

7038

2009-2010 Regular Sessions

I N A S S E M B L Y

March 18, 2009

Introduced by M. of A. SWEENEY, DESTITO, GOTTFRIED, MILLMAN, DINOWITZ, ENGLEBRIGHT, JAFFEE, FIELDS, LUPARDO, COLTON, CAHILL, JOHN, ALESSI, KOON, ROSENTHAL, KAVANAGH, SCHIMEL, GALEF, FARRELL, PAULIN, PERALTA -- Multi-Sponsored by -- M. of A. BOYLAND, BRENNAN, GLICK, HOOPER, HOYT, JACOBS, PHEFFER, REILICH, WEINSTEIN, WEISENBERG, WRIGHT -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, the economic development law and the environmental conservation law, in relation to the state procurement process and to healthy and green procurement

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "New York  
2 state healthy and green procurement act".  
3 S 2. Legislative findings and declaration. The legislature hereby  
4 finds and declares that:  
5 (a) As New York moves into the twenty-first century the state should  
6 serve as a role model for practices that will create and maintain a  
7 healthy environment and vibrant economy. The manufacture, use and  
8 disposal of commodities and technologies, the construction of buildings  
9 and the provision of services utilizing toxic chemicals may have adverse  
10 impacts on public health and the environment. Persistent, bioaccumula-  
11 tive toxic chemicals, such as mercury, lead, dioxin and poly brominated  
12 diphenyl ethers, are toxic in small amounts, remain in the environment  
13 for long periods of time, and build to dangerous levels in humans, fish  
14 and other animals; and this group of pollutants known as persistent  
15 bioaccumulative toxic chemicals (PBT) pose risks to public health and  
16 the environment through their ability to cause cancer, birth defects and  
17 endocrine disruption. Such chemicals have polluted hundreds of water  
18 bodies, fish and waterfowl in the state. These adverse impacts impose  
19 costs on the state and, ultimately, society as a whole in the form of  
20 injury, disease and death; health care expenses; disposal, liability and

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

A

LBD02941-03-9

1 cleanup costs; the waste of resources and raw materials; and an impaired  
2 natural environment. PBT and cancer-causing chemicals may be found in a  
3 wide range of consumer products purchased by state agencies, including  
4 lighting supplies, computers and other office equipment, vehicles,  
5 medical equipment, building supplies and printing inks. Encouraging  
6 innovation, and creating and choosing the safest, most sustainable  
7 commodities, services and technologies will help to ensure a higher  
8 quality of life for present and future generations. It will put New York  
9 businesses in an advantageous position to compete in the global market-  
10 place.

11 (b) New York looks forward to the time when the state's power is  
12 generated from renewable and clean sources, when our homes, schools,  
13 businesses and government facilities are energy efficient and  
14 constructed, refurbished and maintained using healthy and green products  
15 and practices, when pollution prevention is embraced by government and  
16 businesses as a way to save money and protect public health and the  
17 environment, when government and citizens use energy efficient and clean  
18 vehicles, when pests are controlled with nontoxic or least toxic alter-  
19 natives, when our production of waste is significantly reduced and the  
20 rest is recycled, and when our homes, schools, workplaces, food, air and  
21 water are free from toxic contaminants.

22 (c) Protecting public health and the environment is consistent with  
23 the traditional considerations associated with state procurement prac-  
24 tice, including lowest price, best value, quality, cost and efficiency.  
25 Determining quality, value and efficiency should include the consider-  
26 ation of public health and environmental impacts. Considering such  
27 impacts early in the procurement process and adopting an ethic of  
28 pollution prevention will not only reduce pollution and waste, it will  
29 reduce costs throughout a commodity, service or technology's life cycle.

30 (d) Through the volume of government procurement, government can play  
31 a significant role in spurring private sector development of high value  
32 commodities and services. This, in turn, will create business and  
33 employment opportunities in New York state, foster competition and  
34 harness the energy of the market to produce products and services that  
35 perform better and cost less. As supply increases, prices will decrease,  
36 and high performance, healthy and green commodities, services and tech-  
37 nologies will become more affordable for all consumers.

38 S 3. Subdivision 5 of section 160 of the state finance law, as added  
39 by chapter 83 of the laws of 1995, is amended to read as follows:

40 5. "Costs" as used in this article shall be quantifiable and may  
41 include, without limitation, the price of the given good or service  
42 being purchased; the administrative, training, storage, maintenance or  
43 other overhead associated with a given good or service; the value of  
44 warranties, delivery schedules, financing costs and foregone opportunity  
45 costs associated with a given good or service; and the life span and  
46 associated life cycle costs of the given good or service being  
47 purchased. Life cycle costs may include, but shall not be limited to,  
48 costs or savings associated with RAW MATERIALS, PRODUCTION, MANUFACTUR-  
49 ING, construction, PACKAGING, DISTRIBUTION, USE, energy use, mainte-  
50 nance, operation, and salvage or disposal, AND, IF SUCH INFORMATION IS  
51 READILY AVAILABLE, ANY INDIRECT ASSOCIATED PUBLIC HEALTH AND ENVIRON-  
52 MENTAL COSTS.

53 S 4. Paragraph a of subdivision 1 of section 161 of the state finance  
54 law, as added by chapter 83 of the laws of 1995, is amended to read as  
55 follows:

1 a. The state procurement council shall continuously strive to improve  
2 the state's procurement process. Such council shall consist of [nine-  
3 teen] TWENTY-ONE members, including the commissioner, the state comp-  
4 troller, the director of the budget [and], the commissioner of economic  
5 development, THE COMMISSIONER OF HEALTH, AND THE COMMISSIONER OF ENVI-  
6 RONMENTAL CONSERVATION, or their respective designees; [seven] FIVE  
7 members who shall be the heads of other large and small state agencies  
8 chosen by the governor, or their respective designees; and [eight] TEN  
9 at large members appointed as follows: [three] FOUR appointed by the  
10 temporary president of the senate, one of whom shall be a representative  
11 of local government [and], one of whom shall be a representative of  
12 private business AND ONE OF WHOM SHALL BE A REPRESENTATIVE OF AN ORGAN-  
13 IZATION WHOSE PRIME FUNCTION IS THE ENHANCEMENT OF PUBLIC HEALTH OR THE  
14 ENVIRONMENT; [three] FOUR appointed by the speaker of the assembly, one  
15 of whom shall be a representative of local government [and], one of whom  
16 shall be a representative of private business AND ONE OF WHOM SHALL BE A  
17 REPRESENTATIVE OF AN ORGANIZATION WHOSE PRIME FUNCTION IS THE ENHANCE-  
18 MENT OF PUBLIC HEALTH OR THE ENVIRONMENT; one appointed by the minority  
19 leader of the senate; and, one appointed by the minority leader of the  
20 assembly; and two non-voting observers appointed as follows: one  
21 appointed by the temporary president of the senate and one appointed by  
22 the speaker of the assembly. The non-voting observers shall be provided,  
23 contemporaneously, all documentation and materials distributed to  
24 members. The council shall be chaired by the commissioner and shall meet  
25 at least quarterly.

26 S 5. The state finance law is amended by adding a new section 164-a to  
27 read as follows:

28 S 164-A. HEALTHY AND GREEN PROCUREMENT. 1. HEALTHY AND GREEN PROCURE-  
29 MENT POLICY. IT IS HEREBY DECLARED TO BE THE POLICY OF THE STATE TO THE  
30 EXTENT PRACTICABLE TO PURCHASE COMMODITIES, SERVICES AND TECHNOLOGIES  
31 THAT MINIMIZE POTENTIAL ADVERSE IMPACTS ON PUBLIC HEALTH AND THE ENVI-  
32 RONMENT WHEN COMPARED WITH COMPETING COMMODITIES, SERVICES OR TECHNOLO-  
33 GIES THAT SERVE THE SAME PURPOSE.

34 2. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS  
35 SHALL HAVE THE FOLLOWING MEANINGS UNLESS OTHERWISE SPECIFIED:

36 A. "POLLUTION PREVENTION" SHALL MEAN POLLUTION PREVENTION AS DEFINED  
37 IN ARTICLE TWENTY-EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW.

38 B. "PRIORITY TOXIC SUBSTANCES OF CONCERN" SHALL INCLUDE, BUT NOT BE  
39 LIMITED TO, ANY SUBSTANCE LISTED AS KNOWN TO BE OR REASONABLY ANTIC-  
40 IPATED, PURSUANT TO THE NATIONAL TOXICOLOGY PROGRAM REPORT ON CARCINO-  
41 GENES, TO BE A HUMAN CARCINOGEN IN THE NATIONAL TOXICOLOGY PROGRAM'S  
42 BIENNIAL REPORT ON CARCINOGENS SUBMITTED TO THE UNITED STATES CONGRESS  
43 BY THE SECRETARY OF HEALTH AND HUMAN SERVICES; AND ANY SUBSTANCE IDENTI-  
44 FIED AS A PERSISTENT AND/OR BIOACCUMULATIVE TOXIC SUBSTANCE ON LISTS  
45 MAINTAINED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, INCLUD-  
46 ING THE NATIONAL PARTNERSHIP FOR ENVIRONMENTAL PRIORITIES; OR THE INTER-  
47 NATIONAL JOINT COMMISSION CREATED PURSUANT TO THE GREAT LAKES WATER  
48 QUALITY AGREEMENT OF 1978; AND PERFLUORINATED COMPOUNDS, DIOXIN, BROMI-  
49 NATED FLAME RETARDANTS AND BISPHENOL A DUE TO THEIR TOXICITY IN  
50 PRODUCTION, USE AND DISPOSAL.

51 3. MINIMUM SPECIFICATIONS FOR HEALTHY AND GREEN PROCUREMENT. CONSIST-  
52 ENT WITH DETERMINATIONS OF NEED REQUIRED BY SUBDIVISION FIVE OF SECTION  
53 ONE HUNDRED SIXTY-THREE OF THIS ARTICLE, ALL STATE AGENCIES SHALL  
54 PROCURE COMMODITIES, SERVICES AND TECHNOLOGIES THAT MEET OR EXCEED THE  
55 FOLLOWING MINIMUM SPECIFICATIONS:

1 A. RECYCLED CONTENT. ALL COPY PAPER AND OTHER PAPER SUPPLIES FOR WHICH  
2 THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY HAS DEVELOPED RECYCLED  
3 CONTENT RECOMMENDATIONS PURSUANT TO SECTION SIX THOUSAND TWO OF THE  
4 RESOURCE CONSERVATION AND RECOVERY ACT SHALL BE REQUIRED TO MEET OR  
5 EXCEED THE AGENCY'S MINIMUM POST-CONSUMER MATERIAL CONTENT PERCENTAGES  
6 RECOMMENDED IN THE MOST RECENT RECOVERED MATERIALS ADVISORY NOTICE  
7 ISSUED FOR SUCH COMMODITY IN THE FEDERAL REGISTER; PROVIDED, HOWEVER,  
8 THAT XEROGRAPHIC PAPER SHALL CONTAIN NO LESS THAN THIRTY PERCENT  
9 POST-CONSUMER RECYCLED CONTENT. THE COMMISSIONER SHALL ALSO MAKE AVAIL-  
10 ABLE TO ALL AGENCIES, ONE HUNDRED PERCENT POST-CONSUMER, PROCESSED CHLO-  
11 RINE-FREE COPY PAPER. ALL AGENCIES SHALL PRINT PUBLICATIONS ON RECYCLED  
12 PAPER, AND MINIMUM PERCENTAGES SHALL BE MET UNLESS COSTS FOR SUCH PAPER  
13 EXCEED THE COST OF OTHER AVAILABLE COMMODITIES BY MORE THAN TEN PERCENT.

14 B. WASTE REDUCTION. AGENCIES SHALL SEEK TO REDUCE WASTE IN PRODUCTS  
15 AND PACKAGING, INCLUDING THE FORMULATION OF POLICIES TO PROMOTE THE USE  
16 OF DOUBLE-SIDED COPYING AND PRINTING TO THE GREATEST EXTENT PRACTICABLE.  
17 AGENCIES SHALL FAVOR DURABILITY, REPAIRABILITY AND REUSE WHEN PURCHASING  
18 SUPPLIES. THE COMMISSIONER SHALL ESTABLISH MINIMUM SPECIFICATIONS FOR  
19 WASTE REDUCTION WITHIN TWELVE MONTHS OF THE EFFECTIVE DATE OF THIS  
20 SECTION.

21 C. ENERGY EFFICIENCY. ALL COMMODITIES FOR WHICH THE FEDERAL ENERGY  
22 MANAGEMENT PROGRAM OF THE UNITED STATES DEPARTMENT OF ENERGY HAS ISSUED  
23 PRODUCT ENERGY EFFICIENCY RECOMMENDATIONS SHALL MEET OR EXCEED SUCH  
24 RECOMMENDATIONS. AGENCIES SHALL SEEK TO ACHIEVE REDUCTIONS IN ENERGY  
25 AND PETROLEUM CONSUMPTION; ADHERE TO ENERGY STAR BUILDING CRITERIA; SEEK  
26 OUT OFFICE SPACE AND REAL ESTATE INVESTMENTS IN BUILDINGS WITH ENERGY  
27 STAR RATING; AND FOLLOW THE PUBLIC SERVICE COMMISSION'S RENEWABLE PORT-  
28 FOLIO STANDARD TO INCREASE THE PURCHASE OF RENEWABLE ENERGY SO THAT AT  
29 LEAST TWENTY-FIVE PERCENT OF THE OVERALL ANNUAL ELECTRIC ENERGY REQUIRE-  
30 MENTS OF BUILDINGS OWNED, LEASED OR OPERATED BY STATE AGENCIES WILL BE  
31 RENEWABLE ENERGY BY TWO THOUSAND FIFTEEN.

32 D. GREEN BUILDINGS. ALL CAPITAL PROJECTS WITH AN ESTIMATED  
33 CONSTRUCTION COST OF TWO MILLION DOLLARS OR MORE INVOLVING (1) THE  
34 CONSTRUCTION OF A NEW BUILDING, (2) AN ADDITION TO AN EXISTING BUILDING,  
35 OR (3) THE SUBSTANTIAL RECONSTRUCTION OF AN EXISTING BUILDING SHALL BE  
36 DESIGNATED AND CONSTRUCTED TO COMPLY WITH BUILDING STANDARDS NOT LESS  
37 STRINGENT THAN THE STANDARDS PRESCRIBED BY THE UNITED STATES GREEN  
38 BUILDING COUNCIL LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN SILVER  
39 RATING AND STANDARDS SET FORTH IN THE DEFINITION OF A "GREEN BASE BUILD-  
40 ING" AS DEFINED IN SECTION NINETEEN OF THE TAX LAW, OR ANY PORTION THER-  
41 EOF, ANY MODIFICATION OF OR AMENDMENTS THERETO, AND TO UTILIZE MATERIALS  
42 WHICH DO NOT CONTAIN POLYVINYL CHLORIDE TO THE GREATEST EXTENT PRACTICA-  
43 BLE. IN ADDITION, ALL STATE-OWNED AND OPERATED BUILDINGS OF FIFTY THOU-  
44 SAND SQUARE FEET OR LARGER SHALL BE OPERATED TO MEET SUCH STANDARDS FOR  
45 EXISTING BUILDINGS TO THE MAXIMUM EXTENT PRACTICABLE THAT IS COST EFFEC-  
46 TIVE BY NOT LATER THAN TWO THOUSAND FOURTEEN.

47 4. SPECIFICATIONS TO INCORPORATE HEALTHY AND GREEN PROCUREMENT. A.  
48 BEGINNING ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, ALL STATE  
49 AGENCIES, WHEN PROCURING COMMODITIES, SERVICES OR TECHNOLOGY PURSUANT TO  
50 SECTION ONE HUNDRED SIXTY-THREE OF THIS ARTICLE, SHALL FOLLOW PRACTICES  
51 AND DEVELOP SOLICITATION SPECIFICATIONS THAT MEET OR EXCEED THE MINIMUM  
52 SPECIFICATIONS FOR HEALTHY AND GREEN PROCUREMENT ESTABLISHED IN SUBDIVI-  
53 SION THREE OF THIS SECTION. ALL SUCH CONTRACTS SHALL INCLUDE A STATEMENT  
54 DESCRIBING HOW SUCH MINIMUM SPECIFICATIONS WERE MET.

55 B. IN THE EVENT THAT AN AGENCY RECEIVES NO BIDS OR PROPOSALS THAT MEET  
56 THE SPECIFICATIONS DEVELOPED PURSUANT TO PARAGRAPH A OF THIS SUBDIVI-

1 SION, SUCH AGENCY MAY WITHDRAW THE REQUEST FOR BIDS OR PROPOSALS AND  
2 BEGIN A NEW PROCUREMENT WITH NEW SPECIFICATIONS WITHOUT SUCH SPECIFICA-  
3 TIONS AND AWARD A CONTRACT IN ACCORDANCE WITH OTHER APPLICABLE STATUTES;  
4 PROVIDED, HOWEVER THAT SUCH AGENCY SHALL DOCUMENT THE REASONS WHY SUCH  
5 PROCUREMENT DOES NOT MEET THE MINIMUM SPECIFICATIONS FOR HEALTHY AND  
6 GREEN PROCUREMENT ESTABLISHED IN THIS SUBDIVISION AND SUBMIT SUCH  
7 DOCUMENTATION TO THE COMMISSIONER FOR INCLUSION IN THE ANNUAL REPORT  
8 REQUIRED PURSUANT TO THIS SECTION AND TO THE OFFICE OF THE COMPTROLLER  
9 FOR INCLUSION IN THE PROCUREMENT RECORD.

10 5. BALANCING HEALTHY AND GREEN PROCUREMENT WITH PRICE, LOWEST COST AND  
11 BEST VALUE.

12 A. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS REQUIRING A STATE  
13 AGENCY TO PROCURE A COMMODITY, SERVICE OR TECHNOLOGY THAT DOES NOT MEET  
14 THE FORM, FUNCTION AND UTILITY REQUIRED BY SUCH AGENCY, OR AS REQUIRING  
15 A STATE AGENCY TO PROCURE A COMMODITY, SERVICE OR TECHNOLOGY THE COST OF  
16 WHICH EXCEEDS THE COST OF AN ALTERNATIVE AVAILABLE COMMODITY OR SERVICE  
17 BY MORE THAN TEN PERCENT.

18 B. WHEN DETERMINING AND COMPARING COSTS, STATE AGENCIES SHALL CONSIDER  
19 COST AS DEFINED IN SECTION ONE HUNDRED SIXTY OF THIS ARTICLE.

20 6. HEALTHY AND GREEN PROCUREMENT OFFICER, COORDINATORS, COORDINATING  
21 COUNCIL.

22 A. WITHIN ONE HUNDRED EIGHTY DAYS OF THE EFFECTIVE DATE OF THIS  
23 SECTION, THE COMMISSIONER SHALL ASSIGN AN INDIVIDUAL WITHIN THE OFFICE  
24 OF GENERAL SERVICES TO SERVE AS THE STATE HEALTHY AND GREEN PROCUREMENT  
25 OFFICER. SUCH OFFICER SHALL ASSIST THE COMMISSIONER WITH CARRYING OUT  
26 HIS OR HER DUTIES UNDER THIS SECTION AND SERVE AS THE CHAIRPERSON OF THE  
27 HEALTHY AND GREEN PROCUREMENT COORDINATING COUNCIL ESTABLISHED IN PARA-  
28 GRAPH C OF THIS SUBDIVISION.

29 B. WITHIN ONE HUNDRED EIGHTY DAYS OF THE EFFECTIVE DATE OF THIS  
30 SECTION, EACH STATE AGENCY WITH ONE HUNDRED EMPLOYEES OR MORE SHALL  
31 ASSIGN AN INDIVIDUAL WITHIN SUCH AGENCY TO SERVE AS THE AGENCY'S  
32 SUSTAINABLE PROCUREMENT COORDINATOR. THE HEALTHY AND GREEN PROCUREMENT  
33 COORDINATOR FOR EACH STATE AGENCY WITH FIVE HUNDRED EMPLOYEES OR MORE  
34 SHALL SERVE ON THE HEALTHY AND GREEN PROCUREMENT COORDINATING COUNCIL  
35 ESTABLISHED IN PARAGRAPH C OF THIS SUBDIVISION.

36 C. THERE IS HEREBY ESTABLISHED A HEALTHY AND GREEN PROCUREMENT COORDI-  
37 NATING COUNCIL WHICH SHALL BE COMPOSED OF THE HEALTHY AND GREEN PROCURE-  
38 MENT OFFICERS AND COORDINATORS APPOINTED PURSUANT TO PARAGRAPHS A AND B  
39 OF THIS SUBDIVISION, ONE EXPERT IN THE PROTECTION OF PUBLIC HEALTH  
40 DESIGNATED BY THE COMMISSIONER OF HEALTH, ONE EXPERT IN POLLUTION  
41 PREVENTION AND HEALTHY AND GREEN PROCUREMENT DESIGNATED BY THE COMMIS-  
42 SIONER OF ENVIRONMENTAL CONSERVATION AND ONE EXPERT IN WASTE PREVENTION  
43 DESIGNATED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT. THE PRESIDENT OF  
44 THE ENVIRONMENTAL FACILITIES CORPORATION AND THE NEW YORK STATE ENERGY  
45 AND RESEARCH AUTHORITY OR THEIR DESIGNEES SHALL ALSO SERVE ON THE COUN-  
46 CIL. ONE MEMBER SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE  
47 SENATE, ONE MEMBER SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY.  
48 THE FIRST MEETING OF SUCH COUNCIL SHALL BE HELD WITHIN TWO HUNDRED FORTY  
49 DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AND SUCH COUNCIL SHALL MEET  
50 AT LEAST SIX TIMES PER YEAR. THE STATE HEALTHY AND GREEN PROCUREMENT  
51 OFFICER SHALL SERVE AS THE CHAIRPERSON OF SUCH COUNCIL. SUCH COUNCIL  
52 SHALL HAVE THE POWER AND DUTY TO ASSIST THE COMMISSIONER WITH CARRYING  
53 OUT HIS OR HER DUTIES UNDER THIS SECTION, INCLUDING BUT NOT LIMITED TO:

54 (I) ASSISTING THE COMMISSIONER WITH THE DEVELOPMENT AND PROVISION OF  
55 GUIDANCE FOR HEALTHY AND GREEN PROCUREMENT PURSUANT TO THIS SECTION;

1 (II) THE IDENTIFICATION OF AT LEAST THREE "TARGET CATEGORIES" OF  
2 COMMODITIES, SERVICES AND/OR TECHNOLOGIES ANNUALLY PURSUANT TO THIS  
3 SECTION;

4 (III) THE DEVELOPMENT OF CRITERIA FOR THE EVALUATION OF COMMODITIES,  
5 SERVICES AND/OR TECHNOLOGIES WITHIN TARGETED CATEGORIES;

6 (IV) THE CREATION OF APPROVED HEALTHY AND GREEN SUPPLIES LISTS;

7 (V) THE EVALUATION OF CURRENT STATE AGENCY PROCUREMENT PRACTICES AND  
8 THE TRACKING OF PROGRESS IN IMPLEMENTING THE HEALTHY AND GREEN PROCURE-  
9 MENT POLICY, INCLUDING THE INTEGRATION OF ENVIRONMENTALLY PREFERABLE  
10 PURCHASING AND HEALTHY AND GREEN SUPPLIES LISTS FOR ALL NEW PURCHASING  
11 OF PRODUCTS, SERVICES AND TECHNOLOGIES IN TARGET CATEGORIES;

12 (VI) THE DEVELOPMENT OF THE ENVIRONMENTAL AUDIT PROGRAM;

13 (VII) CONSIDERATION OF ADDITIONAL PRIORITY TOXIC SUBSTANCES OF CONCERN  
14 AS RECOMMENDED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE  
15 DEPARTMENT OF HEALTH;

16 (VIII) THE DEVELOPMENT OF GUIDELINES FOR PUBLIC PARTICIPATION;

17 (IX) THE DESIGN AND IMPLEMENTATION OF TRAINING, OUTREACH AND EDUCATION  
18 PROGRAMS;

19 (X) DEVELOP METRICS FOR MEASURING PROGRESS IN IMPLEMENTING THE HEALTHY  
20 AND GREEN PROCUREMENT POLICY, CRITERIA AND MINIMUM SPECIFICATIONS,  
21 INCLUDING THE IDENTIFICATION OF MILESTONES AND QUANTIFIABLE GOALS THAT  
22 CAN BE USED TO MEASURE SUCH PROGRESS;

23 (XI) THE PREPARATION AND SUBMITTAL OF ANNUAL REPORTS AND THE PERFORM-  
24 ANCE OF A COMPREHENSIVE FIVE YEAR REVIEW; AND

25 (XII) ADVISE THE GOVERNOR AND THE LEGISLATURE REGARDING THE IMPLEMEN-  
26 TATION OF THE HEALTHY AND GREEN PROCUREMENT POLICY.

27 7. TARGET COMMODITY, SERVICE AND/OR TECHNOLOGY CATEGORIES. WITHIN  
28 TWELVE MONTHS OF THE EFFECTIVE DATE OF THIS SECTION AND ANNUALLY THERE-  
29 AFTER, THE COMMISSIONER, IN CONSULTATION WITH THE HEALTHY AND GREEN  
30 PROCUREMENT COORDINATING COUNCIL, SHALL IDENTIFY A MINIMUM OF THREE  
31 "TARGET CATEGORIES" OF COMMODITIES, SERVICES AND/OR TECHNOLOGIES, WHICH  
32 FOR THE PURPOSES OF THIS CHAPTER SHALL MEAN CATEGORIES OF COMMODITIES,  
33 SERVICES AND/OR TECHNOLOGIES PROCURED BY THE STATE WHICH MAY HAVE AN  
34 ADVERSE IMPACT ON PUBLIC HEALTH OR THE ENVIRONMENT AND FOR WHICH HEALTHY  
35 AND GREEN COMMODITIES, SERVICES OR TECHNOLOGIES SHOULD BE IDENTIFIED AND  
36 SUBSTITUTED.

37 8. ENVIRONMENTALLY PREFERABLE PURCHASING CRITERIA FOR HEALTHY AND  
38 GREEN PROCUREMENT. WITHIN TWELVE MONTHS OF THE IDENTIFICATION AND RECOM-  
39 MENDATION OF AT LEAST THREE "TARGET CATEGORIES" PURSUANT TO SUBDIVISION  
40 SEVEN OF THIS SECTION, THE COMMISSIONER, IN CONSULTATION WITH THE HEAL-  
41 THY AND GREEN PROCUREMENT COORDINATING COUNCIL SHALL DEVELOP ENVIRON-  
42 MENTALLY PREFERABLE PURCHASING CRITERIA FOR THE EVALUATION AND PROCURE-  
43 MENT OF PRODUCTS, SERVICES AND/OR TECHNOLOGIES WITHIN SUCH TARGETED  
44 CATEGORIES. THE FOLLOWING FACTORS SHALL BE CONSIDERED IN THE DEVELOPMENT  
45 OF SUCH CRITERIA:

46 A. PROTECTION OF PUBLIC HEALTH AND THE ENVIRONMENT AND THE CONSERVA-  
47 TION OF NATURAL RESOURCES;

48 B. THE PROTECTION OF DRINKING WATER, GROUNDWATER, SURFACE WATER AND  
49 AIR (INCLUDING INDOOR AIR); AND THE PROTECTION OF ECOLOGICAL SYSTEMS;

50 C. POLLUTION PREVENTION, INCLUDING, BUT NOT LIMITED TO, CONSIDERING  
51 HEALTHY AND GREEN PROCUREMENT DURING THE DESIGN PHASE OF CUSTOMIZED  
52 COMMODITIES, SERVICES OR TECHNOLOGIES;

53 D. AVOIDANCE OF PRIORITY TOXIC SUBSTANCES; AND

54 E. POSITIVE LIFE CYCLE ATTRIBUTES, INCLUDING BUT NOT LIMITED TO THE  
55 MINIMIZATION OF POTENTIAL ADVERSE IMPACTS ON PUBLIC HEALTH AND THE ENVI-  
56 RONMENT ASSOCIATED WITH RAW MATERIALS ACQUISITION, PRODUCTION, MANUFAC-

1 TURING, PACKAGING, TRANSPORTATION, DISTRIBUTION, USE, OPERATION, MAINTENANCE AND DISPOSAL.

2  
3 9. HEALTHY AND GREEN SUPPLY LISTS.

4 A. FOR EACH TARGET COMMODITY, SERVICE AND/OR TECHNOLOGY CATEGORY IDENTIFIED AND RECOMMENDED PURSUANT TO SUBDIVISION SEVEN OF THIS SECTION, THE COMMISSIONER, IN CONSULTATION WITH THE HEALTHY AND GREEN PROCUREMENT COORDINATING COUNCIL, SHALL APPROVE SPECIFIC COMMODITIES, SERVICES AND/OR TECHNOLOGIES AS CONSISTENT WITH THE HEALTHY AND GREEN PROCUREMENT POLICY, MINIMUM SPECIFICATIONS, AND ENVIRONMENTALLY PREFERABLE PURCHASING CRITERIA ESTABLISHED IN SUBDIVISIONS ONE, THREE AND EIGHT OF THIS SECTION. SUCH COMMODITY, SERVICE OR TECHNOLOGY SHALL THEN BE ADDED TO AN APPROVED HEALTHY AND GREEN SUPPLY LIST FOR SUCH CATEGORY.

13 B. THE COMMISSIONER SHALL CREATE AN APPROVED HEALTHY AND GREEN SUPPLY LIST PURSUANT TO THE REQUIREMENTS OF THE STATE ADMINISTRATIVE PROCEDURE ACT, FOR A TARGET COMMODITY, SERVICE AND/OR TECHNOLOGY CATEGORY NO LATER THAN TWELVE MONTHS FOLLOWING THE IDENTIFICATION AND RECOMMENDATION OF SUCH CATEGORY PURSUANT TO SUBDIVISION SEVEN OF THIS SECTION, AND SHALL REVIEW AND REVISE APPROVED LISTS ANNUALLY.

19 10. PROCUREMENT FROM HEALTHY AND GREEN SUPPLY LISTS. A. WHEN PROCURING A COMMODITY, SERVICE OR TECHNOLOGY WITHIN A TARGETED CATEGORY FOR WHICH AN APPROVED HEALTHY AND GREEN SUPPLY LIST HAS BEEN CREATED, STATE AGENCIES SHALL PROCURE SUCH COMMODITY, SERVICE OR TECHNOLOGY FROM SUCH LIST.

24 B. WHEN A STATE AGENCY WANTS TO PROCURE A COMMODITY, SERVICE OR TECHNOLOGY WITHIN A TARGETED CATEGORY FOR WHICH AN APPROVED HEALTHY AND GREEN SUPPLY LIST HAS BEEN CREATED, BUT SUCH COMMODITY, SERVICE OR TECHNOLOGY DOES NOT APPEAR ON SUCH LIST, SUCH AGENCY MUST OBTAIN A WAIVER FROM THE REQUIREMENTS OF THIS SUBDIVISION FROM THE COMMISSIONER, PROVIDED, HOWEVER, THAT SUCH WAIVER SHALL NOT BE REQUIRED FOR THE PURCHASE OF COMMODITIES, SERVICES AND/OR TECHNOLOGIES FROM THE LIST AVAILABLE FOR PURCHASE FROM PREFERRED SOURCES MAINTAINED BY THE COMMISSIONER PURSUANT TO SECTION ONE HUNDRED SIXTY-TWO OF THIS ARTICLE. AN APPLICATION FOR SUCH A WAIVER SHALL BE FILED WITH THE COMMISSIONER, WHO SHALL NOTIFY THE PUBLIC, PROVIDE FOR A PUBLIC COMMENT PERIOD, AND RENDER A WRITTEN DECISION ON SUCH APPLICATION WITHIN FORTY-FIVE DAYS. A WAIVER MAY BE GRANTED WHEN NO COMMODITY, SERVICE AND/OR TECHNOLOGY ON SUCH APPROVED ALTERNATIVES LIST MEETS AN AGENCY'S PERFORMANCE STANDARDS. IN ORDER TO OBTAIN A WAIVER, THE STATE AGENCY REQUESTING THE WAIVER MUST SHOW THAT IT HAS:

40 (I) THOROUGHLY TESTED EACH COMMODITY OR TECHNOLOGY, OR THOROUGHLY INVESTIGATED EACH SERVICE, ON THE APPROVED SUPPLY LIST AND NONE MEET THE AGENCY'S PERFORMANCE STANDARDS;

43 (II) DISCLOSED THE USE AND INTENSITY OF USE FOR THE COMMODITY, SERVICE OR TECHNOLOGY AND DEVELOPED A REASONABLE PLAN TO MINIMIZE THE USE OF THE SELECTED COMMODITY, SERVICE OR TECHNOLOGY AND PROTECT EMPLOYEES AND THE PUBLIC FROM EXPOSURE TO ANY PRIORITY TOXIC SUBSTANCE OF CONCERN; AND

47 (III) PREPARED A PLAN TO INVESTIGATE ALTERNATIVES TO THE SELECTED COMMODITY, SERVICE OR TECHNOLOGY DURING THE WAIVER PERIOD.

49 C. A STATE AGENCY MAY PROCURE A COMMODITY, SERVICE OR TECHNOLOGY THROUGH A PROCESS THAT DOES NOT COMPLY WITH THIS SUBDIVISION WHEN THE PURCHASE OF A COMMODITY, SERVICE OR TECHNOLOGY IS NECESSARY TO RESPOND TO AN EMERGENCY WHICH ENDANGERS PUBLIC HEALTH OR SAFETY, PROVIDED SUCH AGENCY SHALL WITHIN SEVEN BUSINESS DAYS FILE A WRITTEN REPORT WITH THE COMMISSIONER AND THE OFFICE OF THE COMPTROLLER, WHICH SHALL BECOME PART OF THE PROCUREMENT RECORD. THE REPORT SHALL CONTAIN THE FOLLOWING INFORMATION:

1 (I) A DESCRIPTION OF THE EMERGENCY THAT PREVENTED COMPLIANCE WITH THIS  
2 SUBDIVISION;

3 (II) THE NAME OF THE COMMODITY OR TECHNOLOGY, OR A DESCRIPTION OF THE  
4 SERVICE, ITS USE AND INTENSITY OF USE;

5 (III) A DESCRIPTION OF THE STEPS BEING TAKEN TO SAFEGUARD PUBLIC  
6 HEALTH AND SAFETY DURING THE EMERGENCY; AND

7 (IV) AN EXPLANATION OF HOW SUCH AN EMERGENCY CAN BE AVOIDED IN THE  
8 FUTURE.

9 11. TRACKING OF PROCUREMENT PRACTICES AND DATA. WITHIN TWELVE MONTHS  
10 OF THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSIONER, IN CONSULTATION  
11 WITH THE HEALTHY AND GREEN PROCUREMENT COUNCIL, SHALL:

12 A. REVIEW ALL PROCUREMENT REGULATIONS, GENERIC SOLICITATION LANGUAGE,  
13 SPECIFICATIONS AND PROCEDURES TO ENSURE THAT THEY DO NOT CONFLICT WITH  
14 THE HEALTHY AND GREEN PROCUREMENT POLICY, MINIMUM SPECIFICATIONS AND  
15 CRITERIA ESTABLISHED PURSUANT TO SUBDIVISIONS ONE, THREE AND EIGHT OF  
16 THIS SECTION.

17 B. DEVELOP METRICS AND IDENTIFICATION OF MILESTONES AND QUANTIFIABLE  
18 GOALS THAT CAN BE USED TO MEASURE PROGRESS IN IMPLEMENTING THE STATE'S  
19 HEALTHY AND GREEN PROCUREMENT POLICY.

20 C. DEVELOP AN EFFICIENT AND PRACTICABLE METHOD FOR COLLECTING AND  
21 COMPILING PROCUREMENT DATA FROM STATE AGENCIES, INCLUDING BUT NOT LIMIT-  
22 ED TO ESTIMATES OF THE VOLUME SPENT, QUANTITY PURCHASED, AND GENERAL  
23 PURCHASING TRENDS FOR COMMODITIES, SERVICES AND TECHNOLOGIES, INCLUDING  
24 HEALTHY AND GREEN COMMODITIES, SERVICES AND TECHNOLOGIES INCLUDED IN AN  
25 APPROVED SUPPLY LIST OR A CENTRALIZED CONTRACT.

26 12. TRAINING, OUTREACH AND EDUCATION. A. WITH THE ASSISTANCE OF THE  
27 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE DEPARTMENT OF HEALTH, AND  
28 THE OFFICE OF THE COMPTROLLER, THE COMMISSIONER, WITHIN TWELVE MONTHS OF  
29 THE EFFECTIVE DATE OF THIS SECTION, SHALL DESIGN AND BEGIN IMPLEMENTA-  
30 TION OF A HEALTHY AND GREEN PROCUREMENT TRAINING PROGRAM FOR SENIOR  
31 MANAGERS AND STATE AGENCY STAFF INVOLVED IN PROCUREMENT TO FAMILIARIZE  
32 THEM WITH THEIR RESPONSIBILITIES UNDER THIS SECTION AND ENSURE THE  
33 EFFECTIVE AND EFFICIENT IMPLEMENTATION OF THE PROVISIONS OF THIS  
34 SECTION. SUCH PROGRAM SHALL PROVIDE FOR NEW EMPLOYEE TRAINING AND ONGO-  
35 ING TRAINING.

36 B. WITH THE ASSISTANCE OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
37 AND THE DEPARTMENT OF HEALTH, THE COMMISSIONER, WITHIN EIGHTEEN MONTHS  
38 OF THE EFFECTIVE DATE OF THIS SECTION, SHALL:

39 (I) DESIGN AND BEGIN IMPLEMENTATION OF A HEALTHY AND GREEN EDUCATION  
40 AND OUTREACH PROGRAM FOR AGENCY PROCUREMENT STAFF, TO ENSURE THAT ALL  
41 PROCUREMENT STAFF ARE AWARE OF THE STATE'S PREFERENCE FOR HEALTHY AND  
42 GREEN COMMODITIES, SERVICES AND TECHNOLOGIES.

43 (II) DESIGN AND BEGIN IMPLEMENTATION OF AN EDUCATION AND OUTREACH  
44 PROGRAM FOR CONTRACTORS AND VENDORS TO PROVIDE THEM WITH INFORMATION  
45 ABOUT THE DEVELOPMENT OF HEALTHY AND GREEN COMMODITIES, SERVICES AND  
46 TECHNOLOGIES AND IMPLEMENTATION OF THE PROVISIONS OF THIS SECTION.

47 13. ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE. WITHIN EIGHTEEN  
48 MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, AND ANNUALLY THEREAFTER IN  
49 NOVEMBER, THE COMMISSIONER SHALL SUBMIT A WRITTEN REPORT TO THE GOVER-  
50 NOR, THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE  
51 SENATE. SUCH REPORT SHALL INCLUDE:

52 A. IDENTIFICATION OF THE SPECIFIC MEASURES TAKEN BY STATE AGENCIES,  
53 AND AN EVALUATION OF THE EFFECTIVENESS OF SUCH MEASURES, TO IMPLEMENT  
54 THE HEALTHY AND GREEN PROCUREMENT POLICY, INCLUDING PROGRESS MADE TOWARD  
55 THE ACHIEVEMENT OF ANY MILESTONES OR QUANTIFIABLE GOALS IDENTIFIED BY  
56 THE COMMISSIONER PURSUANT TO SUBDIVISION ELEVEN OF THIS SECTION AND, TO

1 THE EXTENT PRACTICABLE, A QUALITATIVE ASSESSMENT OF THE HEALTH AND ENVI-  
2 RONMENTAL BENEFITS OF THE POLICY;

3 B. EVALUATION OF THE RESOURCES AVAILABLE TO IMPLEMENT SUCH POLICY, AND  
4 WHETHER SUCH RESOURCES ARE SUFFICIENT;

5 C. RECOMMENDATIONS FOR LEGISLATION OR ANY OTHER SPECIFIC ACTIONS OR  
6 CHANGES NEEDED TO EFFECTIVELY IMPLEMENT THE PROVISIONS OF THIS SECTION;

7 D. A LIST OF TARGET COMMODITY, SERVICE AND/OR TECHNOLOGY CATEGORIES  
8 AND APPROVED HEALTHY AND GREEN SUPPLY LISTS IDENTIFIED AND CREATED  
9 PURSUANT TO SUBDIVISIONS SEVEN AND NINE OF THIS SECTION;

10 E. A LIST OF HEALTHY AND GREEN COMMODITIES, SERVICES AND TECHNOLOGIES  
11 AVAILABLE FOR PURCHASE THROUGH CENTRALIZED CONTRACTS;

12 F. A COMPILATION OF PROCUREMENT DATA COLLECTED USING METHODS DEVELOPED  
13 PURSUANT TO SUBDIVISION ELEVEN OF THIS SECTION;

14 G. ADDITIONS TO THE LIST OF PRIORITY TOXIC SUBSTANCES OF CONCERN MADE  
15 BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE DEPARTMENT OF  
16 HEALTH;

17 H. AN ANALYSIS OF THE MEASURES TAKEN TO TRAIN, EDUCATE AND ASSIST  
18 STATE AGENCY STAFF, VENDORS AND CONTRACTORS; AND

19 I. A PLAN FOR THE NEXT REPORTING PERIOD THAT IDENTIFIES SPECIFIC  
20 GOALS, ACTIONS AND TIMELINES NECESSARY TO IMPLEMENT THE HEALTHY AND  
21 GREEN PROCUREMENT POLICY.

22 S 6. Paragraphs b and h of subdivision 1 of section 261 of the econom-  
23 ic development law, as amended by chapter 471 of the laws of 1998, are  
24 amended and a new paragraph i is added to read as follows:

25 b. "Eligible applicant" or "applicant" shall mean: a small to medium  
26 size business or nonprofit organization which employs less than five  
27 hundred workers or has gross annual sales of less than ten million  
28 dollars; OR ANY ENTITY GRANTED PREFERRED SOURCE STATUS FOR THE PURPOSES  
29 OF STATE PROCUREMENT PURSUANT TO SECTION ONE HUNDRED SIXTY-TWO OF THE  
30 STATE FINANCE LAW.

31 h. "Eligible project" shall mean actions taken by or on behalf of [a  
32 New York business] AN ELIGIBLE APPLICANT involving the acquisition,  
33 construction, alteration, repair or improvement of a building, fixtures,  
34 machinery or equipment; THE REDESIGN, MODIFICATION, UPGRADE OR REPLACE-  
35 MENT OF PROCESSES, PROCEDURES, WORK PRACTICES OR TECHNOLOGY; THE REFOR-  
36 MULATION OR REDESIGN OF PRODUCTS; OR IMPROVEMENTS IN HOUSEKEEPING, MAIN-  
37 TENANCE, TRAINING OR INVENTORY CONTROL, provided that such project  
38 results in:

39 (i) source reduction or material substitution, provided that the  
40 substitution of one hazardous substance, product or nonproduct output  
41 for another does not result in the creation of a new risk,

42 (ii) in-process recycling,

43 (iii) recycling or reuse of non-hazardous solid wastes,

44 (iv) increased energy efficiency,

45 (v) conservation of the use of water or other natural resources  
46 improvements in process economics,

47 (vi) elimination of the purchase of materials, the production of which  
48 for the use of said firm would result in more waste or resource consump-  
49 tion, [or]

50 (vii) THE DEVELOPMENT, MANUFACTURE, PRODUCTION OR PROVISION OF HEALTHY  
51 AND GREEN COMMODITIES, SERVICES OR TECHNOLOGIES AS DEFINED IN SECTION  
52 ONE HUNDRED SIXTY-FOUR-A OF THE STATE FINANCE LAW, OR

53 (VIII) other practices or technologies that reduce the use of hazard-  
54 ous materials or otherwise improve air or water quality.

55 The term "eligible project" shall not include end of pipe pollution  
56 control technologies or practices where such controls or practices are

1 designed primarily to achieve compliance with the environmental conser-  
2 vation law or regulations promulgated pursuant thereto, or energy recov-  
3 ery or incineration, or out-of-process recycling or reuse of hazardous  
4 waste or hazardous substances.

5 I. "HEALTHY AND GREEN COMMODITY, SERVICE OR TECHNOLOGY" SHALL MEAN ANY  
6 COMMODITY, SERVICE OR TECHNOLOGY CONSISTENT WITH THE HEALTHY AND GREEN  
7 PROCUREMENT POLICY, CRITERIA AND MINIMUM SPECIFICATIONS ESTABLISHED IN  
8 SUBDIVISIONS ONE, THREE AND FOUR OF SECTION ONE HUNDRED SIXTY-FOUR-A OF  
9 THE STATE FINANCE LAW.

10 S 7. Paragraphs c, d, e, f, g, h, i, l and o of subdivision 4 of  
11 section 261 of the economic development law, paragraphs c, d, e, f, g,  
12 h, i and l as amended by chapter 471 of the laws of 1998 and paragraph o  
13 as amended by chapter 180 of the laws of 2006, are amended to read as  
14 follows:

15 c. maintain, provide and market a compilation of existing programs  
16 providing incentives for new or expanded business enterprises which  
17 could be utilized by the secondary materials processing industry OR  
18 WHICH MANUFACTURE, PRODUCE OR PROVIDE HEALTHY AND GREEN COMMODITIES,  
19 SERVICES OR TECHNOLOGIES;

20 d. promote the utilization of such incentives for new or expanded  
21 business enterprises which process or utilize secondary materials OR  
22 WHICH MANUFACTURE, PRODUCE OR PROVIDE HEALTHY AND GREEN COMMODITIES,  
23 SERVICES OR TECHNOLOGIES to locate in New York state;

24 e. promote incentives for existing businesses to expand their utiliza-  
25 tion of secondary materials [and], their adoption of waste prevention  
26 technologies and practices AND THEIR DEVELOPMENT, MANUFACTURE,  
27 PRODUCTION AND PROVISION OF HEALTHY AND GREEN COMMODITIES, SERVICES OR  
28 TECHNOLOGIES;

29 f. identify special needs and problems facing the secondary materials  
30 processing industry [and], THE implementation of waste prevention AND  
31 THE DEVELOPMENT, MANUFACTURE, PRODUCTION AND PROVISION OF HEALTHY AND  
32 GREEN COMMODITIES, SERVICES OR TECHNOLOGIES within New York state;

33 g. contact institutions, organizations and commercial enterprises that  
34 are potential consumers of secondary materials and products manufactured  
35 with secondary materials OR HEALTHY AND GREEN COMMODITIES, SERVICES OR  
36 TECHNOLOGIES; urging their expanded consumption of [secondary] SUCH  
37 materials [and], products, COMMODITIES, SERVICES AND TECHNOLOGIES and  
38 establishing markets for such [secondary] materials [and], products,  
39 COMMODITIES, SERVICES AND TECHNOLOGIES through the use of letters of  
40 intent and such other techniques as the commissioner may deem appropri-  
41 ate;

42 h. conduct market surveys of the potential consumers of secondary  
43 materials and products manufactured with secondary materials AND OF  
44 HEALTHY AND GREEN COMMODITIES, SERVICES OR TECHNOLOGIES;

45 i. conduct surveys to determine the potential supply of secondary  
46 materials AND HEALTHY AND GREEN COMMODITIES, SERVICES OR TECHNOLOGIES in  
47 the state;

48 l. provide information concerning local and regional markets for  
49 secondary materials AND HEALTHY AND GREEN COMMODITIES, SERVICES OR TECH-  
50 NOLOGIES;

51 o. provide other technical assistance to assist businesses in reducing  
52 the amount of waste generated by their processes and productively use or  
53 provide for the productive use [of others] of wastes which are gener-  
54 ated;

1 S 8. Subdivision 5 of section 261 of the economic development law, as  
2 amended by chapter 471 of the laws of 1998, is amended to read as  
3 follows:

4 5. The department shall fund feasibility studies for testing of waste  
5 prevention technologies or practices [or both] AND HEALTHY AND GREEN  
6 COMMODITIES, SERVICES AND TECHNOLOGIES to reduce the amount of waste and  
7 to promote energy and resource conservation by the adoption OR USE of  
8 such technologies [or], practices, COMMODITIES, SERVICES AND TECHNOLO-  
9 GIES by small and medium sized firms in New York state.

10 S 9. Subdivision 10 of section 261 of the economic development law, as  
11 amended by chapter 471 of the laws of 1998, is amended to read as  
12 follows:

13 10. Technical feasibility study. The department shall require the  
14 applicant to submit a technical feasibility study which identifies and  
15 analyzes in detail the waste prevention projects which the applicant  
16 wishes to implement. All feasibility studies must include the cost of  
17 implementation, a construction schedule and, a description of how the  
18 project will minimize, reduce or eliminate the generation of wastes, use  
19 or reuse wastes, increase energy efficiency or water conservation,  
20 INCREASE THE MANUFACTURE, PRODUCTION, PROVISION OR USE OF HEALTHY AND  
21 GREEN COMMODITIES, SERVICES OR TECHNOLOGIES, improve air or water quali-  
22 ty and/or improve process economics.

23 S 10. Subdivision 14 of section 261 of the economic development law,  
24 as amended by chapter 524 of the laws of 2005, is amended to read as  
25 follows:

26 14. Reports. Beginning on January first, nineteen hundred eighty-nine,  
27 the commissioner shall make an annual report to the governor and the  
28 legislature which shall include, at a minimum, the status of the activ-  
29 ities undertaken pursuant to paragraphs a, c, d, e, f, i, j and k of  
30 subdivision four of this section, the status of any other activities  
31 undertaken pursuant to this article, and recommendations for programs or  
32 policies that will further the objectives of expanding the utilization  
33 of secondary materials recovered for reuse INCREASING WASTE PREVENTION  
34 AND SOURCE REDUCTION, AND INCREASING THE MANUFACTURE, PRODUCTION,  
35 PROVISION AND USE OF HEALTHY AND GREEN COMMODITIES, SERVICES AND TECH-  
36 NOLOGIES within the state. The provisions of this subdivision shall not  
37 be deemed to require or authorize the disclosure of confidential infor-  
38 mation or trade secrets. This report may be consolidated with the  
39 report required by subdivision four of section two hundred sixty-three  
40 of this article.

41 S 11. The opening paragraph of subdivision 1 of section 3-0311 of the  
42 environmental conservation law, as amended by chapter 741 of the laws of  
43 1991, is amended to read as follows:

44 Each state agency as defined in subdivision five of this section shall  
45 annually audit the environmental problems created by its operations or  
46 the operations of contractors it has hired and over whom it has exer-  
47 cised or is required to exercise direct oversight, acting in fulfillment  
48 of their contracts. Such audit shall identify the extent to which these  
49 operations are in violation of this chapter, or regulations adopted  
50 thereunder. SUCH AUDIT ALSO SHALL EVALUATE THE ENVIRONMENTAL PROBLEMS  
51 CREATED BY THE AGENCY'S PROCUREMENT OF COMMODITIES, ITS ENERGY USE,  
52 WASTE PRODUCTION, WATER AND PAPER USE, AND THE USE OF ANY TOXIC MATERI-  
53 ALS OF PRODUCTS REASONABLY ANTICIPATED TO BE CARCINOGENS. Each such  
54 state agency shall submit a report to the department on or before April  
55 first of each year. The report shall:

1 S 12. This act shall take effect on the one hundred eightieth day  
2 after it shall have become a law and shall apply only to state procure-  
3 ment contracts where the request for proposals or the request for bids  
4 was issued after the effective date of this act; provided, however, that  
5 effective immediately, the addition, amendment and/or repeal of any rule  
6 or regulation necessary for the implementation of this act on its effec-  
7 tive date are authorized and directed to be made and completed on or  
8 before such effective date.