized pursuant to article forty-three of this chapter, or a health maintenance organization certified pursuant to article forty-four of the public health law shall report to the superintendent quarterly and annually on health care claims payment performance with respect to comprehensive health insurance coverage. The reports shall be submitted in the manner and form prescribed by the superintendent after consultation with representatives of insurers and health care providers but at minimum shall

include the number and dollar value of health care claims by major line of business and categorized as follows: health care claims received, health care claims paid, health care claims pended and health care claims denied during the respective quarter or year. The data shall be provided in the aggregate and by major category of health care provider. The reports should address any patterns or suspected areas of revenue maximization that may have contributed to the number of denials. The reports shall be due to the superintendent no later than forty-five days after the end of the respective quarter or year and shall be made publicly available including on the department's website. The superintendent, in conjunction with the commissioner of health, may promulgate regulations requiring additional reporting requirements on insurers, corporations, or health maintenance organizations or health care providers to assess the effectiveness of the payment policies set forth in this section, which may be informed by the administrative simplification workgroup authorized by subsection (k) of section three thousand two hundred twenty-four-a of this chapter.

§ 13. Paragraph (a) of subdivision 2 of section 4903 of the public health law, as amended by chapter 371 of the laws of 2015, is amended to read as follows:

(a) A utilization review agent shall make a utilization review determination involving health care services which require pre-authorization and provide notice of a determination to the enrollee or enrollee's designee and the enrollee's health care provider by telephone and in writing within three business days of receipt of the necessary information, or for inpatient rehabilitation services following an inpatient hospital admission provided by a hospital or skilled nursing facility, within one business day of receipt of the necessary information. To the extent practicable, such written notification to the enrollee's health care provider shall be transmitted electronically, in a manner and in a form agreed upon by the parties. The notification shall identify; (i) whether the services are considered in-network or out-of-network; (ii) and whether the enrollee will be held harmless for the services and not be responsible for any payment, other than any applicable co-payment or co-insurance; (iii) as applicable, the dollar amount the health care plan will pay if the service is out-of-network; and (iv) as applicable, information explaining how an enrollee may determine the anticipated out-of-pocket cost for out-of-network health care services in a geographical area or zip code based upon the difference between what the health care plan will reimburse for out-of-network health care services and the usual and customary cost for out-of-network health care services.

§ 14. Subsection (a) of section 4902 of the insurance law is amended by adding a new paragraph 13 to read as follows:

(13) Establishment of a requirement that emergency department and inpatient hospital services rendered by a general hospital certified pursuant to article twenty-eight of the public health law to an insured to treat COVID-19 during a declared state disaster emergency related to COVID-19 shall not be denied on retrospective review on the basis that such services were not medically necessary.

§ 15. Subdivision 1 of section 4902 of the public health law is amended by adding a new paragraph (k) to read as follows:

(k) Establishment of a requirement that emergency department and inpatient hospital services rendered by a general hospital certified pursuant to article twenty-eight of this chapter to an enrollee to treat COVID-19 during a declared state disaster emergency related to COVID-19

**shall not be denied on retrospective review on the basis that such services were not medically necessary.**

§ 16. Paragraph 1 of subsection (b) of section 4903 of the insurance law, as amended by chapter 371 of the laws of 2015, is amended to read as follows:

(1) A utilization review agent shall make a utilization review determination involving health care services which require pre-authorization and provide notice of a determination to the insured or insured's designee and the insured's health care provider by telephone and in writing within three business days of receipt of the necessary information**, or for inpatient rehabilitation services following an inpatient hospital admission provided by a hospital or skilled nursing facility, within one business day of receipt of the necessary information**. To the extent practicable, such written notification to the enrollee's health care provider shall be transmitted electronically, in a manner and in a form agreed upon by the parties. The notification shall identify: (i) whether the services are considered in-network or out-of-network; (ii) whether the insured will be held harmless for the services and not be responsible for any payment, other than any applicable co-payment, co-insurance or deductible; (iii) as applicable, the dollar amount the health care plan will pay if the service is out-of-network; and (iv) as applicable, information explaining how an insured may determine the anticipated out-of-pocket cost for out-of-network health care services in a geographical area or zip code based upon the difference between what the health care plan will reimburse for out-of-network health care services and the usual and customary cost for out-of-network health care services.

§ 17. Subdivision 3 of section 4904 of the public health law, as amended by chapter 586 of the laws of 1998 and paragraph (b) as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

3. A utilization review agent shall establish a standard appeal process which includes procedures for appeals to be filed in writing or by telephone. A utilization review agent must establish a period of no less than forty-five days after receipt of notification by the enrollee of the initial utilization review determination and receipt of all necessary information to file the appeal from said determination. The utilization review agent must provide written acknowledgment of the filing of the appeal to the appealing party within fifteen days of such filing and shall make a determination with regard to the appeal within [~~sixty~~] **thirty** days of the receipt of necessary information to conduct the appeal **and, upon overturning the adverse determination, shall comply with subsection (a) of section three thousand two hundred twenty-four-a of the insurance law as applicable**. The utilization review agent shall notify the enrollee, the enrollee's designee and, where appropriate, the enrollee's health care provider, in writing, of the appeal determination within two business days of the rendering of such determination. The notice of the appeal determination shall include:

(a) the reasons for the determination; provided, however, that where the adverse determination is upheld on appeal, the notice shall include the clinical rationale for such determination; and

(b) a notice of the enrollee's right to an external appeal together with a description, jointly promulgated by the commissioner and the superintendent of financial services as required pursuant to subdivision five of section forty-nine hundred fourteen of this article, of the

external appeal process established pursuant to title two of this article and the time frames for such external appeals.

§ 18. Subsection (c) of section 4904 of the insurance law, as amended by chapter 586 of the laws of 1998, is amended to read as follows:

(c) A utilization review agent shall establish a standard appeal process which includes procedures for appeals to be filed in writing or by telephone. A utilization review agent must establish a period of no less than forty-five days after receipt of notification by the insured of the initial utilization review determination and receipt of all necessary information to file the appeal from said determination. The utilization review agent must provide written acknowledgment of the filing of the appeal to the appealing party within fifteen days of such filing and shall make a determination with regard to the appeal within [~~sixty~~] **thirty** days of the receipt of necessary information to conduct the appeal **and, upon overturning the adverse decision, shall comply with subsection (a) of section three thousand two hundred twenty-four-a of this chapter as applicable**. The utilization review agent shall notify the insured, the insured's designee and, where appropriate, the insured's health care provider, in writing of the appeal determination within two business days of the rendering of such determination.

The notice of the appeal determination shall include:

(1) the reasons for the determination; provided, however, that where the adverse determination is upheld on appeal, the notice shall include the clinical rationale for such determination; and

(2) a notice of the insured's right to an external appeal together with a description, jointly promulgated by the superintendent and the commissioner of health as required pursuant to subsection (e) of section four thousand nine hundred fourteen of this article, of the external appeal process established pursuant to title two of this article and the time frames for such external appeals.

§ 19. Subsection (a) of section 4803 of the insurance law is amended by adding a new paragraph 3 to read as follows:

**(3) A newly-licensed physician, a physician who has recently relocated to this state from another state and has not previously practiced in this state, or a physician who has changed his or her corporate relationship such that it results in the issuance of a new tax identification number under which such physician's services are billed for and who previously had a participation contract with the insurer immediately prior to the event that changed his or her corporate relationship, who becomes employed by a general hospital or diagnostic and treatment center licensed pursuant to article twenty-eight of the public health law, or a facility licensed under article sixteen, article thirty-one or article thirty-two of the mental hygiene law which has a participating provider contract with an insurer, and whose other employed physicians participate in the in-network portion of an insurer's network, shall be deemed "provisionally credentialed" and may participate in the in-network portion of an insurer's network during this time period upon: (A) the insurer's receipt of the hospital and physician's completed sections of the insurer's credentialing application; and (B) the insurer being notified in writing that the health care professional has been granted hospital privileges pursuant to the requirements of section twenty-eight hundred five-k of the public health law. However, a provisionally credentialed physician shall not be designated as an insured's primary care physician until such time as the physician has been fully credentialed by the insurer. Notwithstanding any other provision of law, an insurer shall not be required to make any payments to the licensed**

general hospital, the licensed diagnostic and treatment center or a facility licensed under article sixteen, article thirty-one or article thirty-two of the mental hygiene law for the service provided by a provisionally credentialed physician, until and unless the physician is fully credentialed by the insurer, provided, however, that upon being fully credentialed, the licensed general hospital, the licensed diagnostic and treatment center or a facility licensed under article sixteen, article thirty-one or article thirty-two of the mental hygiene law shall be paid for all services provided by the physician for up to sixty days after submission of the completed application that the credentialed physician provided to the insurer's subscribers or members from the date the physician fully met the requirements to be provisionally credentialed pursuant to this paragraph. Should the application ultimately be denied by the insurer, the insurer shall not be liable for any payment to the licensed general hospital, the licensed diagnostic and treatment center or a facility licensed under article sixteen, article thirty-one or article thirty-two of the mental hygiene law for the services provided by the provisionally credentialed health care professional that exceeds any out-of-network benefits payable under the insured's contract with the insurer; and the licensed general hospital, the licensed diagnostic and treatment center or a facility licensed under article sixteen, article thirty-one or article thirty-two of the mental hygiene law shall not pursue reimbursement from the insured, except to collect the copayment or coinsurance or deductible amount that otherwise would have been payable had the insured received services from a health care professional participating in the in-network portion of an insurer's network.

§ 20. Subdivision 1 of section 4406-d of the public health law is amended by adding a new paragraph (c) to read as follows:

(c) A newly-licensed physician, a physician who has recently relocated to this state from another state and has not previously practiced in this state, or a physician who has changed his or her corporate relationship such that it results in the issuance of a new tax identification number under which such physician's services are billed for and who previously had a participation contract with the health care plan immediately prior to the event that changed his or her corporate relationship, who becomes employed by a general hospital or diagnostic and treatment center licensed pursuant to article twenty-eight of this chapter, or a facility licensed under article sixteen, article thirty-one or article thirty-two of the mental hygiene law which has a participating provider contract with a health care plan, and whose other employed physicians participate in the in-network portion of a health care plan's network, shall be deemed "provisionally credentialed" and may participate in the in-network portion of a health care plan's network during this time period upon: (i) the health care plan's receipt of the hospital and physician's completed sections of the insurer's credentialing application; and (ii) the health care plan being notified in writing that the health care professional has been granted hospital privileges pursuant to the requirements of section twenty-eight hundred five-k of this chapter. However, a provisionally credentialed physician shall not be designated as an enrollee's primary care physician until such time as the physician has been fully credentialed by the health care plan. Notwithstanding any other provision of law, a health care plan shall not be required to make any payments to the licensed general hospital, the licensed diagnostic and treatment center or a facility licensed under article sixteen, article thirty-one or article thirty-two

of the mental hygiene law for the service provided by a provisionally credentialed physician, until and unless the physician is fully credentialed by the health care plan, provided, however, that upon being fully credentialed, the licensed general hospital, the licensed diagnostic and treatment center or a facility licensed under article sixteen, article thirty-one or article thirty-two of the mental hygiene law shall be paid for all services provided by the physician for up to sixty days after submission of the completed application that the credentialed physician provided to the health care plan's insureds from the date the physician fully met the requirements to be provisionally credentialed pursuant to this paragraph. Should the application ultimately be denied by the health care plan, the health care plan shall not be liable for any payment to the licensed general hospital, the licensed diagnostic and treatment center or a facility licensed under article sixteen, article thirty-one or article thirty-two of the mental hygiene law for the services provided by the provisionally credentialed health care professional; and the licensed general hospital, the licensed diagnostic and treatment center or a facility licensed under article sixteen, article thirty-one or article thirty-two of the mental hygiene law shall not pursue reimbursement from the insured, except to collect the copayment or coinsurance or deductible amount that otherwise would have been payable had the insured received services from a health care professional participating in the in-network portion of a health care plan's network.

§ 21. This act shall take effect immediately; provided, however, that sections six through eleven and sections thirteen through eighteen of this act shall apply to services performed on or after January 1, 2021; and provided further, however, that section twelve of this act shall apply to health care reports on and after January 1, 2022; and provided further, however, that sections nineteen and twenty of this act shall apply to credentialing applications received on or after July 1, 2020. Provided further, however, that the director of the budget may, in consultation with the commissioner of health, delay the effective dates prescribed herein for a period of time which shall not exceed ninety days following the conclusion or termination of an executive order issued pursuant to section 28 of the executive law declaring a state disaster emergency for the entire state of New York, upon such delay the director of the budget shall notify the chairs of the assembly ways and means committee and senate finance committee and the chairs of the assembly and senate health committee; provided further, however, that the director of the budget shall notify the legislative bill drafting commission upon the occurrence of a delay in the effective date of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART ZZ

Section 1. Subdivision (c) of section 1261 of the tax law is amended by adding a new paragraph 7 to read as follows:

(7) In order to provide critical support to financially distressed hospitals and nursing home facilities throughout the state, the comptroller shall, by April fifteenth, two thousand twenty, and by January first of each year thereafter, determine each county's percentage share of the total aggregate net collections of all counties, excluding a city with a population of one million or more, for the one-year period ending

November thirtieth of the preceding year, and withhold from the taxes, penalties and interest imposed by each county, excluding a city having a population of one million or more, an amount equal to the product of such county's percentage share and fifty million dollars. Such amounts shall be withheld in four quarterly installments on January fifteenth, April fifteenth, July fifteenth and October fifteenth, and shall be deposited into the New York State Agency Trust Fund, Distressed Provider Assistance Account. Provided, however, for the tax jurisdictions that are subject to paragraphs three and five-a of this subdivision, the comptroller shall deposit such amount to the New York State Agency Trust Fund, Distressed Provider Assistance Account after funds are distributed pursuant to such paragraphs three and five-a of this subdivision.

§ 2. Subparagraph (ii) of paragraph 5 of subdivision (c) of section 1261 of the tax law, as amended by section 6-b of part G of chapter 59 of the laws of 2019, is amended to read as follows:

(ii) After withholding the taxes, penalties and interest imposed by the city of New York on and after August first, two thousand eight as provided in subparagraph (i) of this paragraph, the comptroller shall withhold a portion of such taxes, penalties and interest sufficient to deposit annually into the central business district tolling capital lockbox established pursuant to section five hundred fifty-three-j of the public authorities law: (A) in state fiscal year two thousand nine-teen - two thousand twenty, one hundred twenty-seven million five hundred thousand dollars; (B) in state fiscal year two thousand twenty - two thousand twenty-one, one hundred seventy million dollars; [~~and~~] (C) in state fiscal year two thousand twenty-one - two thousand twenty-two and every succeeding state fiscal year, an amount equal to one hundred one percent of the amount deposited in the immediately preceding state fiscal year. The funds shall be deposited monthly in equal installments. During the period that the comptroller is required to withhold amounts and make payments described in this paragraph, the city of New York has no right, title or interest in or to those taxes, penalties and interest required to be paid into the above referenced central business district tolling capital lockbox. In addition, the comptroller shall withhold a portion of such taxes, penalties and interest in the amount of two hundred million dollars, to be withheld in four quarterly installments on January fifteenth, April fifteenth, July fifteenth and October fifteenth of each year, and shall deposit such amounts into the New York State Agency Trust Fund, Distressed Provider Assistance Account.

§ 3. Notwithstanding sections one and two of this act, the comptroller shall defer withholding the total value of withholdings which would have occurred on April 15, 2020, July 15, 2020, October 15, 2020, and January 15, 2021 pursuant to sections one and two of this act until January 15, 2021 at which time the comptroller shall withhold the full $50,000,000 installment set forth in section one of this act and the full $200,000,000 installment set forth in section two of this act.

§ 4. Section 363-c of the social services law is amended by adding a new subdivision 4 to read as follows:

4. Notwithstanding any laws or regulations to the contrary, all social services districts, providers and other recipients of medical assistance program funds shall make available to the commissioner or the director of the division of budget in a prompt fashion all fiscal and statistical records and reports, other contemporaneous records demonstrating their right to receive payment, and all underlying books, records, documentation and reports, which may be requested by the commissioner or the director of the division of the budget as may be determined necessary to

manage and oversee the Medicaid program provided however, any personally identifying information obtained pursuant to this subdivision shall remain confidential and shall be used solely for the purposes of this subdivision.

§ 5. This act shall take effect immediately and shall be deemed repealed two years after such effective date.

PART AAA

Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 1 of part F of chapter 57 of the laws of 2019, is amended to read as follows:

(a) The superintendent of financial services and the commissioner of health or their designee shall, from funds available in the hospital excess liability pool created pursuant to subdivision 5 of this section, purchase a policy or policies for excess insurance coverage, as authorized by paragraph 1 of subsection (e) of section 5502 of the insurance law; or from an insurer, other than an insurer described in section 5502 of the insurance law, duly authorized to write such coverage and actually writing medical malpractice insurance in this state; or shall purchase equivalent excess coverage in a form previously approved by the superintendent of financial services for purposes of providing equivalent excess coverage in accordance with section 19 of chapter 294 of the laws of 1985, for medical or dental malpractice occurrences between July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017 and June 30, 2018, between July 1, 2018 and June 30, 2019, [~~and~~] between July 1, 2019 and June 30, 2020, and between July 1, 2020 and June 30, 2021 or reimburse the hospital where the hospital purchases equivalent excess coverage as defined in subparagraph (i) of paragraph (a) of subdivision 1-a of this section for medical or dental malpractice occurrences between July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July

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§ 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 2 of part F of chapter 57 of the laws of 2019, is amended to read as follows:

(3)(a) The superintendent of financial services shall determine and certify to each general hospital and to the commissioner of health the cost of excess malpractice insurance for medical or dental malpractice occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, and between July 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, and between July 1, 2016 and June 30, 2017, between July 1, 2017 and June 30, 2018, between July 1, 2018 and June 30, 2019, [~~and~~] between July 1, 2019 and June 30, 2020**, and between July 1, 2020 and June 30, 2021** allocable to each general hospital for physicians or dentists certified as eligible for purchase of a policy for excess insurance coverage by such general hospital in accordance with subdivision 2 of this section, and may amend such determination and certification as necessary.

(b) The superintendent of financial services shall determine and certify to each general hospital and to the commissioner of health the cost of excess malpractice insurance or equivalent excess coverage for medical or dental malpractice occurrences between July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017 and June 30, 2018, between July 1, 2018 and June 30, 2019, [~~and~~] between July 1, 2019 and June 30, 2020**, and between July 1, 2020 and June 30, 2021** allocable to each general hospital for physicians or dentists certified as eligible for purchase of a policy for excess insurance coverage or equivalent excess coverage by such general hospital in accordance with subdivision 2 of this section, and may amend such determination and certification as necessary. The superintendent of financial services shall determine and certify to each general hospital and to the

commissioner of health the ratable share of such cost allocable to the period July 1, 1987 to December 31, 1987, to the period January 1, 1988 to June 30, 1988, to the period July 1, 1988 to December 31, 1988, to the period January 1, 1989 to June 30, 1989, to the period July 1, 1989 to December 31, 1989, to the period January 1, 1990 to June 30, 1990, to the period July 1, 1990 to December 31, 1990, to the period January 1, 1991 to June 30, 1991, to the period July 1, 1991 to December 31, 1991, to the period January 1, 1992 to June 30, 1992, to the period July 1, 1992 to December 31, 1992, to the period January 1, 1993 to June 30, 1993, to the period July 1, 1993 to December 31, 1993, to the period January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30, 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1, 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to the period July 1, 2006 and June 30, 2007, to the period July 1, 2007 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and June 30, 2014, to the period July 1, 2014 and June 30, 2015, to the period July 1, 2015 and June 30, 2016, to the period July 1, 2016 and June 30, 2017, to the period July 1, 2017 to June 30, 2018, to the period July 1, 2018 to June 30, 2019, [~~and~~] to the period July 1, 2019 to June 30, 2020**, and to the period July 1, 2020 to June 30, 2021**.

§ 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 3 of part F of chapter 57 of the laws of 2019, are amended to read as follows:

(a) To the extent funds available to the hospital excess liability pool pursuant to subdivision 5 of this section as amended, and pursuant to section 6 of part J of chapter 63 of the laws of 2001, as may from time to time be amended, which amended this subdivision, are insufficient to meet the costs of excess insurance coverage or equivalent excess coverage for coverage periods during the period July 1, 1992 to June 30, 1993, during the period July 1, 1993 to June 30, 1994, during the period July 1, 1994 to June 30, 1995, during the period July 1, 1995 to June 30, 1996, during the period July 1, 1996 to June 30, 1997, during the period July 1, 1997 to June 30, 1998, during the period July 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30, 2000, during the period July 1, 2000 to June 30, 2001, during the period July 1, 2001 to October 29, 2001, during the period April 1, 2002 to June 30, 2002, during the period July 1, 2002 to June 30, 2003, during the period July 1, 2003 to June 30, 2004, during the period July 1, 2004 to June 30, 2005, during the period July 1, 2005 to June 30, 2006, during the period July 1, 2006 to June 30, 2007, during the period July 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,

2009, during the period July 1, 2009 to June 30, 2010, during the period July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June 30, 2012, during the period July 1, 2012 to June 30, 2013, during the period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to June 30, 2015, during the period July 1, 2015 to June 30, 2016, during the period July 1, 2016 to June 30, 2017, during the period July 1, 2017 to June 30, 2018, during the period July 1, 2018 to June 30, 2019, [~~and~~] during the period July 1, 2019 to June 30, 2020**, and during the period July 1, 2020 to June 30, 2021** allocated or reallocated in accordance with paragraph (a) of subdivision 4-a of this section to rates of payment applicable to state governmental agencies, each physician or dentist for whom a policy for excess insurance coverage or equivalent excess coverage is purchased for such period shall be responsible for payment to the provider of excess insurance coverage or equivalent excess coverage of an allocable share of such insufficiency, based on the ratio of the total cost of such coverage for such physician to the sum of the total cost of such coverage for all physicians applied to such insufficiency.

(b) Each provider of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or covering the period July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to June 30, 2020**, or covering the period July 1, 2020 to June 30, 2021** shall notify a covered physician or dentist by mail, mailed to the address shown on the last application for excess insurance coverage or equivalent excess coverage, of the amount due to such provider from such physician or dentist for such coverage period determined in accordance with paragraph (a) of this subdivision. Such amount shall be due from such physician or dentist to such provider of excess insurance coverage or equivalent excess coverage in a time and manner determined by the superintendent of financial services.

(c) If a physician or dentist liable for payment of a portion of the costs of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the peri-

od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or covering the period July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to June 30, 2020**, or covering the period July 1, 2020 to June 30, 2021** determined in accordance with paragraph (a) of this subdivision fails, refuses or neglects to make payment to the provider of excess insurance coverage or equivalent excess coverage in such time and manner as determined by the superintendent of financial services pursuant to paragraph (b) of this subdivision, excess insurance coverage or equivalent excess coverage purchased for such physician or dentist in accordance with this section for such coverage period shall be cancelled and shall be null and void as of the first day on or after the commencement of a policy period where the liability for payment pursuant to this subdivision has not been met.

(d) Each provider of excess insurance coverage or equivalent excess coverage shall notify the superintendent of financial services and the commissioner of health or their designee of each physician and dentist eligible for purchase of a policy for excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or covering the period July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to June 30, 2020**, or covering the period July 1, 2020 to June 30, 2021** that has made payment to such provider of excess insurance coverage or equiv-

alent excess coverage in accordance with paragraph (b) of this subdivision and of each physician and dentist who has failed, refused or neglected to make such payment.

(e) A provider of excess insurance coverage or equivalent excess coverage shall refund to the hospital excess liability pool any amount allocable to the period July 1, 1992 to June 30, 1993, and to the period July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001, and to the period April 1, 2002 to June 30, 2002, and to the period July 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30, 2004, and to the period July 1, 2004 to June 30, 2005, and to the period July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and to the period July 1, 2014 to June 30, 2015, and to the period July 1, 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and to the period July 1, 2017 to June 30, 2018, and to the period July 1, 2018 to June 30, 2019, and to the period July 1, 2019 to June 30, 2020**, and to the period July 1, 2020 to June 30, 2021** received from the hospital excess liability pool for purchase of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, and covering the period July 1, 1993 to June 30, 1994, and covering the period July 1, 1994 to June 30, 1995, and covering the period July 1, 1995 to June 30, 1996, and covering the period July 1, 1996 to June 30, 1997, and covering the period July 1, 1997 to June 30, 1998, and covering the period July 1, 1998 to June 30, 1999, and covering the period July 1, 1999 to June 30, 2000, and covering the period July 1, 2000 to June 30, 2001, and covering the period July 1, 2001 to October 29, 2001, and covering the period April 1, 2002 to June 30, 2002, and covering the period July 1, 2002 to June 30, 2003, and covering the period July 1, 2003 to June 30, 2004, and covering the period July 1, 2004 to June 30, 2005, and covering the period July 1, 2005 to June 30, 2006, and covering the period July 1, 2006 to June 30, 2007, and covering the period July 1, 2007 to June 30, 2008, and covering the period July 1, 2008 to June 30, 2009, and covering the period July 1, 2009 to June 30, 2010, and covering the period July 1, 2010 to June 30, 2011, and covering the period July 1, 2011 to June 30, 2012, and covering the period July 1, 2012 to June 30, 2013, and covering the period July 1, 2013 to June 30, 2014, and covering the period July 1, 2014 to June 30, 2015, and covering the period July 1, 2015 to June 30, 2016, and covering the period July 1, 2016 to June 30, 2017, and covering the period July 1, 2017 to June 30, 2018, and covering the period July 1, 2018 to June 30, 2019, and covering the period July 1, 2019 to June 30, 2020**, and covering the period July 1, 2020 to June 30, 2021** for a physician or dentist where such excess insurance coverage or equivalent excess coverage is cancelled in accordance with paragraph (c) of this subdivision.

§ 4. Intentionally omitted.

§ 5. Section 40 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and

professional medical conduct, as amended by section 4 of part F of chapter 57 of the laws of 2019, is amended to read as follows:

§ 40. The superintendent of financial services shall establish rates for policies providing coverage for physicians and surgeons medical malpractice for the periods commencing July 1, 1985 and ending June 30, [~~2020~~] 2021; provided, however, that notwithstanding any other provision of law, the superintendent shall not establish or approve any increase in rates for the period commencing July 1, 2009 and ending June 30, 2010. The superintendent shall direct insurers to establish segregated accounts for premiums, payments, reserves and investment income attributable to such premium periods and shall require periodic reports by the insurers regarding claims and expenses attributable to such periods to monitor whether such accounts will be sufficient to meet incurred claims and expenses. On or after July 1, 1989, the superintendent shall impose a surcharge on premiums to satisfy a projected deficiency that is attributable to the premium levels established pursuant to this section for such periods; provided, however, that such annual surcharge shall not exceed eight percent of the established rate until July 1, [~~2020~~] 2021, at which time and thereafter such surcharge shall not exceed twenty-five percent of the approved adequate rate, and that such annual surcharges shall continue for such period of time as shall be sufficient to satisfy such deficiency. The superintendent shall not impose such surcharge during the period commencing July 1, 2009 and ending June 30, 2010. On and after July 1, 1989, the surcharge prescribed by this section shall be retained by insurers to the extent that they insured physicians and surgeons during the July 1, 1985 through June 30, [~~2020~~] 2021 policy periods; in the event and to the extent physicians and surgeons were insured by another insurer during such periods, all or a pro rata share of the surcharge, as the case may be, shall be remitted to such other insurer in accordance with rules and regulations to be promulgated by the superintendent. Surcharges collected from physicians and surgeons who were not insured during such policy periods shall be apportioned among all insurers in proportion to the premium written by each insurer during such policy periods; if a physician or surgeon was insured by an insurer subject to rates established by the superintendent during such policy periods, and at any time thereafter a hospital, health maintenance organization, employer or institution is responsible for responding in damages for liability arising out of such physician's or surgeon's practice of medicine, such responsible entity shall also remit to such prior insurer the equivalent amount that would then be collected as a surcharge if the physician or surgeon had continued to remain insured by such prior insurer. In the event any insurer that provided coverage during such policy periods is in liquidation, the property/casualty insurance security fund shall receive the portion of surcharges to which the insurer in liquidation would have been entitled. The surcharges authorized herein shall be deemed to be income earned for the purposes of section 2303 of the insurance law. The superintendent, in establishing adequate rates and in determining any projected deficiency pursuant to the requirements of this section and the insurance law, shall give substantial weight, determined in his discretion and judgment, to the prospective anticipated effect of any regulations promulgated and laws enacted and the public benefit of stabilizing malpractice rates and minimizing rate level fluctuation during the period of time necessary for the development of more reliable statistical experience as to the efficacy of such laws and regulations affecting medical, dental or podiatric malpractice enacted or promulgated in 1985,

1986, by this act and at any other time. Notwithstanding any provision of the insurance law, rates already established and to be established by the superintendent pursuant to this section are deemed adequate if such rates would be adequate when taken together with the maximum authorized annual surcharges to be imposed for a reasonable period of time whether or not any such annual surcharge has been actually imposed as of the establishment of such rates.

§ 6. Section 5 and subdivisions (a) and (e) of section 6 of part J of chapter 63 of the laws of 2001, amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 5 of part F of chapter 57 of the laws of 2019, are amended to read as follows:

§ 5. The superintendent of financial services and the commissioner of health shall determine, no later than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, June 15, 2018, June 15, 2019, [~~and~~] June 15, 2020**, and June 15, 2021** the amount of funds available in the hospital excess liability pool, created pursuant to section 18 of chapter 266 of the laws of 1986, and whether such funds are sufficient for purposes of purchasing excess insurance coverage for eligible participating physicians and dentists during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30, 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30, 2018, or July 1, 2018 to June 30, 2019, or July 1, 2019 to June 30, 2020**, or July 1, 2020 to June 30, 2021** as applicable.

(a) This section shall be effective only upon a determination, pursuant to section five of this act, by the superintendent of financial services and the commissioner of health, and a certification of such determination to the state director of the budget, the chair of the senate committee on finance and the chair of the assembly committee on ways and means, that the amount of funds in the hospital excess liability pool, created pursuant to section 18 of chapter 266 of the laws of 1986, is insufficient for purposes of purchasing excess insurance coverage for eligible participating physicians and dentists during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30, 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30, 2018, or July 1, 2018 to June 30, 2019, or July 1, 2019 to June 30, 2020**, or July 1, 2020 to June 30, 2021** as applicable.

(e) The commissioner of health shall transfer for deposit to the hospital excess liability pool created pursuant to section 18 of chapter 266 of the laws of 1986 such amounts as directed by the superintendent of financial services for the purchase of excess liability insurance

coverage for eligible participating physicians and dentists for the policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, as applicable, and the cost of administering the hospital excess liability pool for such applicable policy year, pursuant to the program established in chapter 266 of the laws of 1986, as amended, no later than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, June 15, 2018, June 15, 2019, [~~and~~] June 15, 2020**, and June 15, 2021** as applicable.

§ 7. Section 20 of part H of chapter 57 of the laws of 2017, amending the New York Health Care Reform Act of 1996 and other laws relating to extending certain provisions thereto, as amended by section 6 of part F of chapter 57 of the laws of 2019, is amended to read as follows:

§ 20. Notwithstanding any law, rule or regulation to the contrary, only physicians or dentists who were eligible, and for whom the superintendent of financial services and the commissioner of health, or their designee, purchased, with funds available in the hospital excess liability pool, a full or partial policy for excess coverage or equivalent excess coverage for the coverage period ending the thirtieth of June, two thousand [~~nineteen,~~] **twenty,** shall be eligible to apply for such coverage for the coverage period beginning the first of July, two thousand [~~nineteen;~~] **twenty;** provided, however, if the total number of physicians or dentists for whom such excess coverage or equivalent excess coverage was purchased for the policy year ending the thirtieth of June, two thousand [~~nineteen~~] **twenty** exceeds the total number of physicians or dentists certified as eligible for the coverage period beginning the first of July, two thousand [~~nineteen,~~] **twenty,** then the general hospitals may certify additional eligible physicians or dentists in a number equal to such general hospital's proportional share of the total number of physicians or dentists for whom excess coverage or equivalent excess coverage was purchased with funds available in the hospital excess liability pool as of the thirtieth of June, two thousand [~~nineteen,~~] **twenty,** as applied to the difference between the number of eligible physicians or dentists for whom a policy for excess coverage or equivalent excess coverage was purchased for the coverage period ending the thirtieth of June, two thousand [~~nineteen~~] **twenty** and the number of such eligible physicians or dentists who have applied for excess coverage or equivalent excess coverage for the coverage period beginning the first of July, two thousand [~~nineteen~~] **twenty**.

§ 8. This act shall take effect April 1, 2020, provided, however, if this act shall become a law after such date it shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020.

## PART BBB

Intentionally Omitted

## PART CCC

Section 1. Subdivisions 1, 4 and 5 of section 92 of part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to known and projected department of health state fund Medicaid

expenditures, subdivision 1 as amended by section 1 of part D of chapter 57 of the laws of 2019, subdivision 5 as amended by section 33-a of part C of chapter 60 of the laws of 2014 and paragraph (g) of subdivision 5 as added by section 19 of part B of chapter 59 of the laws of 2016, are amended to read as follows:

1. (a) For state fiscal years 2011-12 through [~~2020-2021~~] 2021-22, the director of the budget, in consultation with the commissioner of health referenced as "commissioner" for purposes of this section, shall assess on a monthly basis, as reflected in monthly reports pursuant to subdivision five of this section known and projected department of health state funds medicaid expenditures by category of service and by geographic regions, as defined by the commissioner[~~, and if the director of the budget determines that such~~].

(b) If such expenditures are expected to cause medicaid disbursements for such period to exceed the projected department of health medicaid state funds disbursements in the enacted budget financial plan pursuant to subdivision 3 of section 23 of the state finance law, [~~the commissioner of health, in consultation with the director of the budget, shall develop~~] a medicaid savings allocation [~~plan~~] adjustment shall be implemented to limit such spending to the aggregate limit level specified in the enacted budget financial plan[~~, provided, however, such projections~~]. Such adjustment shall be applied equally across categories of service unless projections demonstrate, as determined by the commissioner of health, in consultation with the director of the budget, a specific category or categories of service are responsible for the growth of expenditures, in which instance the commissioner of health, in consultation with the director of the budget may limit implementation of the adjustment to such category or categories of service. The commissioner of health shall notify impacted providers of an allocation adjustment that will impact their reimbursements through a public notice consistent with 42 C.F.R. § 447.205 issued at least thirty days prior to implementation of the allocation adjustment. If prior to implementation of any such adjustment, the commissioner of health develops a plan, subject to the approval of the director of budget, to take actions necessary to avoid a Medicaid savings allocation adjustment, the commissioner of health may pursue such actions to avoid a Medicaid savings allocation adjustment.

(c) Projections may be adjusted by the director of the budget to account for any changes in the New York state federal medical assistance percentage amount established pursuant to the federal social security act, changes in provider revenues, reductions to local social services district medical assistance administration, minimum wage increases, and beginning April 1, 2012 the operational costs of the New York state medical indemnity fund and state costs or savings from the basic health plan. Such projections may be adjusted by the director of the budget to account for increased or expedited department of health state funds medicaid expenditures as a result of a natural or other type of disaster, including a governmental declaration of emergency.

4. In accordance with the medicaid savings allocation [~~plan~~] adjustment under subdivision 1 of this section, the commissioner of the department of health shall reduce department of health state funds medicaid disbursements by the amount of the projected overspending through, actions including, but not limited to modifying or suspending reimbursement methods, including but not limited to all fees, premium levels and rates of payment, provided however that any changes are consistent with actuarial soundness principles and requirements, notwithstanding any

provision of law that sets a specific amount or methodology for any such payments or rates of payment; modifying Medicaid program benefits; seeking all necessary Federal approvals, including, but not limited to **state plan amendments,** waivers, waiver amendments; and suspending time frames for notice, approval or certification of rate requirements, notwithstanding any provision of law, rule or regulation to the contrary, including but not limited to sections 2807 and 3614 of the public health law, section 18 of chapter 2 of the laws of 1988, and 18 NYCRR 505.14(h).

5. The commissioner of health, in consultation with the director of budget, shall prepare a monthly report that sets forth:

(a) known and projected department of health medicaid expenditures as described in subdivision one of this section, and factors that could result in medicaid disbursements for the relevant state fiscal year to exceed the projected department of health state funds disbursements in the enacted budget financial plan pursuant to subdivision 3 of section 23 of the state finance law, including spending increases or decreases due to: enrollment fluctuations, rate changes, utilization changes, MRT investments, and shift of beneficiaries to managed care; and variations in offline medicaid payments;

(b) the actions taken to implement any medicaid savings allocation [~~plan~~] **adjustment** implemented pursuant to [~~subdivision~~] **subdivisions one and** four of this section, including information concerning the impact of such actions on each category of service and each geographic region of the state.

(c) The price, to include the base rate plus any upcoming rate adjustment; utilization, to include current enrollment, projected enrollment changes and acuity; and Medicaid Redesign Team initiatives, one-time initiatives and other initiatives describing the proposed budget action impact, any prior year initiative with current and future year impacts for the following categories of spending:

(i) inpatient;
(ii) outpatient;
(iii) emergency room;
(iv) clinic;
(v) nursing homes;
(vi) other long term care;
(vii) medicaid managed care;
(viii) family health plus;
(ix) pharmacy;
(x) transportation;
(xi) dental;
(xii) non-institutional and all other categories;
(xiii) affordable housing;
(xiv) vital access provider services;
(xv) behavioral health vital access provider services;
(xvi) health home establishment grants;
(xvii) grants for facilitating transition of behavioral health service to managed care;
(xviii) Finger Lakes health services agency;
(xix) the transition of vulnerable populations to managed care;
(xx) audit recoveries and settlements; and

(d) where price and utilization are not applicable, detail shall be provided on spending, to include but not be limited to:

(i) demographic information of targeted recipients;
(ii) number of recipients;

(iii) award amounts;
(iv) timing of awards; and
(v) the impact of Medicaid Redesign Team and/or one-time initiatives.
Information required by paragraphs (a) and (b) of this subdivision shall be provided to the chairs of the senate finance and the assembly ways and means committees, and shall be posted on the department of health's website in the timely manner.
(e) Beginning on July 1, 2014, additional information required by paragraphs (c) and (d) of this subdivision shall be provided to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate finance committee, the chair of the assembly ways and means committee, and the chairs of the senate and assembly health committees.
(f) any projected Medicaid savings determined by the commissioner of health pursuant to section 34 of part C of a chapter of the laws of 2014, relating to the implementation of the health and mental hygiene budget, and the proposed allocation plan **spending adjustment** with regard to such savings.
(g) any material impact to the global cap annual projection, along with an explanation of the variance from the projection at the time of the enacted budget. Such material impacts shall include, but not be limited to, policy and programmatic changes, significant transactions, and any actions taken, administrative or otherwise, which would materially impact expenditures under the global cap. Reporting requirements under this paragraph shall include material impacts from the preceding month and any anticipated material impacts for the month in which the report required under this subdivision is issued, as well as anticipated material impacts for the month subsequent to such report.
§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020; provided, however, that the director of the budget may, in consultation with the commissioner of health, delay the effective dates of paragraphs (b) and (c) of subdivision 1 of section 92 of part H of chapter 59 of the laws of 2011, as added by section one of this act for a period of time which shall not exceed ninety days following the conclusion or termination of an executive order issued pursuant to section 28 of the executive law declaring a state disaster emergency for the entire state of New York, upon such delay the director of the budget shall notify the chairs of the assembly ways and means committee and senate finance committee and the chairs of the assembly and senate health committees; provided further, however, that the director of the budget shall notify the legislative bill drafting commission upon the occurrence of a delay in the effective date of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

## PART DDD

Section 1. Subparagraph (B) of paragraph 15-a of subsection (i) of section 3216 of the insurance law, as added by chapter 378 of the laws of 1993 and such paragraph as renumbered by chapter 338 of the laws of 2003, is amended to read as follows:
(B) Such coverage may be subject to annual deductibles and coinsurance as may be deemed appropriate by the superintendent and as are consistent

with those established for other benefits within a given policy; provided however, the total amount that a covered person is required to pay out of pocket for covered prescription insulin drugs shall be capped at an amount not to exceed one hundred dollars per thirty-day supply, regardless of the amount or type of insulin needed to fill such covered person's prescription and regardless of the insured's deductible, copayment, coinsurance or any other cost sharing requirement.

§ 2. Subparagraph (B) of paragraph 7 of subsection (k) of section 3221 of the insurance law, as amended by chapter 338 of the laws of 2003, is amended to read as follows:

(B) Such coverage may be subject to annual deductibles and coinsurance as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy; provided however, the total amount that a covered person is required to pay out of pocket for covered prescription insulin drugs shall be capped at an amount not to exceed one hundred dollars per thirty-day supply, regardless of the amount or type of insulin needed to fill such covered person's prescription and regardless of the insured's deductible, copayment, coinsurance or any other cost sharing requirement.

§ 3. Paragraph 2 of subsection (u) of section 4303 of the insurance law, as amended by chapter 338 of the laws of 2003, is amended to read as follows:

(2) Such coverage may be subject to annual deductibles and coinsurance as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy; provided however, the total amount that a covered person is required to pay out of pocket for covered prescription insulin drugs shall be capped at an amount not to exceed one hundred dollars per thirty-day supply, regardless of the amount or type of insulin needed to fill such covered person's prescription and regardless of the insured's deductible, copayment, coinsurance or any other cost sharing requirement.

§ 4. This act shall take effect immediately and shall apply to any policy or contract issued or renewed on or after January 1, 2021.

## PART EEE

Section 1. Section 527 of the public authorities law is amended by adding a new subdivision 3 to read as follows:

3. Notwithstanding any inconsistent provision of this section, on the effective date of this subdivision the term of each board member currently in office, or any vacant position, shall be deemed expired, and each such board members may continue to serve in holdover status until their successor is appointed by the governor and with the advice and consent of the senate and the provisions of section thirty-nine of the public officers law relating to recess appointments shall apply to such appointments. Initial appointments made pursuant to this subdivision shall be for the following terms, the first three of such initial appointments shall be for a term of three years, the second two of such initial appointments shall be for a term of five years, and final two of such initial appointments shall be for a term of seven years. After these initial terms have expired, board members shall be appointed for a term of five years, provided, however, that each board member may serve in holdover until a successor board member is appointed. Vacancies in the office of such board occurring otherwise than by expiration of term also shall be filled by the governor by appointment by and with the advice and consent of the senate for the unexpired term, and the

**provisions of section thirty-nine of the public officers law relating to recess appointments shall apply to such board.**

§ 2. The New York State Bridge Authority and New York state thruway authority shall be authorized to enter into a coordination agreement which shall address the optimization of services to create efficiencies between the two entities. The content of such agreement may include, but is not limited to, equipment, office space, real property, services and all other resources related to procurement, construction, engineering services, legal services, administrative services, financial services, information technology, and any other related subject area as determined by the boards of the New York State Bridge Authority and New York state thruway authority. Such agreement or any project undertaken pursuant to such agreement shall not be deemed to impair the rights of bondholders and may provide for, but not be limited to, the management, supervision and direction of such employees' performance of such services. Further, such agreement shall not amend, repeal or replace the terms of any agreement that is collectively negotiated between an employer and an employee organization, including an agreement or interest arbitration award made pursuant to article 14 of the civil service law. Any employee or position that at the time of the effective date of this act shall have been in a negotiating unit represented by an employee organization which was certified or recognized pursuant to article 14 of the civil service law shall remain in said bargaining unit and shall continue to be represented by said employee organization. Any and all terms of an existing collective bargaining agreement shall remain in full force and effect. New employees shall be assigned to the appropriate bargaining unit as they would have been assigned to were such title created prior to the effective date of this act including employees serving in positions in newly created titles. There shall be no reduction of staff, loss of position, including partial displacement, such as reduction in the hours or non-overtime, wages, or employment benefits solely as a result of the creation of this coordination agreement.

§ 3. This act shall take effect immediately.

## PART FFF

Section 1. The Legislature hereby finds and declares that medical assistance for needy persons is a matter of public concern and a necessity in promoting the public health and welfare and for promoting the state's goal of making available to everyone, regardless of race, age, gender, national origin or economic standing, uniform, high-quality medical care. As the department of health is the single state agency responsible for supervising the administration of the state's medical assistance program (Medicaid), it is tasked with ensuring efficiency, economy, and quality of care in providing benefits to the state's needy persons. To this end and with the fiscal constraints facing our state in mind, the department of health continues to analyze the Medicaid program in search of ways to ensure Medicaid spending is held to the standard of efficiency, economy, and quality of care. In consideration of this standard, the department of health is hereby directed to exercise its existing administrative authority to remove the pharmacy benefit from managed care benefit package and instead provide the pharmacy benefit under the fee for service program, except where otherwise required by federal law, to ensure transparency and that the benefit is provided to the fullest extent and as efficiently as possible; provided, however, that the department of health shall not implement the transition of the pharmacy

benefit from the managed care benefit package to the fee for service program sooner than April 1, 2021, and until it is satisfied that all necessary and appropriate transition planning has occurred, in its sole discretion, and federal approvals have been obtained and preparations have been made. Furthermore, to ensure an orderly transition, continued access to medications, and appropriate patient education and support, the department may establish uniform standards, payment policies and reimbursement methodologies for any sites where drugs may be administered or dispensed under the fee for service program; provided that, subject to the availability of federal financial participation, when reimbursing covered entities, as defined under section 340B of the public health service act (42 U.S.C. §256b), for drugs that would otherwise be eligible for pricing under section 340B of the public health service act, the department shall examine all reasonably available methods for determining actual acquisition cost and the professional dispensing fee and, beginning in the fiscal year starting April 1, 2021, review and adjust reimbursement for such drugs such that no sooner than April 1, 2023, reimbursement shall be determined based on a method that the commissioner determines that utilizes the actual acquisition costs and professional dispensing fee.

§ 1-a. The commissioner of health shall convene an advisory group composed of stakeholder representatives determined in the commissioner's sole discretion, for purposes of providing non-binding recommendations to the department by October 1, 2020 on available methods of achieving savings in the state fiscal years beginning on and after April 1, 2021, with respect to reimbursement for drugs eligible for pricing those under section 340B of the public health service act, and for which the department has existing authority to take such action.

§ 2. Paragraphs (c) and (d) of subdivision 2 of section 280 of the public health law, paragraph (c) as amended and paragraph (d) as added by section 5 of part B of chapter 57 of the laws of 2019, are amended and a new paragraph (e) is added to read as follows:

(c) for state fiscal year two thousand nineteen--two thousand twenty, be limited to the ten-year rolling average of the medical component of the consumer price index plus four percent and minus a pharmacy savings target of eighty-five million dollars; [~~and~~]

(d) for state fiscal year two thousand twenty--two thousand twenty-one, be limited to the ten-year rolling average of the medical component of the consumer price index plus [~~four percent and minus a pharmacy savings target of eighty-five million dollars.~~] **two percent; and**

**(e) for state fiscal year two thousand twenty-one--two thousand twenty-two and fiscal years thereafter, be limited in accordance with subdivision one of section ninety-one of part H of chapter fifty-nine of the laws of two thousand eleven, as amended.**

§ 3. This act shall take effect immediately; provided, however, that the director of the budget may, in consultation with the commissioner of health, delay the effective dates prescribed herein for a period of time which shall not exceed ninety days following the conclusion or termination of an executive order issued pursuant to section 28 of the executive law declaring a state disaster emergency for the entire state of New York, upon such delay the director of the budget shall notify the chairs of the assembly ways and means committee and senate finance committee and the chairs of the assembly and senate health committee; provided further, however, that the director of the budget shall notify the legislative bill drafting commission upon the occurrence of a delay in the effective date of this act in order that the commission may main-

tain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART GGG

Section 1. The public health law is amended by adding a new article 30-D to read as follows:

ARTICLE 30-D
EMERGENCY OR DISASTER TREATMENT PROTECTION ACT

Section 3080. Declaration of purpose.
3081. Definitions.
3082. Limitation of liability.

§ 3080. Declaration of purpose. A public health emergency that occurs on a statewide basis requires an enormous response from state and federal and local governments working in concert with private and public health care providers in the community. The furnishing of treatment of patients during such a public health emergency is a matter of vital state concern affecting the public health, safety and welfare of all citizens. It is the purpose of this article to promote the public health, safety and welfare of all citizens by broadly protecting the health care facilities and health care professionals in this state from liability that may result from treatment of individuals with COVID-19 under conditions resulting from circumstances associated with the public health emergency.

§ 3081. Definitions. As used in this article:

1. The term "harm" includes physical and nonphysical contact that results in injury to or death of an individual.

2. The term "damages" means economic or non-economic losses for harm to an individual.

3. The term "health care facility" means a hospital, nursing home, or other facility licensed or authorized to provide health care services for any individual under article twenty-eight of this chapter, article sixteen and article thirty-one of the mental hygiene law or under a COVID-19 emergency rule.

4. The term "health care professional" means an individual, whether acting as an agent, volunteer, contractor, employee, or otherwise, who is:

(a) licensed or otherwise authorized under title eight, article one hundred thirty-one, one hundred thirty-one-B, one hundred thirty-one-C, one hundred thirty-seven, one hundred thirty-nine, one hundred forty, one hundred fifty-three, one hundred fifty-four, one hundred sixty-three, one hundred sixty-four or one hundred sixty-five of the education law;

(b) a nursing attendant or certified nurse aide, including an individual who is providing care as part of an approved nursing attendant or certified nurse aide training program;

(c) licensed or certified under article thirty of this chapter to provide emergency medical services;

(d) a home care services worker as defined in section thirty-six hundred thirteen of this chapter;

(e) providing health care services within the scope of authority permitted by a COVID-19 emergency rule; or

(f) a health care facility administrator, executive, supervisor, board member, trustee or other person responsible for directing, supervising

or managing a health care facility and its personnel or other individual in a comparable role.

5. The term "health care services" means services provided by a health care facility or a health care professional, regardless of the location where those services are provided, that relate to:

(a) the diagnosis, prevention, or treatment of COVID-19;

(b) the assessment or care of an individual with a confirmed or suspected case of COVID-19; or

(c) the care of any other individual who presents at a health care facility or to a health care professional during the period of the COVID-19 emergency declaration.

6. The term "volunteer organization" means any organization, company or institution that has made its facility or facilities available to support the state's response and activities under the COVID-19 emergency declaration and in accordance with any applicable COVID-19 emergency rule.

7. The term "COVID-19 emergency declaration" means the state disaster emergency declared for the entire state by executive order number two hundred two and any further amendments or modifications, and as may be further extended pursuant to section twenty-eight of the executive law.

8. The term "COVID-19 emergency rule" means any executive order, declaration, directive or other state or federal authorization, policy statement, rule-making, or regulation that waives, suspends, or modifies otherwise applicable state or federal law regarding scope of practice, such as modifications authorizing physicians licensed in another state to practice in the state of New York, or the delivery of care, including those regarding the facility space in which care is delivered and the equipment used to deliver care, during the COVID-19 emergency declaration.

§ 3082. Limitation of liability. 1. Notwithstanding any law to the contrary, except as provided in subdivision two of this section, any health care facility or health care professional shall have immunity from any liability, civil or criminal, for any harm or damages alleged to have been sustained as a result of an act or omission in the course of arranging for or providing health care services, if:

(a) the health care facility or health care professional is arranging for or providing health care services pursuant to a COVID-19 emergency rule or otherwise in accordance with applicable law;

(b) the act or omission occurs in the course of arranging for or providing health care services and the treatment of the individual is impacted by the health care facility's or health care professional's decisions or activities in response to or as a result of the COVID-19 outbreak and in support of the state's directives; and

(c) the health care facility or health care professional is arranging for or providing health care services in good faith.

2. The immunity provided by subdivision one of this section shall not apply if the harm or damages were caused by an act or omission constituting willful or intentional criminal misconduct, gross negligence, reckless misconduct, or intentional infliction of harm by the health care facility or health care professional providing health care services, provided, however, that acts, omissions or decisions resulting from a resource or staffing shortage shall not be considered to be willful or intentional criminal misconduct, gross negligence, reckless misconduct, or intentional infliction of harm.

3. Notwithstanding any law to the contrary, a volunteer organization shall have immunity from any liability, civil or criminal, for any harm

or damages irrespective of the cause of such harm or damage occurring in or at its facility or facilities arising from the state's response and activities under the COVID-19 emergency declaration and in accordance with any applicable COVID-19 emergency rule, unless it is established that such harm or damages were caused by the willful or intentional criminal misconduct, gross negligence, reckless misconduct, or intentional infliction of harm by the volunteer organization.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on or after March 7, 2020 and shall apply to a claim for harm or damages only if the act or omission that caused such harm or damage occurred on or after the date of the COVID-19 emergency declaration and on or prior to the expiration date of such declaration; provided, however, this act shall not apply to any act or omission after the expiration of the COVID-19 emergency declaration.

PART HHH

Section 1. Paragraph (a) of subdivision 1 of section 245.10 of the criminal procedure law, as added by section 2 of part LLL of chapter 59 of the laws of 2019, is amended to read as follows:

(a) [~~The~~] Subject to subparagraph (iv) of this paragraph, the prosecution shall perform its initial discovery obligations under subdivision one of section 245.20 of this article as soon as practicable but not later than [~~fifteen calendar days after the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, simplified information, misdemeanor complaint or felony complaint~~] the time periods specified in subparagraphs (i) and (ii) of this paragraph, as applicable. Portions of materials claimed to be non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this article; but the defendant shall be notified in writing that information has not been disclosed under a particular subdivision of such section, and the discoverable portions of such materials shall be disclosed to the extent practicable. When the discoverable materials, including video footage from body-worn cameras, surveillance cameras, or dashboard cameras, are exceptionally voluminous or, despite diligent, good faith efforts, are otherwise not in the actual possession of the prosecution, the time period in this paragraph may be stayed by up to an additional thirty calendar days without need for a motion pursuant to subdivision two of section 245.70 of this article.

(i) When a defendant is in custody during the pendency of the criminal case, the prosecution shall perform its initial discovery obligations within twenty calendar days after the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, simplified information, misdemeanor complaint or felony complaint.

(ii) When the defendant is not in custody during the pendency of the criminal case, the prosecution shall perform its initial discovery obligations within thirty-five calendar days after the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, simplified information, misdemeanor complaint or felony complaint.

(iii) Notwithstanding the timelines contained in the opening paragraph of this paragraph, the prosecutor's discovery obligation under subdivision one of section 245.20 of this article shall be performed as soon as practicable, but not later than fifteen days before the trial of a simplified information charging a traffic infraction under the vehicle

and traffic law, or by an information charging one or more petty offenses as defined by the municipal code of a village, town, city, or county, that do not carry a statutorily authorized sentence of imprisonment, and where the defendant stands charged before the court with no crime or offense, provided however that nothing in this subparagraph shall prevent a defendant from filing a motion for disclosure of such items and information under subdivision one of such section 245.20 of this article at an earlier date.

(iv)(A) Portions of materials claimed to be non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this article; but the defendant shall be notified in writing that information has not been disclosed under a particular subdivision of such section, and the discoverable portions of such materials shall be disclosed to the extent practicable. Information related to or evidencing the identity of a 911 caller, the victim or witness of an offense defined under article one hundred thirty or sections 230.34 and 230.34-a of the penal law, or any other victim or witness of a crime where the defendant has substantiated affiliation with a criminal enterprise as defined in subdivision three of section 460.10 of the penal law may be withheld, provided, however, the defendant may move the court for disclosure.

(B) When the discoverable materials are exceptionally voluminous or, despite diligent, good faith efforts, are otherwise not in the actual possession of the prosecution, the time period in this paragraph may be extended pursuant to a motion pursuant to subdivision two of section 245.70 of this article. For purposes of this article, voluminous materials may include, but are not limited to, video footage from body worn cameras, surveillance cameras or dashboard cameras.

§ 2. Paragraphs (c), (f), (g) and (j) of subdivision 1 of section 245.20 of the criminal procedure law, as added by section 2 of part LLL of chapter 59 of the laws of 2019, are amended to read as follows:

(c) The names and adequate contact information for all persons other than law enforcement personnel whom the prosecutor knows to have evidence or information relevant to any offense charged or to any potential defense thereto, including a designation by the prosecutor as to which of those persons may be called as witnesses. Nothing in this paragraph shall require the disclosure of physical addresses; provided, however, upon a motion and good cause shown the court may direct the disclosure of a physical address. Information under this subdivision relating to the identity of a 911 caller, the victim or witness of an offense defined under article one hundred thirty or section 230.34 or 230.34-a of the penal law, any other victim or witness of a crime where the defendant has substantiated affiliation with a criminal enterprise as defined in subdivision three of section 460.10 of the penal law, or a confidential informant may be withheld, and redacted from discovery materials, without need for a motion pursuant to section 245.70 of this article; but the prosecution shall notify the defendant in writing that such information has not been disclosed, unless the court rules otherwise for good cause shown.

(f) Expert opinion evidence, including the name, business address, current curriculum vitae, a list of publications, and [~~all~~] a list of proficiency tests and results administered or taken within the past ten years of each expert witness whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, and all reports prepared by the expert that pertain to the case, or if no report is prepared, a written statement of the facts and opinions to which the expert is expected to

testify and a summary of the grounds for each opinion. This paragraph does not alter or in any way affect the procedures, obligations or rights set forth in section 250.10 of this title. If in the exercise of reasonable diligence this information is unavailable for disclosure within the time period specified in subdivision one of section 245.10 of this article, that period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; except that the prosecution shall notify the defendant in writing that such information has not been disclosed, and such disclosure shall be made as soon as practicable and not later than sixty calendar days before the first scheduled trial date, unless an order is obtained pursuant to section 245.70 of this article. When the prosecution's expert witness is being called in response to disclosure of an expert witness by the defendant, the court shall alter a scheduled trial date, if necessary, to allow the prosecution thirty calendar days to make the disclosure and the defendant thirty calendar days to prepare and respond to the new materials.

(g) All tapes or other electronic recordings, including all electronic recordings of 911 telephone calls made or received in connection with the alleged criminal incident, and a designation by the prosecutor as to which of the recordings under this paragraph the prosecution intends to introduce at trial or a pre-trial hearing. If the discoverable materials under this paragraph exceed ten hours in total length, the prosecution may disclose only the recordings that it intends to introduce at trial or a pre-trial hearing, along with a list of the source and approximate quantity of other recordings and their general subject matter if known, and the defendant shall have the right upon request to obtain recordings not previously disclosed. The prosecution shall disclose the requested materials as soon as practicable and not less than fifteen calendar days after the defendant's request, unless an order is obtained pursuant to section 245.70 of this article. **The prosecution may withhold the names and identifying information of any person who contacted 911 without the need for a protective order pursuant to section 245.70 of this article, provided, however, the defendant may move the court for disclosure. If the prosecution intends to call such person as a witness at a trial or hearing, the prosecution must disclose the name and contact information of such witness no later than fifteen days before such trial or hearing, or as soon as practicable.**

(j) All reports, documents, records, data, calculations or writings, including but not limited to preliminary tests and screening results and bench notes and analyses performed or stored electronically, concerning physical or mental examinations, or scientific tests or experiments or comparisons, relating to the criminal action or proceeding which were made by or at the request or direction of a public servant engaged in law enforcement activity, or which were made by a person whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, or which the prosecution intends to introduce at trial or a pre-trial hearing. Information under this paragraph also includes, but is not limited to, laboratory information management system records relating to such materials, any preliminary or final findings of non-conformance with accreditation, industry or governmental standards or laboratory protocols, and any conflicting analyses or results by laboratory personnel regardless of the laboratory's final analysis or results. If the prosecution submitted one or more items for testing to, or received results from, a forensic science laboratory or similar entity not under the prosecution's direction or control, the court on motion of a party shall

issue subpoenas or orders to such laboratory or entity to cause materials under this paragraph to be made available for disclosure. **The prosecution shall not be required to provide information related to the results of physical or mental examinations, or scientific tests or experiments or comparisons, unless and until such examinations, tests, experiments, or comparisons have been completed.**

§ 3. Subdivisions 1 and 3 of section 245.70 of the criminal procedure law, as added by section 2 of part LLL of chapter 59 of the laws of 2019, are amended to read as follows:

1. Any discovery subject to protective order. Upon a showing of good cause by either party, the court may at any time order that discovery or inspection of any kind of material or information under this article be denied, restricted, conditioned or deferred, or make such other order as is appropriate**, including, for 911 calls, allowing the disclosure of a transcript of an audio recording in lieu of the recording**. The court may impose as a condition on discovery to a defendant that the material or information to be discovered be available only to counsel for the defendant; or, alternatively, that counsel for the defendant, and persons employed by the attorney or appointed by the court to assist in the preparation of a defendant's case, may not disclose physical copies of the discoverable documents to a defendant or to anyone else, provided that the prosecution affords the defendant access to inspect redacted copies of the discoverable documents at a supervised location that provides regular and reasonable hours for such access, such as a prosecutor's office, police station, facility of detention, or court. Should the court impose as a condition that some material or information be available only to counsel for the defendant, the court shall inform the defendant on the record that his or her attorney is not permitted by law to disclose such material or information to the defendant. The court may permit a party seeking or opposing a protective order under this section, or another affected person, to submit papers or testify on the record ex parte or in camera. Any such papers and a transcript of such testimony may be sealed and shall constitute a part of the record on appeal. This section does not alter the allocation of the burden of proof with regard to matters at issue, including privilege.

3. Prompt hearing. Upon request for a protective order, unless the defendant voluntarily consents to the people's request for a protective order, the court shall conduct an appropriate hearing within three business days to determine whether good cause has been shown and when practicable shall render a decision expeditiously. Any materials submitted and a transcript of the proceeding may be sealed and shall constitute a part of the record on appeal. **When the defendant is charged with a violent felony offense as defined in section 70.02 of the penal law, or any class A felony other than those defined in article two hundred twenty of the penal law, the court may, at the prosecutor's request, for good cause shown, conduct such hearing in camera and outside the presence of the defendant, provided however that this shall not affect the rights of the court to receive testimony or papers ex-parte or in camera as provided in subdivision one of this section.**

§ 4. Section 216 of the judiciary law is amended by adding a new subdivision 5 to read as follows:

**5. The chief administrator of the courts, in conjunction with the division of criminal justice services, shall collect data and report annually regarding the impact of article two hundred forty-five of the criminal procedure law. Such data and report shall contain information regarding the implementation of article two hundred forty-five of the**

criminal procedure law, including procedures used to implement the article, resources needed for implementation, information regarding cases where discovery obligations are not met, and information regarding case outcomes. The report shall be released publicly and published on the websites of the office of court administration and the division of criminal justice services. The first report shall be published eighteen months after the effective date of this section, and shall include data from the first twelve months following the enactment of this section. Reports for subsequent years shall published annually thereafter.

§ 5. Section 245.75 of the criminal procedure law, as added by section 2 of part LLL of chapter 59 of the laws of 2019, is amended to read as follows:

§ 245.75 Waiver of discovery by defendant.

1. A defendant who does not seek discovery from the prosecution under this article shall so notify the prosecution and the court at the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, or simplified information, or expeditiously thereafter but before receiving discovery from the prosecution pursuant to subdivision one of section 245.20 of this article, and the defendant need not provide discovery to the prosecution pursuant to subdivision four of section 245.20 and section 245.60 of this article. A waiver shall be in writing, signed for the individual case by the counsel for the defendant and filed with the court. The court shall inquire of the defendant on the record to ensure that the defendant understands his or her right to discovery and right to waive discovery. Such a waiver does not alter or in any way affect the procedures, obligations or rights set forth in sections 250.10, 250.20 and 250.30 of this title, or otherwise established or required by law. The prosecution may not condition a guilty plea offer on the defense's execution of a waiver under this section. Counsel for the defendant may advise his or her client about the defendant's right to discovery and right to waive discovery; such advice shall not constitute a condition of a guilty plea.

2. Nothing in this section shall prevent the waiver of discovery from being a condition of the repleader, where the defendant's original conviction is vacated on agreement between the parties pursuant to section 440.10 of this part.

§ 6. Subdivision 2 of section 245.25 of the criminal procedure law, as added by section 2 of part LLL of chapter 59 of the laws of 2019, is amended and a new subdivision 3 is added to read as follows:

2. Other guilty pleas. Upon an indictment, superior court information, prosecutor's information, information, simplified information, or misdemeanor complaint, where the prosecution has made a guilty plea offer requiring a plea to a crime, the prosecutor must disclose to the defense, and permit the defense to discover, inspect, copy, photograph and test, all items and information that would be discoverable prior to trial under subdivision one of section 245.20 of this article and are within the possession, custody or control of the prosecution. The prosecution shall disclose the discoverable items and information not less than seven calendar days prior to the expiration date of any guilty plea offer by the prosecution or any deadline imposed by the court for acceptance of the guilty plea offer. If the prosecution does not comply with the requirements of this subdivision, then, on a defendant's motion alleging a violation of this subdivision, the court must consider the impact of any violation on the defendant's decision to accept or reject a plea offer. If the court finds that such violation materially affected

the defendant's decision, and if the prosecution declines to reinstate the lapsed or withdrawn plea offer, the court - as a presumptive minimum sanction - must preclude the admission at trial of any evidence not disclosed as required under this subdivision. The court may take other appropriate action as necessary to address the non-compliance. The rights under this subdivision do not apply to items or information that are the subject of a protective order under section 245.70 of this article; but if such information tends to be exculpatory, the court shall reconsider the protective order. A defendant may waive his or her rights under this subdivision; but a guilty plea offer may not be conditioned on such waiver. **Notwithstanding the timelines contained in the opening paragraph of paragraph (a) of subdivision one of section 245.10 of this article, the prosecutor's discovery obligation under subdivision one of section 245.20 of this article shall be performed as soon as practicable, but not later than fifteen days before the trial of a simplified information charging a traffic infraction under the vehicle and traffic law, or by an information charging one or more petty offenses as defined by the municipal code of a village, town, city, or county, that do not carry a statutorily authorized sentence of imprisonment, and where the defendant stands charged before the court with no crime or offense, provided however that nothing in this subdivision shall prevent a defendant from filing a motion for disclosure of such items and information under subdivision one of such section 245.20 of this article at an earlier date.**

**3. Repleader. Nothing in this section shall prevent the waiver of discovery from being a condition of a repleader, where the defendant's original conviction is vacated on agreement between the parties pursuant to section 440.10 of this part.**

§ 7. Section 245.50 of the criminal procedure law, as added by section 2 of part LLL of chapter 59 of the laws of 2019, is amended to read as follows:

§ 245.50 Certificates of compliance; readiness for trial.

1. By the prosecution. When the prosecution has provided the discovery required by subdivision one of section 245.20 of this article, **except for discovery that is lost or destroyed as provided by paragraph (b) of subdivision one of section 245.80 of this article and** except for any items or information that are the subject of an order pursuant to section 245.70 of this article, it shall serve upon the defendant and file with the court a certificate of compliance. The certificate of compliance shall state that, after exercising due diligence and making reasonable inquiries to ascertain the existence of material and information subject to discovery, the prosecutor has disclosed and made available all known material and information subject to discovery. It shall also identify the items provided. If additional discovery is subsequently provided prior to trial pursuant to section 245.60 of this article, a supplemental certificate shall be served upon the defendant and filed with the court identifying the additional material and information provided. No adverse consequence to the prosecution or the prosecutor shall result from the filing of a certificate of compliance in good faith **and reasonable under the circumstances**; but the court may grant a remedy or sanction for a discovery violation as provided in section 245.80 of this article.

2. By the defendant. When the defendant has provided all discovery required by subdivision four of section 245.20 of this article, except for any items or information that are the subject of an order pursuant to section 245.70 of this article, counsel for the defendant shall serve

upon the prosecution and file with the court a certificate of compliance. The certificate shall state that, after exercising due diligence and making reasonable inquiries to ascertain the existence of material and information subject to discovery, counsel for the defendant has disclosed and made available all known material and information subject to discovery. It shall also identify the items provided. If additional discovery is subsequently provided prior to trial pursuant to section 245.60 of this article, a supplemental certificate shall be served upon the prosecution and filed with the court identifying the additional material and information provided. No adverse consequence to the defendant or counsel for the defendant shall result from the filing of a certificate of compliance in good faith; but the court may grant a remedy or sanction for a discovery violation as provided in section 245.80 of this article.

3. Trial readiness. Notwithstanding the provisions of any other law, absent an individualized finding of [~~exceptional~~] special circumstances in the instant case by the court before which the charge is pending, the prosecution shall not be deemed ready for trial for purposes of section 30.30 of this chapter until it has filed a proper certificate pursuant to subdivision one of this section. A court may deem the prosecution ready for trial pursuant to section 30.30 of this chapter where information that might be considered discoverable under this article cannot be disclosed because it has been lost, destroyed, or otherwise unavailable as provided by paragraph (b) of subdivision one of section 245.80 of this article, despite diligent and good faith efforts, reasonable under the circumstances. Provided, however, that the court may grant a remedy or sanction for a discovery violation as provided by section 245.80 of this article.

4. Challenges to, or questions related to a certificate of compliance shall be addressed by motion.

§ 8. This act shall take effect on the thirtieth day after it shall have become a law.

PART III

Section 1. Paragraph a of section 11.00 of the local finance law is amended by adding a new subdivision 14-b to read as follows:

14-b. Airport construction and improvement of the Ithaca Tompkins International Airport. The construction, reconstruction, or extension of the Ithaca Tompkins International Airport, whether or not including buildings, hangars, runways, taxi-strips, paved areas, perimeter fencing, grading, filling, drainage or other site work, thirty-years; the acquisition and installation of an above ground aircraft fuel farm at the Ithaca Tompkins International Airport, including connecting pipes, valves, meters, pumps, concrete spill containment facilities, and appurtenant facilities, twenty-five years.

§ 2. This act shall take effect immediately.

PART JJJ

Section 1. Legislative intent. The legislature hereby finds that the Mahopac Central school district approved eight capital improvement projects which are designated as project numbers 0001-010, 0002-011, 0003-004, 0004-011, 0005-011, 0006-011, 5010-007, and 7012-006. In addition, the projects were eligible for certain state aid. The legislature further finds that due to ministerial error, the required filing of the

final cost reports for such projects were not made by such district in a timely manner making the district ineligible for certain aid. The legislature further finds that without such aid, the capital improvement projects will impose an additional, unanticipated hardship on district taxpayers.

§ 2. All the acts done and proceedings heretofore had and taken or caused to be had or taken by the Mahopac Central school district and by all its officers or agents relating to or in connection with a certain final cost report to be filed with the state education department for project numbers 0001-010, 0002-011, 0003-004, 0004-011, 0005-011, 0006-011, 5010-007, and 7012-006, and all acts incidental thereto are hereby legalized, validated, ratified and confirmed, notwithstanding any failure to comply with the approval and filing provisions of the education law or any other law or any other statutory authority, rule or regulation, in relation to any omissions, error, defect, irregularity or illegality in such proceedings had and taken, and provided further that any amount due and payable to the Mahopac Central school district for school years prior to the 2018-2019 school year as a result of this act shall be paid pursuant to the provisions of paragraph c of subdivision 5 of section 3604 of the education law.

§ 3. Notwithstanding section 24-a of part A of chapter 57 of the laws of 2013, and consistent with section one of this act, the commissioner shall not recover from the Mahopac Central school district any penalty arising from the late filing of a final cost report for an approved capital construction project designated by the department of education as project numbers 0001-010, 0002-011, 0003-004, 0004-011, 0005-011, 0006-011, 5010-007, and 7012-006 pursuant to section 31 of part A of chapter 57 of the laws of 2012, provided that any amounts already so recovered shall be deemed a payment of moneys due for prior years pursuant to paragraph c of subdivision 5 of section 3604 of the education law and shall be paid to the Mahopac Central school district pursuant to such provision, provided that such school district:

(a) submitted the late or missing final building cost report to the commissioner of education;

(b) such cost report is approved by the commissioner of education;

(c) all state funds expended by the school district, as documented in such cost report, were properly expended for such building project in accordance with the terms and conditions for such project as approved by the commissioner of education; and

(d) the failure to submit such report in a timely manner was an inadvertent administrative or ministerial oversight by the school district, and there is no evidence of any fraudulent or other improper intent by such district.

§ 4. This act shall take effect immediately.

## PART KKK

Section 1. Subdivision 32 of section 364-j of the social services law, as added by section 15 of part B of chapter 59 of the laws of 2016 and paragraph (d) as amended by section 1 of part V of chapter 57 of the laws of 2019, is amended to read as follows:

32. (a) The commissioner**, or for the purposes of subparagraph (iv) of paragraph (c) of this subdivision, the Medicaid inspector general in consultation with the commissioner,** may, in his or her discretion, apply penalties to managed care organizations subject to this section and article forty-four of the public health law, including managed long term

care plans, for untimely or inaccurate submission of encounter data; provided however, no penalty shall be assessed if the managed care organization submits, in good faith, timely and accurate data [~~that~~] and a material amount of such data is not successfully received by the department as a result of department system failures or technical issues that are beyond the control of the managed care organization.

(b) The commissioner, or for the purposes of subparagraph (iv) of paragraph (c) of this subdivision, the Medicaid inspector general in consultation with the commissioner, shall consider the following [~~prior to assessing a penalty against a managed care organization and have the discretion to reduce or eliminate a penalty~~] when determining whether to assess a penalty against a managed care organization and the amount of such penalty:

(i) the degree to which the [~~data submitted is~~] managed care organization submitted inaccurate data at a category of service level and the frequency of such inaccurate data submissions by the managed care organization;

(ii) the degree to which the [~~data submitted is~~] managed care organization submitted untimely data or no data and the frequency of such untimely data submissions or failures to submit by the managed care organization; and

(iii) the timeliness of the managed care organization in curing or correcting inaccurate or untimely data[~~;~~

~~(iv) whether the untimely or inaccurate data was submitted by the managed care organization or a third party;~~

~~(v) whether the managed care organization has taken corrective action to reduce the likelihood of future inaccurate or untimely data submissions; and~~

~~(vi) whether the managed care organization was or should have been aware of inaccurate or untimely data~~].

For purposes of this section, "encounter data" shall mean [~~the transactions required to be reported under the model contract~~] all encounter records or adjustments to previously submitted records which the managed care organization has received and processed from provider encounter or claim records of all contracted services rendered to an enrollee of the managed care organization in the current or any preceding month. Any penalty assessed under this subdivision shall be calculated as a percentage of the [~~administrative component of the~~] Medicaid capitated premium calculated by the department and paid to the managed care organization.

(c) [~~Such penalties~~] (i) Penalties assessed pursuant to this subdivision against a managed care organization other than a managed long term care plan certified pursuant to section forty-four hundred three-f of the public health law shall be as follows:

[~~(i)~~] (A) for encounter data submitted or resubmitted past the deadlines set forth in the model contract, the Medicaid capitated premiums shall be reduced by [~~one and one-half~~] one-third percent; and

[~~(ii)~~] (B) for incomplete or inaccurate encounter data, evaluated at a category of service level, that fails to conform to department developed benchmarks for completeness and accuracy, the Medicaid capitated premiums shall be reduced by [~~one-half~~] one and one-third percent; and

[~~(iii)~~] (C) for submitted data that results in a rejection rate in excess of ten percent of department developed volume benchmarks, the Medicaid capitated premiums shall be reduced by [~~one-half~~] one-third percent.

(ii) Penalties assessed pursuant to this subdivisions against a managed long term care plan certified pursuant to section forty-four hundred three-f of the public health law shall be as follows:

(A) for encounter data submitted or resubmitted past the deadlines set forth in the model contract, the Medicaid capitated premiums shall be reduced by one-quarter percent;

(B) for incomplete or inaccurate encounter data, evaluated at a category of service level, that fails to conform to department developed benchmarks for completeness and accuracy, the Medicaid capitated premiums shall be reduced by one percent; and

(C) for submitted data that results in a rejection rate in excess of ten percent of department developed volume benchmarks, the Medicaid capitated premiums shall be reduced by one-quarter percent.

(iii) For incomplete or inaccurate encounter data, identified in the course of an audit, investigation or review by the Medicaid inspector general, the Medicaid capitated premiums shall be reduced by an additional one percent.

(d) (i) Penalties under this subdivision may be applied to any and all circumstances described in paragraph (b) of this subdivision until the managed care organization complies with the requirements for submission of encounter data.

(ii) No penalties for late, incomplete or inaccurate encounter data shall be assessed against managed care organizations in addition to those provided for in this subdivision, provided, however, that nothing in this paragraph shall prohibit the imposition of penalties, in cases of fraud, waste or abuse, otherwise authorized by law.

§ 2. Subdivision 15 of section 4408-a of the public health law is renumbered subdivision 16 and a new subdivision 15 is added to read as follows:

15. An organization shall have procedures for obtaining an enrollee's, or enrollee's designee's, preference for receiving notifications, which shall be in accordance with applicable federal law and with guidance developed by the commissioner. Written and telephone notification to an enrollee or the enrollee's designee under this section may be provided by electronic means where the enrollee or the enrollee's designee has informed the organization in advance of a preference to receive such notification by electronic means. An organization shall permit the enrollee and the enrollee's designee to change the preference at any time. The organization shall retain documentation of preferred notification methods and present such records to the commissioner upon request.

§ 3. Paragraph (a) of subdivision 2 of section 4903 of the public health law, as amended by chapter 371 of the laws of 2015, is amended to read as follows:

(a) A utilization review agent shall make a utilization review determination involving health care services which require pre-authorization and provide notice of a determination to the enrollee or enrollee's designee and the enrollee's health care provider by telephone and in writing within three business days of receipt of the necessary information. [~~To the extent practicable, such written notification to the enrollee's health care provider shall be transmitted electronically, in a manner and in a form agreed upon by the parties.~~] The notification shall identify; (i) whether the services are considered in-network or out-of-network; (ii) and whether the enrollee will be held harmless for the services and not be responsible for any payment, other than any applicable co-payment or co-insurance; (iii) as applicable, the dollar amount the health care plan will pay if the service is out-of-network;

and (iv) as applicable, information explaining how an enrollee may determine the anticipated out-of-pocket cost for out-of-network health care services in a geographical area or zip code based upon the difference between what the health care plan will reimburse for out-of-network health care services and the usual and customary cost for out-of-network health care services.

§ 4. Section 4903 of the public health law is amended by adding a new subdivision 9 to read as follows:

**9. A utilization review agent shall have procedures for obtaining an enrollee's, or enrollee's designee's, preference for receiving notifications, which shall be in accordance with applicable federal law and with guidance developed by the commissioner. Written and telephone notification to an enrollee or the enrollee's designee under this section may be provided by electronic means where the enrollee or the enrollee's designee has informed the organization in advance of preference to receive such notifications by electronic means. An organization shall permit the enrollee and the enrollee's designee to change the preference at any time. To the extent practicable, such written and telephone notification to the enrollee's health care provider shall be transmitted electronically, in a manner and in a form agreed upon by the parties. The utilization review agent shall retain documentation of preferred notification methods and present such records to the commissioner upon request.**

§ 5. Paragraph (b) of subdivision 3 of section 4904 of the public health law, as amended by chapter 586 of the laws of 1998 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

(b) a notice of the enrollee's right to an external appeal together with a description, jointly promulgated by the commissioner and the superintendent of financial services as required pursuant to subdivision five of section forty-nine hundred fourteen of this article, of the external appeal process established pursuant to title two of this article and the time frames for such external appeals. **A utilization review agent shall have procedures for obtaining an enrollee's, or enrollee's designee's, preference for receiving notifications, which shall be in accordance with applicable federal law and with guidance developed by the commissioner. Written and telephone notification to an enrollee or the enrollee's designee under this section may be provided by electronic means where the enrollee or the enrollee's designee has informed the organization in advance of a preference to receive such notifications by electronic means. An organization shall permit the enrollee and the enrollee's designee to change the preference at any time. To the extent practicable, written and telephone notification to the enrollee's health care provider shall be transmitted electronically, in a manner and in a form agreed upon by the parties. The utilization review agent shall retain documentation of preferred notification methods and present such records to the commissioner upon request.**

§ 6. Subsection (o) of section 4802 of the insurance law is relettered subsection (p) and a new subsection (o) is added to read as follows:

**(o) An insurer shall have procedures for obtaining an insured's, or insured's designee's, preference for receiving notifications, which shall be in accordance with applicable federal law and with guidance developed by the superintendent. Written and telephone notification to an insured or the insured's designee under this section may be provided by electronic means where the insured or the insured's designee has informed the insurer in advance of a preference to receive such notifications by electronic means. An insurer shall permit the insured and the**

**insured's designee to change the preference at any time. The insurer shall retain documentation of preferred notification methods and present such records to the superintendent upon request.**

§ 7. Paragraph 1 of subsection (b) of section 4903 of the insurance law, as amended by chapter 371 of the laws of 2015, is amended to read as follows:

(1) A utilization review agent shall make a utilization review determination involving health care services which require pre-authorization and provide notice of a determination to the insured or insured's designee and the insured's health care provider by telephone and in writing within three business days of receipt of the necessary information. [~~To the extent practicable, such written notification to the enrollee's health care provider shall be transmitted electronically, in a manner and in a form agreed upon by the parties.~~] The notification shall identify: (i) whether the services are considered in-network or out-of-network; (ii) whether the insured will be held harmless for the services and not be responsible for any payment, other than any applicable co-payment, co-insurance or deductible; (iii) as applicable, the dollar amount the health care plan will pay if the service is out-of-network; and (iv) as applicable, information explaining how an insured may determine the anticipated out-of-pocket cost for out-of-network health care services in a geographical area or zip code based upon the difference between what the health care plan will reimburse for out-of-network health care services and the usual and customary cost for out-of-network health care services.

§ 8. Section 4903 of the insurance law is amended by adding a new subsection (i) to read as follows:

**(i) A utilization review agent shall have procedures for obtaining an insured's, or insured's designee's, preference for receiving notifications, which shall be in accordance with applicable federal law and with guidance developed by the superintendent. Written and telephone notification to an insured or the insured's designee under this section may be provided by electronic means where the insured or the insured's designee has informed the utilization review agent in advance of a preference to receive such notifications by electronic means. A utilization review agent shall permit the insured and the insured's designee to change the preference at any time. To the extent practicable, such written and telephone notification to the insured's health care provider shall be transmitted electronically, in a manner and in a form agreed upon by the parties. The utilization review agent shall retain documentation of preferred notification methods and present such records to the superintendent upon request.**

§ 9. Paragraph 2 of subsection (c) of section 4904 of the insurance law, as amended by chapter 586 of the laws of 1998, is amended to read as follows:

(2) a notice of the insured's right to an external appeal together with a description, jointly promulgated by the superintendent and the commissioner of health as required pursuant to subsection (e) of section four thousand nine hundred fourteen of this article, of the external appeal process established pursuant to title two of this article and the time frames for such external appeals. **A utilization review agent shall have procedures for obtaining an insured's, or insured's designee's, preference for receiving notifications, which shall be in accordance with applicable federal law and with guidance developed by the superintendent. Written and telephone notification to an insured or the insured's designee under this section may be provided by electronic**

means where the insured or the insured's designee has informed the insurer in advance of a preference to receive such notifications by electronic means. A utilization review agent shall permit the insured and the insured's designee to change the preference at any time. To the extent practicable, written and telephone notification to the insured's health care provider shall be transmitted electronically, in a manner and in a form agreed upon by the parties. The utilization review agent shall retain documentation of preferred notification methods and present such records to the superintendent upon request.

§ 10. Contingent upon the availability of federal financial participation or other federal authorization from the centers of medicare and medicaid services, the commissioner of health, in consultation with the superintendent of the department of financial services, is authorized to implement one or more five-year regional demonstration programs that would be designed to improve health outcomes and reduce costs, using a value based model that pays providers an actuarially sound global, prepaid and fully capitated amount for individuals in the designated region who are enrolled in the state's plan for medical assistance established pursuant to title XIX, or any successor title, of the federal social security act; the Medicare program established pursuant to title XVIII, or any successor title, of the federal social security act; and insurers, corporations, and health care plans authorized pursuant to the insurance law or public health law. The demonstration program may offer funding and incentives designed to improve health outcomes for attributed individual beneficiaries designed to improve health outcomes, develop necessary infrastructure and systems; and connect individuals to community based organizations that address the social determinants of health. Notwithstanding any provision of law to the contrary, the commissioner or the superintendent of the department of financial services may waive any regulatory requirements as are necessary to implement the demonstration program; provided however, that regulations pertaining to patient safety, patient autonomy, patient privacy, patient rights, due process, scope of practice, professional licensure, environmental protections, provider reimbursement methodologies, or occupational standards and employee rights may not be waived, nor shall any regulations be waived if such waiver would risk patient safety. Participation in such program shall be voluntary. One year after this section shall take effect and annually thereafter the commissioner of health shall provide a report detailing the activities and outcomes of such program, including any regulatory requirements that are waived, to the speaker of the assembly and the temporary president of the senate.

§ 11. Contingent upon the availability of federal financial participation or other federal authorization from the centers of medicare and medicaid services, the commissioner of health, in consultation with the superintendent of the department of financial services, is authorized to design and implement a five-year demonstration, with implementation beginning January 2022, utilizing an actuarially sound global budget and global approach, and which is aimed at accelerating regional population health improvement initiatives; adopting value-based models in accordance with the state department of health Medicaid Value-Based Payment Roadmap; and aligning care incentives under an integrated health system. The demonstration may include the safety net hospitals in one or more counties or regions of the state providing a high percentage of services to individuals in the designated region who are enrolled in the state's plan for medical assistance established pursuant to title XIX, or any successor title, of the federal social security act; and insurers,

corporations, and health care plans authorized pursuant to the insurance law or public health law, as well as regional providers, to deliver and promote quality and performance through an integrated model. The provisions of this paragraph shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of services provided under this paragraph, and shall be subject to the terms of a binding memorandum of understanding executed between the department of health and the demonstration's participants. Participation in such program shall be voluntary. One year after this section shall take effect and annually thereafter the commissioner of health shall provide a report detailing the activities and outcomes of such program to the speaker of the assembly and the temporary president of the senate.

§ 12. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020; provided, however, that the amendments to subdivision 32 of section 364-j of the social services law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith. Provided further, however, that the director of the budget may, in consultation with the commissioner of health, delay the effective dates prescribed herein for a period of time which shall not exceed ninety days following the conclusion or termination of an executive order issued pursuant to section 28 of the executive law declaring a state disaster emergency for the entire state of New York, upon such delay the director of the budget shall notify the chairs of the assembly ways and means committee and senate finance committee and the chairs of the assembly and senate health committee; provided further, however, that the director of the budget shall notify the legislative bill drafting commission upon the occurrence of a delay in the effective date of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

## PART LLL

Section 1. Section 13 of chapter 141 of the laws of 1994, amending the legislative law and the state finance law relating to the operation and administration of the legislature, as amended by section 1 of part II of chapter 57 of the laws of 2019, is amended to read as follows:

§ 13. This act shall take effect immediately and shall be deemed to have been in full force and effect as of April 1, 1994, provided that, the provisions of section 5-a of the legislative law as amended by sections two and two-a of this act shall take effect on January 1, 1995, and provided further that, the provisions of article 5-A of the legislative law as added by section eight of this act shall expire June 30, [~~2020~~] 2021 when upon such date the provisions of such article shall be deemed repealed; and provided further that section twelve of this act shall be deemed to have been in full force and effect on and after April 10, 1994.

§ 2. This act shall not supersede the findings and determinations made by the compensation committee as authorized pursuant to part HHH of chapter 59 of the laws of 2018 unless a court of competent jurisdiction determines that such findings and determinations are invalid or otherwise not applicable or in force.

§ 3. This act shall take effect immediately, provided, however, if this act shall take effect on or after June 30, 2020, this act shall be deemed to have been in full force and effect on and after June 30, 2020.

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

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through LLL of this act shall be as specifically set forth in the last section of such Parts.

86 N.Y.2d 651
Court of Appeals of New York.

In the Matter of JACOB, an Infant.
Roseanne M.A. et al., Appellants.
In the Matter of DANA, G.M., Appellant.

Nov. 2, 1995.

**Synopsis**

Unmarried partners of biological mothers sought to adopt respective mother's children. The Family Court, Putnam County, Sweeny, J., denied petition of one mother's lesbian partner and the Family Court, Oneida County, Morgan, J., denied prospective adoptive father's petition on ground that adoption by two unmarried persons is not permitted. On appeal, two Supreme Court, Appellate Divisions, 210 A.D.2d 876, 620 N.Y.S.2d 640, 209 A.D.2d 8, 624 N.Y.S.2d 634, affirmed. Appeals were taken and consolidated. The Court of Appeals, Kaye, C.J., held that: (1) lesbian and unmarried heterosexual partners had standing under Domestic Relations Law § 110 to become adoptive parents, and (2) portion of statute purporting to terminate biological mothers' parental rights did not apply.

Reversed and remitted.

Bellacosa, J., dissented and filed opinion in which Simons and Titone, JJ., joined.

**Attorneys and Law Firms**

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*653 Lambda Legal Defense and Education Fund, Inc., New York City (Beatrice Dohnn, of counsel), and Weil, Gotshal & Manges (Harris J. Yale and Victoria A. Kummer, of counsel), for Lambda Legal Defense and Education Fund, amicus curiae, pro se in the first above-entitled proceeding.

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*655 Janet Gallagher, New York City, for Association of the Bar of the City of New York, amicus curiae in the second above-entitled proceeding.

Susan L. Hendricks and Laura R. Johnson, New York City, for Center Kids and others, amici curiae in the second above-entitled proceeding.

***717 **398 OPINION OF THE COURT

KAYE, Chief Judge.

Under the New York adoption statute, a single person can adopt a child (Domestic Relations Law § 110). Equally clear is the right of a single homosexual to adopt (*see,* 18 NYCRR 421.16[h][2] [qualified adoption agencies "shall not * * * *656 reject[ ] [adoption petitions] solely on the basis of homosexuality"] ). These appeals call upon us to decide if the unmarried partner of a child's biological mother, whether heterosexual or homosexual, who is raising the child together with the biological parent, can become the child's second parent by means of adoption.

Because the two adoptions sought—one by an unmarried heterosexual couple, the other by the lesbian partner of the child's mother—are fully consistent with the adoption statute, we answer this question in the affirmative. To rule otherwise would mean that the thousands of New York children actually being raised in homes headed by two unmarried persons could have only one legal parent, not the two who want them.

The Adoptions Sought

In *Matter of Jacob,* Roseanne M.A. and Jacob's biological father (from whom she is divorced) separated prior to the child's birth and Roseanne M.A. was awarded sole custody. Jacob was a year old when Stephen T.K. began living with him and his mother in early 1991. At the time of filing the joint petition for adoption three years later, Stephen T.K. was employed as a programmer/analyst with an annual income of

$50,000, while Roseanne M.A. was a student at SUNY Health Center. Jacob's biological father consented to the adoption.

Though acknowledging that "the granting of an adoption in this matter may be beneficial to Jacob," Family Court dismissed the petition for lack of standing on the ground that Domestic Relations Law § 110 does not authorize adoptions by an unmarried couple. The Appellate Division affirmed, two Justices dissenting (210 A.D.2d 876, 620 N.Y.S.2d 640), and an appeal to this Court was taken as of right.

In *Matter of Dana,* appellants are G.M. and her lesbian partner, P.I., who have lived together in what is described as a long and close relationship for the past 19 years. G.M. works as a special education teacher in the public schools earning $38,000 annually and P.I., employed at an athletic club, has an annual income of $48,000. In 1989, the two women decided that P.I. would have a child they would raise together. P.I. was artificially inseminated by an anonymous donor, and on June 6, 1990, she gave birth to Dana. G.M. and P.I. have shared parenting responsibilities since Dana's birth ***657** and have arranged their separate work schedules around her needs. With P.I.'s consent, G.M. filed a petition to adopt Dana in April 1993.

In the court-ordered report recommending that G.M. be permitted to adopt (*see,* Domestic Relations Law § 116), the disinterested investigator described Dana as an attractive, sturdy and articulate little girl with a "rich family life," which includes frequent visits with G.M.'s three grown children from a previous marriage "who all love Dana and accept her as their baby sister." Noting that G.M. "only has the best interest of Dana in mind," the report concluded that she "provides her with a family structure in which to grow and flourish."

As in *Matter of Jacob,* Family Court, while conceding the favorable results of the home study and "in no way disparaging the ability of [G.M.] to be a good, nurturing and loving parent," denied the petition for lack of standing. In addition, the court held that the adoption was further prohibited by Domestic Relations Law § 117 which it interpreted to require the automatic termination of P.I.'s relationship with Dana upon an adoption by G.M. Despite its conclusion that G.M. had standing to adopt, the Appellate Division nevertheless affirmed on the ground that Domestic Relations Law § 117 prohibits the adoption (209 A.D.2d 8, 624 N.Y.S.2d 634). We granted leave to appeal.

Limiting our analysis, as did the courts below, to the preserved statutory interpretation issues, we conclude that appellants have standing to adopt under Domestic Relations Law § 110 and are not foreclosed from doing so by Domestic Relations Law § 117. There being no statutory preclusion, we now reverse *****718 **399** the order of the Appellate Division in each case and remit the matter to Family Court for a factual evaluation and determination as to whether these adoptions would be in the best interest of the children.

The Context of our Statutory Analysis

Two basic themes of overarching significance set the context of our statutory analysis.

First and foremost, since adoption in this State is "solely the creature of * * * statute" (*Matter of Eaton,* 305 N.Y. 162, 165, 111 N.E.2d 431), the adoption statute must be strictly construed. What is to be construed strictly and applied rigorously in this sensitive area of the law, however, is legislative purpose as well as legislative language. Thus, the adoption statute must be applied in harmony with the humanitarian principle that adoption ***658** is a means of securing the best possible home for a child (*see Matter of Malpica–Orsini,* 36 N.Y.2d 568, 571–572, 370 N.Y.S.2d 511, 331 N.E.2d 486).

Ten years ago, in *Matter of Robert Paul P.,* 63 N.Y.2d 233, 481 N.Y.S.2d 652, 471 N.E.2d 424, we refused to allow the adoption of a 50–year–old man by his 57–year–old homosexual partner even though the statutory language permitted the adoption. Our refusal in *Robert Paul P.* rested solely on the fact that the adult adoption sought in that case would have been "wholly inconsistent with the underlying public policy of providing a parent-child relationship for the welfare of the child" (*id.,* at 236, 481 N.Y.S.2d 652, 471 N.E.2d 424).

The very next year, in *Matter of Best,* 66 N.Y.2d 151, 495 N.Y.S.2d 345, 485 N.E.2d 1010, we again chose not to construe the words of the adoption statute strictly, declining to permit an adopted child to inherit under the will of his biological grandmother because "[p]owerful policy considerations militate against construing a class gift to

include a child adopted out of the family" (*id.,* at 155, 495 N.Y.S.2d 345, 485 N.E.2d 1010). One commentator has characterized our decision in *Best* as "in defiance of * * * the text of the Domestic Relations Law * * * yet in accordance with current societal views of adoption and the adoptive relationship" (Note, *When Blood Isn't Thicker Than Water: The Inheritance Rights of Adopted–Out Children in New York,* 53 Brooklyn LRev 1007).

What *Matter of Robert Paul P.* and *Matter of Best* underscore is that in strictly construing the adoption statute, our primary loyalty must be to the statute's legislative purpose—the child's best interest. "The adoptive family arises out of the State's concern for the best interest of the child" (*People ex rel. Sibley v. Sheppard,* 54 N.Y.2d 320, 327, 445 N.Y.S.2d 420, 429 N.E.2d 1049). This profound concern for the child's welfare is reflected in the statutory language itself: when "satisfied that the best interests of the * * * child will be promoted thereby," a court "*shall* make an order approving the adoption" (Domestic Relations Law § 114 [emphasis added] ).

This policy would certainly be advanced in situations like those presented here by allowing the two adults who actually function as a child's parents to become the child's legal parents. The advantages which would result from such an adoption include Social Security and life insurance benefits in the event of a parent's death or disability, the right to sue for the wrongful death of a parent, the right to inherit under rules of intestacy (*see In re Tammy,* 416 Mass. 205, 619 N.E.2d 315, 320) and eligibility for coverage under both parents' health insurance policies. In addition, granting a second parent ***659** adoption further ensures that two adults are legally entitled to make medical decisions for the child in case of emergency and are under a legal obligation for the child's economic support (*see,* Domestic Relations Law § 32).

Even more important, however, is the emotional security of knowing that in the event of the biological parent's death or disability, the other parent will have presumptive custody, and the children's relationship with their parents, siblings and other relatives will continue should the coparents separate. Indeed, viewed from the children's perspective, permitting the adoptions allows the children to achieve a measure of permanency with both parent figures and avoids the sort of disruptive visitation battle we faced in *****719 **400** *Matter of Alison D. v. Virginia M.* (*see,* 77 N.Y.2d 651, 656, 569 N.Y.S.2d 586, 572 N.E.2d 27 ["Petitioner concedes that she is not the child's 'parent' * * * by virtue of an adoption."] ).

A second, related point of overriding significance is that the various sections comprising New York's adoption statute today represent a complex and not entirely reconcilable patchwork. Amended innumerable times since its passage in 1873, the adoption statute was last consolidated nearly 60 years ago, in 1938 (L.1938, ch. 606). Thus, after decades of piecemeal amendment upon amendment, the statute today contains language from the 1870's alongside language from the 1990's.

Though courts surely must, and do, strive to give effect to every word of a statute, our analysis must recognize the difficulty—perhaps unique difficulty—of such an endeavor here. With its long, tortuous history, New York's adoption statute today is a far cry from a "methodical[ ] and meticulous [ ]" expression of legislative judgment (dissenting opn, at 683, at 733 of 636 N.Y.S.2d, at 414 of 660 N.E.2d). That the questions posed by these appeals are not readily answerable by reference to the words of a particular section of the law, but instead require the traditional and often close and difficult task of statutory interpretation is evident even in the length of today's opinions—whichever result is reached.

Against this backdrop, we turn to the particular provisions at issue. [1]

***660** Domestic Relations Law § 110

Despite ambiguity in other sections, one thing is clear: section 110 allows appellants to become adoptive parents. Domestic Relations Law § 110, entitled "Who May Adopt," provides that an "adult unmarried person or an adult husband and his adult wife together may adopt another person" (Domestic Relations Law § 110). Under this language, both appellant G.M. in *Matter of Dana* and appellant Stephen T.K. in *Matter of Jacob,* as adult unmarried persons, have standing to adopt and appellants are correct that the Court's analysis of section 110 could appropriately end here. [2]

Endowing the word "together" as used in section 110 with the overpowering significance of enforcing a policy in favor of marriage (as the dissent does) would require us to rewrite the statute. The statute uses the word "together" only to describe

married persons and thus does not preclude an unmarried person in a relationship with another unmarried person from adopting. Rather, by insisting on the joint consent of the married persons, the statutory term "together" simply insures that one spouse cannot adopt a child without the other spouse's knowledge or over the other's objection (*see,* L.1984, ch. 218, Mem. of State Dept. of Social Services, 1984 McKinney's Session Laws of NY, at 3184). Since each of the biological mothers here is not only aware of these proceedings, but has expressly consented to the adoptions, section 110 poses no statutory impediment. [3]

The conclusion that appellants have standing to adopt is also supported by the history of section 110. The pattern of ***661** amendments since the end of World War *****720 **401** II evidences a successive expansion of the categories of persons entitled to adopt regardless of their marital status or sexual orientation. The language in section 110 permitting adoptions by "an adult or minor husband and his adult or minor wife together," for example, is the result of 1951 legislation intended to enlarge the class of potential adoptive parents to include minors (Bill Jacket, L.1951, ch. 211, Mem. of Assn. of Bar of City of N.Y., Committee on State Legislation, at 119; 1943 Opns. Atty. Gen. 260). The sponsors of the bill, passed during the Korean War, were concerned that the child of a young father drafted into the military would be unable to take his father's surname (Bill Jacket, L.1951, ch. 211, Mem. of Legal Aid Society, at 9).

Another illustration of such expansion is the 1984 amendment increasing the number of potential adoptive parents by permitting adoption by adults not yet divorced but living apart from their spouses pursuant to separation agreements. Supporting that amendment was New York's "strong policy of assuring that as many children as possible are adopted into suitable family situations" (Bill Jacket, L.1984, ch. 218, Mem. of Dept. of Social Services, at 2 [June 19, 1984] ). As explained, the amendment

> "would further this policy by requiring prospective adoptive parents to be evaluated on the basis of their ability to provide appropriate care, parental guidance and the security of a permanent home and not on their marital status alone. * * * [T]he marital status of a person should have no predetermined effect on the ability of that person to provide appropriate care to an adopted child" *(id.).*

Consistent with this trend, the latest amendment to Domestic Relations Law § 110 further increased the number of potential adoptive parents by permitting adoptions by nondivorced adults who have lived apart from their spouses for 18 months (L.1992, ch. 254).

These amendments reflect some of the fundamental changes that have taken place in the makeup of the family. Today, for example, at least 1.2 of the 3.5 million American households which consist of an unmarried adult couple have children under 15 years old, more than a six-fold increase from 1970 (*see,* Current Population Reports, Population Characteristics, U.S.Bur. of Census, Marital Status & Living Arrangements, P20–478, at IX [1993] ). Yet further recognition of this transformation ***662** is evidenced by the fact that unlike the States of New Hampshire and Florida (N.H.Rev.Stat.Annot. § 170–B:4; Fla.Stat.Ann. § 63.042[3] ), New York does not prohibit adoption by homosexuals. Indeed, as noted earlier, an administrative regulation is in place in this State forbidding the denial of an agency adoption based solely on the petitioner's sexual orientation (18 NYCRR 421.16[h][2] ).

A reading of section 110 granting appellants, as unmarried second parents, standing to adopt is therefore consistent with the words of the statute as well as the spirit behind the modern-day amendments: encouraging the adoption of as many children as possible regardless of the sexual orientation or marital status of the individuals seeking to adopt them.

Domestic Relations Law § 117

Appellants having standing to adopt pursuant to Domestic Relations Law § 110, the other statutory obstacle relied upon by the lower courts in denying the petitions is the provision that "[a]fter the making of an order of adoption the natural parents of the adoptive child shall be relieved of all parental duties toward and of all responsibilities for and shall have no rights over such adoptive child or to his property by descent or succession" (Domestic Relations Law § 117[1][a] ). Literal application of this language would effectively prevent these adoptions since it would require the termination of the biological mothers' rights upon adoption thereby placing appellants in the "Catch–22" of having to choose one of two coparents as the child's only legal parent.

As outlined below, however, neither the language nor policy underlying section 117 dictates that result.

*The Language of Section 117*. Both the title of section 117 ("Effect of adoption") and its opening phrase ("After the making of an ***721 **402 order of adoption") suggest that the section has nothing to do with the standing of an individual to adopt, an issue treated exclusively in section 110 (*see,* at 660–662, at 719–720 of 636 N.Y.S.2d, at 400–401 of 660 N.E.2d, *supra*). Rather, section 117 addresses the legal effect of an adoption on the parties and their property.

Also plain on the face of section 117 is that it speaks principally of estate law. Words such as "succession," "inheritance," "decedent," "instrument" and "will" permeate the statute. Read contextually, it is clear that the Legislature's chief concern in section 117 was the resolution of property disputes upon the death of an adoptive parent or child. As we observed in *663 *People ex rel. Sibley v. Sheppard,* 54 N.Y.2d 320, 445 N.Y.S.2d 420, 429 N.E.2d 1049, *supra*, where we declined to read section 117's termination language "overbroadly * * * [to] interfere with the court's ability to protect the best interest of the child" and thereby prohibit visits with the child's biological grandparents, the "bulk of the statute refers to intestacy and succession" (54 N.Y.2d, at 325, 445 N.Y.S.2d 420, 429 N.E.2d 1049). Thus, from the very beginning of what is now section 117, both the scholarly commentary about the section and its dozen or so amendments have centered on issues of property rights and inheritance (*see, e.g.,* L. 1896, ch. 272, § 64 [terminating right of biological parents to inherit from child, while allowing child to inherit from biological parents]; Second Report of Temporary St. Commn. on Modernization, Revision and Simplification of Law of Estates, Intestate Succession and the Adopted Child, 1963 N.Y.Legis.Doc. No. 19, Report No. 1.2C, at 148; Comment, *Judicial Limitations on the Rights of Adopted Children to Inherit from Their Natural Relatives as Issue,* 60 St. John's L.Rev. 329 [1986] ).

It is of course true that this Court, in a 1937 case rejecting claims for support brought by a destitute adopted adult daughter against her biological father, interpreted the then-applicable version of section 117 as "mak[ing] the adopted child the natural child of the adoptive parent" and "reliev[ing] the natural parent from any responsibility for his child's support" (*Betz v. Horr,* 276 N.Y. 83, 87, 88, 11 N.E.2d 548). The version of section 117 in effect at that time, however, did not contain current subdivision (1)(i), which, on its face, appears to limit the applicability of the entire first half of section 117—including the language concerning termination in subdivision (1)(a)—*"only to the intestate descent and distribution of real and personal property"* (Domestic Relations Law § 117[1][i] [emphasis added] ).

Obviously, one cannot invoke the termination language in subdivision (1)(a) in its most literal sense and at the same time reject a literal application of the above-quoted language in subdivision (1)(i). A strict construction of the entire section would lead to the incongruous result that the termination language of subdivision (1)(a) is relevant only when there is a dispute as to intestate succession.

Significantly, the language in subdivision (1)(i) was added only recently (L.1986, ch. 408), after the promulgation of the regulations providing that neither marital status nor sexual orientation may alone be determinative in an adoption proceeding (18 NYCRR 421.16[h][2] ). In recommending passage of the 1986 amendment, the Law Revision Commission warned that:

> "In distinguishing between various classes of adopted-out children, the Commission must base different treatment of some children on factors *664 which do not result in discrimination against certain classes of persons (*e.g.,* nonmarital children, unwed parents, males, females) in a manner impermissible under the Equal Protection Clause * * * of the United States * * * or * * * New York State Constitution" (1986 Report of N.Y.Law.Rev.Commn., 1986 McKinney's Session Laws of N.Y., at 2581).

This admonition indicates a concern that an unduly restrictive reading of section 117 could have the discriminatory and unintended effect of making unwarranted, detrimental distinctions between "nonmarital children" like the two children here and those children whose parents are married.

Given this warning, as well as the anomaly created by an unnecessarily literal reading of the statute, we conclude that neither subdivision ***722 **403 (1)(a) nor subdivision (1)(i) was intended to have universal application.

Recent Statutory Amendments. Moving beyond the language and history of section 117 itself, our reading of the statute is further supported by recent amendments to other sections of the adoption law which provide elaborate procedural mechanisms for regulating the relationships between the

child, the child's (soon-to-be former) biological parents and the persons who will become the child's parents upon adoption (*see,* Social Services Law § 383–c; Domestic Relations Law § 115–b).

In the context of agency adoptions, Social Services Law § 383–c, enacted in 1990 (L.1990, chs. 479, 480), provides that biological parents willing to give their child up for adoption must execute a written instrument, known as a "surrender," stating "in conspicuous bold print on the first page" that "the parent is giving up all rights to have custody, visit with, write to or learn about the child, forever" (Social Services Law § 383–c[5][b][ii] ).

The second category of adoption—private placement—is also regulated by a newly revised statute (L.1986, ch. 817) requiring the execution of a written "consent" stating that "no action * * * may be maintained * * * for the custody of the child" (Domestic Relations Law § 115–b[1] ). In fact, the procedure mandated by Domestic Relations Law § 115–b closely parallels that of Social Services Law § 383–c. Both statutes, for example, require biological parents to execute a document that effectively terminates parental rights. Both provisions require a ***665** Judge or Surrogate (if the document is executed in court) to inform the biological parents of the consequences of their act, and advise them of their right to be represented by counsel (Social Services Law § 383–c[5][b]; Domestic Relations Law § 115–b[2] [b] ). More importantly, both statutes provide generally that the biological parents' "surrender" or "consent" may be revoked within 45 days, and that an adoption proceeding may not be commenced until after the expiration of that period (Social Services Law § 383–c[8][b]; Domestic Relations Law § 115–b[4][d] ). Thus, by the time the adoptive parents become the child's legal parents, the biological parents have already formally agreed to relinquish their relationship with the child.

The procedural safeguards contained in Social Services Law § 383–c and Domestic Relations Law § 115–b—safeguards that reflect modern sensitivities as to the level of procedural protection required for waiver of parental rights—further indicate that section 117 does not invariably mandate termination in all circumstances. Under the language of section 117 alone, a biological mother's rights could theoretically be severed unilaterally, without notice as to the consequences or other procedural protections. Though arguably adequate in 1938 when the statute was enacted (L.1938, ch. 606, § 1; *cf., Matter of Bistany,* 239 N.Y. 19, 145 N.E. 70 [Cardozo, J.] ), such a summary procedure would be unlikely to pass muster today (*see, e.g., Santosky v. Kramer,* 455 U.S. 745, 768–770, 102 S.Ct. 1388, 1402–1403, 71 L.Ed.2d 599; *Matter of Sarah K.,* 66 N.Y.2d 223, 237, 496 N.Y.S.2d 384, 487 N.E.2d 241).

The above-described amendments to Social Services Law § 383–c and Domestic Relations Law § 115–b suggest that the Legislature in recent years has devised statutory vehicles other than section 117 to carefully regulate and restrict parental rights during the adoption process, again militating against a rigid application of subdivision (1)(a).

The Ambiguity Should Be Resolved in the Children's Favor. Finally, even though the language of section 117 still has the effect of terminating a biological parent's rights in the majority of adoptions between strangers—where there is a need to prevent unwanted intrusion by the child's former biological relatives to promote the stability of the new adoptive family—the cases before us are entirely different. As we recognized in *Matter of Seaman,* 78 N.Y.2d 451, 461, 576 N.Y.S.2d 838, 583 N.E.2d 294, "complete severance of the natural relationship [is] not necessary when the adopted person remain[s] within the natural family unit as a result of an intrafamily adoption."

One example of an adoption where the Legislature has explicitly acknowledged that *****723** ****404** termination is unwarranted is ***666** when the child, with the consent of the biological parent, is adopted by a "stepparent" (Domestic Relations Law § 117[1][d] ). A second, implicit exception occurs in the adoptions by teenage fathers authorized by the 1951 amendment to section 110 (*see,* at 661, at 720 of 636 N.Y.S.2d, at 401 of 660 N.E.2d, *supra* ). Since minor fathers adopting their own biological children are not "stepparents" under the language of Domestic Relations Law § 117(1)(d), they would be prohibited from adopting were section 117's termination language to be mandatory in all cases. The seemingly automatic cut-off language of section 117 could not have been intended to bar these adoptions, however, since they are precisely what the Legislature sought to encourage in the first place.

Yet a third class of adoptions where complete termination of parental rights appears to be contrary to legislative intent are those adoptions contemplated by Social Services Law

§ 383–c, a completely new statute enacted five years ago. Specifically, New York law now allows the parties to an agency adoption to "agree to different terms" as to the nature of the biological parents' postadoptive relationship with the child. The statute thus expressly permits parties to agree that the biological parent will retain specified rights —such as visitation with the child—*after* the adoption, thereby authorizing "open adoptions" for the first time in this State (*see,* Carrieri, Supplementary Practice Commentaries, McKinney's Cons.Laws of N.Y., Book 52A, Social Services Law § 383–c, 1995 Cum.Ann. Pocket Part, at 69).

A year prior to the enactment of Social Services Law § 383–c, this Court declined to sanction the concept of "open adoption" because of our belief that it was inconsistent with what we perceived to be section 117's requirement that termination of parental rights was mandatory in all cases (*Matter of Gregory B.,* 74 N.Y.2d 77, 91, 544 N.Y.S.2d 535, 542 N.E.2d 1052 [citations omitted] ). Significantly, when enacting Social Services Law § 383–c the very next year, the Legislature saw no need to amend Domestic Relations Law § 117. Again, if section 117 automatically terminated parental rights in all circumstances, it would have the practical effect of overriding the conditional surrender/"open adoption" provisions of Social Services Law § 383–c. By passing Social Services Law § 383–c as it did, the Legislature thus necessarily rejected the reading of section 117 articulated in *Matter of Gregory B. (see People ex rel. Sibley v. Sheppard,* 54 N.Y.2d 320, 325, 445 N.Y.S.2d 420, 429 N.E.2d 1049, *supra* ).

Given the above, it is plain that an interpretation of section 117 that would limit the number of beneficial intrafamily adoptions cannot be reconciled with the legislative intent to authorize open adoptions and adoptions by minors. The coexistence ***667** of the statute's seemingly automatic termination language along with these more recent enactments creates a statutory puzzle not susceptible of ready resolution.

One conclusion that can be drawn, however, is that section 117 does not invariably require termination in the situation where the biological parent, having consented to the adoption, has agreed to retain parental rights and to raise the child together with the second parent. Despite their varying factual circumstances, each of the adoptions described above —stepparent adoptions, adoptions by minor fathers and open adoptions—share such an agreement as a common denominator. Because the facts of the cases before us are directly analogous to these three situations, the half-century-old termination language of section 117 should not be read to preclude the adoptions here. Phrased slightly differently, "the desire for consistency in the law should not of itself sever the bonds between the child and the natural relatives" (*People ex rel. Sibley v. Sheppard,* 54 N.Y.2d 320, 326, 445 N.Y.S.2d 420, 429 N.E.2d 1049, *supra* ). [4]

*****724 **405** "Where the language of a statute is susceptible of two constructions, the courts will adopt that which avoids injustice, hardship, constitutional doubts or other objectionable results" (*Kauffman & Sons Saddlery Co. v. Miller,* 298 N.Y. 38, 44, 80 N.E.2d 322 [Fuld, J.]; *see also,* McKinney's Cons.Laws of N.Y., Book 1, Statutes § 150). Given that section 117 is open to two differing interpretations as to whether it automatically terminates parental rights in all cases, a construction of the section that would deny children like Jacob and Dana the opportunity of having their two de facto parents become their legal parents, based solely on their biological mother's sexual orientation or marital status, would not only be unjust under the circumstances, but also might raise constitutional concerns in light of the adoption statute's historically consistent purpose—the best interests of the child. (*See, e.g., Gomez v. Perez,* 409 U.S. 535, 538, 93 S.Ct. 872, 875, 35 L.Ed.2d 56 [Equal Protection Clause prevents unequal treatment of children whose parents are unmarried]; *Plyler v. Doe,* 457 U.S. 202, 220, 102 S.Ct. 2382, 2396, 72 L.Ed.2d 786 [State may not direct the onus of parent's perceived "misconduct against his (or her) children"]; *Matter of Burns,* 55 N.Y.2d 501, 507–510, 450 N.Y.S.2d 173, 435 N.E.2d 390 [New York statute requiring child born out of wedlock to prove "acknowledgment" ***668** by deceased parent did not further legitimate State interest]; *see also, Matter of Best,* 66 N.Y.2d 151, 160, n. 4, 495 N.Y.S.2d 345, 485 N.E.2d 1010, *supra* ). [5]

These concerns are particularly weighty in *Matter of Dana.* Even if the Court were to rule against him on this appeal, the male petitioner in *Matter of Jacob* could still adopt by marrying Jacob's mother. Dana, however, would be irrevocably deprived of the benefits and entitlements of having as her legal parents the two individuals who have already assumed that role in her life, simply as a consequence of her mother's sexual orientation.

Any proffered justification for rejecting these petitions based on a governmental policy disapproving of homosexuality or encouraging marriage would not apply. As noted above, New York has not adopted a policy disfavoring adoption by either single persons or homosexuals. In fact, the most recent legislative document relating to the subject urges courts to construe section 117 in precisely the manner we have as it cautions against discrimination against "nonmarital children" and "unwed parents" (*see,* at 664, at 721 of 636 N.Y.S.2d, at 402 of 660 N.E.2d, *supra* ). An interpretation of the statute that avoids such discrimination or hardship is all the more appropriate here where a contrary ruling could jeopardize the legal status of the many New York children whose adoptions by second parents have already taken place (*e.g., Matter of Camilla,* 163 Misc.2d 272, 620 N.Y.S.2d 897; *Matter of Evan,* 153 Misc.2d 844, 583 N.Y.S.2d 997; *Matter of A.J.J.,* 108 Misc.2d 657, 438 N.Y.S.2d 444).

Conclusion

To be sure, the Legislature that last codified section 117 in 1938 may never have envisioned families that "include[ ] two adult lifetime partners whose relationship is * * * characterized ***669** by an emotional and financial commitment and interdependence" (*Braschi v. Stahl Assocs. Co.,* 74 N.Y.2d 201, 211, 544 N.Y.S.2d 784, 543 N.E.2d 49). Nonetheless, it is clear that section 117, designed as a shield to protect new adoptive families, was never intended as a sword to prohibit otherwise beneficial intrafamily adoptions by second parents.

*****725 **406** Accordingly, in each proceeding, the order of the Appellate Division should be reversed, without costs, the adoption petition reinstated and the matter remitted to Family Court for further proceedings consistent with this opinion.

BELLACOSA, Judge (dissenting).

Judges Simons, Titone and I respectfully dissent and vote to affirm in each case.

These appeals share a statutory construction issue under New York's adoption laws. While the results reached by the majority are intended to have a benevolent effect on the individuals involved in these two cases, the means to those ends transform the legislative adoption charter governing countless other individuals. Additionally, the dispositional methodology transcends institutional limitations on this Court's proper exercise of its authority, fixed by internal discipline and by the external distribution of powers among the branches of government.

The majority minimizes the at-will relationships of the appellants couples who would be combined biological-adoptive parents in each case, but the significant statutory and legally central relevancy is inescapable. Unlike married and single parent households, each couple here cohabits only day-to-day, no matter the depth or length of their voluntary arrangements. Their relationships lack legal permanency and the State has not endowed them with the benefits and enforceable protections that flow from relationships recognized under color of law. Nowhere do statutes, or any case law previously, recognize de facto, functional or second parent adoptions in joint circumstances as presented here.

Specifically, in the respective cases, the availability of adoption is implicated because of the operation-of-law consequences under Domestic Relations Law § 117 based on: (1) the relationship of the biological parent and the putative adoptive child if a *male and female unmarried cohabiting couple,* one of whom is the biological mother of the child, *jointly petitions* to adopt the five-year-old child; and (2) the relationship of the biological parent and her child if the *lesbian partner* of the biological mother *petitions alone* to adopt the five-year-old child. Neither ***670** case presents an issue of ineligibility because of sexual orientation or of discrimination against adoption on that basis, despite the majority's evocations in that regard.

The facts are uncontested and pertinently recited in the Chief Judge's opinion. In *Matter of Jacob,* Family Court, Oneida County, dismissed the petition on the ground that the petitioners are an unmarried couple. No best interests factual or evidentiary evaluations were undertaken. The court held that adoption proceedings are creatures of statute and that Domestic Relations Law § 110 does not authorize adoption by an unmarried couple. The Appellate Division, Fourth Department, affirmed (210 A.D.2d 876, 620 N.Y.S.2d 640), concluding that the statute did not permit adoption by two unmarried persons together.

In *Matter of Dana,* Family Court, Putnam County, denied the adoption petition. The court held that (1) G.M. did not have standing to adopt pursuant to Domestic Relations Law § 110, since she did "not fall within any of the classifications under Domestic Relations Law Section 110"; and (2) the proposed adoption ran afoul of Domestic Relations Law § 117(1)(a).

The Appellate Division, Second Department, unanimously affirmed (209 A.D.2d 8, 624 N.Y.S.2d 634), but contrary to Family Court, it found that G.M. had standing to adopt under Domestic Relations Law § 110 as an "adult unmarried person." The Per Curiam opinion limited the dispositional rationale to the effect of Domestic Relations Law § 117—automatic termination of the biological parent's rights upon adoption by other than a stepparent. The Court, therefore, ruled that Family Court's result was correct for the reason that "[c]learly the intent of the Legislature was to deny a single person the right to adopt another's child while the natural parent, a single person, retains parental rights" (*id.,* at 10, 624 N.Y.S.2d 634).

Although adoption has been practiced since ancient times, the authorization for this unique relationship derives solely from legislation. It has no common-law roots or evolution (*Matter of Seaman,* 78 N.Y.2d 451, 455, 576 N.Y.S.2d 838, 583 N.E.2d 294; *Matter of* ***726 **407 *Robert Paul P.,* 63 N.Y.2d 233, 237, 481 N.Y.S.2d 652, 471 N.E.2d 424; *Matter of Thorne,* 155 N.Y. 140, 143, 49 N.E. 661; *see generally,* Presser, *The Historical Background of the American Law of Adoption,* 11 J. of Fam. L. 443 [1971] ). Therefore, our Court has approved the proposition that the statutory adoption charter exclusively controls (*Matter of Robert Paul P., supra,* 63 N.Y.2d at 238, 481 N.Y.S.2d 652, 471 N.E.2d 424; *Matter of Malpica–Orsini,* 36 N.Y.2d 568, 572, 370 N.Y.S.2d 511, 331 N.E.2d 486, *appeal dismissed sub nom. Orsini v. Blasi,* 423 U.S. 1042, 96 S.Ct. 765, 46 L.Ed.2d 631; *Carpenter v. Buffalo Gen. Elec. Co.,* 213 N.Y. 101, 108, 106 N.E. 1026).

***671** The judicial role is most sensitive, but no case has ever recognized a judicially created right of adoption. This restraint is especially pertinent when the Legislature has expressly enacted a plenary, detailed legislative plan (*see, Matter of Malpica–Orsini, supra,* 36 N.Y.2d at 570, 370 N.Y.S.2d 511, 331 N.E.2d 486; *Matter of Eaton,* 305 N.Y. 162, 165, 111 N.E.2d 431). The majority acknowledges New York's unique legislative developments and the several major cases in which adoptions have been disallowed (*see, e.g., Matter of Robert Paul P., supra* ) that together document these juridically limiting principles, yet the majority's ruling and result paradoxically turn away from those consistent guideposts.

Pointedly, this Court's unqualified utterance is that " ' "[t]he Legislature has *supreme control of the subject* " ' " (*Matter of Robert Paul P., supra,* 63 N.Y.2d at 237, 481 N.Y.S.2d 652, 471 N.E.2d 424 [emphasis added]; *see also, Matter of Malpica–Orsini, supra* ). A transcendent societal goal in the field of domestic relations is to stabilize family relationships, particularly parent-child bonds. That State interest promotes permanency planning and provides protection for an adopted child's legally secure familial placement. Therefore, statutory authorizations should not be substantively transformed under the guise of interpretation, and all facets of the adoption statutes should be harmonized (*see, Matter of Costello v. Geiser,* 85 N.Y.2d 103, 109, 623 N.Y.S.2d 753, 647 N.E.2d 1261; *Heard v. Cuomo,* 80 N.Y.2d 684, 689, 594 N.Y.S.2d 675, 610 N.E.2d 348; *Matter of Long v. Adirondack Park Agency,* 76 N.Y.2d 416, 420, 422–423, 559 N.Y.S.2d 941, 559 N.E.2d 635).

Notably, too, for contextual understanding of these cases, New York State has long refused to recognize common-law marriages (*see,* Domestic Relations Law § 11). It also does not recognize or authorize gay or lesbian marriages, though efforts to secure such legislation have been pursued (*see,* 1995 Assembly Bill A–648; 1994 Assembly Bill A–10508).

I.

Domestic Relations Law § 110, entitled "Who May Adopt," provides at its outset that "*[a]n adult unmarried person or an adult husband and his adult wife together* may adopt another person" (emphasis added). Married aspirants are directed to apply "together", i.e., jointly, as spouses, except under circumstances not applicable in these cases.

In *Dana,* appellant G.M. asserts that she may petition as "[a]n adult unmarried person," without regard to the legal consequences of other related provisions of the adoption charter. She petitioned individually and qualifies under ***672** section 110, irrespective of her sexual orientation. The *Dana* case, therefore, is not a case involving the right

of homosexuals to adopt, nor, self-evidently, is the *Jacob* case. Satisfying the standing component does not, however, complete the analysis or overcome section 117's operation-of-law impact on both cases.

Appellants Stephen T.K. and Roseanne M.A. urge that the term "adult unmarried person" should also permit them to adopt "together" as an unmarried couple. They bypass the statute's plain words by claiming that nothing in the statutory language of Domestic Relations Law § 110 precludes their adoption effort. Preclusion or prohibition, however, are not the point. Petitioners' burden, ignored by the majority, is to identify a source of statutory authorization.

Petitioners came to court in the *Jacob* case to adopt "together," as two unmarried adults. The court must deal with them as they presented themselves and must also obey the ***727 **408 statute that on its face allows a joint petition by "married" spouses "together." The statute unambiguously declares that "[a]n adult unmarried person *or* an adult husband and his wife *together* may adopt another person" (Domestic Relations Law § 110 [emphasis added]; Scheinkman, Practice Commentaries, McKinney's Cons.Laws of N.Y., Book 14, Domestic Relations Law § 110, at 398, 402, 404). Words of such precise import and limitation are not merely talismanic and may not be rendered superfluous, as the majority has done here. The Legislature's chosen words must be given their substantive, intended meaning, and interpretation is no substitute for its failure to be more explicit or flexible.

The statutory language and its history instructively reveal no legislative intent or hint to extend the right and responsibility of adoption to cohabiting unmarried adults (*see,* Scheinkman, Supplementary Practice Commentaries, McKinney's Cons.Laws of N.Y., Book 14, Domestic Relations Law § 110, 1995 Cum. Ann. Pocket Part, at 85). The opposite obtains, notably in the *Jacob* case, in the direct contraindication of Domestic Relations Law § 11 expressing the State's long-standing public policy refusal to recognize at-will common-law relationships as marriages. Confusion is thus sown by the holdings today by blurring plain meaning words and clear lines between relationships that are legally recognized and those that are not. Under the newly fashioned theory rooted in ambiguity, any number of people who choose to live together *673 even those who may not cohabit—could be allowed to adopt a child together. The result in these cases and *reductio ad absurdum* illustrations flowing from appellants' theorem—that singular may mean plural and vice versa under a general axiom of statutory construction inapplicable in the face of specificity—are far beyond any discernible legislative intent of New York lawmakers. Marriages and single parent households are not, after all, mere social conventions generally or with respect to adoption circumstances; they enjoy legal recognition and special protections for empirically proper social reasons and public policies.

The legislative history of adoption laws over the last century also reveals a dynamic process with an evolving set of limitations. The original version enacted in 1873 provided: "Any minor child may be adopted *by any adult* " (L.1873, ch. 830 [emphasis added] ). In 1896, the Legislature cut back by stating that "[a]n adult unmarried person, or an adult husband or wife, or an adult husband and his adult wife together, may adopt a minor" (L.1896, ch. 272, § 60; *see also,* L.1915, ch. 352; L.1917, ch. 149). This language was further restricted, in 1920, when the Legislature omitted from the statute the language "or an adult husband or wife" (*see,* L.1920, ch. 433). Since enactment of the 1920 amendment, the statute has provided that "[a]n adult unmarried person or an adult husband and his adult wife *together* may adopt" (Domestic Relations Law § 110 [emphasis added] ). The words chosen by the Legislature demonstrate its conclusion that a stable familial entity is provided by either a one-parent family or a two-parent family when the concentric interrelationships enjoy a legal bond. The statute demonstrates that the Legislature, by express will and words, concluded that households that lack legally recognized bonds suffer a relatively greater risk to the stability needed for adopted children and families, because individuals can walk out of these relationships with impunity and unknown legal consequences.

Next, the Legislature specified the exceptions in section 110 permitting a married individual to petition for adoption without consent of the other spouse (*see,* Domestic Relations Law § 110; McKinney's Cons.Laws of N.Y., Book 1, Statutes § 240 [*expressio unius est exclusio alterius*—where a statute mentions certain exceptions and omits others, the Legislature intends that the omitted items should be excluded]; *Matter of Alonzo M. v. New York City Dept. of Probation,* 72 N.Y.2d 662, 665, 536 N.Y.S.2d 26, 532 N.E.2d 1254; *674 *Patrolmen's Benevolent Assn. v. City of New York,* 41 N.Y.2d 205, 208–209, 391 N.Y.S.2d 544, 359 N.E.2d 1338). The

failure of the Legislature to provide for the circumstances of these two cases examined in the light of successive particularized legislative amendatory actions, is yet another cogent refutation of the uniquely judicial authorization ***728 **409 of adoption, unfurled today under the twin banners of statutory interpretation and ambiguity.

Lastly in this connection, we derive a diametrically different lesson from *Matter of Alison D. v. Virginia M.,* 77 N.Y.2d 651, 569 N.Y.S.2d 586, 572 N.E.2d 27, decided in 1991. The majority for that case held that a lesbian partner is not a "parent" under Domestic Relations Law § 70(a). The Court expressly rejected an expansionist judicial definition of "de facto parent" or "functional" family (*id.,* at 656, 569 N.Y.S.2d 586, 572 N.E.2d 27) and declined to enlarge legislatively limited delineations (*id.,* at 657, 569 N.Y.S.2d 586, 572 N.E.2d 27). Yet, today's majority, only four years later, revives and applies that rejected de facto methodology using another nonstatutory, undelineated term, "second parent adoption" (*compare, Simpson v. Loehmann,* 21 N.Y.2d 305, 314, 287 N.Y.S.2d 633, 234 N.E.2d 669 [Breitel, J., concurring] ["Only a major reappraisal by the court, rather than the accident of a change in its composition, would justify the overruling of" precedent] ). The majority now grants legal recognition to what it refers to as functional parents in both cases, the couples comprised of two individuals bound together solely by personally elective affiliation, not by marriage as the statute prescribes. This turnabout should be contrasted again with what the Court in *Alison D.* actually did: it took a statute at its precise words and gave them effect, because the legally recognized stability of these most sacred human relationships were determined to be paramount by the Legislature and, thus, by this Court.

When the majority augments extant legislation in these cases because the corpus juris does not reflect modern arrangements in which individuals nevertheless yearn to be accorded family status under the law (*compare, Matter of Alison D. v. Virginia M., supra* ), it significantly dissolves the central rationale of *Alison D.* (*id.; see also, Simpson v. Loehmann,* 21 N.Y.2d 305, 314–316, 287 N.Y.S.2d 633, 234 N.E.2d 669, *supra* [Breitel, J., concurring] ). As former Chief Judge Breitel noted in another connection, the "judicial process is not permitted to rove generally over the scene of human affairs. Instead, it must be used, on pain of violating the proprieties, within the framework of a highly disciplined special system of legal rules characteristic of the legal order" (Breitel, *The Lawmakers,* 65 Colum.L.Rev. 749, 772; *see also,* Cardozo, The Nature of the Judicial Process, reprinted in Selected Writings of Benjamin Nathan Cardozo, *675 110, 164 [Hall ed 1947] [A Judge "is not a knight-errant, roaming at will in pursuit of his (or her) own ideal of beauty or of goodness."] ). The rulings today constitute a rejection of such wise admonitions about appropriate limitations on the judicial process and power.

The Per Curiam opinion of the Court in *Matter of Alison D. v. Virginia M.,* 77 N.Y.2d 651, 569 N.Y.S.2d 586, 572 N.E.2d 27, *supra* also instructively refrained from any reliance on or reference to *Braschi v. Stahl Assocs. Co.,* 74 N.Y.2d 201, 544 N.Y.S.2d 784, 543 N.E.2d 49. Thus, the incorporation of *Braschi* into the instant cases is inapposite and should be unavailing, because these are very different cases with very different issues and operative policies.

II.

A key societal concern in adoption proceedings is, we all agree, the best interests of children (*see,* Domestic Relations Law § 114; *Matter of Robert Paul P.,* 63 N.Y.2d 233, 236, 481 N.Y.S.2d 652, 471 N.E.2d 424, *supra* ). The judicial power to grant an adoption cannot be exercised, however, by simply intoning the phrase "the best interests of the adoptive child" as part of the analysis to determine qualification for adoption. That approach bypasses crucial, threshold steps and begs inescapably interwoven questions that must be considered and answered at the outset of the purely statutory construction issue in these cases. Before a court can arrive at the ultimate conclusion that an adoption is in the best interests of a child therefore, it is first obliged to discern whether the particular application is legislatively authorized. Reversing the analysis erects the building before the foundation is in place.

Best interests, in any event, is not an abstract concept floating in a vacuum, but must be factually rooted, supported by and ***729 **410 applied to an evidentiary record. With no findings or record in any prior court in these cases on that issue, we fail to understand how the majority here makes first-instance assumptions to assert and support its conclusions about the best interests of Jacob and Dana as part of the statutory construction analysis.

660 N.E.2d 397, 636 N.Y.S.2d 716, 64 USLW 2294

The dual, statutorily interlocked inquiries of qualifications and operation-of-law consequences of adoption cannot be shunted aside in favor of an aspiration that a potential adoptive person might provide a child with good, better or best emotional or financial circumstances. An intuitive preference that a particular adoption might likely or generally serve ***676** some child's beneficial interests should not suffice to solve the more comprehensive puzzle of legislative intent that will evolve into a *ratio decidendi* as the juridical adoption charter to govern the whole of a society (*see,* Domestic Relations Law § 114; *compare, Matter of Bennett v. Jeffreys,* 40 N.Y.2d 543, 546, 552, 387 N.Y.S.2d 821, 356 N.E.2d 277). We note that the disciplined approach we would use in deciding these appeals does not implicate the bona fides or unchallenged loving and caring motivations and feelings of any of the individuals involved in these cases. While promulgated and applied law may take cognizance of those factors, however, it should not be subordinated to them. Also, these children are not members of a suspect class (*contrast, Gomez v. Perez,* 409 U.S. 535, 93 S.Ct. 872, 35 L.Ed.2d 56; *Plyler v. Doe,* 457 U.S. 202, 102 S.Ct. 2382, 72 L.Ed.2d 786). They are members of stable homes, already presently in the permanent placement and custody of their biological mothers.

Courts are ultimately limited to viewing issues as presented in litigated cases within the confines of their evidentiary records. Since the majority agrees that the common issue in these cases is purely statutory construction, its reliance on generalized assumptions about life and health insurance, Social Security and death benefits, constitutes a questionable policy makeweight. Those criteria offer scant guidance towards discovering legislative intent behind Domestic Relations Law §§ 110 and 117. Moreover, they are incomplete policy factors, inappropriate to statutory construction analysis, and their imputation in these cases simultaneously eschews consideration of any competing substantial State interest concerns.

For the benefit of the two youngsters and the preservation of some orderly procedural regularity, we draw assurance from the corrective action that at least remits each case to Family Court, to undertake a first instance, best interests hearing in the *Jacob* case, and an updated hearing in the *Dana* case, now that three years have transpired since the court conducted its original limited inquiry.

III.

A principal factor in these cases must also ultimately include consideration of the inexorable operation-of-law consequences that flow from section 117, a distinctive feature of New York's adoption laws. Specifically, courts are statutorily mandated to apply Domestic Relations Law § 110 together with the interconnected features of ***677** Domestic Relations Law § 117 (*compare, e.g., Matter of Royal Indem. Co. v. Tax Appeals Tribunal,* 75 N.Y.2d 75, 79, 550 N.Y.S.2d 610, 549 N.E.2d 1181; McKinney's Cons.Laws of N.Y. Book 1, Statutes § 97).

Domestic Relations Law § 117 provides: "After the making of an order of adoption the natural parents of the adoptive child *shall be relieved of all parental duties toward and of all responsibilities for and* shall have no rights over such adoptive child *or* to his [or her] property by descent or succession" (emphasis added). The plain and overarching language and punctuation of section 117 cannot be judicially blinked, repealed or rendered obsolete by interpretation.

Section 117 says that it severs all facets of a biological parent's conjunctively listed relationships upon adoption of the child (*compare, Matter of Bennett v. Jeffreys,* 40 N.Y.2d 543, 387 N.Y.S.2d 821, 356 N.E.2d 277, *supra* ). This Court has recognized that "[t]he purpose of the section [former section 114, now section 117] was to define the relation, after adoption, of the child to its natural parents and to its adopting parents, together in their reciprocal rights, duties and privileges" *****730 **411** " (*Betz v. Horr,* 276 N.Y. 83, 87, 11 N.E.2d 548; *see also, Matter of Gregory B.,* 74 N.Y.2d 77, 91, 544 N.Y.S.2d 535, 542 N.E.2d 1052). That is a critically extant, interpretive proposition from this Court and not some merely atavistic utterance.

In implementation of its prerogative to define family relationships that are accorded legal status, the Legislature even prescribed a stepparent departure from the otherwise automatic section 117 consequence. It thus sought to obviate the inevitable result that an order of adoption might actually effectuate the symbolic Solomonic threat by severing the rights of a consenting biological parent in such specifically excepted circumstances where a biological parent is married to an adopting stepparent. One would have thought

promulgation of such an exception unnecessary, yet the Legislature chose certainty of statutory expression for every eventuality as to the severance or nonseverance operation-of-law consequences of section 117.

Appellants in both cases nevertheless propose the theory that section 117 is meant to apply only to inheritance succession of property rights after adoption and should have no effect on the wider expanse and array of rights and responsibilities of a biological parent with an adoptive child. The language of section 117 reveals, however, that the biological parents' duties, responsibilities and rights with respect to the adoptive child are separate and distinct from, and more comprehensive ***678** than, a single, narrow category of inheritance rights. The use of the disjunctive "or" before the phrase, "property by descent or succession," cannot be discounted or avoided; it denotes the important and elemental legislative demarcation. These observations are not some syntactical or grammatical exercise. Indeed, syntax and grammar are necessary tools of precise expression, acceptable norms of interpretation and reasonably uniform understanding and, when coupled with disciplined, thorough statutory construction principles, they bear legitimately and cogently on sound and supportable legal analysis (*see, Matter of Brooklyn El. R.R. Co.,* 125 N.Y. 434, 444–445, 26 N.E. 474).

Besides, section 117(1)(i) merely defines a particular class of restricted inheritance rights, namely, "intestate descent and distribution" of property. Thus, adopted children and their biological parents may still inherit from one another by will or acquire property by inter vivos instrument (*see,* 1986 Report of N.Y.Law.Rev.Commn., reprinted in 1986 McKinney's Session Laws of N.Y., at 2560). This again demonstrates that the intestate devolution of property aspect is only a particular species and recent incorporation into this more sweeping, long-standing statute. It does not represent a displacement or total substitution for the statute's predominant purport.

The majority states that "from the very beginning of what is now section 117, both the scholarly commentary about the section and its dozen or so amendments have centered on issues of property rights and inheritance" (majority opn, at 663, at 721 of 636 N.Y.S.2d, at 402 of 660 N.E.2d). This statement sidesteps and subordinates the original and still operative language of section 117 itself: "The parents of an adopted child are, from the time of the adoption, *relieved from all parental duties* toward, and of all responsibility for, the child so adopted, and have no rights over it" (L.1873, ch. 830, § 12 [emphasis added] ). Inheritance was not mentioned and the comprehensive sweep of the statute could not be plainer. Finally, the primacy of this Court's precedents and legislatively promulgated words as authority must be accorded greater rank and respect than any secondary or tertiary materials characterized as "scholarly commentary."

*Betz v. Horr,* 276 N.Y. 83, 11 N.E.2d 548, *supra* is particularly poignant and cogent. There, a sick and destitute adopted adult sought support from her biological father. In rejecting the claim, the Court recognized that the purpose of former section 114 (now § 117) was the complete termination of parental rights and ***679** responsibilities of the biological parents following adoption. The Court stated that in order to impose upon the biological parent a duty to support, "it would be necessary to read into section 114 [now section 117] of the Domestic Relations Law an intent to preserve the duty and *****731** ****412** responsibility of the natural parent to support the child *notwithstanding the plain and unambiguous provision that, after adoption, all responsibility of the natural parent for the child ceases* " (*id.,* at 88, 11 N.E.2d 548 [emphasis added]; *see also, Matter of Harvey–Cook v. Neill,* 118 A.D.2d 109, 111, 504 N.Y.S.2d 434). That the biological mothers in these cases may wish that their parental rights not be terminated by an order of adoption is no more determinative than the compelling circumstances of *Betz.* The statute and our cases remain controlling. Section 117 should not be relegated to, nor was it designed to operate with, case-by-case personal exemptions from universally and equally applied principles of statutory law or precedentially governing authorities.

The rationale of these cases is likely to engender significant legal uncertainty and practical problems between biological and adoptive parents. Conflicts concerning the upbringing of children, for example, with respect to visitation rights, schooling, medical care, religious preference and training and the like, may ensue. Such a net of foreseeable and unseen sequelae is hardly conducive to the settled, permanent, new home environment and set of relationships directed by section 117.

A careful examination of the Legislature's unaltered intent based on the entire history of the statute reveals the original purpose of section 117 was to enfold adoptees within the exclusive embrace of their new families and to sever

all relational aspects with the former family. That goal still applies and especially to the lifetime and lifelong relationships of the affected individuals, not just to the effect of dying intestate (*see,* L.1963, ch. 406; *Matter of Best,* 66 N.Y.2d 151, 156, 495 N.Y.S.2d 345, 485 N.E.2d 1010, *cert. denied sub nom. McCollum v. Reid,* 475 U.S. 1083, 106 S.Ct. 1463, 89 L.Ed.2d 720; *see also,* Mem. in Support of Bill by Sponsoring Senator Brydges, Bill Jacket, L.1963, ch. 406; *see also,* Mem. to Governor in Support by Attorney–General Lefkowitz, Bill Jacket, L.1963, ch. 406).

Not surprisingly, we believe that the majority's reliance on Social Services Law § 383–c and Domestic Relations Law §§ 114 and 115–b are inapposite and unpersuasive. The use of these attenuated provisions involving entirely different situations to argue for what amounts to a functional, partial repeal ***680** by implication of section 117's unaltered breadth, is a disfavored approach to resolving statutory analysis problems.

IV.

The assembled and varied statutory construction arguments are, in the end, held together by the majority's tincture of constitutional doubt. A crucial utterance illustrates: "[A] construction of the section that would deny children like Jacob and Dana the opportunity of having their two de facto parents become their legal parents, based solely on their biological mother's sexual orientation or marital status, would not only be *unjust under the circumstances, but also might raise constitutional concerns* in light of the adoption statute's historically consistent purpose—the best interests of the child" (majority opn, at 667, at 724 of 636 N.Y.S.2d, at 405 of 660 N.E.2d [citations omitted] [emphasis added] ). This sweeping amalgam renders doubtful even the opportunity for appropriate statutory amendments to deal with perceived ambiguities. It also tolerates no potential for showing in the future any State interest supporting any enactment regulating this field that could survive equal protection constitutional attack.

This "equal protection" concern was not raised in either case before the lower courts, and the majority's preemptive cloud, coupled with a failure to deal with that issue's complexity, and implicated jurisprudential nuances is perplexing (*compare, Campaign for Fiscal Equity v. State of New York,* 86 N.Y.2d 307, 312, 324, 332, 344, 631 N.Y.S.2d 565, 655 N.E.2d 661). Further, the generalization of some hypothesized result being "unjust under the circumstances" (majority opn, at 667, at 724 of 636 N.Y.S.2d, at 405 of 660 N.E.2d), while a matter of general concern to any Judge, cannot supplant specific analysis and avoid rational basis judicial scrutiny within an appropriate and rigorous adjudicatory process and developed record of pleadings and proof on an as-applied basis. Whatever labels are used, no constitutional issue is squarely and thoroughly presented in *****732 **413** these cases anyway, nor is any appropriate for speculation on these records. Moreover, the vagueness as to precisely which parties'—the children or the adopting petitioner or the biological parent—constitutional rights are somehow at risk adds bewilderment to the analysis and frustrates any attempted, precise rejoinder.

Overlaying the entire problem about such projections of facial or applied constitutional doubt, cast upon a complex set of statutes, is the inattentiveness to the fundamental presumption of constitutionality of duly enacted legislation and ***681** to the appropriate deference, indeed "supremacy," of the legislative role in this area (*see, People v. Thompson,* 83 N.Y.2d 477, 487–488, 611 N.Y.S.2d 470, 633 N.E.2d 1074; *Matter of Robert Paul P.,* 63 N.Y.2d 233, 237, 481 N.Y.S.2d 652, 471 N.E.2d 424, *supra; People v. Epton,* 19 N.Y.2d 496, 505, 281 N.Y.S.2d 9, 227 N.E.2d 829). These overridden precepts should be central to the dispositional equation in these cases instead of a tenuous statutory construction axiom insinuated on a problematical constitutional premise.

Significantly, this Court did not even have the benefit in these cases of the customary adversarial advocacy dynamic. No briefs or oral arguments supportive of the results below or against the arguments for adoptions were presented, though several *amici* briefs in support of appellants' positions were accepted. Thus, one-sided constitutional claims raised for the first time on appeal should especially be foreclosed from this Court's consideration based on well-settled institutional and precedential principles (*see, e.g., People v. Gray,* 86 N.Y.2d 10, 20, 629 N.Y.S.2d 173, 652 N.E.2d 919; *Lichtman v. Grossbard,* 73 N.Y.2d 792, 794, 537 N.Y.S.2d 19, 533 N.E.2d 1048; *Melahn v. Hearn,* 60 N.Y.2d 944, 945, 471 N.Y.S.2d 47, 459 N.E.2d 156; *Matter of Eagle v. Paterson,* 57 N.Y.2d 831, 833, 455 N.Y.S.2d 759, 442 N.E.2d 56; *People v. Martin,* 50 N.Y.2d 1029, 1031, 431 N.Y.S.2d 689,

409 N.E.2d 1363; *Wein v. Levitt,* 42 N.Y.2d 300, 306, 397 N.Y.S.2d 758, 366 N.E.2d 847; Cohen and Karger, Powers of the New York Court of Appeals § 169, at 641 [rev. ed.]; *see also, Matter of Patchogue–Medford Congress of Teachers v. Board of Educ.,* 70 N.Y.2d 57, 71, 517 N.Y.S.2d 456, 510 N.E.2d 325 [Simons, J., concurring] ). We emphasize that it is the dubiety cast over very significant constitutional propositions in this fashion that is at least as disquieting as an unequivocal constitutional declaration. This is especially so since the Attorney–General of the State was given no notice or opportunity, as required by Executive Law § 71, to fulfill the obligation of the Department of Law to defend the constitutionality—or against the inchoate unconstitutionality—of the beclouded statutes.

The instant two cases also take the constitutional hook of *Matter of Patchogue–Medford Congress of Teachers v. Board of Educ.,* 70 N.Y.2d 57, 517 N.Y.S.2d 456, 510 N.E.2d 325, *supra*, where the assertion of a general constitutional claim in a pleading was used by this Court to reach a specific State constitutional basis for decision, two giant steps beyond that significant jurisprudential outer limit. Now, parties may assert constitutional claims at the final appeal stage and appellate courts may drive a debatable statutory construction wedge—a speculative, future constitutional concern—into the disposition of very significant statutes and cases.

The majority's constitutional prognostication is thus linked ***682** to a statutory construction device that teaches courts to avoid reaching constitutional issues when they need not. The rubric is dubiously applied here, however since it is designed primarily to respect the presumption of constitutionality, not becloud it. The presumption is a reservoir of judicial power, preserving judicial capital, resources and power for when they are most and unavoidably needed. The rubric has never been used, as here, to anticipate amorphous doubt over statutes as applied to real, future cases and controversies. By employing a canon of construction *to,* in effect, *reach* an unlitigated issue in order to *avoid* potentially "embarrassing constitutional questions" in the future, the majority in the instant cases violates the very canon it invokes. It ultimately also transgresses another overriding canon, that courts should not legislate under the guise of interpretation (*see, e.g., People v. Finnegan,* 85 N.Y.2d 53, 58, 623 N.Y.S.2d 546, 647 N.E.2d 758; *People* *****733** ****414** *v. Heine,* 9 N.Y.2d 925, 929, 217 N.Y.S.2d 93, 176 N.E.2d 102).

The majority concludes that "[g]iven that section 117 is open to two differing interpretations"—a conclusion with which we have already noted our strong disagreement in any event—the Court must construe the statute to avoid constitutional doubt (majority opn, at 667, 667–668, 668 at 723, 723–724, 724 of 636 N.Y.S.2d, at 404, 404–405, 405 of 660 N.E.2d, citing principally *Matter of Lorie C.,* 49 N.Y.2d 161, 171, 424 N.Y.S.2d 395, 400 N.E.2d 336). That case dealt with the State constitutional limits on the jurisdiction of the Family Court in placing juvenile delinquents in foster homes. Since the statutory construction issue directly implicated article VI, § 13 of the State Constitution, it is arguably appropriate for the Court to have added a dictum concerning the special court's jurisdictional limits under the State Constitution. As the Court noted, the statutory question involved the "doctrine of distribution of powers ' "that each department should be free from interference, in the discharge of its peculiar duties, by either of the others" ' " (*Matter of Lorie C., supra,* at 171, 424 N.Y.S.2d 395, 400 N.E.2d 336, quoting *Saxton v. Carey,* 44 N.Y.2d 545, 549, 406 N.Y.S.2d 732, 378 N.E.2d 95). Here, the would-be constitutional question involves nothing of that kind and does not implicate a powers section of the State Constitution; rather, it forecasts an equal protection "concern."

As the Court has elsewhere observed, failure to raise a constitutional issue in nisi prius courts results in an inadequate record, lack of joinder, and lack of development and testing of adjudicative analysis to permit and justify the appellate court to make its fair, reasonably tested and long-lasting determination and precedent on the merits (*see, People* ***683** *v. Gray,* 86 N.Y.2d 10, 20, 629 N.Y.S.2d 173, 652 N.E.2d 919, *supra; People v. Martin,* 50 N.Y.2d 1029, 1031, 431 N.Y.S.2d 689, 409 N.E.2d 1363, *supra* ). Furthermore, if a litigant does not raise a particular legal argument before a court of first instance, that effectively deprives the other party—if there is one, as there is not in these cases—of a fair opportunity to present and answer the proofs and deprives the process of jurisprudence of the essential check-and-balance against unilateral mistake or misapprehension. This Court has also repeatedly warned that "if any unsought consequences result, the Legislature is best suited to evaluate and resolve them" (*Bender v. Jamaica Hosp.,* 40 N.Y.2d 560, 562, 388 N.Y.S.2d 269, 356 N.E.2d 1228, citing *Bright Homes v. Wright,* 8 N.Y.2d 157, 203 N.Y.S.2d 67, 168 N.E.2d 515; *see, Matter of Robert Paul P.,* 63 N.Y.2d 233, 239, 481 N.Y.S.2d 652, 471 N.E.2d 424, *supra* ). These cautions are uniquely appropriate

with respect to the Legislature's concededly "supreme" power and provenance concerning its legal creature: adoptions.

In sum, the common issue here involves a subject on which the Legislature has expressed itself. These cases appear on a screen on which the Legislature has delineated its will and judgment methodically and meticulously to reflect its enactments. Ambiguity cannot directly or indirectly create or substitute for the lack of statutory authorization to adopt. These adoption statutes are luminously clear on one unassailable feature: no express legislative authorization is discernible for what is, nevertheless, permitted by the holdings today. Nor do the statutes anywhere speak of de facto, functional or second parent adoptions. Frankly, if the Legislature had intended to alter the definitions and interplay of its plenary, detailed adoption blueprint to cover the circumstances as presented here, it has had ample and repeated opportunities, means and words to effectuate such purpose plainly and definitively as a matter of notice, guidance, stability and reliability. It has done so before (*see, e.g.,* L.1984, ch. 218 [permitting adoption by adults not yet divorced]; L.1951, ch. 211 [permitting adoption by a minor] ).

Because the Legislature did not do so here, neither should this Court in this manner. Cobbling law together out of interpretative ambiguity that transforms fundamental, societally recognized relationships and substantive principles is neither sound statutory construction nor justifiable lawmaking. Four prior courts in these two cases correctly dismissed the respective adoption petitions. ***734 **415 Sincethose appropriate judicial determinations are based on what the Legislature actually enacted and specifically authorized, the Appellate Division orders should be affirmed.

*684 SMITH, LEVINE and CIPARICK, JJ., concur with KAYE, C.J.

BELLACOSA, J., dissents and votes to affirm in a separate opinion in which SIMONS and TITONE, JJ., concur.
Order reversed, etc.

**All Citations**

86 N.Y.2d 651, 660 N.E.2d 397, 636 N.Y.S.2d 716, 64 USLW 2294

## Footnotes

1 The dissent's criticisms of our reasoning and methodology are unfounded and undeserved. A careful process of studying the various statutes and their history, in an effort to resolve the novel questions presented, has led us to different conclusions—not unlike courts elsewhere that have confronted this issue and in the main have resolved it as we have (*see, In re Tammy,* 416 Mass. 205, 619 N.E.2d 315 [1993], *supra* [permitting second parent adoption]; *In re B.L.V.B.,* 160 Vt. 368, 628 A.2d 1271 [1993] [permitting second parent adoption]; *In re M.M.D.,* 662 A.2d 837 [D.C.App.1995] [permitting second parent adoption]; *but see, In re Angel Lace M.,* 184 Wis.2d 492, 516 N.W.2d 678 [1994] ).

2 Though the adoption petition in *Matter of Jacob* was filed jointly on behalf of appellant Stephen T.K. and Jacob's biological mother in "an understandable effort to cover all the bases" (*In re M.M.D.,* 662 A.2d 837, 843, *supra* ), the fact that appellants chose this procedural route should not preclude Stephen T.K.—an adult unmarried person—from adopting Jacob.

3 By interpreting the language regarding married couples in section 110 as expansively as it does, the dissent would prohibit adoptions in whole categories of cases not before us—for example, when two unmarried adults seek to adopt a child who is the biological child of neither of them (*see, e.g., In re M.M.D.,* 662 A.2d 837,

*supra* )—thereby decreasing the number of persons eligible to adopt children deemed "hard-to-place" due to circumstances such as behavioral problems, birth defects or serious illnesses.

4 The two appeals before us concern adoptions by second parents, not adoptions by "any number of people who choose to live together" (dissenting opn, at 672–673, at 726–727 of 636 N.Y.S.2d, at 407–408 of 660 N.E.2d). Similarly, our decision today does not mandate judicial approval of second parent adoptions in all situations, but simply permits them to take place when appropriate (*see,* Domestic Relations Law § 114).

5 This long-standing and widely recognized principle of statutory construction is invoked merely as an additional interpretive aid—a pathway of analysis—in the difficult task of choosing among possible readings of a statute (*see, Matter of Lorie C.,* 49 N.Y.2d 161, 171, 424 N.Y.S.2d 395, 400 N.E.2d 336; *International Fuel & Iron Corp. v. Donner Steel Co.,* 242 N.Y. 224, 231, 151 N.E. 214). In answering the question posed—what does the statute mean?—we use all available and appropriate analytical tools.

Despite the dissent's assertions to the contrary, we are not declaring section 117 unconstitutional, but instead interpreting it in a practical, commonsense manner which conserves judicial resources and avoids the awkward alternative of "giving [it] an interpretation which might precipitate embarrassing constitutional questions" in the future (*Hovey v. De Long Hook & Eye Co.,* 211 N.Y. 420, 429, 105 N.E. 667; *see also, Matter of Cipolla v. Golisano,* 84 N.Y.2d 450, 455, 618 N.Y.S.2d 892, 643 N.E.2d 514).

59 Misc.3d 960
Family Court, New York.

In the Matter of David S. and
RAYMOND T. [1], Petitioners,
v.
SAMANTHA G., Respondent.

V25633/17
|
Decided April 10, 2018

**Synopsis**

**Background:** Biological father of child, and the father's husband, who together had entered into tri-parenting agreement with child's biological mother, filed suit against mother seeking legal custody of child and shared parenting time. Mother cross-petitioned for sole custody with reasonable visitation to fathers.

The Family Court, New York County, Carol Goldstein, J., held that husband in same-sex marriage had standing to seek visitation and custody of his partner's child.

Ordered accordingly

**Procedural Posture(s):** Judgment.

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**Opinion**

Carol Goldstein, J.

****731 *961** In the instant case, three parties—the biological mother, the biological father and the father's husband—agreed to conceive and raise a child together in a tri-parent arrangement. The question before the court is whether the father's husband has standing to seek custody and visitation with the subject child under Domestic Relations Law (DRL) § 70 (a) pursuant to *Matter of Brooke S.B. v. Elizabeth A.C.C.*, 28 N.Y.3d 1, 39 N.Y.S.3d 89, 61 N.E.3d 488 (2016), even though the child already has two legal parents. The court holds that under the circumstances of this case, the father's husband has standing to seek custody and visitation and the matter is set down for a best interest hearing.

**Background**

The parties in the instant case, a married same-sex male couple, petitioners David S. and Raymond T., and a single woman, respondent Samantha G., were all friends. Over brunch in May 2016, the three friends discussed how each wished to be a parent and devised a plan whereby a child would be conceived and raised by the three parties in a tri-parent arrangement. While the parties agreed that the mother would continue to live in New York City and the men would continue to reside together in Jersey City, the parties agreed that they would consider themselves to be a "family." The parties then proceeded to execute their plan. For an eight-day period, Misters S. and T. alternated the daily delivery of sperm to Ms. G. for artificial insemination. On or about Labor Day weekend, 2016, Ms. G. announced that she was pregnant. The three parties ***962** publicized the impending birth on social media with a picture of all three parties dressed in T-shirts. Misters S. and T.'s shirt each said, "This guy is going to be a daddy" and Ms. G.'s shirt said, "This girl is going to be a mama."

The parties jointly decided that the child would be delivered by a midwife at the residence of Misters S. and T. The parties jointly selected the midwife and shared in the payment of her fees. Mr. S. attended all the pre-birth appointments with the midwife and Mr. T. attended some of those appointments. Ms. G. and Misters S. and T. all attended an eight-week natural childbirth course and Mr. T. arranged to take a sixteen-week paternity leave after the child was born. The parties agreed on a pediatrician and agreed to make medical decisions jointly. They further agreed that the child would be covered under Mr. T.'s health insurance plan. Additionally, the parties agreed to each contribute to a joint savings account for the child and as of the date of the filing of papers in the instant proceeding, Mr. T. had contributed 50% of the funds in the account.

The subject child, a baby boy, was born on May 6, 2017. As planned, the birth took place at the home of Misters S. and T. in New Jersey, with both men present. After a private genetic marker test determined that Mr. S. was the child's biological father, Mr. S. signed a New Jersey acknowledgement of paternity on May 11, 2017, when the child was five days old. The name chosen for the child, Matthew Z. S.–G., recognized all three parties. Matthew is a G. family name, the middle name Z. is Mr. T.'s father's name, and G. and S. are the surnames of the two biological parents. After the child's birth, Ms. G., Matthew and Ms. G.'s mother all spent a week at the home of Misters S. and T.

At the week's conclusion, Matthew went to live with Ms. G. in New York County, where he continues to live. Misters S. and T. have regular daytime parenting time and in the summer of 2017, the parties and ****732** Matthew took a vacation together in the Catskills. Overnight visitation has been slow to start because Matthew was nursing on demand, but overnight visits are scheduled to commence this month.

When speaking to Matthew, all parties refer to Ms. G. as "Momma," Mr. S. as "Daddy" and Mr. T. as "Papai," which is Portuguese for father. When Matthew needed hernia surgery at the age of two months, all three parties were present at the hospital for the surgery.

Before Matthew was born, the parties engaged an attorney to draft an agreement regarding the rights of the parties, but ***963** ultimately no agreement was signed. On June 1, 2017, Mr. T. and Ms. G. entered an agreement with literary agents to write a book about the joint parenting of Matthew Since Mr. T. is a meteorologist, the working title of the book is "Forecasting a Family."

Issues arose between the two men and Ms. G. with respect to the parenting of Matthew as well as to the extent of parental access by Misters S. and T. The relationship among the parties became strained, and on November 12, 2017, Misters S. and T. filed a joint petition against Ms. G. seeking "legal custody and shared parenting time" with Matthew. On December 6, 2017, Ms. G. filed a cross-petition against Misters S. and T. seeking sole custody of Matthew with Misters S. and T. being granted reasonable visitation. None of the parties filed a petition seeking an order of paternity or parentage.

At the initial court appearance, the parties agreed to a temporary access schedule, and all three parties agreed that Mr. T. should have standing to seek custody and visitation pursuant to *Brooke S.B.* In *Brooke S.B.*, the New York Court of Appeals held that where a legal parent had agreed with his or her partner to conceive and raise a child together, the non-biological, non-adoptive partner has standing to seek visitation and custody under DRL § 70. Since the instant matter involved a third person seeking standing as a parent where there are already two legal parents, the court asked that the parties submit memoranda of law on the applicability of *Brooke S.B.* to this circumstance.

In the joint memorandum of law filed by Misters S. and T., the two men contended that not only should Mr. T. be declared to have standing to seek custody and visitation as a "parent," but he should also to be declared to be the third legal parent of Mathew. In the memorandum of law filed by Ms. G., she conceded that because all three parties agreed to conceive and raise a child together, Mr. T. should have standing to seek custody and visitation under DRL § 70 (a). However, she argued strenuously that the right to seek custody and visitation as a "parent" under the Domestic Relations Law does not automatically bestow parentage on the non-biological party and asked that this court *not* declare Mr. T. to be a third legal parent.

**Court's Decision**

The landmark Court of Appeals case *Brooke S.B.* changed the legal landscape regarding the rights of a partner who is ***964** not a legal parent to seek custody and visitation. *Brooke S.B.* held that "where a partner shows by clear and convincing evidence that the parties agreed to conceive a child and to raise the child together, the non-biological, non-adoptive partner has standing to seek visitation and custody under Domestic Relations Law § 70" (*id.* at 15, 39 N.Y.S.3d 89, 61 N.E.3d 488). Domestic Relations Law § 70 (a) provides:

> Where a minor child is residing within this state, either parent may apply to the supreme court for a writ of habeas corpus to have such minor child brought before such court; and on the return ****733** thereof, the court, on due consideration may

> award the natural guardianship, charge and custody of such child to either parent for such time, under such regulations and restrictions, and with such provisions and directions, as the case may require, and may at any time thereafter vacate or modify such order. In all cases there shall be no prima facie right to the custody of the child in either parent, but *the court shall determine solely what is for the best interest of the child, and what will best promote its welfare and happiness, and make award accordingly* (emphasis added).

Significantly, *Brooke S.B.* overruled the Court's ruling in *Allison D. v. Virginia M.,* 77 N.Y.2d 651, 569 N.Y.S.2d 586, 572 N.E.2d 27 (1991), which denied a partner who lacked a biological or adoptive relationship with a child the right to seek visitation under DRL § 70(a), despite having an established "parental" type relationship with the child. In determining to break with precedent, the *Brooke S.B.* court gave primary consideration to the well-being of children being raised in nontraditional families and to how the *Allison D.* decision had negatively impacted those children (*Brooke S.B.* at 19–29, 39 N.Y.S.3d 89, 61 N.E.3d 488). In making its ruling, the *Brooke S.B.* court also recognized the fundamental right of parents to control the upbringing of their children and required that the relationship between the child and the partner came into being with the consent of the legal parent (*id.* at 26, 39 N.Y.S.3d 89, 61 N.E.3d 488).

In reaching its decision, the *Brooke S.B.* court relied heavily on the dissent of Judge Kaye in *Allison D.* Judge Kaye foresaw that the *Allison D.* ruling would " 'fall [ ] hardest' on the millions of children raised in nontraditional families —including families headed by same-sex couples, unmarried opposite-sex couples, and stepparents" (*Brooke S.B.* at 20, 39 N.Y.S.3d 89, 61 N.E.3d 488 citing ***965** *Allison D.*, 658–660, 569 N.Y.S.2d 586, 572 N.E.2d 27 [Kaye, J. dissenting].) "The dissent asserted that, because DRL § 70 does not define 'parent'—and because the statute made express reference to 'the best interests of the child,' the court was free to draft a definition that accommodated the welfare of the child" (*id.*). The dissent criticized the majority for turning its back "on a tradition of reading section § 70 so as to promote the welfare of the children" (*id.*).

In determining to overrule *Allison D.*, the *Brooke S.B.* court also noted that legal commentators have "taken issue with *Allison D.* for its negative impact on children" and that "[a] growing body of social science reveals the trauma children suffer as a result of separation from a primary attachment figure—such as a de facto parent—regardless of the figure's biological or adoptive ties to the children" (*id.* at 25–26, 39 N.Y.S.3d 89, 61 N.E.3d 488 [citations omitted] ).

Against this backdrop, this court is now called upon to determine if the ruling in *Brooke S.B.* would be applicable to the situation at hand, where three—not just two—parties agreed to a preconception plan to raise a child together. It is not disputed that Ms. G. and Misters S. and T. consented to a preconception plan to establish a family where the child to be conceived would have three parents (albeit in two homes) and proceeded to effectuate that plan. The two men alternated the delivery of their sperm day by day to artificially inseminate Ms. G., and the three parties jointly announced their impending parenthood when Ms. G. became pregnant. The three parties jointly chose and paid for the midwife, were present when the child Matthew was born, and selected names for the child that recognized all three parties. The three parties ****734** agreed on a pediatrician and on a health insurance plan, and were all present at the hospital when Matthew needed hernia surgery at the age of two months. Misters S. and T. currently enjoy regular parenting time with Matthew.

The court finds that under the above circumstances where the three parties entered and followed through with a preconception plan to raise a child together in a tri-parent arrangement, the biological father's spouse has standing to seek custody and visitation as a parent pursuant to *Brooke S.B.* In making this decision, this court is specifically taking into consideration that the relationship between Mr. T. and Matthew came into being with the consent and blessing of the two biological parents and that both biological parents agree that Mr. T. should have standing to seek custody and visitation.

***966** The court further finds that its ruling that Mr. T. has standing to seek custody and visitation despite the existence of two legal parents, to be consistent with the

fundamental principle of *Brooke S.B.*—that DRL § 70 must be read to effectuate the welfare and best interests of children, particularly those who are being raised in a non-traditional family structure (*id.* at 20, 39 N.Y.S.3d 89, 61 N.E.3d 488). The parent-child relationships fostered by children like Matthew, who are being raised in a tri-parent arrangement, should be entitled to no less protection than children raised by two parties. [2]

It is worth noting that the situation before the court—where three parties are involved in raising a child—is likely to recur. Realistically, where same-sex couples seek to conceive and rear a child who is the biological child of one member of the couple, there is always a third party who provides either the egg or the sperm. While in many cases, an anonymous donor is used or all persons involved agree that the donor will not be a parent, this is *not* the situation in the instant case and in many other cases where the parties agree that the provider of the egg or sperm *will* be a parent.

This court's ruling is also consistent with the decision in *Dawn M. v. Michael M.,* 55 Misc.3d 865, 47 N.Y.S.3d 898 (Sup.Ct. Suffolk Co. 2017), where a trial court granted the request of a third party for standing as a parent even though the subject child already had two legal parents. In *Dawn M.*, three parties—a husband (biological father), his wife, and another woman (biological mother)—decided to conceive and raise a child and the three parties lived together as a family for the first eighteen months of the child's life. Thereafter, the husband and wife divorced, the husband moved out and the two women continued to reside together with the child. The court granted the wife standing to seek custody and ultimately issued a tri-parent custody order. The *Dawn M.* court found that "tri-custody is the logical evolution of the Court of Appeals decision in *Brooke S.B.* and the passage of the Marriage Equality Act and DRL 10–a which permits same sex couples to marry in New York" (*Daw—n M.* at 870, 47 N.Y.S.3d 898. *See also* ***967** *RPF v. FG,* 55 Misc.3d 642, 47 N.Y.S.3d 666 [Fam. Ct. Orange Co. 2017] ) (after best interest hearing, court granted custody to partner of biological father and parental access to both biological father and biological mother.)

****735** The situation in the instant case and in the *Dawn M.* case is very different from the situation where a same-sex married couple enters into an agreement with a third party to donate an egg or sperm with the understanding that the donor will *not* be a parent to the child who is conceived. Under such circumstances, the presumption of legitimacy—that a child born during a marriage is the legitimate child of the marriage—is of critical importance. If the presumption of legitimacy is not rebutted, the court may deem the child to be the legal child of both same-sex spouses and deny the sperm or egg donor parental status.

In *Christopher YY. v. Jessica ZZ.,* 159 A.D.3d 18, 69 N.Y.S.3d 887 (3d Dept. 2018), the court found that the presumption of legitimacy was not rebutted where a woman in a same-sex marriage was artificially inseminated by a sperm donor, and dismissed the paternity petition filed by the donor. [3] The court additionally found that the doctrine of equitable estoppel would bar the sperm donor's request for genetic marker testing to establish paternity. [4] In *Joseph O. v. Danielle B.,* 158 A.D.3d 767, 71 N.Y.S.3d 549 (2nd Dept. 2018), the court similarly found that the presumption of legitimacy applied where one party in a female same-sex marriage was inseminated with donor sperm. The court, however, never reached the issue of what evidence would have been necessary to rebut the presumption, because it found that dismissal of the paternity petition brought by the sperm donor was warranted based upon the doctrine of equitable estoppel.

In the instant case, although two of the parties, Misters S. and T. are married, the presumption of legitimacy is not relevant to the court's analysis. This is because the presumption that Matthew is the legitimate child of the married couple, Misters S. and T., would indisputably be rebutted by evidence that all three parties agreed that Matthew would be raised in ***968** a tri-parent arrangement and that Ms. G., the biological mother, *would* be a parent to Matthew.

In sum, for the reasons explained above, the court is granting Mr. T. standing to seek custody and visitation with Matthew. The court will set this matter down for a trial to determine what orders of custody and visitation are in Matthew's best interest. As stated in *Brooke S.B.* at 28, 61 N.E.3d 488, "the ultimate determination of whether those rights [of custody and visitation] shall be granted rests in the sound discretion of the court, which will determine the best interest of the child."

The court is not, however, granting Mr. T. an order of parentage. That issue is not properly before the court since no petition was filed for paternity or parentage. Moreover,

there is no need for the issue of parentage to be addressed since pursuant to *Brooke S.B.*, Mr. T. may seek custody and visitation as a "parent" under DRL § 70(a) without a determination that he is a legal parent. If, in the future, a proper application for a declaration of parentage is made and there is a need for a ****736** determination of parentage, for instance, to rule on a request for child support, the court may address this issue. This court, however, notes that there is not currently any New York statute which grants legal parentage to three parties, nor is there any New York case law precedent for such a determination.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

**All Citations**

59 Misc.3d 960, 74 N.Y.S.3d 730, 2018 N.Y. Slip Op. 28110

## Footnotes

1 The names of the parties have been fictionalized for publication.

2 This court finds that the dictum in footnote 3 of *Brooke S.B.*, that a child is limited to no more than two parents who have rights to custody and visitation under DRL § 70, is contrary to the spirit of the decision and is not being followed here (*see Robinson v. HSBC Bank*, 37 A.D.3d 117, 124, 826 N.Y.S.2d 350 [2nd Dept. 2006] ["dicta, while not without importance, is not required to be followed"] [citations omitted] ).

3 With respect to the nature of the evidence which would rebut the presumption of legitimacy to a child born to one party of a same-sex marriage, the court *Christopher YY* court declared that the presumption of parentage is not defeated solely with proof that the child is not the biological child of the other same-sex spouse (*Id.* at 26–27, 69 N.Y.S.3d 887).

4 The doctrine of "equitable estoppel" is a defense in a paternity proceeding where, *inter alia*, a putative father acquiesced in the establishment of a parental bond with another [person] and an order of paternity is not in the child's best interests (*see Christopher YY* at 28–29, 69 N.Y.S.3d 887; FCA § 532[a] ).

136 S.Ct. 1017
Supreme Court of the United States

V.L.
v.
E.L., et al.

No. 15–648
|
March 7, 2016.

**Synopsis**

**Background:** Biological mother's former same-sex partner filed petition seeking visitation with biological mother's children, whom former partner had adopted in Georgia. The Family Court, Jefferson County, No. CS–13–719, Raymond Chambliss, J., awarded former partner periodic visitation, and biological mother appealed. The Alabama Court of Civil Appeals, —— So.3d ——, 2015 WL 836916, affirmed judgment recognizing and giving effect to Georgia adoption decree, and biological mother appealed. The Supreme Court of Alabama, —— So.3d ——, 2015 WL 5511249, reversed and remanded.

Upon granting certiorari, the United States Supreme Court held that Georgia superior court had subject-matter jurisdiction to hear and decide adoption petition, triggering Alabama courts' full faith and credit obligation.

Certiorari granted; reversed and remanded.

**Procedural Posture(s):** On Appeal.

**Attorneys and Law Firms**

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**Opinion**

PER CURIAM.

***405** A Georgia court entered a final judgment of adoption making petitioner V.L. a legal parent of the children that she and respondent E.L. had raised together from birth. V.L. and E.L. later separated while living in Alabama. V.L. asked the Alabama courts to enforce the Georgia judgment and grant her custody or visitation rights. The Alabama Supreme Court ruled against her, holding that the Full Faith and Credit Clause of the United States Constitution does not require the Alabama courts to respect the Georgia judgment. That judgment of the Alabama Supreme Court is now reversed by this summary disposition.

I

V.L. and E.L. are two women who were in a relationship from approximately 1995 until 2011. Through assisted reproductive technology, E.L. gave birth to a child named S.L. in 2002 and to twins named N.L. and H.L. in 2004. After the children were born, V.L. and E.L. raised them together as joint parents.

V.L. and E.L. eventually decided to give legal status to the relationship between V.L. and the children by having V.L. formally adopt them. To facilitate the adoption, the couple rented a house in Alpharetta, Georgia. V.L. then filed an adoption petition in the Superior Court of Fulton County, Georgia. E.L. also appeared in that proceeding. While not relinquishing her own parental rights, she gave her express consent to V.L.'s adoption of the children as a second parent. The Georgia court determined that V.L. had complied with the applicable requirements of Georgia law, ***406** and entered a final decree of adoption allowing V.L. to adopt the children and recognizing both V.L. and E.L. as their legal parents.

V.L. and E.L. ended their relationship in 2011, while living in Alabama, and V.L. moved out of the house that the couple had shared. V.L. later filed a petition in the Circuit Court of Jefferson County, Alabama, alleging that E.L. had denied her access to the children and interfered with her ability to exercise her parental rights. She asked the Alabama court to register the Georgia adoption judgment and award her some measure of custody or visitation rights. The matter was transferred to the Family Court of Jefferson County. That court entered an order awarding V.L. scheduled visitation with the children.

E.L. appealed the visitation order to the Alabama Court of Civil Appeals. She argued, among other points, that the Alabama courts should not recognize the ****1020** Georgia judgment because the Georgia court lacked subject-matter jurisdiction to enter it. The Court of Civil Appeals rejected that argument. It held, however, that the Alabama family court had erred by failing to conduct an evidentiary hearing before awarding V.L. visitation rights, and so it remanded for the family court to conduct that hearing.

The Alabama Supreme Court reversed. It held that the Georgia court had no subject-matter jurisdiction under Georgia law to enter a judgment allowing V.L. to adopt the children while still recognizing E.L.'s parental rights. As a consequence, the Alabama Supreme Court held Alabama courts were not required to accord full faith and credit to the Georgia judgment.

II

The Constitution provides that "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State." U.S. Const., Art. IV, § 1. That Clause requires each State to recognize and give effect to valid judgments rendered by the courts of its ***407** sister States. It serves "to alter the status of the several states as independent foreign sovereignties, each free to ignore obligations created under the laws or by the judicial proceedings of the others, and to make them integral parts of a single nation." *Milwaukee County v. M.E. White Co.,* 296 U.S. 268, 277, 56 S.Ct. 229, 80 L.Ed. 220 (1935). With respect to judgments, "the full faith and credit obligation is exacting." *Baker v. General Motors Corp.,* 522 U.S. 222, 233, 118 S.Ct. 657, 139 L.Ed.2d 580 (1998). "A final judgment in one State, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land." *Ibid.* A State may not disregard the judgment of a sister State because it disagrees with the reasoning underlying the judgment or deems it to be wrong on the merits. On the contrary, "the full faith and credit clause of the Constitution precludes any inquiry into the merits of the cause of action, the logic or consistency of the decision, or the validity of the legal principles on which the judgment is based." *Milliken v. Meyer,* 311 U.S. 457, 462, 61 S.Ct. 339, 85 L.Ed. 278 (1940).

A State is not required, however, to afford full faith and credit to a judgment rendered by a court that "did not have jurisdiction over the subject matter or the relevant parties." *Underwriters Nat. Assurance Co. v. North Carolina Life & Accident & Health Ins. Guaranty Assn.,* 455 U.S. 691, 705, 102 S.Ct. 1357, 71 L.Ed.2d 558 (1982). "Consequently, before a court is bound by [a] judgment rendered in another State, it may inquire into the jurisdictional basis of the foreign court's decree." *Ibid.* That jurisdictional inquiry, however, is a limited one. "[I]f the judgment on its face appears to be a 'record of a court of general jurisdiction, such jurisdiction over the cause and the parties is to be presumed unless disproved by extrinsic evidence, or by the record itself.' " *Milliken, supra,* at 462, 61 S.Ct. 339 (quoting *Adam v. Saenger,* 303 U.S. 59, 62, 58 S.Ct. 454, 82 L.Ed. 649 (1938)).

Those principles resolve this case. Under Georgia law, as relevant here, "[t]he superior courts of the several counties ***408** shall have exclusive jurisdiction in all matters of adoption." Ga.Code Ann. § 19–8–2(a) (2015). That provision on its face gave the Georgia Superior Court subject-matter jurisdiction to hear and decide the adoption petition at issue here. The Superior Court resolved that matter by entering a final judgment that made V.L. the legal adoptive parent of the children. ****1021** Whatever the merits of that judgment, it was within the statutory grant of jurisdiction over "all matters of adoption." *Ibid.* The Georgia court thus had the " adjudicatory authority over the subject matter" required to entitle its judgment to full faith and credit. *Baker, supra,* at 233, 118 S.Ct. 657.

The Alabama Supreme Court reached a different result by relying on Ga.Code Ann. § 19–8–5(a). That statute states (as relevant here) that "a child who has any living parent or guardian may be adopted by a third party ... only if each such living parent and each such guardian has voluntarily and in writing surrendered all of his or her rights to such child." The Alabama Supreme Court concluded that this provision prohibited the Georgia Superior Court from allowing V.L. to adopt the children while also allowing E.L. to keep her existing parental rights. It further concluded that this provision went not to the merits but to the Georgia court's subject-matter jurisdiction. In reaching that crucial second conclusion, the Alabama Supreme Court seems to have relied solely on the fact that the right to adoption under Georgia law is purely statutory, and " '[t]he requirements of Georgia's adoptions statutes are mandatory and must be strictly construed in favor of the natural parents.' " App. to Pet. for Cert. 23a–24a (quoting *In re Marks,* 300 Ga.App. 239, 243, 684 S.E.2d 364, 367 (2009)).

That analysis is not consistent with this Court's controlling precedent. Where a judgment indicates on its face that it was rendered by a court of competent jurisdiction, such jurisdiction " 'is to be presumed unless disproved.' " *Milliken, supra,* at 462, 61 S.Ct. 339 (quoting *Adam, supra,* at 62, 58 S.Ct. 454). There is nothing here to rebut that presumption. The Georgia statute on ***409** which the Alabama Supreme Court relied, Ga.Code Ann. § 19–8–5(a), does not speak in jurisdictional terms; for instance, it does not say that a Georgia court "shall have jurisdiction to enter an adoption decree" only if each existing parent or guardian has surrendered his or her parental rights. Neither the Georgia Supreme Court nor any Georgia appellate court, moreover, has construed § 19–8–5(a) as jurisdictional. That construction would also be difficult to reconcile with Georgia law. Georgia recognizes that in general, subject-matter jurisdiction addresses "whether a court has jurisdiction to decide a particular class of cases," *Goodrum v. Goodrum,* 283 Ga. 163, 657 S.E.2d 192 (2008), not whether a court should grant relief in any given case. Unlike § 19–8–2(a), which expressly gives Georgia superior courts "exclusive jurisdiction in all matters of adoption," § 19–8–5(a) does not speak to whether a court has the power to decide a general class of cases. It only provides a rule of decision to apply in determining if a particular adoption should be allowed.

Section 19–8–5(a) does not become jurisdictional just because it is " 'mandatory' " and " 'must be strictly construed.' " App. to Pet. for Cert. 23a–24a (quoting *Marks, supra,* at 243, 684 S.E.2d, at 367). This Court "has long rejected the notion that all mandatory prescriptions, however emphatic, are properly typed jurisdictional." *Gonzalez v. Thaler,* 565 U.S. 134, ——, 132 S.Ct. 641, 651, 181 L.Ed.2d 619 (2012) (internal quotation marks and ellipsis omitted). Indeed, the Alabama Supreme Court's reasoning would give jurisdictional status to *every* requirement of the Georgia adoption statutes, since Georgia law indicates those requirements are all mandatory and must be strictly construed. *Marks, supra,* at 243, 684 S.E.2d, at 367. That result would comport neither with Georgia law nor with common sense.

****1022** As Justice Holmes observed more than a century ago, "it sometimes may be difficult to decide whether certain words in a statute are directed to jurisdiction or to merits." *Fauntleroy v. Lum,* 210 U.S. 230, 234–235, 28 S.Ct. 641, 52 L.Ed. 1039 (1908). In such cases, ***410** especially where the Full Faith and Credit Clause is concerned, a court must be "slow to read ambiguous words, as meaning to leave the judgment open to dispute, or as intended to do more than fix the rule by which the court should decide." *Id.,* at 235, 28 S.Ct. 641. That time-honored rule controls here. The Georgia judgment appears on its face to have been issued by a court with jurisdiction, and there is no established Georgia law to the contrary. It follows that the Alabama Supreme Court erred in refusing to grant that judgment full faith and credit.

The petition for writ of certiorari is granted. The judgment of the Alabama Supreme Court is reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

*It is so ordered.*

**All Citations**

577 U.S. 404, 136 S.Ct. 1017, 194 L.Ed.2d 92, 84 USLW 3491, 14 Cal. Daily Op. Serv. 2501, 2016 Daily Journal D.A.R. 2273, 26 Fla. L. Weekly Fed. S 22

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