

FY 2018 NEW YORK STATE EXECUTIVE BUDGET
PUBLIC PROTECTION AND GENERAL GOVERNMENT
ARTICLE VII LEGISLATION
MEMORANDUM IN SUPPORT

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MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in
Accordance with Article VII of the Constitution

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

thereof; to amend chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 907 of the laws of 1984, amending the correction law, the New York city criminal court act and the executive law relating to prison and jail housing and alternatives to detention and incarceration programs, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 166 of the laws of 1991, amending the tax law and other laws relating to taxes, in relation to extending the expiration of certain provisions of such chapter; to amend the vehicle and traffic law, in relation to extending the expiration of the mandatory surcharge and victim assistance fee; to amend chapter 713 of the laws of 1988, amending the vehicle and traffic law relating to the ignition interlock device program, in relation to extending the expiration thereof; to amend chapter 435 of the laws of 1997, amending the military law and other laws relating to various provisions, in relation to extending the expiration date of the merit provisions of the correction law and the penal law of such chapter; to amend chapter 412 of the laws of 1999, amending the civil practice law and rules and the court of claims act relating to prisoner litigation reform, in relation to extending the expiration of the inmate filing fee provisions of the civil practice law and rules and general filing fee provision and inmate property claims exhaustion requirement of the court of claims act of such chapter; to amend chapter 222 of the laws of 1994 constituting the family protection and domestic violence intervention act of 1994, in relation to extending the expiration of certain provisions of the criminal procedure law requiring the arrest of certain persons engaged in family violence; to amend chapter 505 of the laws of 1985, amending the criminal procedure law relating to the use

of closed-circuit television and other protective measures for certain child witnesses, in relation to extending the expiration of the provisions thereof; to amend chapter 3 of the laws of 1995, enacting the sentencing reform act of 1995, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 689 of the laws of 1993 amending the criminal procedure law relating to electronic court appearance in certain counties, in relation to extending the expiration thereof; to amend chapter 688 of the laws of 2003, amending the executive law relating to enacting the interstate compact for adult offender supervision, in relation to the effectiveness thereof; to amend chapter 56 of the laws of 2009, amending the correction law relating to limiting the closing of certain correctional facilities, providing for the custody by the department of correctional services of inmates serving definite sentences, providing for custody of federal prisoners and requiring the closing of certain correctional facilities, in relation to the effectiveness of such chapter; to amend chapter 152 of the laws of 2001 amending the military law relating to military funds of the organized militia, in relation to the effectiveness thereof; to amend chapter 554 of the laws of 1986, amending the correction law and the penal law relating to providing for community treatment facilities and establishing the crime of absconding from the community treatment facility, in relation to the effectiveness thereof; and to amend chapter 503 of the laws of 2009 relating to the disposition of monies recovered by county district attorneys before the filing of an accusatory instrument, in relation to the effectiveness thereof (Part A); to amend the penal law, in relation to criminal possession of marihuana in the fifth degree (Part B); to amend the penal law, in relation to cybercrimes; and to repeal certain provisions of the penal law thereto (Part C); to amend the criminal procedure law, the family court act and the executive law, in relation to

statements of those accused of crimes and eyewitness identifications, to enhance criminal investigations and prosecutions and to promote confidence in the criminal justice system of this state; to amend the county law and the executive law, in relation to the implementation of a plan regarding indigent legal services; to amend chapter 62 of the laws of 2003, amending the county law and other laws relating to fees collected, in relation to certain fees collected by the office of court administration; to amend the judiciary law, in relation to the biennial registration fee for attorneys, and to amend the vehicle and traffic law, in relation to the termination of the suspension fee for a license to operate a motor vehicle (Part D); to amend the correction law, the penal law, the criminal procedure law and the executive law, in relation to correction reform; and to amend chapter 3 of the laws of 1995 enacting the sentencing reform act of 1995, in relation to making certain provisions permanent (Part E); to amend the executive law, in relation to the establishment of a hate crime task force (Part F); to amend the executive law, in relation to expanding eligibility for awards to victims of certain crimes not resulting in physical injury (Part G); to amend the executive law, in relation to the reimbursement for loss of savings of a vulnerable elderly person or an incompetent or physically disabled person (Part H); to amend the executive law, in relation to additional duties of the commissioner of general services (Part I); to amend the state finance law and the public authorities law, in relation to state procurement of goods and products (Part J); to authorize the transfer of employees of the division of military and naval affairs in the unclassified service of the state to the office of general services; and providing for the repeal of such provisions upon expiration thereof (Part K); to amend chapter 674 of the laws of 1993 amending the public buildings law relating to value limitations on contracts, in

relation to extending the effectiveness thereof; and to amend the public buildings law and the state finance law, in relation to contracts for construction projects (Part L); to amend the New York state printing and public documents law, in relation to allowing the exclusion of printing when the cost of such printing is below the agency's discretionary purchasing threshold (Part M); to amend the state finance law, in relation to the preferred sources program for commodities or services (Part N); to amend the workers' compensation law, in relation to the right to cancel an insurance policy for failure by an employer to cooperate with a payroll audit, to the collection of premiums in case of default, and to the information required to be included in payroll records (Part O); to amend the workers' compensation law, in relation to the investment of surplus funds of the state insurance fund (Part P); to amend the civil service law, in relation to term appointments to temporary positions in information technology (Part Q); to amend the general municipal law, the public housing law, the state finance law and chapter 585 of the laws of 1939, relating to the rate of interest to be paid by certain public corporations upon judgments and accrued claims, in relation to interest rates paid by certain public corporations (Part R); to amend the civil service law, in relation to the reimbursement of medicare premium charges (Part S); to amend the civil service law, in relation to the state's contribution to the cost of health insurance premium for retirees of the state and their dependents (Part T); to amend the municipal home rule law, in relation to county-wide shared services property tax savings plan (Part U); to amend the executive law, in relation to unlawful discriminatory practices by educational institutions (Part V); to amend the public authorities law, in relation to enacting the "New York state consolidated laboratory project act" (Part W); to amend the economic development law, the education law, the tax

law and the real property tax law, in relation to the excelsior business program (Part X); to amend the labor law, in relation to amending unemployment insurance benefits for earnings disregard (Part Y); and to provide for the administration of certain funds and accounts related to the 2017-18 budget and authorizing certain payments and transfers; to amend the state finance law, in relation to the school tax relief fund and payments, transfers and deposits; to amend the state finance law, in relation to the dedicated infrastructure investment fund; to amend chapter 62 of the laws of 2003 amending the general business law and other laws relating to implementing the state fiscal plan for the 2003-2004 state fiscal year, in relation to the deposit provisions of the tobacco settlement financing corporation act; to amend the state finance law, in relation to establishing the retiree health benefit trust fund; to amend chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, in relation to funding project costs undertaken by non-public schools; to amend the New York state urban development corporation act, in relation to funding project costs for certain capital projects; to amend chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, in relation to the issuance of bonds; to amend the private housing finance law, in relation to housing program bonds and notes; to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to the issuance of bonds; to amend the public authorities law, in relation to the issuance of bonds by the dormitory authority; to amend chapter 61 of the laws of 2005 relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to issuance of bonds by the urban development corporation;

to amend the New York state urban development corporation act, in relation to the issuance of bonds; to amend the public authorities law, in relation to the state environmental infrastructure projects; to amend the New York state urban development corporation act, in relation to authorizing the urban development corporation to issue bonds to fund project costs for the implementation of a NY-CUNY challenge grant program; to amend chapter 81 of the laws of 2002, relating to providing for the administration of certain funds and accounts related to the 2002-2003 budget, in relation to increasing the aggregate amount of bonds to be issued by the New York state urban development corporation; to amend the public authorities law, in relation to financing of peace bridge and transportation capital projects; to amend the public authorities law, in relation to dormitories at certain educational institutions other than state operated institutions and statutory or contract colleges under the jurisdiction of the state university of New York; to amend the New York state medical care facilities finance agency act, in relation to bonds and mental health facilities improvement notes; to amend chapter 63 of the laws of 2005, relating to the composition and responsibilities of the New York state higher education capital matching grant board, in relation to increasing the amount of authorized matching capital grants; to amend the public authorities law, in relation to authorization for issuance of bonds for the capital restructuring bond finance program and the health care facility transformation program to amend the state finance law and the public authorities law, in relation to funding certain capital projects and the issuance of bonds; to repeal sections 58, 59 and 60 of the state finance law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part Z)

PURPOSE:

This bill contains provisions needed to implement the Public Protection and General Government portions of the FY 2018 Executive Budget.

This memorandum describes Parts A through Z of the bill which are described wholly within the parts listed below.

Part A - Extend various criminal justice and public safety programs that would otherwise sunset

Purpose:

This bill would extend for two years various criminal justice and public safety programs and continues the existing formula for distribution of certain monies recovered by county district attorneys that would otherwise expire in 2017.

Summary of Provisions and Statement in Support:

This bill would extend the authorization of various sections of law to ensure the continuation of a host of criminal justice programs -- all of which have been extended multiple times.

Key programs and statutory provisions continued by this bill include: psychological testing of correctional officer candidates; expanding the geographic area of employment of certain police officers; determinate sentencing; inmate work release programs and furloughs; the earned eligibility program; substance abuse treatment for inmates; incarceration, parole and probation fees; mandatory surcharge and crime victim assistance fees; alternatives to incarceration; armory rent; the ignition interlock program for individuals convicted of alcohol-related violations; electronic court appearances; the adult interstate compact; mandatory arrest in cases of domestic violence; and protective measures for child witnesses.

This bill would also extend Part H of Chapter 503 of the laws of 2009, as amended by Part B of Chapter 57 of the Laws of 2016, for two years. Pursuant to that law, a county district attorney in New York City may retain a portion of recoveries it makes before the filing of an accusatory instrument, and the remaining amount is distributed equally between the State and the City of New York.

Budget Implications:

Enactment of this bill is necessary to implement the 2018 Executive Budget, which relies on the continuation of these programs in certain Financial Plan projections.

Effective Date:

This bill would take effect immediately.

The provisions of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.

Part B - Bring fairness and consistency to the penalties administered to New Yorkers who possess small amounts of marijuana

Purpose:

This bill would amend the Penal Law relating to the penalties administered for possession of small amounts of marijuana to continue to reduce the population of non-violent individuals needlessly thrust into the criminal justice system.

Summary of Provisions and Statement in Support:

Currently, possession of marijuana in a public place where such marijuana is open to public view is punishable as a class B misdemeanor. This bill would ensure that personal possession of marijuana remains an offense but that penalties are evenly administered. Public possession of very small amounts of marijuana would be punished the same as private possession of the same amount. This bill would reduce the number of individuals inappropriately processed through – and incarcerated by – the criminal justice system resulting in efficiencies in operations for law enforcement, prosecutors and the courts. This would allow resources to be devoted to higher priority needs and yield potential system savings over time.

Budget Implications:

This bill would reduce the number of individuals processed through and affected by the criminal justice system and yield potential system savings over time.

Effective Date:

This bill would take effect on the first of November next succeeding the date on which it shall have become law.

Part C - Make revisions to cybercrime laws to strengthen punishments for computer tampering and identity theft; and expand computer intrusion laws to better protect private citizens

Purpose:

This bill would amend the Penal Law to update and modernize cybercrime penalties.

Summary of Provisions and Statement in Support:

Many of the State's criminal laws that protect personal, financial, and intellectual property and ensure privacy have not been updated to address cyber threats. As technology has evolved, so too have the risks associated with their use and societies greater reliance upon them. This is highlighted by the fact that cybercrime has surpassed illegal drug trafficking as a criminal moneymaker. Today, a person's identity is stolen every three seconds and cybercrime cost the global economy an estimated \$400 billion in 2014. Despite these concerns, many of the State's criminal laws have not been updated to address these threats.

This bill would ensure New Yorkers are protected from both present and emerging iterations of cybercrime and identify theft as follows:

Strengthen Computer Tampering Punishments

Currently, inflicting \$5 million of damage through computer tampering is treated the same as inflicting \$50,000 of damage. This bill would gradate these crimes to ensure penalties reflect their severity. A new Class B felony would be created to punish those responsible for causing over \$1 million in damage by computer tampering.

Strengthen Identity Theft Punishments

Currently, identity theft laws do not distinguish between a criminal who steals one identity or several identities and enhanced penalties for aggravated identity theft are limited to the protection of military service members serving overseas. This bill would not only update the law to address mass-identity theft through gradated criminal punishments ranging from an A misdemeanor to a B felony, but would also expand aggravated identity theft protections beyond the military to the State's vulnerable seniors as well as the mentally and physically disabled.

Modernize Definitions to Expand Application of Computer Intrusion Law

Obsolete legal definitions currently limit the ability of prosecutors to bring serious charges against cyber criminals. This bill would ensure the unauthorized intrusion into private systems may be prosecuted whenever they occur, and not just when there exists the possession of an advantage over a competitor.

Budget Implications:

None to the State.

Effective Date:

This bill would take effect on the first of November next succeeding the date on which it shall have become law, provided however that section 11 of this bill shall take effect on the ninetieth day after it shall have become law.

Part D - Criminal Justice Reform Act

Purpose:

This bill advances reforms necessary to improve the criminal justice system by requiring the video recording of interrogations, updating and mandating the procedures by which photo identifications occur and then permitting their use at trial, and bringing needed improvements to the provision of criminal defense indigent legal services across the State.

Summary of Provisions and Statement in Support:

This bill would amend various sections of law to:

Require Video Recording of Interrogations for Serious Offenses

New York does not require a video recording of interrogations of criminal suspects by law enforcement agencies. Interrogations are vital to a criminal case because they often provide necessary evidence to prove guilt and exonerate the innocent. However, there are cases where people are wrongfully convicted based on false confessions and instances where police officers are wrongfully accused of coercion. To ensure the reliability of evidence and integrity of the criminal justice system, this bill would require law enforcement to video-record the custodial interrogations of suspects for serious offenses.

Improve Witness Identification Procedures

Mistaken eyewitness identification has been determined to be a leading contributor to wrongful convictions. The use of best practices by police agencies can increase the accuracy and reliability of witness identifications. When done properly, identification procedures are most reliable when conducted closest to the time of the crime or sighting and in the first procedure when a suspect can be identified. These identifications are often made using a photo array. These can be highly effective in trial to confirm if a person was, in fact, involved in a crime. New York, however, is the only state in the nation which prohibits, by law, a jury from hearing evidence of an identification made by a witness using a photo array.

To increase reliability of witness identification, this bill would allow the use of photo identifications made by witnesses at trial when the identification procedures were conducted using proper safeguards, such as “blind” or “blinded” administration. This

would improve the integrity of identification procedures and enhance public safety by safeguarding against wrongful convictions and ensuring that criminals are held responsible.

Reform the Provision of Indigent Criminal Defense Across the State

The provision of quality criminal defense by the government to individuals who cannot otherwise afford counsel is of paramount importance. Still, individuals are receiving vastly disparate levels of court appointed representation from county to county. The quality of the representation provided to those who cannot afford an attorney must not vary within the State. New York must ensure that these critical services are provided consistently at a high level statewide.

In 2014, the State successfully negotiated an agreement in *Hurrell-Harring et al. v. State of New York et al.*, a lawsuit filed against the State and five counties based upon an alleged failure to provide the necessary level of indigent defense services in those counties, to bring true reform to public defense systems that were failing. These groundbreaking improvements ensured indigent criminal defendants have counsel at arraignment, established new caseload standards so that attorneys can devote sufficient attention to each case, and implemented initiatives to improve indigent defense. This bill would pave the way for the extension of these reforms across the State.

Under this bill, the State would fund one hundred percent of the costs necessary to extend the reforms in the *Hurrell-Harring* settlement to all of the state's counties and the City of New York, with appropriate fiscal oversight through the Division of Budget. This bill would guarantee that indigent defendants have counsel at arraignment, provide caseload relief for local judges and prosecutors, and improve the state's criminal justice system for indigent defendants. At the same time, it would require appropriate oversight and reporting to ensure that all localities are properly implementing such reforms.

Budget Implications:

The full annualized value of the indigent legal services improvements would be approximately \$250 million dollars.

Effective Date:

This bill would take effect immediately

Part E - The Correction Reform Bill would allow the DOCCS Commissioner to set conditions of parole in certain instances, would establish earned reductions during post-release supervision, would add two new advanced skills to a list of programs that would qualify inmates for Limited Credit Time Allowance, and would reform non-violent State Prison sentences

Purpose:

This Correction Reform Bill would allow the Department of Corrections and Community Supervision (DOCCS) Commissioner to set conditions of parole in certain instances, would establish earned reductions during post-release supervision, would add two new advanced skills to a list of programs that would qualify inmates for Limited Credit Time Allowance, and would reform non-violent State Prison sentences.

Summary of Provisions and Statement in Support:

Establishing Conditions of Parole

This bill would allow the DOCCS Commissioner to set parole (or “community supervision”) conditions for individuals who have been presumptively released, conditionally released or subject to a period of post-release supervision under a determinate or indeterminate sentence of imprisonment, other than persons who have been granted parole by the Board of Parole (the “Board”). Under the current law, the Board is tasked with setting all conditions of parole. This extends even to individuals that the Board of Parole does not interview and with whom the Board may never interact.

By providing DOCCS the authority to establish the conditions of parole, which would only apply to individuals who are not subject to release by the Board of Parole, individuals would receive the most appropriate post-release supervision, such as participation in substance use treatment and adherence to a comprehensive re-entry plan. This authority, would improve DOCCS’ use of successful community supervision models, such as the Recidivism Elimination Supervision Enhancement Teams (RESET). These teams leverage an evidence-based practice based on objective guidelines and positive incentives, such as letters of recognition, relaxed curfew, and travel passes, to monitor parolees and ensure they avoid re-offense.

Incentivizing Comprehensive Rehabilitative Programming

In New York State, individuals who commit certain crimes can be placed on community supervision after they are released from a correctional facility. This post-release supervision, also known as parole, is the responsibility of the DOCCS. This period of supervision can be effective in reducing recidivism by offering positive rewards for good behavior and immediate sanctions for negative behavior. However, New York’s outdated laws make it difficult to provide meaningful rewards that incentivize reintegration. To correct this deficiency, this bill would allow individuals on parole for certain offenses to reduce their terms of supervision by three months for every six months of good conduct. This bill would improve public safety by allowing individuals to earn an early, full reintegration to society while providing the DOCCS with the ability to concentrate resources on the highest-risk individuals.

This bill would also add two new advanced skills that allow an inmate to qualify for the six-month Limited Credit Time Allowance program: (i) successful participation in the

culinary arts program for a period of no less than two years and earning a ServSafe certificate recognized by the National Restaurant Association; and (ii) the successful completion of the 490-hour training program while assigned to the Department of Motor Vehicles Call Center and the subsequent successful assignment to such call center for an additional twenty-one months.

Determinate Sentencing

Under current criminal sentencing law, certain non-violent crimes in New York State result in an indeterminate prison sentence—a range of years—as opposed to a determinate sentence with a specific number of years of imprisonment. In these cases, the actual amount of time served is determined by the Board, which is required to make over 6,000 such determinations annually, instead of the judge who oversaw the trial. Current law also requires a term of imprisonment for many minor, non-violent crimes that could otherwise be addressed more effectively through alternatives to incarceration, such as treatment for serious mental illnesses or substance use disorders. Over the next five years, the needless prison time resulting from this inconsistent sentencing scheme and unnecessary mandatory minimum sentences are projected to cost the State over \$50 million.

This bill conforms non-violent State Prison Sentences for Class B to E felonies to the determinate sentences presently authorized for all other felonies. By conforming these sentences, this bill would result in taxpayer savings and a reduced prison population while providing transparency in sentencing and allowing victims and families to predict, with reasonable certainty, how long an individual would be incarcerated. Additionally, this bill would reduce the burden on the Board, which currently conducts thousands of parole hearings, allowing them to concentrate on only the most serious crimes.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget since it would help to put in place policies which have the potential to provide taxpayer savings.

Effective Date:

The section of this bill that lets the commissioner set the terms of parole for certain offenders not released by the Board of Parole would take effect on April 1, 2017; the post release supervision section of this bill would take effect on June 1, 2017; the limited credit time allowance would take effect immediately; and the sentencing reform section of this bill would take effect 120 days after enactment.

Part F - Establishes a Hate Crime Task Force

Purpose:

Would amend Section 216 of Executive Law to establish a Hate Crime Task Force within the Division of State Police's Bureau of Criminal Investigation.

Summary of Provisions and Statement in Support:

This bill would establish a Hate Crime Task Force within the Division of State Police's Bureau of Criminal Investigation. The Superintendent of State Police shall assign personnel to the Task Force as necessary to prevent, investigate and detect hate crimes as defined in Penal Law. The Division of Human Rights, in conjunction with the Task Force, would issue reports and publications to better inform New York State residents of their rights and legal remedies concerning all forms of officially recognized discrimination.

The first report would be issued within 90 days of enactment of the bill with subsequent reports being issued annually.

The permanent establishment of a Hate Crime Task Force and the utilization of investigators from the State Police's Bureau of Criminal Investigation is essential to sustain the recent multi-agency effort aimed at addressing the latest growth in bias-motivated threats, harassment and violent incidents in New York. Furthermore, the Task Force would act as the conduit for key stakeholders at all levels of government to identify and address emerging trends in discriminatory practices across the State.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part G - Expand eligibility for victims of certain non-physical injury crimes

Purpose:

This bill would expand the list of enumerated crimes for which a victim, who does not suffer a physical injury, is nonetheless eligible for reimbursement of certain crime related expenses.

Summary of Provisions and Statement in Support:

Under the current law, the Office of Victim Services' (OVS) authority to provide reimbursement for crime related expenses is generally limited to victims who suffer physical injuries. However, recognizing that victims may still suffer emotional trauma requiring treatment, there are certain statutory exemptions to the physical injury

requirement. This bill would broaden the population of victims eligible for assistance, and treat victims with similar needs equally.

This bill would amend subdivision 11 of section 631 of the Executive Law to add the following crimes: (i) menacing in the second degree as defined in subdivision one of section 120.14 of the penal law; (ii) menacing in the third degree as defined in section 120.15 of the penal law; (iii) criminal mischief in the fourth degree as defined subdivision four of section 145.00 of the penal law; (iv) robbery in the third degree as defined in section 160.05 of the penal law; (v) robbery in the second degree as defined in subdivision one, paragraph b of subdivision two or subdivision three of section 160.10 of the penal law; and (vi) robbery in the first degree as defined in subdivisions two, three or four of section 160.15 of the penal law, to subdivision 11.

This bill would also amend subdivision 12 of section 631 of the Executive Law to add the following crimes: (i) aggravated harassment in the second degree as defined in subdivision three of section 240.30 of the penal law; and (ii) a hate crime as defined in section 485.05 of the penal law. This amendment also expands those previously enumerated crimes in subdivision 12 by removing the harassment in the second degree limitation to subdivision two or three of section 240.26 of the penal law and removing the criminal contempt in the first degree limitation to paragraph (ii) or (iv) of subdivision (b) of section 215.51 of the penal law. Subdivision 12 would also be amended to include “securing a crime scene” as a reimbursable expense for victims of such crimes.

Budget Implications:

Enactment of this bill is necessary to implement the 2018 Executive Budget. This bill would have minimal fiscal impact for OVS, and any potential increase in compensation costs would be offset by an increase in the federal reimbursement for victim compensation.

Effective Date:

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

Part H - Create a new reimbursable expense of “loss of savings” to benefit vulnerable elderly persons and incompetent or physically disabled persons

Purpose:

This bill would create a new reimbursable expense of “loss of savings” to benefit vulnerable elderly or incompetent or physically disabled persons.

Summary of Provisions and Statement in Support:

Under current law, reimbursement is available from the Office of Victim Services for loss of earnings and support. These reimbursements are made to compensate a victim or those who are dependent on a victim's income, for any crime related loss up to \$30,000. There are no similar provisions for loss of savings.

Section one would amend subdivision 5 of section 621 of the Executive Law to add other crimes to the definition of "victim" in order to correspond with subsequent provisions of Article 22. It would also add new victims to this definition:- vulnerable elderly person or incompetent or physically disabled persons as defined in section 260.31 of the Penal Law who incur a loss of savings.

Section two would amend section 621 of the Executive Law by adding a new subdivision 24 to define "loss of savings" as the result of any act or series of acts of larceny as defined in section 155 of the penal law in which cash is stolen from an elderly vulnerable person or an incompetent or physically disabled person.

Section three would amend subdivision 2 of section 631 of the Executive Law to include in the reimbursable expenses loss of savings not to exceed \$30,000.

Section four would amend section 631 of the Executive Law by adding a new subdivision 3-a to specify that any award for loss of savings shall be limited to the actual loss sustained.

Section five would amend subdivision 5 of section 631 of the Executive Law by adding a new paragraph (f) to disregard the victim's conduct when determining loss of savings.

Section six would amend section 631 of the Executive Law by adding a new subdivision 8-a to exempt such victims from the physical injury requirement when requesting loss of savings.

Budget Implications:

Enactment of this bill is necessary to implement the 2018 Executive Budget because data for FY 2016 shows that no more than \$800,000 was reimbursed for both loss of earnings and support. As a similar capped expense, the budget implications for this measure should be anticipated to be no more than an additional \$800,000. Any potential increase in compensation costs would be offset by an increase in the federal reimbursement for victim compensation.

Effective Date:

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

Part I - Additional duties of the Commissioner of the Office of General Services concerning flood damage and recovery

Purpose:

To obligate the Commissioner of the Office of General Services (OGS) to make a payment, in-lieu of a standard flood insurance policy, to any agency with a state-owned structure in a federally designated flood plain that has incurred damage as a result of a flood.

Summary of Provisions and Statement in Support:

This bill would require OGS to make a payment in an amount no less than coverage limits of a standard flood insurance policy when a state-owned structure and their contents are damaged as a result of a flood. Payments would only be made on damages incurred on state-owned structures in flood plains designated by the Federal Insurance Administrator

This legislation is necessary to maintain New York State's exemption from the requirement of purchasing flood insurance on State-owned structures and its contents located in the federally designated flood hazard areas. Pursuant to 44 CFR § 75, the Federal Insurance Administrator may waive the requirement based on a state's submission of either a self-insurance plan or an enforceable commitment equivalent to such a plan to qualify for the exemption. Such plan or its equivalent must constitute a formal policy or plan of self-insurance created by statute or regulation authorized pursuant to statute.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part J - New York State Buy American Act

This bill would expand the contract and procurement provisions of State Finance Law and Public Authorities Law to require State agencies and authorities to give preference to American-made products when issuing a procurement and entering into contracts.

Summary of Provisions and Statement in Support:

Current State procurement regulations place little emphasis on ensuring State government spending power is leveraged to support American manufacturing jobs and industry. New York State currently has a Buy American provision, yet it applies solely to

the State's procurement of structural steel, reinforcing steel and other major steel in contracts greater than \$100,000.

This bill would amend the State Finance Law and the Public Authorities law to include Buy American preference requirements for all contracts and procurements in excess of \$100,000. Contractors would be required to certify whether the products are American made. Contracts and procurements for energy, electricity, fuel and other petroleum products, software products such as software, microprocessors, computers, microcomputers, and other such products used for the purpose of processing or storing data would be excluded.

The bill would also provide for exemptions based upon an immediate or emergency need for certain products, or for health, safety, or welfare reasons; or if a product is manufactured in America by only one manufacturer and a foreign-made product is less expensive and of equal or better quality.

Additional exemptions would include: (i) products subject to a reciprocal trade agreement or treaty that has been negotiated by the State or by the United States government on behalf of or including this State with a foreign nation or government for nondiscriminatory governmental procurement practices or policies with such foreign nation or government; (ii) the State contract is subject to federal funding and the requirements of such federal funding supersede this section; (iii) the specified Products are not manufactured in America in sufficient quantities or quality to meet the State entity's requirements or cannot be manufactured in America or within the necessary time in sufficient quantities to meet the agency's requirements; (iv) obtaining the specified Products manufactured in America or would increase the cost of the contract by an unreasonable amount, as such is determined by the executive; or (v) the specified Products are necessary for the operation of or repairs of critical infrastructure that is necessary to avoid a delay in the delivery of critical services that could compromise the public welfare.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because it ensures that State spending power is leveraged to support American manufacturing.

Effective Date:

This bill would take effect January 1, 2018 and pertain to any State contracts and procurements executed, entered into or issued on or after that date. The bill would also exclude any contracts that have been previously awarded or have pending bids or pending requests for proposals issued as of the January 1, 2018.

Part K - Authorize the transfer of Division of Military and Naval Affairs employees in the unclassified service of the State to the Office of General Services

Purpose:

This bill would authorize the transfer of certain Division of Military and Naval Affairs (DMNA) employees to the Office of General Services (OGS) as part of the centralization of certain human resource functions within OGS' Business Services Center (BSC).

Summary of Provisions and Statement in Support:

This bill would authorize the transfer of DMNA employees engaged in certain human resource functions to OGS. These employees would work in the BSC within OGS.

The BSC was established within OGS in 2012 to provide shared services to streamline financial and human resource transactions for State agencies. BSC's mission is to increase efficiencies, lower costs and support agencies as they focus on core mission activities. As part of the BSC assuming responsibility for DMNA transactions, certain employees that are in the unclassified service of the State need to be transferred to OGS to work in the BSC. The transfer of such employees requires statutory authorization.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because it would provide the legal authority necessary to effectuate DMNA employee transfers to the BSC within OGS, thereby enabling efficiencies and cost savings.

Effective Date:

This bill would take effect immediately.

Part L - Extend the authority of the Office of General Services (OGS) to enter into construction contracts without formal competitive bidding in certain emergencies and streamline contracting for construction projects performed in secure facilities

Purpose:

This bill would extend the Office of General Services' (OGS) authority to enter into construction contracts in certain emergencies, without formal competitive bidding. OGS's authority is due to expire on June 30, 2017 and would be extended until June 30, 2019. This bill would also create a list of eligible bidders for public work contracts performed at secure facilities and limit the accessibility of drawings and specifications of secure facilities.

Summary of Provisions and Statement in Support:

This bill would extend, by two years, the sunset date set forth in Chapter 674 of the laws of 1993 regarding the authority of OGS to enter into certain emergency construction contracts, up to a value of \$600,000, without formal competitive bidding. It also creates a

list of eligible bidders to perform work at secure facilities operated by the Department of Corrections and Community Supervision (DOCCS), the Office of Mental Health (OMH), the Office of Children and Family Services (OCFS), and the Office for People With Developmental Disabilities (OPWDD) and limits the accessibility to drawings and specifications of secure facilities.

The emergency contracting authority granted by Public Buildings Law § 9 allows OGS to respond quickly to damage sustained by buildings and facilities on State property resulting from fire, explosion, equipment failure, or similar emergencies. Such emergencies frequently create a direct threat to the health, safety and lives of State employees, institutional clients, and members of the public. Absent authorization for prompt contracting for repair and remedial work, these conditions would remain unaddressed for weeks while OGS follows the statutory contracting processes for State construction. Extending OGS's emergency contracting authority would allow OGS to promptly respond to emergencies, reduce threats to health and safety, and preserve significant public assets.

A new section would also be added to Public Buildings Law § 8, allowing OGS to establish a list of eligible bidders to perform work at secure facilities operated by DOCCS, OMH, OCFS, and OPWDD. Contractors in secure facilities need to be familiar with security procedures, including accounting for all tools and equipment, cell phones, and employees at each secure facility, and requiring appropriate background checks for the contractor's employees. Having a list of eligible bidders familiar with the specialized nature of secure facilities would allow projects to run more efficiently and reduces risk to the State.

Finally, this bill would authorize the OGS Commissioner to determine that certain drawings and specifications for construction projects at secure facilities would not be open to public inspection and be made available only to contractors on the list of eligible bidders. These provisions would increase safety in secure facilities by ensuring that drawings and specifications are not inadvertently provided to unauthorized individuals.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because extending the existing sunset provision would prevent additional repair and restoration costs for damaged State facilities. This bill would also increase project efficiency and minimize costs to the State by creating a pool of prequalified prospective bidders to work in secure facilities.

Effective Date:

The emergency contract extender would take effect immediately and remain in full force and effect only until June 30, 2019.

The new section to Public Buildings Law § 8 and amendments to Section 143 of the State Finance Law would take effect immediately.

Part M - Authorize the Commissioner of the Office of General Services to procure legislative printing without competitive bidding up to an amount not to exceed eighty-five thousand dollars

Purpose:

This bill would amend Section 4 of the New York State Printing and Public Documents law, authorizing the Commissioner of OGS to contract for printing services without competitive bidding if the cost of printing is under OGS's discretionary purchasing threshold found in state finance law.

Summary of Provisions and Statement in Support:

Current law requires OGS to perform legislative printing for the Legislature and the Executive. Traditional printing has declined with the increased use of digital documents. Since the volume of legislative printing needed by the Legislature and Executive has therefore decreased, the cost of the printing does not warrant a formal competitive solicitation.

This proposal would amend § 4 of the Printing and Public Documents law to provide that a formal competitive bid process is required only when the cost of printing is above OGS's statutory discretionary purchasing threshold of \$85,000.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget and would result in substantial administrative efficiencies and fiscal savings.

Effective Date:

This bill would take effect immediately.

Part N - Makes various amendments to the preferred sources program for commodities and services

Purpose:

This bill would update the State's preferred source procurement program and its operations involving purchases of preferred status commodities and services by State agencies, public benefit corporations, and political subdivisions.

Summary of Provisions and Statement in Support:

Amend SFL § 162(1) to require that any repackaging of commodities by preferred sources must add value, which is already required by the Preferred Source Guidelines established by the State Procurement Council.

Amend SFL § 162(2)(a) would allow the State's Department of Corrections and Community Supervision's correctional industries program to offer asbestos abatement services as a preferred source.

Amend SFL §§ 162(2)(c) and (4)(c) to remove references to the Special Employment program operated by the Office of Mental Health because that program is no longer in existence.

Amend SFL § 162(4)(b) would require that, for service contracts, a purchasing agency must provide a written scope of services to the preferred sources, identify the timeframe within which written questions may be submitted to the purchasing agency, the date that answers would be provided, the date by which a written proposal must be submitted, and the estimated contract start date. These changes would ensure preferred sources are able to meet the needs of the purchasing agency in consideration of a bid.

Amend SFL § 162(6) would require that the purchasing agency provide sufficient information to the Office of General Services to help determine price reasonableness of services offered by preferred sources.

Amend SFL § 162 change the phrase "severely disabled" to "significantly disabled" to conform to the language used by the preferred source community and the Federal government.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because it would increase transparency of the preferred source program and optimize the price review process for the preferred source service agreements.

Effective Date:

The bill would take effect 180 days after it becomes law.

Part O - Strengthens compliance with State Insurance Fund audits

Purpose:

This bill would permit the New York State Insurance Fund (NYSIF) to cancel a workers' compensation policy based on the policyholder's failure to cooperate with a payroll audit.

Summary of Provisions and Statement in Support:

Under current law, Worker's Compensation (WC) insurers, including NYSIF, have the right to audit their policyholders' records to verify the amount of payroll and number of employees. Without this tool, an insurer cannot assess the extent of the risk posed by the policyholder's business and determine appropriate premiums.

Current law allows NYSIF to cancel a WC policy only for non-payment of premiums. Private WC insurers, on the other hand, may cancel a policy on any ground merely by providing the policyholder with 30 days' advance notice. If a private insurer has difficulty obtaining an audit, it may either cancel the policy or refuse to renew the policy at the next policy anniversary. NYSIF, however, must continue to provide coverage unless the policyholder defaults on its premium payments even if NYSIF is unable to gain access to the policyholder's books and records.

This bill would authorize NYSIF to cancel a workers' compensation policy based on the policyholder's failure to cooperate with a payroll audit when: 1) the policyholder fails to keep at least two appointments with a payroll auditor; or 2) fails to furnish relevant business records in the course of a payroll audit. Prior to cancellation, NYSIF would be required to send a warning notice at least 15 days in advance of sending a notice of cancellation. The cancellation notice would provide the employer 30 days' advance notice before cancellation would take effect, thereby providing policyholders 45 days to act to avoid losing coverage after missing the first two appointments.

Providing NYSIF with the authority to cancel a policy for the policyholder's failure to cooperate with a payroll audit would allow NYSIF to better determine appropriate premiums on the WC insurance policies it writes.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget in order to ensure the stability and effectiveness of NYSIF to provide Worker's Compensation benefit payments.

Effective Date:

This bill would take effect 90 Days after enactment.

Part P - Stabilizes State Insurance Fund investments

Purpose:

To authorize the New York State Insurance Fund (NYSIF) to invest surplus funds in diversified index funds to reduce investment management costs and increase dividends earned by the funds.

Summary of Provisions and Statement in Support:

NYSIF is one of the New York State's largest insurers and is required by law to provide policies for all applicants, including employers unable to obtain Workers' Compensation policies. NYSIF invests a small portion of its assets in the financial markets and any proceeds help to defray costs to employers.

Under current Law, however, NYSIF is limited to investing its funds in a narrow pool of equities. These restrictions prohibit NYSIF from investing in diversified index funds, which balance higher graded equities and funds with a higher rate of return. Limited investments in index funds permit a more diversified portfolio while simultaneously reducing the cost of management fees. This bill would allow NYSIF to invest up to 25% of its surplus in index funds.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget in order to ensure the stability and effectiveness of NYSIF to provide Worker's Compensation benefit payments.

Effective Date:

This bill would take effect immediately after enactment.

Part Q - Permits term appointments for eligible, highly-specialized ITS positions without examination

Purpose:

This proposal provides a mechanism to the Office of Information Technology Services (ITS) for attracting skilled information technology personnel to State service.

Summary of Provisions and Statement in Support:

This bill would authorize up to 250 information technology (IT) term appointments for up to 60 months without initial Civil Service examination. The proposal would allow ITS to recruit individuals with specialized skills and expertise, who are not currently obtainable through existing eligibility lists. These appointed individuals must pass a Civil Service examination during their term to become eligible for a permanent appointment.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 executive budget because the proposal would allow ITS to recruit and retain individuals with specialized IT skillsets that are not currently appointable through the current Civil Service process.

Effective Date:

This bill would take effect immediately.

Part R - Provide a market interest rate on court judgments and accrued claims paid by the State, municipal corporations and certain public corporations and housing authorities

Purpose:

This bill would provide that the interest rate on court judgments and accrued claims paid by the State, municipal corporations, certain public corporations and housing authorities would be based on an independent market-based rate of interest (the weekly average one year constant maturity Treasury yield).

Summary of Provisions and Statement in Support:

Currently, the interest rate is 9 percent per annum on all judgments and accrued claims, except for those against municipal corporations arising from condemnation proceedings or actions to recover damages for wrongful death which are currently at 6 percent.

This bill would instead require the rate of interest paid upon any judgment or accrued claim to be calculated at a rate equal to the weekly average one year constant maturity Treasury yield – up to a maximum of the 9 percent rate currently fixed in statute – as published by the Board of Governors of the Federal Reserve System for the calendar week preceding the date of entry of the judgment awarding damages.

Section 1 would amend subdivision 1 of section 3-a of the General Municipal Law, which relates to the interest rate of 9 percent paid by municipal corporations (i.e. counties, towns, cities, villages) on all judgments and accrued claims, except those arising from condemnation proceedings or actions to recover damages for wrongful death; and subdivision 2 of section 3-a of the General Municipal Law, which relates to the interest rate of 6 percent paid by municipal corporations on judgments or accrued claims arising out of condemnation proceedings or action to recover damages for wrongful death.

Section 2 would amend subdivision 5 of section 157 of the Public Housing law, which relates to the interest rate of 9 percent paid by certain housing authorities, including the following: Buffalo Municipal Housing Authority, Lackawanna Municipal Housing Authority, New York City Housing Authority, Peekskill Housing Authority, Port Jervis Housing Authority, Schenectady Municipal Housing Authority, Syracuse Municipal Housing Authority, Tarrytown Municipal Housing Authority, Tuckahoe Housing Authority, Municipal Housing Authority of the city of Utica, New York, and Yonkers Housing Authority.

Section 3 would amend section 16 of the State Finance Law, which relates to the interest rate of 9 percent paid by the State of New York.

Section 4 would amend section 1 of chapter 585 of the laws of 1939, as amended by Chapter 681 of the Laws of 1982, which relates to the interest rate of 9 percent paid by certain public corporations (defined as any corporation created for the construction of public improvements, other than a county, city, town, village school district or fire district or an improvement district established in a town or towns, and possessing both the power to contract indebtedness and the power to collect rentals, charges, rates or fees for services or facilities furnished or supplied).

The market-based interest rate proposed in this bill is the same rate currently used in federal courts under 28 U.S.C. § 1961. The current above market interest rate has resulted in excessive taxpayer costs and encourages delayed proceedings.

Budget Implications:

Enactment of this bill is necessary to implement the 2018 Executive Budget, which seeks to contain increasing litigation costs that are growing beyond the State's annual growth benchmark.

The DOB estimates that this bill would reduce the amount of interest paid by the State on court judgments and accrued claims by roughly \$6 million annually. Additional savings are expected for municipal corporations, public corporations and housing authorities.

Effective Date:

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

Part S - Cap reimbursement of the Medicare Part B standard premium at 2016 levels and cease reimbursement for the Income Related Monthly Adjustment Amounts for high income State retirees and their dependents in the New York State Health Insurance Program

Purpose:

This bill would offset increasing retiree health insurance costs by capping reimbursement of the Medicare Part B standard premium at 2016 levels and eliminating reimbursement of the supplemental premium referred to as the Income Related Monthly Adjustment Amounts (IRMAA), which is paid by higher-income retirees and their dependents. This would ensure that automatic escalators that drive increasing taxpayer costs would be subject to the annual budget process.

Summary of Provisions and Statement in Support:

This bill would amend section 167-a of the Civil Service Law to provide that, effective May 1, 2017, State reimbursement to eligible retirees and their dependents for the Medicare Part B standard premium shall not exceed: i) \$104.90 per month for those who

enrolled in Medicare on or before December 31, 2015; or ii) the lesser of \$121.80 per month or the currently applicable standard Medicare premium charge for those who enrolled in Medicare on or after January 1, 2016.

Additionally, effective January 1, 2017, the State would cease reimbursement of the IRMAA for premiums incurred on or after January 1, 2017.

Providing reimbursement of the Medicare Part B standard premiums and IRMAA is a costly fringe benefit that is rarely offered, even among public sector employers. The federal government does not provide reimbursement for its retirees and the benefit is virtually unheard of in the private sector. Only five other states reimburse the Standard Part B premium (California, Connecticut, Hawaii, Nevada and New Jersey) and Ohio recently phased out reimbursement. Connecticut and Hawaii are the only other states that provide reimbursement for IRMAA, however, Hawaii does not reimburse the full amount to all retirees/dependents.

Over the past three fiscal years, New York State Health Insurance Program (NYSHIP) costs for retirees have increased by about 16%, from \$1.11 billion in FY 2014 to \$1.28 billion in FY 2016. This is well beyond the benchmark growth rate of 2% per year, and challenges the State's ability to remain economically competitive.

Reasonable actions are necessary to control this spending growth. This proposal would freeze reimbursement at the current levels rather than providing automatic inflationary increases, make increases in taxpayer funding subject to the annual budget process, and discontinue State reimbursement for a premium imposed by the federal government to require high income retirees to pay a greater share of Medicare costs.

Budget Implications:

These two reforms would reduce the State's Other Postemployment Benefits (OPEB) liability by roughly \$10.6 billion.

Freezing the Medicare Part B standard premium at current levels would avoid \$7.4M fully annualized in increasing taxpayer costs for roughly 145,000 retirees/dependents. Implementation of this proposal would reduce the State's OPEB liability by \$10.2B.

Ceasing reimbursement of the Federal surcharge for higher income IRMAA retirees would save nearly \$8M fully annualized for roughly 6,000 retirees/dependents. This proposal would reduce the State's OPEB liability by \$450M.

Effective Date:

The proposal to freeze reimbursement of the Medicare Part B standard premium at current levels would take effect May 1, 2017.

The proposal to cease reimbursement for the IRMAA would take effect on January 1, 2017 for premiums incurred on or after January 1, 2017.

Part T - Implement differential premiums for future New York State Health Insurance Program civilian retirees based on years of service

Purpose:

Currently, lifetime taxpayer support for health insurance coverage of a State retiree with 10 years of service is the same as that for a retiree with 30 years of service. Under this proposal, taxpayer support for health insurance coverage would be graduated based on years of service of the retiree, comparable to the calculation for pension benefits. This proposal would be effective for new retirees on or after October 1, 2017.

Summary of Provisions and Statement in Support:

Over the past three fiscal years, New York State Health Insurance Program (NYSHIP) costs for retirees have increased by about 16%, from \$1.11 billion in FY 2014 to \$1.28 billion in FY 2016. This is well beyond the benchmark growth rate of 2% per year, and challenges the State's ability to remain economically competitive.

Currently, the taxpayer subsidy for retiree health insurance coverage is the same regardless of whether the retiree has 10 years of State service or 30 or more years of service. For example, for State retirees with at least 10 years of service at or equated to Grade 10 or higher, the State pays 84 percent of the cost of Individual Coverage and 69 percent of the cost of Dependent Coverage – the employee pays 16 percent and 31 percent, respectively. The State pays this same rate for a retiree with 30 years of service.

Under this bill, taxpayer support for civilian State employees retiring on or after October 1, 2017 with less than 30 years of service would be less, on a graduated scale based on years of service, than for those with 30 or more years of service. Taxpayer costs would be less for an individual with 10 years of service, then gradually increase with each additional year of service until the 30-year mark where costs would be at the current levels.

This bill would add a new subdivision 10 to section 167 of the Civil Service Law with seven (7) new paragraphs, as follows:

- **Paragraph (a)** provides that for the State's share of Individual Coverage for State employees who retire from a position at or equated to grade 10 or higher:
 - The State shall pay 50 percent of the cost of Individual Coverage for such employees who have retired with at least 10 years of service. For such employees who have retired with at least 10 years of service but less than 20 years of service, the State's share shall increase by two percent of the cost of

Individual Coverage for each year of service in excess of 10 years, to a maximum of 68 percent of the cost of Individual Coverage.

- The State shall pay 74 percent of the cost of Individual Coverage for such employees who have retired with at least 20 years of service. The State's share shall increase by one percent of the cost of Individual Coverage for each year of service in excess of 20 years, to a maximum of 84 percent of the cost of Individual Coverage.
- **Paragraph (b)** provides that for the State's share of Individual Coverage for State employees who retire from a position at or equated to grade 9 or lower:
 - The State shall pay 54 percent of the cost of Individual Coverage for such employees who have retired with at least 10 years of service. For such employees who have retired with at least 10 years of service but less than 20 years of service, the State's share shall increase by two percent of the cost of Individual Coverage for each year of service in excess of 10 years to a maximum of 72 percent of the cost of Individual Coverage.
 - The State shall pay 78 percent of the cost of Individual Coverage for such employees who have retired with at least 20 years of service. The State's share shall increase by one percent of the cost of Individual Coverage for each year of service in excess of 20 years, to a maximum of 88 percent of the cost of Individual Coverage.
- **Paragraph (c)** provides that for the State's share of Dependent Coverage for State employees who retire from a position at or equated to grade 10 or higher:
 - The State shall pay 35 percent of the cost of Dependent Coverage for such employees who have retired with at least 10 years of service. For such employees who have retired with at least 10 years of service but less than 20 years of service, the State's share shall increase by two percent of the cost of Dependent Coverage for each year of service in excess of 10 years, to a maximum of 53 percent of the cost of Dependent Coverage.
 - The State shall pay 59 percent of the cost of Dependent Coverage for such employees who have retired with at least 20 years of service. The State's share shall increase by one percent of the cost of Dependent Coverage for each year of service in excess of 20 years, to a maximum of 69 percent of the cost of Dependent Coverage.
- **Paragraph (d)** provides that for the State's share of Dependent Coverage for State employees who retire from a position at or equated to grade 9 or lower:
 - The State shall pay 39 percent of the cost of Dependent Coverage for such employees who have retired with at least 10 years of service. For such

employees who have retired with at least 10 years of service but less than 20 years of service, the State's share shall increase by two percent of the cost of Dependent Coverage for each year of service in excess of 10 years, to a maximum of 57 percent of the cost of Dependent Coverage.

- The State shall pay 63 percent of the cost of Dependent Coverage for such employees who have retired with at least 20 years of service. The State's share shall increase by one percent of the cost of Dependent Coverage for each year of service in excess of 20 years, to a maximum of 73 percent of the cost of Dependent Coverage.
- **Paragraph (e)** provides that each increment of one or two percent of the cost of premium or subscription charges for each year of service shall be applicable for whole years of service to the State and shall not be applied on a pro-rata basis for partial years of service.
- **Paragraph (f)** provides that this bill shall not be applicable to:
 - Members of the New York State and Local Police and Fire Retirement System;
 - Members in the uniformed personnel in institutions under the jurisdiction of the Department of Corrections and Community supervision or who are security hospital treatment assistants, as defined in § 89 of the Retirement and Social Security Law; and
 - Any state employee determined to have retired with an ordinary, accidental, or performance of duty disability retirement benefit.
- **Paragraph (g)** provides that for the purpose of determining the premium or subscription charges, the State shall consider all years of service that a retired State employee has accrued in a public retirement system or an optional retirement program.

Budget Implications:

If this bill is enacted, the State's Other Postemployment Benefits (OPEB) liability would be reduced by roughly \$17.6 Billion. This bill is projected to impact roughly 3,000 new retirees/dependents per year. In FY 2018, this bill would reduce taxpayer costs by \$3.4 million and in FY 2019 the savings is estimated at \$10.9 million.

Effective Date:

This bill would take effect October 1, 2017.

Part U - Establishes County-wide Shared Services Property Tax Savings Plans

Purpose:

This bill would establish County-wide Shared Services Property Tax Savings Plans to help relieve the property tax burden.

Summary of Provisions and Statement in Support:

This bill would amend the Municipal Home Rule Law regarding the creation of County-wide Shared Services Property Tax Savings Plans. Counties would be required to work with the units of local government contained within their county, as well as civic, business, labor, and community leaders, to develop plans for shared, coordinated, and efficient services, among the county, cities, towns, and villages within such county.

The plans must generate real, recurring savings for taxpayers through actions such as, but not limited to, (i) the elimination of duplicative services; (ii) shared services, such as joint purchasing, shared highway equipment, shared storage facilities, shared plowing services, and energy and insurance purchasing cooperatives; (iii) reduction in back office administrative overhead; and (iv) better coordination of services.

Plans would be presented to voters for approval in the next general election, and would be implemented after a majority vote for approval. If the voters did not approve the plan, it would be revised and resubmitted by the county for another vote in November 2018.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because it would help provide taxpayers with relief from the crushing burden of property taxes via the development of county-wide coordinated shared services.

Effective Date:

This bill would take effect immediately.

Part V - Extend anti-discrimination protections to public schools

Purpose:

This bill would extend anti-discrimination protections that currently shield members of protected groups from discrimination, harassment, and bullying in private schools to include public schools.

Summary of Provisions and Statement in Support:

All New Yorkers must be able to attend school without fear of discrimination or harassment, and to the extent that students are harassed or bullied in school, remedies should be available to them under the New York State Human Rights Law.

Up until 2012, the Division of Human Rights (DHR) accepted, investigated and adjudicated discrimination complaints from attendees of both public and private schools and universities. In 2012, a NYS Court of Appeals case, involving severe racial bullying of a young girl, held that the law did not cover public schools (including public universities) as the statutory language referencing "educational corporation" or "educational institution" did not indicate the scope of coverage. As a result, only students attending tax-exempt private, non-sectarian schools are currently covered under the Human Rights Law.

This bill would define educational institutions to include both public and private schools and ensure that all students are afforded protection against discrimination.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget as agency operations for DHR are dependent upon a clear definition of jurisdiction.

Effective Date:

This bill would take effect immediately.

Part W - New York State Consolidated Laboratory Project Act

Purpose:

This act would authorize the Dormitory Authority of the State of New York (DASNY), in consultation with the Department of Health (DOH), to establish a sustainable, modernized, and consolidated laboratory campus through the use of an alternative project delivery method of design-build, the construction manager build, or the construction manager-at-risk delivery method.

Summary of Provisions and Statement in Support:

The New York State Consolidated Laboratory Project would consist of the consolidation and/or co-location into a new laboratory campus of: (1) the laboratory facilities and functions of DOH located within the capital district region (defined as Albany, Rensselaer, Schenectady, and Saratoga counties); and (2) certain laboratory functions and facilities of other users consistent with the public health mission of the Wadsworth Center or complementary to the public laboratory function.

This bill would permit DASNY, in consultation with DOH, to enter into a project agreement providing for the delivery of the Project and to select the design-build method, the construction manager build method or the construction manager-at-risk method, based upon a determination of which method provides the best value to the state. The Project would be subject to (1) a Project Labor Agreement if a feasibility study reflects that such an agreement would result in cost savings; and (2) the requirements of Articles 15-A and

17-B of the Executive Law encouraging participation of minority and women-owned businesses and service-disabled veteran owned businesses.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget, which includes authorization for the New York State Urban Development Corporation to jointly develop with DOH a plan for a life science research, innovation, and infrastructure project.

Effective Date:

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

Part X - Establishes the Excelsior Business Program

Purpose:

This bill would enhance the effectiveness and administrative efficiency of the State's economic development tax incentives by establishing a new Excelsior Business Program (EBP) that draws on the strengths of its predecessor by making available additional benefits to participating businesses while reducing administrative burdens, and modifying participation eligibility criteria to target program benefits to early stage businesses that are in the greatest need of support.

Summary of Provisions and Statement in Support:

This bill would amend the Economic Development Law to simplify and expand the eligibility criteria for firms to participate in the state's initial development program, which differed throughout the state based upon the geographic location of business applicants and the stage of development. EBP would employ a single test based upon whether businesses are start-up or early stage businesses conducting research and development or market testing for new products and services. Upon admission to the EBP, participants would demonstrate continued program eligibility by creating and maintaining at least one net new job.

Participants in the EBP that create at least five net new jobs would be eligible to receive benefits through the Excelsior Jobs Program. All participants that qualify for Excelsior Jobs Program benefits would be eligible to receive a refundable tax credit based upon the number of net new jobs they create. In addition, the Commissioner of Economic Development would be empowered to exercise discretion to make available further

benefits under the Excelsior Jobs Program to those businesses with expansion plans that have significant economic impact.

The bill would also amend the Tax Law to make conforming amendments and clarify that a participant in the EBP that locates in more than one tax-free NY area would measure its eligibility for the EBP tax benefits from the time it locates within a tax-free NY area for the first time. To improve efficiencies, reporting regarding the EBP would be consolidated with existing annual Excelsior jobs program report, which shall be made publically available.

The State's initial program stimulated job creation and investment in New York State. This EBP builds upon these successes by making available refundable tax credits that are not dependent upon the profitability of participants and streamlining program eligibility. As a result, EBP would be more accessible to small businesses and offers significant potential for growth and development of these businesses across the State.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because it would establish an effective economic development tool for New York.

Effective Date:

This bill would take effect immediately, provided however that the amendments made by section 4 of the bill to paragraphs (c), (f) and (g) of subdivision one of section four hundred thirty-three of the Economic Development Law shall not apply to any business approved to participate in the former state program prior to the effective date of this bill.

Part Y - Unemployment Insurance Earnings Disregard

Purpose:

This bill would minimize the financial impact to Unemployment Insurance (UI) claimants who work part-time, while they seek full-time employment.

Summary of Provisions and Statement in Support:

Currently, a claimant's weekly UI benefit is reduced by 25 percent for each day worked, even if the individual works for one hour. As a result, workers who try to return to the workforce through part-time work can be penalized, despite the fact that part-time work can serve as a bridge to full-time employment.

This bill would determine partial UI benefits based on a claimant's weekly earnings, and allow a claimant to earn up to \$100 or 40 percent of the available full unemployment insurance benefit, whichever is greater, before any reduction in benefits.

In March 2013, Governor Cuomo signed into law major reforms to the State's UI System. These measures included increasing benefits for workers, decreasing costs to employers, and modernizing the UI system to make it sustainable and self-correcting. As a result, the UI Trust Fund is solvent, with a balance of approximately \$1.3 billion. The revisions included in this bill provide further improvements to the system that would benefit approximately 600,000 UI claimants who would be more actively engaged in the State's workforce.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget as it would create a clear incentive for unemployed New Yorkers to assume a part-time job as they search for full-time work.

Effective Date:

This bill would take effect 18 months after enactment; however, immediate action would be authorized to make necessary changes to complete implementation by the bill's effective date.

Part Z - Authorization for transfers, temporary loans, and amendments to miscellaneous capital/debt provisions, including bond caps

Purpose:

This bill would provide the statutory authorization necessary for the administration of funds and accounts included in the fiscal year FY 2018 Executive Budget, and propose certain modifications to improve the State's General Fund position in the upcoming fiscal year. Specifically, it would: (1) authorize temporary loans and deposits of certain revenues to specific funds and accounts, (2) authorize the transfers and deposits of funds to and across various accounts, (3) extend various provisions of Chapter 54 of the Laws of 2016 in relation to capital projects and certain certifications, and (4) modify various debt and bond provisions necessary to implement the budget.

Summary of Provisions and Statement in Support:

This bill is necessary to execute a balanced Financial Plan in accordance with the FY 2018 Executive Budget. Similar legislation is enacted annually to authorize the transfer of funds budgeted in the financial plan (that do not have permanent statutory authorization) and to provide for other transactions necessary to effectuate the provisions of the budget. The bill includes the following provisions:

- Section 1 of this bill would authorize the Comptroller to make temporary loans to specific State funds and accounts during fiscal FY 2018.

- Section 1-a of this bill would authorize the Comptroller to make temporary loans to accounts within specific Federal funds during FY 2018.
- Sections 2 and 3 of this bill would authorize the Comptroller to make transfers between designated funds and accounts.
- Section 4 of this bill would authorize the Comptroller to deposit funds into the Banking Services Account.
- Section 5 of this bill would authorize the Dormitory Authority of the State of New York (DASNY), at the direction of the Director of the Division of Budget (DOB) and upon request by the State University of New York (SUNY), to transfer up to \$22 million to SUNY for bondable equipment costs, which in turn would be re-paid to the General Fund.
- Section 6 of this bill would authorize the Comptroller, at the request of the Director of DOB and upon consultation with the SUNY Chancellor, to transfer up to \$16 million to the General Fund for debt service costs related to capital project costs for the NY-SUNY 2020 Challenge Grant program at the University at Buffalo.
- Section 7 of this bill would authorize the Comptroller, at the request of the Director of DOB and upon consultation with the SUNY Chancellor, to transfer up to \$6.5 million to the General Fund for debt service costs related to capital project costs for the NY-SUNY 2020 Challenge Grant program at the University at Albany.
- Section 8 of this bill would authorize the SUNY Chancellor to transfer the estimated tuition revenue balances from the State University Collection Fund to the State University Fund, State University General Revenue Offset Account.
- Section 9 of this bill would authorize the Comptroller, at the request of the Director of DOB, to transfer up to \$69.3 million from the General Fund to the State University Income Fund, State University Hospitals Income Reimbursement Account.
- Section 10 of this bill would authorize the Comptroller to transfer up to \$996.8 million from the General Fund to the State University Income Fund, State University General Revenue Offset Account during the period of July 1, 2017 through June 30, 2018.
- Section 11 of this bill would authorize the Comptroller to transfer up to \$100,000 from the General Fund to the State University Income Fund, State University General Revenue Offset Account during the period of April 1, 2017 through June 30, 2017.
- Section 12 of this bill would authorize the Comptroller to transfer up to \$55 million from the State University Income Fund, State University Hospitals Income

Reimbursable and Long Island Veterans' Home accounts, to the State University Capital Projects Fund.

- Section 13 of this bill would authorize the Comptroller, after consultation with the SUNY Chancellor, to transfer monies from the State University Collection and the State University Income funds to the State University Income Fund, State University Hospitals Income Reimbursable Account, in the event that insufficient funds are available to permit the full transfer of moneys authorized for transfer to the General Fund for SUNY Hospitals' debt service.
- Section 14 of this bill would authorize the Comptroller, at the direction of the Director of DOB and the SUNY Chancellor, to transfer up to \$80 million between the State University Dormitory Income Fund and the State University Residence Hall Rehabilitation Fund.
- Section 15 of this bill would authorize the Comptroller, at the request of the Director of DOB, to transfer up to \$350 million between the following accounts, in any combination: the Miscellaneous Special Revenue Fund, Patient Income Account; the Miscellaneous Special Revenue Fund, Mental Hygiene Program Fund Account; the Miscellaneous Special Revenue Fund, Federal Salary Sharing Account; and the General Fund.
- Section 16 of this bill would authorize the Comptroller, at the request of the Director of DOB, to transfer up to \$750 million from the unencumbered balance of any Special Revenue Fund or Account, Agency Fund or Account, Internal Services Fund or Account, or Enterprise Fund or Account, or any combination thereof (excluding Federal funds, or any fund in which the eligibility for Federal benefits would be impacted), to the General Fund.
- Section 17 of this bill would authorize the Comptroller, at the request of the Director of DOB, to transfer up to \$100 million from any non-general fund or account, or combination thereof (excluding funds in which the eligibility for Federal benefits would be impacted), to the Technology Financing Account or the Miscellaneous Capital Projects Fund, Information Technology Capital Financing Account, for the consolidation of costs related to technology services.
- Section 18 of this bill would authorize, at the request of the Director of DOB, the transfer of up to \$245 million of the assessment reserves remitted to the chair of the Workers' Compensation Board to the State Insurance Fund, for partial payment and partial satisfaction of the State's obligation to the State Insurance Fund under section 88-c of the Worker's Compensation Law.
- Section 19 of this bill would authorize the Comptroller, at the request of the Director of DOB, to transfer up to \$400 million from any non-general fund or account, or combination thereof (excluding funds in which the eligibility for Federal

benefits would be impacted), to the General Fund as reimbursement for costs related to technology services.

- Section 20 of this bill would authorize the transfer of up to \$23.9 million from the New York State Energy Research and Development Authority to the credit of the General Fund, on or before March 31, 2017.
- Section 21 of this bill would amend State Finance Law (SFL) § 97-rrr to allow the State Comptroller to deposit up to \$2.6 Billion into the School Tax Relief Fund.
- Section 22 of this bill would authorize the Comptroller, at the request of the Director of DOB, to transfer designated special revenue fund balances to the capital projects fund for the purpose of reimbursement to such fund for expenses related to the maintenance and preservation of State assets.
- Section 22-a would amend the dedicated infrastructure investment fund to allow for transfers to be made to the General Fund in the event of a catastrophic event, disaster or other emergency.
- Section 22-b would amend the debt reduction reserve fund to allow the Director of DOB to direct an amount equal to fifty percent of any estimated cash-basis surplus in the general fund at the end of the fiscal year to the debt reduction reserve fund, and excludes any amounts disbursed from this fund from the calculation of annual spending growth in state operating funds.
- Section 22-c would authorize residual tobacco settlement proceeds to be deposited directly to the Medicaid Management Information System (MMIS) Escrow Fund for purposes of funding a portion of the State's share of local Medicaid growth.
- Section 22-d would establish the Retiree Health Benefit Trust Fund for the exclusive purpose of funding health care benefits of retired state employees and their dependents.
- Section 23 would continue the authorization to use any balance remaining in the debt service appropriation for Mental Hygiene facilities to make rebates necessary to protect the tax-exempt status of the bonds.
- Section 24 of this bill would increase the bond cap for the office of information technology services from \$364.84 million to \$450.54 million.
- Section 25 of this bill would increase the bond cap for financing correctional facilities from \$7.424 billion to \$7.741 billion.
- Section 26 of this bill would increase the bond cap for financing housing programs from \$4.697 billion to \$5.384 billion.

- Section 27 of this bill would increase the bond cap for financing local highway projects from \$9.147 billion to \$9.635 billion.
- Section 28 of this bill would increase the bond cap for financing library facilities from \$159 million to \$173 million.
- Section 29 of this bill would increase the bond cap for financing state police capital projects from \$167.6 million to \$173.6 million.
- Section 30 of this bill would amend the bond cap for financing economic development projects to include projects for the state fair, empire state trail, Moynihan station development project, Kingsbridge armory project, strategic economic development projects, the cultural, arts and public spaces fund, an LGBT memorial, water infrastructure in the city of Auburn and town of Owasco, and a life sciences laboratory public health initiative. Additionally, the bond cap would increase from \$4.671 billion to \$6.505 billion.
- Section 31 of this bill would amend the bond cap for financing environmental infrastructure projects to include projects for clean water infrastructure projects and increase the bond cap from \$2.108 billion to \$4.452 billion.
- Section 32 of this bill would increase the bond cap for financing the NY-SUNY and NY-CUNY 2020 challenge grant program from \$550 million to \$660 million.
- Section 33 of this bill would increase the bond cap for financing homeland security and training facilities from \$197 million to \$250 million, and increase the bond cap for financing improvements to State office buildings and other facilities from \$509.6 million to \$654.8 million.
- Section 34 of this bill would increase the bond cap for financing transportation initiatives from \$3.065 billion to \$3.954 billion.
- Section 35 of this bill would increase the bond cap for financing SUNY educational facilities from \$11.7 billion to \$12.3 billion.
- Section 36 of this bill would increase the bond cap for financing City University of New York senior and community colleges from \$7.59 billion to \$7.98 billion.
- Section 37 of this bill would increase the bond cap for financing SUNY community colleges from \$861 million to \$915 million.
- Section 38 of this bill would increase the bond cap for financing youth facilities from \$647.1 million to \$682.9 million.
- Section 39 of this bill would increase the bond cap for financing mental health services facilities improvement from \$8.021 billion to \$8.373 billion.

- Section 40 of this bill would increase the bond cap for financing higher education capital matching grants from \$240 million to \$270 million.
- Section 41 of this bill would amend the bond cap for financing healthcare capital projects to include projects for the essential health care provider program, and increase the bond cap from \$2.4 billion to \$2.7 billion.
- Section 42 of this bill would amend the bond cap for financing private special education to include non-public schools, and increase the bond cap from \$5 million to \$30 million.
- Section 43 of this bill makes permanent the authorization for the quarterly set-aside of monies to pay State general obligation and other debt service.
- Sections 44 and 45 of this bill reverts the Board of the Local Government Assistance Corporation (LGAC) to its original composition, and makes conforming changes for related activities.
- Sections 46 and 47 of this bill amend the statutes of the PIT and Sales Tax Bond credits to ensure clarity that, as was originally intended when enacted, they supersede and govern relative to certain requirements in older authorizing statutes for prior service contract bond credits.
- Sections 48 through 52 of this bill amend statutes to streamline and modernize certain provisions relating to the issuance and management of State general obligation (GO) debt, including clarifying that such bonds may be structured on either a bond year or State fiscal year basis, repeal and consolidate older provisions governing GO bond acts for which debt no longer exists or is only issued for refunding purposes, and permits the use of a bond trustee to improve cash management and ensure timely payment of debt service to bondholders.
- Section 53 of this bill amends the State Finance Law to add a new Article 5-G to clarify and improve the powers and processes of the State Comptroller to approve the terms and conditions of private bond sales, as required in various provisions of law.
- Section 54 of this bill authorizes the Thruway Authority to conduct its own competitive bond sales, consistent with the powers of other similar public authorities.

All of the sections of this bill would become permanent upon enactment except for sections one through eight and sections thirteen through twenty-two, which are subject to expiration on March 31, 2018, sections nine, ten, and twelve, which are subject to expiration on June 30, 2018, and section eleven, which is subject to expiration on June 30, 2017.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget, including the transfer of funds budgeted in the financial plan and the provision of temporary loans from the State Treasury for cash flow purposes. This bill is also necessary to reimburse projected Capital Projects Fund spending with the proceeds of bonds sold by public authorities, to ensure the continued borrowing necessary for certain State-supported debt issuances to implement the budget, and to permit the State to carry out basic administrative functions.

Effective Date:

This bill takes effect April 1, 2017.

The provisions of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.