S T A T E O F N E W Y O R K

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Introduced by M. of A. ENGLEBRIGHT, GALEF, COLTON, PHEFFER -- Multi-Sponsored by -- M. of A. BRENNAN, COOK, HOOPER, MILLMAN, PERRY, WEISENBERG -- read once and referred to the Committee on Energy

AN ACT to amend the energy law, the executive law, the environmental conservation law, the general business law, the private housing finance law and the public authorities law, in relation to establishing the state energy office and transferring the functions, powers and duties of the New York state energy research and development authority to such office; and to repeal certain provisions of the energy law, the executive law and the public authorities law relating to the New York state energy research and development authority

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

Section 1. Subdivisions 2 and 4 of section 1-103 of the energy law, as amended by chapter 83 of the laws of 1995, are amended to read as follows:

2. "Office" [as used in sections 5-108, 5-111, 5-113, and 5-117 of article five and articles six, seven, eight and ten of this chapter] shall mean the [New York state energy research and development authority established pursuant to article eight of the public authorities law] STATE ENERGY OFFICE ESTABLISHED PURSUANT TO ARTICLE FIVE OF THIS CHAPTER.

4. "Commissioner" [as used in sections 5-108, 5-111, 5-113, and 5-117 of article five and articles six, seven, eight and ten of this chapter] shall mean the [president of the New York state energy research and development authority] COMMISSIONER OF THE STATE ENERGY OFFICE APPOINTED BY THE GOVERNOR PURSUANT TO ARTICLE FIVE OF THIS CHAPTER.

S 2. The energy law is amended by adding seven new sections 5-101, 5-103, 5-105, 5-107, 5-109, 5-115 and 5-123 to read as follows:

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

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S 5-101. STATE ENERGY OFFICE; CREATION. 1. THERE IS HEREBY ESTABLISHED IN THE EXECUTIVE DEPARTMENT A STATE ENERGY OFFICE, WITH THE POWERS, DUTIES AND PURPOSES SET FORTH IN THIS ARTICLE.

2. THE GOVERNOR SHALL APPOINT A COMMISSIONER BY AND WITH THE CONSENT OF THE SENATE, WHO SHALL BE THE CHIEF EXECUTIVE OFFICER OF THE OFFICE, AND WHO SHALL HOLD OFFICE AT THE PLEASURE OF THE GOVERNOR. THE COMMISSIONER SHALL RECEIVE A SALARY TO BE FIXED BY THE GOVERNOR WITHIN THE AMOUNT APPROPRIATED THEREFOR. HE OR SHE SHALL ALSO RECEIVE HIS OR HER REASONABLE EXPENSES IN CONNECTION WITH THE PERFORMANCE OF HIS OR HER DUTIES, WITHIN THE AMOUNT AVAILABLE THEREFOR BY APPROPRIATION.

3. THE COMMISSIONER MAY APPOINT SUCH OTHER OFFICERS, EMPLOYEES, AGENTS AND CONSULTANTS AS MAY BE DEEMED NECESSARY, PRESCRIBE THEIR DUTIES AND FIX THEIR COMPENSATION WITHIN THE AMOUNTS MADE AVAILABLE THEREFOR BY APPROPRIATION.

4. THE PRINCIPAL OFFICE OF THE STATE ENERGY OFFICE SHALL BE IN THE COUNTY OF ALBANY.

5. CONSISTENT WITH THE PROVISIONS OF THIS CHAPTER, THE OFFICE SHALL HAVE JURISDICTION OVER ALL PERSONS, AND THE OFFICERS, DIRECTORS AND EMPLOYEES THEREOF, ENGAGED IN THE EXPLORATION, MANUFACTURE, PROCESSING, SALE, DISTRIBUTION, TRANSPORTATION, REFINING, GENERATION AND SUPPLY OF ENERGY AND ENERGY RESOURCES IN THIS STATE.

S 5-103. ORGANIZATION OF OFFICE. THE COMMISSIONER MAY, FROM TIME TO TIME, CREATE, ABOLISH, TRANSFER AND CONSOLIDATE DIVISIONS, BUREAUS, BOARDS, COMMISSIONS AND OTHER UNITS WITHIN THE OFFICE AS HE OR SHE MAY DETERMINE NECESSARY FOR THE EFFICIENT OPERATION OF THE OFFICE, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET.

S 5-105. GENERAL FUNCTIONS AND POWERS. THE OFFICE, ACTING THROUGH THE COMMISSIONER, SHALL HAVE THE FOLLOWING FUNCTIONS AND POWERS TO CARRY OUT THE PURPOSES OF THIS CHAPTER:

1. TO ADVISE AND ASSIST THE GOVERNOR AND THE LEGISLATURE IN THE DEVELOPMENT AND IMPLEMENTATION OF STATE POLICIES RELATING TO ENERGY AND ENERGY RESOURCES.

2. TO PROMULGATE, ISSUE, AMEND, RESCIND, REVOKE OR WAIVE ORDERS, AND, AFTER PUBLIC HEARINGS, PROMULGATE RULES AND REGULATIONS TO EFFECTUATE THE PURPOSES AND PROVISIONS OF THIS CHAPTER.

3. TO CLASSIFY PERSONS AND MATTERS WITHIN THE JURISDICTION OF THE OFFICE AND PRESCRIBE DIFFERENT REQUIREMENTS FOR DIFFERENT CLASSES OF PERSONS OR MATTERS.

4. TO REQUIRE PERSONS SUBJECT TO THE JURISDICTION OF THE OFFICE TO MAINTAIN OR FILE GENERAL, SPECIAL AND ANNUAL REPORTS, CONTRACTS, STATEMENTS, INCLUDING BUT NOT LIMITED TO STATEMENTS OF OWNERSHIP, ACCOUNTING, AUDITING AND OPERATIONS, ENGINEERING REPORTS, AND OTHER DATA AS THE COMMISSIONER DEEMS APPROPRIATE; PROVIDED, HOWEVER, WHEREVER PRACTICABLE, FORMS REQUIRED TO BE SUBMITTED TO FEDERAL OR STATE AGENCIES SHALL BE SUFFICIENT TO MEET THE REQUIREMENTS OF THIS SUBDIVISION.

5. TO DESIGNATE EMPLOYEES WHO SHALL BE EMPOWERED TO ADMINISTER OATHS IN ALL PARTS OF THE STATE TO PERSONS SUMMONED TO TESTIFY IN ANY INQUIRY, INVESTIGATION, HEARING OR PROCEEDING.

6. TO DESIGNATE EMPLOYEES OF THE OFFICE WHO SHALL BE EMPOWERED TO ENTER IN OR UPON AND TO INSPECT THE PROPERTY, EQUIPMENT, BUILDINGS, PLANTS, FACTORIES AND OFFICES, IN RELATION TO ENERGY OR ENERGY RESOURCES OF ANY PERSON SUBJECT TO THE JURISDICTION OF THE OFFICE.

7. TO DESIGNATE EMPLOYEES WHO SHALL BE EMPOWERED TO EXAMINE ALL BOOKS, CONTRACTS, RECORDS, DOCUMENTS AND PAPERS, IN RELATION TO ENERGY OR ENERGY RESOURCES OF ANY PERSON SUBJECT TO THE JURISDICTION OF THE OFFICE.

8. TO DESIGNATE EMPLOYEES WHO SHALL BE EMPOWERED TO ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND SUBPOENAS DUCES TECUM TO COMPEL FROM ANY PERSON THE PRODUCTION OF BOOKS, CONTRACTS, RECORDS, DOCUMENTS OR PAPERS RELATING TO ENERGY OR ENERGY RESOURCES.

9. TO REQUIRE AND RECEIVE FROM ANY AGENCY OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF ASSISTANCE AND DATA.

10. TO ENTER INTO COOPERATIVE ARRANGEMENTS WITH AGENCIES OF THE STATE OR POLITICAL SUBDIVISIONS THEREOF, EACH OF WHICH SHALL BE AUTHORIZED TO ENTER INTO SUCH COOPERATIVE ARRANGEMENTS.

11. TO ACT ALONE, OR IN CONJUNCTION WITH ANOTHER STATE AGENCY, AS AGENT FOR, OR ENTER INTO CONTRACTS AND OTHERWISE COOPERATE WITH THE FEDERAL GOVERNMENT, AND TO RECEIVE GRANTS OR ADVANCES OF FUNDS FROM THE FEDERAL GOVERNMENT FOR PROJECTS WITHIN THE JURISDICTION OF THE OFFICE.

12. TO ASSIST THE ATTORNEY GENERAL AND THE COMMISSIONER OF TAXATION AND FINANCE IN PROTECTING CONSUMERS FROM ABUSES IN THE DISTRIBUTION, SALE, HANDLING OR TRANSPORT OF ENERGY, ENERGY RESOURCES AND ENERGY RELATED DEVICES, INSTALLATIONS, AND TECHNOLOGIES, INCLUDING THE CHARGING OF ANY ILLEGAL PRICE OR THE VIOLATION OF ANY STATE OR FEDERAL LAW OR REGULATION.

13. TO ENTER INTO CONTRACTS WITH ANY PERSON FOR THE CONDUCT OF RESEARCH OR THE RENDERING OF OTHER SERVICES, INCLUDING THE HIRING OF EXPERTS AND CONSULTANTS.

14. TO APPLY FOR AND ACCEPT GRANTS AND CONTRIBUTIONS.

15. TO HOLD PUBLIC HEARINGS WHEN DEEMED APPROPRIATE.

16. TO CONDUCT ECONOMIC, SOCIOLOGICAL AND OTHER STUDIES RELATING TO ALL ASPECTS OF ENERGY AND ENERGY RESOURCES USE, SUPPLY, DEMAND AND DISTRIBUTION.

17. TO COOPERATE WITH AND SUPPLEMENT THE WORK OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, AND UNDERTAKE STUDIES IN ENERGY AND ENERGY RELATED AREAS.

18. TO APPOINT ADVISORY COMMITTEES, BOARDS AND TASK FORCES WHOSE MEMBERS SHALL RECEIVE NO COMPENSATION AS MEMBERS BUT SHALL BE ALLOWED NECESSARY AND ACTUAL EXPENSES INCURRED IN PERFORMING DUTIES UNDER THIS CHAPTER.

19. TO IMPLEMENT A PROGRAM OF PUBLIC INFORMATION TO INFORM THE PUBLIC AND PRIVATE SECTORS OF THE STATE AS TO THE MERITS OF REREFINED OIL, AND THE NEED FOR ITS USE IN ORDER TO REDUCE THE DRAIN ON THE NATION'S OIL RESERVES AND MINIMIZE THE DISPOSAL OF USED OIL IN WAYS HARMFUL TO THE ENVIRONMENT AND TO PROMOTE PETROLEUM RESOURCE CONSERVATION, RECOVERY AND REUSE BY INDUSTRY AND THE GENERAL PUBLIC OF THE STATE.

20. TO EXERCISE ALL OTHER POWERS AND FUNCTIONS NECESSARY OR APPROPRIATE TO CARRY OUT THE DUTIES AND PURPOSES SET FORTH IN THIS CHAPTER.

S 5-107. SPECIFIC FUNCTIONS, POWERS AND DUTIES. 1. THE OFFICE SHALL:

A. ACT AS A CENTRAL REPOSITORY AND CLEARINGHOUSE FOR INFORMATION ON ALL ENERGY AND ENERGY RESOURCE RELATED MATTERS WITHIN THE JURISDICTION OF THE OFFICE.

B. CONDUCT PUBLIC EDUCATIONAL PROGRAMS PROMOTING CONSERVATION OF ENERGY AND ENERGY RESOURCES WITHIN THE STATE.

C. NO LATER THAN FEBRUARY FIFTEENTH OF EACH YEAR MAKE AN ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE CONCERNING ITS WORK DURING THE PRECEDING YEAR, AND ITS PROGRAM FOR THE COMING YEAR, AND MAKE SUCH FURTHER INTERIM REPORTS OR RECOMMENDATIONS AS IT SHALL DEEM ADVISABLE OR AS SHALL BE REQUIRED BY THE GOVERNOR.

D. PREPARE AN INTEGRATED PLAN SPECIFYING ACTIONS TO BE TAKEN IN THE EVENT OF THE DECLARATION BY THE GOVERNOR OF AN ENERGY OR FUEL SUPPLY EMERGENCY PURSUANT TO SECTION 5-117 OF THIS ARTICLE.

E. COOPERATE WITH THE PUBLIC SERVICE COMMISSION, THE NEW YORK ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, THE POWER AUTHORITY OF THE STATE OF NEW YORK, THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE AND ALL OTHER APPROPRIATE STATE AGENCIES IN EFFECTUATING THE PURPOSES OF THIS CHAPTER.

F. CONDUCT ACTIVITIES TO ENCOURAGE AND PROMOTE THE PRUDENT DEVELOPMENT AND WISE USE OF ALL ENERGY RESOURCES INDIGENOUS TO THE STATE OR SHARED BY THE STATE WITH THE DOMINION OF CANADA, THE FEDERAL GOVERNMENT OR OTHER STATES.

G. ADVISE AND ASSIST STATE AGENCIES IN THE IMPLEMENTATION OF SECTION ONE HUNDRED TWENTY-SEVEN-A OF THE STATE FINANCE LAW.

H. DEVELOP A PLAN TO MAXIMIZE THE USE OF TELECOMMUTING TO CONSERVE ENERGY OTHERWISE USED BY THE PERSONNEL OF THE OFFICE IN COMMUTING TO THEIR ASSIGNED WORKPLACE. WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS PARAGRAPH, THE OFFICE SHALL SUBMIT A REPORT TO THE GOVERNOR AND THE LEGISLATURE ON THE IMPACT OF SUCH PLAN TO INCLUDE, BUT NOT BE LIMITED TO, ENERGY CONSERVATION, AIR QUALITY, WORKFORCE ACCEPTANCE, OFFICE COSTS AND POTENTIAL COST SAVINGS.

2. THE OFFICE MAY:

A. UNDERTAKE STUDIES, SURVEYS OR ANALYSES TO DETERMINE PRESENT AND PROJECTED ENERGY AND ENERGY RESOURCE USE, SUPPLY AND DEMAND WITHIN THE STATE.

B. PROMULGATE ENERGY USE STANDARDS AFTER CONSULTATION WITH THE COMMISSIONER OF THE OFFICE OF GENERAL SERVICES, FOR THE PURCHASE, LEASE, USE OR MAINTENANCE OF STATE BUILDINGS AND EQUIPMENT.

C. MAINTAIN LIAISON WITH AND REPRESENT THE STATE BEFORE APPROPRIATE AGENCIES OF THE FEDERAL GOVERNMENT, THE DOMINION OF CANADA, REGIONAL COMMISSIONS, OTHER STATE GOVERNMENTS AND MUNICIPALITIES IN ALL ENERGY AND ENERGY RESOURCES MATTERS.

D. COORDINATE THE STATE'S ADMINISTRATION OF ANY ENERGY OR ENERGY RESOURCE PROGRAMS OF THE FEDERAL GOVERNMENT, OTHER THAN RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAMS CONDUCTED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, INCLUDING BUT NOT LIMITED TO THOSE CONCERNED WITH CONSERVATION, ALLOCATION, MANAGEMENT OR EDUCATION.

E. ADVISE ALL AGENCIES AND MUNICIPALITIES OF THE STATE IN ENERGY AND ENERGY RESOURCE RELATED MATTERS.

S 5-109. ACTION BY THE COMMISSIONER. 1. THE COMMISSIONER SHALL PREPARE AND DISTRIBUTE AT THE EARLIEST FEASIBLE DATE AN INDEX OF FUNCTIONS AND RESPONSIBILITIES OF STATE AGENCIES RELATING TO ENERGY AND ENERGY RESOURCES IN SUFFICIENT DETAIL TO GUIDE THE PUBLIC AND SERVE AS A BASIS FOR SUCH FURTHER STEPS AS MAY BE DEEMED NECESSARY TO ASSURE FULL COORDINATION WITHOUT DUPLICATION OF THE ENERGY-RELATED ACTIVITIES OF SUCH AGENCIES.

2. UPON COMPLETION OF THE INDEX REQUIRED TO BE PREPARED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, AND NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER SUCH COMPLETION, THE COMMISSIONER SHALL RECOMMEND TO THE GOVERNOR AND THE LEGISLATURE SUCH ACTION AS MAY BE NECESSARY TO PRECLUDE ANY IDENTIFIED OR POTENTIAL DUPLICATION OF ENERGY AND ENERGY RESOURCE RELATED FUNCTIONS AND RESPONSIBILITIES OF STATE AGENCIES.

S 5-115. ENERGY ADVISORY COUNCIL. THERE IS HEREBY CREATED WITHIN THE OFFICE AN ENERGY ADVISORY COUNCIL, CONSISTING OF THIRTEEN MEMBERS, FIVE OF WHOM SHALL BE APPOINTED BY THE GOVERNOR FROM AMONG PERSONS WHO ARE NOT HOLDERS OF PUBLIC OFFICE, ELECTIVE OR APPOINTIVE. OF THE FIVE APPOINTED MEMBERS, NO MORE THAN THREE SHALL BELONG TO THE SAME POLITICAL PARTY. THE OTHER MEMBERS SHALL BE THE COMMISSIONERS OF ECONOMIC DEVELOPMENT, TRANSPORTATION AND ENVIRONMENTAL CONSERVATION, THE CHAIR OF THE

CONSUMER PROTECTION BOARD, THE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, THE PUBLIC SERVICE COMMISSION, THE POWER AUTHORITY OF THE STATE OF NEW YORK AND THE COMMISSIONER. THE COMMISSIONER SHALL SERVE AS CHAIR OF THE COUNCIL AND THE GOVERNOR SHALL DESIGNATE A VICE-CHAIR FROM THE REMAINING MEMBERS OF THE COUNCIL. THE MEMBERS OF THE COUNCIL SHALL RECEIVE NO COMPENSATION BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR NECESSARY EXPENSES INCURRED IN CONNECTION WITH THE PERFORMANCE OF THEIR DUTIES. THE COUNCIL SHALL ASSIST THE COMMISSIONER IN CARRYING OUT THE PURPOSE OF THIS CHAPTER, INCLUDING THE COORDINATION, DEVELOPMENT AND IMPLEMENTATION OF A COMPREHENSIVE STATE ENERGY POLICY.

S 5-123. REVIEW AND RECOMMENDATIONS ON CONTINUATION. 1. IN THE YEAR TWO THOUSAND ELEVEN AND EVERY FOUR YEARS THEREAFTER, THE DEPARTMENT OF AUDIT AND CONTROL SHALL CONDUCT AN AUDIT OF THE OFFICE. WITHIN NINETY DAYS OF THE COMPLETION OF SUCH AUDIT A COMMISSION, WHOSE MAXIMUM DURATION SHALL BE SIX MONTHS, SHALL BE CREATED TO DETERMINE WHETHER THE OFFICE SHALL CONTINUE IN OPERATION, OR WHETHER IT SHALL BE CHANGED IN SOME MANNER, OR WHETHER IT SHALL BE DISSOLVED, AND THE COMMISSION SHALL REPORT ITS FINDINGS TO THE GOVERNOR AND THE LEGISLATURE WITH RECOMMENDATIONS OF CHANGES NECESSARY, AND IF DISSOLUTION IS RECOMMENDED IT SHALL RECOMMEND WHAT FUNCTIONS SHALL BE ELIMINATED AND WHAT FUNCTIONS SHALL BE CONTINUED BY ANOTHER AGENCY.

2. THE COMMISSION SHALL BE COMPOSED OF FIVE MEMBERS, WITH THE CHAIR AND ONE OTHER MEMBER APPOINTED BY THE GOVERNOR, ONE MEMBER APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE, ONE MEMBER APPOINTED BY THE SPEAKER OF THE ASSEMBLY, AND ONE MEMBER APPOINTED BY THE COMPTROLLER. STAFF FOR THE COMMISSION SHALL BE PROVIDED BY THE DEPARTMENT OF AUDIT AND CONTROL FROM FUNDS APPROPRIATED FOR SUCH PURPOSE.

S 3. The energy law is amended by adding a new article 6 to read as follows:

ARTICLE 6
ENERGY PLANNING

SECTION 6-102. STATE ENERGY PLANNING BOARD.
6-104. STATE ENERGY PLAN.
6-106. CONDUCT OF THE STATE ENERGY PLANNING PROCEEDING.
6-108. RELIABILITY STUDY.

S 6-102. STATE ENERGY PLANNING BOARD. 1. THERE SHALL BE ESTABLISHED A STATE ENERGY PLANNING BOARD, HEREINAFTER REFERRED TO IN THIS ARTICLE AS THE "BOARD", WHICH SHALL CONSIST OF THE COMMISSIONER, THE CHAIR OF THE PUBLIC SERVICE COMMISSION AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION. ANY DECISION OR ACTION BY THE BOARD SHALL BE BY MAJORITY VOTE.

2. STAFF SERVICES SHALL BE PERFORMED BY PERSONNEL OF THE OFFICE, THE DEPARTMENT OF PUBLIC SERVICE AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, AS DIRECTED BY THE BOARD. ASSISTANCE SHALL ALSO BE MADE AVAILABLE, AS REQUESTED BY THE BOARD, FROM OTHER AGENCIES, DEPARTMENTS AND PUBLIC AUTHORITIES OF THE STATE. THE BOARD MAY PROVIDE FOR ITS OWN REPRESENTATION IN ALL ACTIONS OR PROCEEDINGS IN WHICH IT IS A PARTY.

3. THE BOARD SHALL HAVE THE POWERS: (A) TO ADOPT A STATE ENERGY PLAN IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE;

(B) TO ADOPT RULES AND REGULATIONS AS NECESSARY OR APPROPRIATE TO IMPLEMENT THIS ARTICLE;

(C) TO ISSUE SUBPOENAS AND SUBPOENAS DUCES TECUM; AND

(D) TO AUTHORIZE ANY PERSON TO CONDUCT HEARINGS WHICH THE BOARD IS AUTHORIZED TO CONDUCT, TO TAKE TESTIMONY WITH RESPECT TO THE SUBJECT OR MATTER UNDER INVESTIGATION, AND TO REPORT THE TESTIMONY TO THE BOARD. IN THE CONDUCT OF SUCH HEARINGS, ANY PERSON SO AUTHORIZED BY THE BOARD SHALL HAVE ALL THE POWERS OF THE BOARD.

S 6-104. STATE ENERGY PLAN. 1. THE BOARD SHALL ADOPT A STATE ENERGY PLAN IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

2. THE STATE ENERGY PLAN SHALL INCLUDE: (A) FORECASTS FOR A PERIOD OF TWENTY YEARS OF (I) DEMAND FOR ELECTRICITY, NATURAL GAS, COAL AND PETROLEUM PRODUCTS, INCLUDING HEATING AND TRANSPORTATION FUELS, FOR THE SERVICE AREAS OF THE STATE'S MAJOR ELECTRIC AND GAS UTILITIES AND/OR THE STATE AS A WHOLE, AS APPROPRIATE, TAKING INTO ACCOUNT ENERGY CONSERVATION, LOAD MANAGEMENT AND OTHER DEMAND-REDUCING MEASURES REASONABLY EXPECTED TO OCCUR;

(II) ENERGY SUPPLY REQUIREMENTS NEEDED TO SATISFY DEMAND FOR ELECTRICITY, NATURAL GAS, COAL AND PETROLEUM PRODUCTS, INCLUDING HEATING AND TRANSPORTATION FUELS, FOR THE SERVICE AREAS OF THE STATE'S MAJOR ELECTRIC AND GAS UTILITIES AND/OR FOR THE STATE AS A WHOLE, AS APPROPRIATE, INCLUDING WITH RESPECT TO ELECTRICITY, THE AMOUNT OF CAPACITY NEEDED TO PROVIDE ADEQUATE RESERVE MARGINS;

(III) AN ASSESSMENT OF THE ABILITY OF THE EXISTING ENERGY SUPPLY SOURCES AND THE EXISTING TRANSMISSION OR FUEL TRANSPORTATION SYSTEMS, TO SATISFY, TOGETHER WITH THOSE SOURCES OR SYSTEMS REASONABLY CERTAIN TO BE AVAILABLE, SUCH ENERGY SUPPLY REQUIREMENTS;

(IV) ADDITIONAL ELECTRIC CAPACITY NEEDED TO MEET SUCH ENERGY SUPPLY REQUIREMENTS THAT WILL NOT BE MET BY EXISTING SOURCES OF SUPPLY AND THOSE REASONABLY CERTAIN TO BE AVAILABLE; AND

(V) ENERGY PRICES;

(B) IDENTIFICATION AND ANALYSIS OF THE COSTS, RISKS, BENEFITS AND UNCERTAINTIES OF ENERGY SUPPLY SOURCE ALTERNATIVES, INCLUDING DEMAND-REDUCING MEASURES, FOR SATISFYING ENERGY SUPPLY REQUIREMENTS WHICH ARE NOT REASONABLY CERTAIN TO BE MET BY THE ENERGY SUPPLY SOURCES IDENTIFIED IN SUBPARAGRAPH (III) OF PARAGRAPH (A) OF THIS SUBDIVISION, PROVIDED THAT SUCH ANALYSIS SHALL INCLUDE THE FACTORS IDENTIFIED IN PARAGRAPH (D) OF THIS SUBDIVISION;

(C) IDENTIFICATION AND ANALYSIS OF EMERGING TRENDS RELATED TO ENERGY SUPPLY, PRICE AND DEMAND, INCLUDING TRENDS RELATED TO THE TRANSPORTATION SECTOR;

(D) A STATEMENT OF ENERGY POLICIES AND LONG-RANGE ENERGY PLANNING OBJECTIVES AND STRATEGIES APPROPRIATE TO ACHIEVE, AMONG OTHER THINGS, THE LEAST COST INTEGRATION OF ENERGY SUPPLY SOURCES AND DEMAND-REDUCING MEASURES FOR SATISFYING ENERGY SUPPLY REQUIREMENTS, GIVING DUE REGARD TO SUCH FACTORS AS RATEPAYER IMPACTS, SECURITY AND DIVERSITY OF FUEL SUPPLIES AND GENERATING MODES, PROTECTION OF PUBLIC HEALTH AND SAFETY, ADVERSE AND BENEFICIAL ENVIRONMENTAL IMPACTS, CONSERVATION OF ENERGY AND ENERGY RESOURCES AND THE ABILITY OF THE STATE TO COMPETE ECONOMICALLY;

(E) RECOMMENDATIONS, AS APPROPRIATE AND DESIRABLE, FOR ADMINISTRATIVE AND LEGISLATIVE ACTIONS TO IMPLEMENT SUCH POLICIES, OBJECTIVES AND STRATEGIES;

(F) ANALYSIS OF THE PROBABLE IMPACT OF IMPLEMENTATION OF THE PLAN UPON ECONOMIC DEVELOPMENT, HEALTH, SAFETY AND WELFARE, ENVIRONMENTAL QUALITY, AND ENERGY COSTS FOR CONSUMERS, SPECIFICALLY LOW-INCOME CONSUMERS; AND

(G) SUCH ADDITIONAL INFORMATION AS THE BOARD DEEMS APPROPRIATE.

3. (A) THE STATE ENERGY PLAN SHALL PROVIDE GUIDANCE FOR ENERGY-RELATED DECISIONS TO BE MADE BY THE PUBLIC AND PRIVATE SECTORS WITHIN THE STATE.

(B) ANY ENERGY-RELATED ACTION OR DECISION OF A STATE AGENCY, BOARD, COMMISSION OR AUTHORITY SHALL BE REASONABLY CONSISTENT WITH THE FORECASTS AND THE POLICIES AND LONG-RANGE ENERGY PLANNING OBJECTIVES AND STRATEGIES CONTAINED IN THE PLAN, INCLUDING ITS MOST RECENT UPDATE; PROVIDED, HOWEVER, THAT ANY SUCH ACTION OR DECISION WHICH IS NOT REASONABLY CONSISTENT WITH THE PLAN SHALL BE DEEMED IN COMPLIANCE WITH THIS

SECTION, PROVIDED THAT SUCH ACTION OR DECISION INCLUDES A FINDING THAT THE RELEVANT PROVISIONS OF THE PLAN ARE NO LONGER REASONABLE OR PROBABLE BASED ON A MATERIAL AND SUBSTANTIAL CHANGE IN FACT OR CIRCUMSTANCE, AND A STATEMENT EXPLAINING THE BASIS FOR THIS FINDING.

(C) NO ACTION OR DECISION OF A STATE AGENCY, BOARD, COMMISSION OR AUTHORITY THAT IS REQUIRED BY THIS SECTION TO BE REASONABLY CONSISTENT WITH THE FORECASTS, POLICIES AND LONG-RANGE ENERGY PLANNING OBJECTIVES AND STRATEGIES CONTAINED IN THE PLAN, INCLUDING ITS MOST RECENT UPDATE, SHALL BE DEEMED BY A COURT OF LAW TO BE UNREASONABLY INCONSISTENT WITH SUCH FORECASTS, POLICIES, OBJECTIVES AND STRATEGIES, UNDER THIS OR ANY OTHER PROVISION OF LAW, UNLESS A DETERMINATION TO THIS EFFECT IS MADE BY THE BOARD UPON ITS OWN INITIATIVE OR FOLLOWING THE REFERRAL OF THE ISSUE TO THE BOARD BY A COURT AFTER THE COMMENCEMENT OF A PROCEEDING CHALLENGING SUCH ACTION.

(D) NOTHING IN THIS SECTION SHALL LIMIT THE AUTHORITY OF ANY STATE AGENCY, BOARD, COMMISSION OR AUTHORITY TO DENY AN APPLICATION TO CONSTRUCT, OPERATE OR MODIFY AN ENERGY FACILITY ON ENVIRONMENTAL OR PUBLIC HEALTH AND SAFETY GROUNDS.

(E) A STATE AGENCY, BOARD, COMMISSION OR AUTHORITY MAY TAKE OFFICIAL NOTICE OF THE MOST RECENT FINAL STATE ENERGY PLAN ADOPTED BY THE BOARD PRIOR TO ANY FINAL ENERGY-RELATED DECISION BY SUCH AGENCY, BOARD, COMMISSION OR AUTHORITY.

S 6-106. CONDUCT OF THE STATE ENERGY PLANNING PROCEEDING. 1. BY MAY FIRST, TWO THOUSAND ELEVEN, AND EVERY FOUR YEARS FOLLOWING THE ADOPTION OF THE MOST RECENT PLAN, THE STATE ENERGY PLANNING BOARD SHALL ADOPT A STATE ENERGY PLAN, WHICH ADDRESSES EACH ITEM IDENTIFIED IN SUBDIVISION TWO OF SECTION 6-104 OF THIS ARTICLE PROVIDED, HOWEVER, THE BOARD MAY ADOPT SUCH A PLAN MORE FREQUENTLY FOR GOOD CAUSE SHOWN.

2. THE BOARD SHALL CONDUCT A STATE ENERGY PLANNING PROCEEDING, CONSISTENT WITH THE NEED TO DEVELOP THE PLAN IN A TIMELY MANNER, WHICH SHALL PROVIDE FOR THE FOLLOWING AT A MINIMUM:

(A) THE FILING OF INFORMATION BY MAJOR ENERGY SUPPLIERS AS SPECIFIED IN SUBDIVISION THREE OF THIS SECTION;

(B) THE PREPARATION AND ISSUANCE OF A DRAFT PLAN, SUBSEQUENT TO THE FILING OF INFORMATION BY MAJOR ENERGY SUPPLIERS, WHICH SHALL ADDRESS EACH ITEM IDENTIFIED IN SUBDIVISION TWO OF SECTION 6-104 OF THIS ARTICLE;

(C) PUBLIC COMMENT HEARINGS, IN AT LEAST THREE GEOGRAPHIC LOCATIONS IN THE STATE, AND AN OPPORTUNITY TO SUBMIT WRITTEN COMMENTS, SUBSEQUENT TO THE ISSUANCE OF A DRAFT PLAN, TO OBTAIN VIEWS AND COMMENTS OF INTERESTED PERSONS ON ANY ASPECT OF, OR ISSUE ADDRESSED IN, SUCH DRAFT PLAN;

(D) EVIDENTIARY HEARINGS, AT THE REQUEST OF ANY INTERESTED PERSON, SUBSEQUENT TO THE ISSUANCE OF A DRAFT PLAN, ON THE ISSUES IDENTIFIED IN PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION 6-104 OF THIS ARTICLE OR ON THE FACTUAL BASIS FOR ANY OTHER ISSUE IDENTIFIED IN SUBDIVISION TWO OF SECTION 6-104 OF THIS ARTICLE; AND

(E) SUBMISSION OF A NOTICE FOR ANY HEARING OR OPPORTUNITY FOR COMMENT PROVIDED FOR PURSUANT TO THIS SUBDIVISION FOR PUBLICATION WITHIN THE STATE REGISTER.

3. INFORMATION FILED BY MAJOR ENERGY SUPPLIERS SHALL INCLUDE THE FOLLOWING:

(A) THE MEMBERS OF THE NEW YORK POWER POOL, INCLUDING THE POWER AUTHORITY OF THE STATE OF NEW YORK, SHALL PREPARE AND SUBMIT A SINGLE COMPREHENSIVE LONG-RANGE PLAN FOR FUTURE OPERATIONS, WHICH SHALL INCLUDE:

(I) A FORECAST OF ELECTRICITY DEMANDS OVER A PERIOD OF TWENTY YEARS, INCLUDING ANNUAL IN-STATE ELECTRIC ENERGY SALES AND SUMMER AND WINTER PEAK LOADS BY UTILITY SERVICE AREA, AND TOTAL ANNUAL IN-STATE ELECTRIC ENERGY SALES AND COINCIDENT PEAK LOAD ON A STATEWIDE BASIS, SPECIFICALLY IDENTIFYING THE EXTENT TO WHICH ENERGY CONSERVATION, LOAD MANAGEMENT AND OTHER DEMAND-REDUCING MEASURES, AND ELECTRIC ENERGY GENERATED BY COGENERATION, SMALL HYDRO AND ALTERNATE ENERGY PRODUCTION FACILITIES CONSUMED ON SITE, HAVE BEEN INCORPORATED WITHIN SUCH FORECAST;

(II) A FORECAST OF ELECTRICITY SUPPLY REQUIREMENTS OVER A PERIOD OF TWENTY YEARS, STATEWIDE AND BY UTILITY SERVICE AREA, SPECIFICALLY IDENTIFYING THE AMOUNT OF RESERVE MARGINS REQUIRED FOR RELIABLE ELECTRIC SERVICE, THE AMOUNTS OF TRANSMISSION AND DISTRIBUTION LOSSES ASSUMED, AND THE AMOUNT OF OUT-OF-STATE SALES COMMITMENTS;

(III) AN ASSESSMENT OF THE ABILITY OF EXISTING ELECTRICITY SUPPLY SOURCES, AND THOSE REASONABLY CERTAIN TO BE AVAILABLE, TO SATISFY ELECTRICITY SUPPLY REQUIREMENTS, INCLUDING ELECTRIC GENERATING FACILITIES WHICH CAN BE RETAINED IN SERVICE BEYOND THEIR ORIGINAL DESIGN LIFE THROUGH ROUTINE MAINTENANCE AND REPAIRS;

(IV) AN INVENTORY OF (1) ALL EXISTING ELECTRIC GENERATING AND TRANSMISSION FACILITIES OPERATED BY MEMBERS OF THE POWER POOL INCLUDING THE POWER AUTHORITY OF THE STATE OF NEW YORK, (2) ELECTRIC GENERATING AND TRANSMISSION FACILITIES UNDER CONSTRUCTION BY MEMBERS OF THE POWER POOL INCLUDING THE POWER AUTHORITY OF THE STATE OF NEW YORK, INCLUDING THE DATES FOR COMPLETION AND OPERATION, (3) THE ANTICIPATED RETIREMENT DATES FOR ELECTRIC GENERATING FACILITIES CURRENTLY OPERATED BY MEMBERS OF THE POWER POOL INCLUDING THE POWER AUTHORITY OF THE STATE OF NEW YORK, (4) LAND OWNED BY THE MEMBERS OF THE POWER POOL INCLUDING THE POWER AUTHORITY OF THE STATE OF NEW YORK AND HELD FOR FUTURE USE AS SITES FOR MAJOR ELECTRIC GENERATING FACILITIES, AND (5) ELECTRIC GENERATING FACILITIES OPERATED, OR PLANNED TO BE OPERATED, BY OTHERS, TO THE EXTENT INFORMATION CONCERNING THE SAME IS KNOWN;

(V) RECOMMENDED SUPPLY ADDITIONS AND DEMAND REDUCING MEASURES FOR SATISFYING THE ELECTRICITY SUPPLY REQUIREMENTS, NOT REASONABLY CERTAIN TO BE MET BY ELECTRICITY SUPPLY SOURCES IDENTIFIED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, INCLUDING THE LIFE EXTENSION OF EXISTING ELECTRIC GENERATING FACILITIES, AND REASONS THEREFOR;

(VI) A STATEMENT OF RESEARCH AND DEVELOPMENT PLANS, INCLUDING OBJECTIVES AND PROGRAMS IN THE AREAS OF ENERGY CONSERVATION, LOAD MANAGEMENT, ELECTRIC GENERATION AND TRANSMISSION, NEW ENERGY TECHNOLOGIES AND POLLUTION ABATEMENT AND CONTROL, RECENT RESULTS OF SUCH PROGRAMS UNDERTAKEN OR FUNDED TO DATE, AND AN ASSESSMENT OF THE POTENTIAL IMPACTS OF SUCH RESULTS;

(VII) A PROJECTION OF ESTIMATED ELECTRICITY PRICES TO CONSUMERS OVER THE FORECAST PERIOD;

(VIII) A DESCRIPTION OF THE LOAD FORECASTING METHODOLOGY AND THE ASSUMPTIONS AND DATA USED IN THE PREPARATION OF THE FORECASTS, SPECIFICALLY INCLUDING PROJECTIONS OF DEMOGRAPHIC AND ECONOMIC ACTIVITY AND SUCH OTHER FACTORS, STATEWIDE AND BY SERVICE AREA, WHICH MAY INFLUENCE ELECTRICITY DEMAND, AND THE BASIS FOR SUCH PROJECTIONS;

(IX) PROPOSED POLICIES, OBJECTIVES AND STRATEGIES FOR MEETING THE STATE'S FUTURE ELECTRICITY NEEDS; AND

(X) SUCH ADDITIONAL INFORMATION AS THE BOARD MAY, BY REGULATION, REQUIRE TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

(B) THE MEMBERS OF THE NEW YORK GAS GROUP SHALL PREPARE AND SUBMIT A SINGLE COMPREHENSIVE LONG-RANGE PLAN FOR FUTURE OPERATIONS, WHICH SHALL INCLUDE:

(I) A FORECAST OVER A PERIOD OF TWENTY YEARS, STATEWIDE AND BY UTILITY SERVICE AREA, OF ESTIMATED ANNUAL IN-STATE GAS SALES, WINTER SEASON SALES AND PEAK DAY SALES BY APPROPRIATE END-USE CLASSIFICATIONS, SPECIFICALLY IDENTIFYING THE EXTENT TO WHICH ENERGY CONSERVATION MEASURES AND THE SALE OF GAS OWNED BY PERSONS OTHER THAN THE MEMBERS OF THE NEW YORK GAS GROUP DIRECTLY TO END-USERS HAVE BEEN INCORPORATED WITHIN SUCH FORECAST;

(II) A FORECAST OF GAS SUPPLY REQUIREMENTS OVER A PERIOD OF TWENTY YEARS, STATEWIDE AND BY UTILITY SERVICE AREA, SPECIFICALLY IDENTIFYING THE AMOUNTS OF GAS NEEDED TO MEET SEVERE WEATHER CONDITIONS, LOST AND UNACCOUNTED FOR GAS, OUT-OF-STATE SALES COMMITMENTS AND INTERNAL USE;

(III) AN ASSESSMENT OF THE ABILITY OF EXISTING GAS SUPPLY SOURCES, AND THOSE REASONABLY CERTAIN TO BE AVAILABLE, TO SATISFY GAS SUPPLY REQUIREMENTS;

(IV) AN INVENTORY OF (1) ALL EXISTING SUPPLY SOURCES, STORAGE FACILITIES, AND TRANSMISSION FACILITIES WHICH ARE USED IN PROVIDING SERVICE WITHIN THE STATE, (2) THE TRANSMISSION AND STORAGE FACILITIES UNDER CONSTRUCTION WHICH WOULD BE USED IN PROVIDING SERVICE WITHIN THE STATE, THEIR PROJECTED COSTS AND CAPACITIES, INCLUDING PEAKING CAPACITY, (3) TRANSMISSION FACILITY ADDITIONS PROPOSED TO BE CONSTRUCTED BY MEMBERS OF THE GAS GROUP, (4) TRANSMISSION FACILITIES OPERATED, OR PLANNED TO BE OPERATED, BY OTHERS, TO THE EXTENT INFORMATION CONCERNING THE SAME IS KNOWN;

(V) RECOMMENDED SUPPLY ADDITIONS AND DEMAND-REDUCING MEASURES FOR SATISFYING THE GAS SUPPLY REQUIREMENTS, NOT REASONABLY CERTAIN TO BE MET BY GAS SUPPLY SOURCES IDENTIFIED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH AND THE REASONS THEREFOR;

(VI) A PROJECTION OF ESTIMATED GAS PRICES TO CONSUMERS OVER THE FORECAST PERIOD;

(VII) A DESCRIPTION OF THE LOAD FORECASTING METHODOLOGY AND THE ASSUMPTIONS AND DATA USED IN THE PREPARATION OF THE FORECASTS, SPECIFICALLY INCLUDING PROJECTIONS OF DEMOGRAPHIC AND ECONOMIC ACTIVITY AND SUCH OTHER FACTORS, STATEWIDE AND BY SERVICE AREA, WHICH MAY INFLUENCE DEMAND FOR NATURAL GAS, AND THE BASIS FOR SUCH PROJECTIONS;

(VIII) A STATEMENT OF RESEARCH AND DEVELOPMENT PLANS, INCLUDING OBJECTIVES AND PROGRAMS IN THE AREAS OF ENERGY CONSERVATION AND NEW ENERGY TECHNOLOGIES, RECENT RESULTS OF SUCH PROGRAMS UNDERTAKEN OR FUNDED TO DATE, AND AN ASSESSMENT OF THE POTENTIAL IMPACTS OF SUCH RESULTS;

(IX) PROPOSED POLICIES, OBJECTIVES AND STRATEGIES FOR MEETING THE STATE'S FUTURE GAS NEEDS; AND

(X) SUCH ADDITIONAL INFORMATION AS THE BOARD MAY, BY REGULATION, REQUIRE TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

(C) SUCH INFORMATION FROM MAJOR PETROLEUM SUPPLIERS AND MAJOR COAL SUPPLIERS AS THE BOARD MAY, BY REGULATION, REQUIRE TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

4. ANY INFORMATION FILED BY A MAJOR ENERGY SUPPLIER UNDER THIS SECTION THAT IS CLAIMED TO BE CONFIDENTIAL SHALL BE TREATED IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD PERTAINING TO THE DETERMINATION OF CONFIDENTIAL STATUS AND THE RETENTION OF CONFIDENTIAL RECORDS.

5. COPIES OF THE DRAFT PLAN, AND ALL NON-CONFIDENTIAL INFORMATION AND COMMENTS FILED PURSUANT TO THIS SECTION SHALL BE MADE AVAILABLE TO THE PUBLIC FOR INSPECTION.

6. THE BOARD MAY AMEND THE STATE ENERGY PLAN, OR ASPECTS THEREOF, UPON ITS OWN INITIATIVE OR UPON THE WRITTEN APPLICATION OF ANY INTERESTED PERSON. IN CONNECTION WITH ANY SUCH AMENDMENT, THE BOARD MAY REQUIRE THE FILING OF SUCH INFORMATION BY MAJOR ENERGY SUPPLIERS AS MAY BE REQUIRED,

CONSISTENT WITH REGULATION. PRIOR TO ADOPTING ANY PROPOSED AMENDMENT TO AN ELEMENT OF THE PLAN IDENTIFIED IN PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION 6-104 OF THIS ARTICLE, THE BOARD SHALL HOLD EVIDENTIARY HEARINGS, UPON THE WRITTEN APPLICATION OF AN INTERESTED PARTY. IN ADDITION, UPON THE WRITTEN APPLICATION OF AN INTERESTED PARTY, THE BOARD SHALL CONDUCT EVIDENTIARY HEARINGS ON THE FACTUAL BASIS FOR ANY OTHER ISSUE IDENTIFIED IN SUBDIVISION TWO OF SECTION 6-104 OF THIS ARTICLE. PRIOR TO ADOPTING A PROPOSED AMENDMENT TO ANY ELEMENT OF THE PLAN, THE BOARD SHALL PREPARE AND PUBLISH IN THE STATE REGISTER NOTICE OF ANY DRAFT AMENDMENT AND REASONS THEREFOR AND SHALL SOLICIT PUBLIC COMMENTS THEREON. THE BOARD SHALL ADOPT AN AMENDMENT TO THE STATE ENERGY PLAN, OR ASPECTS THEREOF, UPON A FINDING BY THE BOARD THAT THERE HAS BEEN A MATERIAL AND SUBSTANTIAL CHANGE IN FACT OR CIRCUMSTANCE SINCE THE MOST RECENT PLAN WAS ADOPTED. A DECISION OF THE BOARD THAT NO AMENDMENT IS NECESSARY, TOGETHER WITH THE REASONS SUPPORTING SUCH DETERMINATION, SHALL BE FINAL.

7. ANY PERSON WHO PARTICIPATED IN THE STATE ENERGY PLANNING PROCEEDING OR ANY PERSON WHO SOUGHT AN AMENDMENT OF THE STATE ENERGY PLAN PURSUANT TO SUBDIVISION SIX OF THIS SECTION, MAY OBTAIN, PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES, JUDICIAL REVIEW OF THE BOARD'S DECISION ADOPTING A PLAN, OR ANY AMENDMENT THERETO, OR OF THE BOARD'S DECISION NOT TO AMEND SUCH PLAN PURSUANT TO SUBDIVISION SIX OF THIS SECTION. ANY SUCH SPECIAL PROCEEDING SHALL BE BROUGHT IN THE APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK FOR THE THIRD JUDICIAL DEPARTMENT. SUCH PROCEEDING SHALL BE INITIATED BY THE FILING OF A PETITION IN SUCH COURT WITHIN THIRTY DAYS AFTER THE ISSUANCE OF A DECISION BY THE BOARD. THE PROCEEDING SHALL HAVE A LAWFUL PREFERENCE OVER ANY OTHER MATTER, SHALL BE HEARD ON AN EXPEDITED BASIS AND SHALL BE COMPLETED IN ALL RESPECTS, INCLUDING ANY SUBSEQUENT APPEAL, WITHIN ONE HUNDRED EIGHTY DAYS OF THE FILING OF THE PETITION. WHERE MORE THAN ONE SUCH PETITION IS FILED, THE COURT MAY PROVIDE FOR CONSOLIDATION OF THE PROCEEDINGS. NOTWITHSTANDING THE PROVISIONS OF ARTICLE SEVEN OF THE PUBLIC SERVICE LAW, THE PROCEDURE SET FORTH IN THIS SUBDIVISION SHALL CONSTITUTE THE EXCLUSIVE MEANS FOR SEEKING JUDICIAL REVIEW OF ANY ELEMENT OF THE PLAN.

8. PROCEEDINGS CONDUCTED PURSUANT TO THIS SECTION SHALL NOT BE CONSIDERED PART OF AN ADJUDICATORY PROCEEDING AS DEFINED IN SUBDIVISION THREE OF SECTION ONE HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT, OR PART OF A RULE MAKING PROCEEDING HELD UNDER SUBDIVISION ONE OF SECTION TWO HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT.

S 6-108. RELIABILITY STUDY. 1. THE BOARD SHALL UNDERTAKE A STUDY OF THE OVERALL RELIABILITY OF THE STATE'S ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM. THE BOARD MAY CONTRACT WITH AN INDEPENDENT AND COMPETITIVELY SELECTED CONTRACTOR TO UNDERTAKE SUCH STUDY. THE BOARD SHALL PREPARE A REPORT ON ITS FINDINGS AND LEGISLATIVE RECOMMENDATIONS. ON OR BEFORE DECEMBER FIRST, TWO THOUSAND THIRTEEN, THE BOARD SHALL TRANSMIT SUCH REPORT TO THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, THE CHAIRMAN OF THE ASSEMBLY ENERGY COMMITTEE, AND THE CHAIRMAN OF THE SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE.

2. THE STUDY SHALL INCLUDE, AT MINIMUM, AN ASSESSMENT OF EACH OF THE FOLLOWING:

(A) THE CURRENT AND PROJECTED RELIABILITY OF THE ELECTRIC POWER SYSTEM OVER THE TERM OF THE PLANNING PERIOD, WITH SPECIFIC FOCUS ON TRANSMISSION SYSTEMS AND DISTRIBUTION SYSTEMS WITHIN THE STATE. THE ASSESSMENT SHALL EXAMINE: (I) INVESTMENT IN INFRASTRUCTURE, INCLUDING CAPITAL

IMPROVEMENTS, EXPANSIONS, AND MAINTENANCE; AND (II) WORKFORCE UTILIZATION.

(B) THE POTENTIAL IMPACT OF THE FOLLOWING ON DISTRIBUTION SYSTEM RELIABILITY AND ON EACH FACTOR ENUMERATED IN PARAGRAPH (A) OF THIS SUBDIVISION: (I) DISTRIBUTED ELECTRIC GENERATION, ESPECIALLY GENERATION USING RENEWABLE OR INNOVATIVE ENERGY RESOURCES; (II) ENERGY CONSERVATION AND EFFICIENCY; (III) LOAD CONTROL AND PEAK SHAVING MEASURES; (IV) CORPORATE REORGANIZATION OF ELECTRIC UTILITIES; (V) PERFORMANCE RATEMAKING, MULTI-YEAR RATE AGREEMENTS, AND OTHER DEPARTURES FROM TRADITIONAL REGULATORY MECHANISMS; AND (VI) LARGE SCALE INDUSTRIAL DEVELOPMENT.

(C) THE POTENTIAL IMPACT OF THE FOLLOWING ON TRANSMISSION SYSTEM RELIABILITY: (I) EACH FACTOR ENUMERATED IN PARAGRAPH (B) OF THIS SUBDIVISION; (II) CHANGES IN PROTOCOLS FOR ELECTRICITY DISPATCHED THROUGH THE NEW YORK POWER POOL OR ITS SUCCESSOR OR SUCCESSORS; (III) ACCOMMODATION OF PROPOSED NEW ELECTRIC GENERATION FACILITIES OR REPOWERING OR LIFE EXTENSION OF EXISTING FACILITIES; AND (IV) THE MARKET-DRIVEN NATURE OF DECISIONS TO BUILD, SIZE, AND LOCATE SUCH FACILITIES.

3. THE BOARD SHALL CONSULT WITH ENTITIES THAT HAVE RESOURCES AND EXPERTISE TO ASSIST IN SUCH INVESTIGATION.

(A) THE LONG ISLAND POWER AUTHORITY, THE POWER AUTHORITY OF THE STATE OF NEW YORK, THE DEPARTMENT OF PUBLIC SERVICE, AND THE MEMBERS OF THE NEW YORK POWER POOL OR ITS SUCCESSOR OR SUCCESSORS SHALL COOPERATE WITH THE BOARD AND ITS CONTRACTOR.

(B) THE LONG ISLAND POWER AUTHORITY AND THE POWER AUTHORITY OF THE STATE OF NEW YORK ARE AUTHORIZED, AS DEEMED FEASIBLE AND ADVISABLE BY THEIR RESPECTIVE BOARDS, TO MAKE A VOLUNTARY CONTRIBUTION TOWARD THE INVESTIGATION.

S 4. Subdivisions 4 and 8 of section 9-103 of the energy law, subdivision 4 as amended by chapter 83 of the laws of 1995 and subdivision 8 as added by section 78 of part A of chapter 436 of the laws of 1997, are amended to read as follows:

4. Agencies, municipalities, and public authorities are encouraged to consult with and seek advice and assistance from the OFFICE AND THE New York state energy research and development authority concerning energy performance contracts.

8. In the case of a school district or a board of cooperative educational services, an energy performance contract shall be developed and approved pursuant to the requirements of this section and pursuant to regulations promulgated by the commissioner of education in consultation with the [New York state energy research and development authority] COMMISSIONER. Such regulations shall include, but shall not be limited to: a list of the appropriate type of projects that qualify as energy performance contracts; an approval process that includes review of the type and nature of the proposed project, the scope and nature of the work to be performed, and a detailed breakdown of the energy savings to be derived each year and for the duration of the energy performance contract; and a process for ensuring that districts have obtained financing at the lowest cost possible. Such regulations shall require that all energy performance contracts which contain maintenance and monitoring charges as part of the energy performance contract price state such maintenance and monitoring charges separately in the contract in a clear and conspicuous manner. [Such regulations shall not apply to energy performance contracts entered into prior to the effective date of such regulations, nor shall they apply to energy performance contracts for which a request for proposals was issued prior to such effective date.]

S 5. Continuance of rules and regulations. All rules, regulations, acts, determinations and decisions of the commissioner of housing and community renewal, pertaining to the state energy conservation construction code established by article 11 of the energy law, and assigned by this act to the commissioner of the state energy office shall continue in force and effect as rules, regulations, acts, determinations and decisions of the state energy office or the commissioner of the state energy office until duly modified or repealed.

S 6. The energy law is amended by adding a new article 15 to read as follows:

ARTICLE 15

ENERGY EFFICIENT DEVICES

SECTION 15-102. ENFORCEMENT POWERS.
15-103. ANNUAL REPORT.
15-104. EFFECT OF OTHER LAWS.
15-108. ENERGY EFFICIENCY OF RESIDENTIAL AND COMMERCIAL HOT WATER HEATERS.
15-110. REFRIGERATORS, REFRIGERATORS/FREEZERS AND FREEZERS.
15-112. ELECTRIC DISHWASHERS.
15-116. GAS APPLIANCES.
15-118. AIR CONDITIONERS AND HEAT PUMPS.
15-120. FLUORESCENT LAMP BALLASTS.

S 15-102. ENFORCEMENT POWERS. THE ATTORNEY GENERAL AND, IN ANY COUNTY, CITY, TOWN OR VILLAGE, THE CHIEF LEGAL OFFICER, THE CHIEF OFFICER OF THE DEPARTMENT HAVING JURISDICTION OVER CONSUMER AFFAIRS OR ANY DEPARTMENT OR OFFICER DESIGNATED BY A LOCAL LAW OR ORDINANCE SHALL SEVERALLY HAVE POWER TO CONDUCT INVESTIGATIONS REGARDING COMPLIANCE WITH THIS ARTICLE, AND TO INSTITUTE AN ACTION OR SPECIAL PROCEEDING IN ANY COURT OF COMPETENT JURISDICTION TO ENJOIN SUCH VIOLATIONS AND RECOVER THE PENALTY SPECIFIED; PROVIDED, HOWEVER, THE ATTORNEY GENERAL MAY AT HIS OR HER OPTION NOTIFY A LOCAL GOVERNMENT THAT HE OR SHE INTENDS TO EXERCISE EXCLUSIVE JURISDICTION WITH RESPECT TO SUCH ENFORCEMENT POWERS AS THEY APPLY TO A SPECIFIC VIOLATION.

S 15-103. ANNUAL REPORT. IN ITS ANNUAL REPORT TO THE GOVERNOR AND THE LEGISLATURE, PURSUANT TO PARAGRAPH C OF SUBDIVISION ONE OF SECTION 5-107 OF THIS CHAPTER, THE OFFICE SHALL PROVIDE A REVIEW OF THE EFFECTIVENESS OF THE PROVISIONS OF THIS ARTICLE.

S 15-104. EFFECT OF OTHER LAWS. 1. IF THE COMMISSIONER SHALL BE NOTIFIED BY THE UNITED STATES DEPARTMENT OF ENERGY THAT A PETITION HAS BEEN FILED TO SUPERSEDE ANY REQUIREMENT OF THIS ARTICLE OR ANY STANDARD, RULE OR REGULATION PROMULGATED THEREUNDER THE COMMISSIONER SHALL DETERMINE THE IMPACT OF SUCH PETITION OR APPLICABLE STATE REQUIREMENTS, STANDARDS, RULES OR REGULATIONS. IF HE OR SHE DETERMINES THAT (A) THERE IS A SUBSTANTIAL STATE OR LOCAL NEED WHICH IS SUFFICIENT TO JUSTIFY SUCH STATE REQUIREMENT, (B) SUCH STATE REQUIREMENT DOES NOT UNDULY BURDEN INTERSTATE COMMERCE, AND (C) SUCH STATE REQUIREMENT CONTAINS A MORE STRINGENT ENERGY EFFICIENCY STANDARD THAN THE CORRESPONDING FEDERAL STANDARD, THE COMMISSIONER SHALL FILE PROMPTLY WITH THE UNITED STATES DEPARTMENT OF ENERGY THE NECESSARY DOCUMENTS TO SO DEMONSTRATE, AND TO REQUEST THAT THE PETITION TO SUPERSEDE BE DENIED.

2. THE COMMISSIONER SHALL DETERMINE THE IMPACT OF ANY FEDERAL STANDARD, RULE OR DETERMINATION WHICH WOULD SUPERSEDE THE REQUIREMENTS OF THIS ARTICLE. IF HE OR SHE DETERMINES THAT (A) ANY REQUIREMENT ESTABLISHED BY THIS ARTICLE IS MORE STRINGENT THAN AN APPLICABLE FEDERAL STANDARD, RULE OR DETERMINATION, AND THAT SUCH FEDERAL STANDARD, RULE OR DETERMINATION, WOULD SUPERSEDE THE REQUIREMENT IN THIS ARTICLE, (B)

THERE IS A SUBSTANTIAL STATE OR LOCAL NEED WHICH IS SUFFICIENT TO JUSTIFY SUCH STATE REQUIREMENT, AND (C) SUCH STATE REQUIREMENT DOES NOT UNDULY BURDEN INTERSTATE COMMERCE, THE COMMISSIONER SHALL PROMPTLY PETITION THE UNITED STATES DEPARTMENT OF ENERGY REQUESTING A RULE THAT SUCH STATE STANDARD, RULE OR DETERMINATION, NOT BE SUPERSEDED.

S 15-108. ENERGY EFFICIENCY OF RESIDENTIAL AND COMMERCIAL HOT WATER HEATERS. 1. AS USED IN THIS SECTION:

(A) "RECOVERY EFFICIENCY" SHALL MEAN THE RATIO OF THE HEAT ABSORBED BY THE WATER TO THE HEAT INPUT DELIVERED TO THE HEATING UNIT DURING THE PERIOD THAT THE WATER TEMPERATURE IS RAISED FROM THE INLET TEMPERATURE TO THE FINAL TEMPERATURE.

(B) "STANDBY LOSSES" SHALL MEAN HEAT LOSSES OCCURRING WHILE MAINTAINING DESIGN WATER TEMPERATURE OVER PERIODS WHEN NO HOT WATER IS BEING DRAWN FROM THE WATER TANK.

2. NO PERSON SHALL ADVERTISE, DISPLAY FOR SALE, OR SELL IN THIS STATE ANY NEW ELECTRIC, GAS-FIRED OR OIL-FIRED HOT WATER HEATER TO BE USED IN THIS STATE FOR DOMESTIC OR SANITARY PURPOSES UNLESS IT SHALL MEET THE FOLLOWING PERFORMANCE STANDARDS:

(A) FOR AUTOMATIC ELECTRIC STORAGE WATER HEATERS, THE STANDBY LOSS SHALL NOT EXCEED FOUR WATT-HOURS PER HOUR PER SQUARE FOOT OF TANK SURFACE AREA UNLESS SUPERSEDED BY MORE STRINGENT STANDARDS DETERMINED BY THE OFFICE.

(B) FOR AUTOMATIC GAS-FIRED OR OIL-FIRED WATER HEATERS, UNLESS SUPERSEDED BY MORE STRINGENT STANDARDS DETERMINED BY THE OFFICE, THE MINIMUM RECOVERY EFFICIENCY SHALL BE SEVENTY-FIVE PERCENT AND FOR AUTOMATIC GAS-FIRED OR OIL-FIRED STORAGE WATER HEATERS THE STANDBY LOSS SHALL NOT EXCEED A PERCENT OF THE ENERGY INPUT EQUAL TO 2.3 PLUS THE QUOTIENT OF 67 DIVIDED BY THE RATED VOLUME IN GALLONS OF THE HEATER.

(C) STANDBY LOSSES AND RECOVERY EFFICIENCIES SHALL BE DETERMINED BY METHODS DESCRIBED BY THE AMERICAN NATIONAL STANDARD INSTITUTE, INC., HITHERTO KNOWN AS ANSI IN ITS PUBLICATIONS ANSI C72.1-72 AND ANSI Z21.10.3-74 UNLESS SUPERSEDED BY METHODS ESTABLISHED BY THE OFFICE.

3. IF THE COMMISSIONER SHALL DETERMINE THAT NO HOT WATER HEATER OF A CERTAIN CLASS, SIZE OR TYPE IS AVAILABLE WITH SUCH EFFICIENCY TO MEET THE REQUIREMENTS OF THIS SECTION, HE OR SHE MAY EXTEND THE EFFECTIVE DATE FOR COMPLIANCE OF SUCH CLASS UNTIL SUCH HOT WATER HEATER IS AVAILABLE.

4. SUCH HOT WATER HEATER AND ITS PACKING CARTON, IF SUCH CARTON IS PROVIDED, SHALL CARRY IN A CONSPICUOUS POSITION A NON-TRANSFERABLE SIGN OR LABEL STATING THAT SUCH HOT WATER HEATER MEETS THE MINIMUM ENERGY EFFICIENCY REQUIREMENTS OF NEW YORK STATE.

5. A KNOWING VIOLATION OF THIS SECTION SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND DOLLARS.

S 15-110. REFRIGERATORS, REFRIGERATORS/FREEZERS AND FREEZERS. NO REFRIGERATOR, REFRIGERATOR/FREEZER OR FREEZER WHICH IS MANUFACTURED ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, AND WHICH CONTAINS A CONTINUOUSLY ENERGIZED ELECTRICAL RESISTANCE HEATING UNIT FOR THE PURPOSE OF PREVENTING CONDENSATION ON THE JACKET, SHALL BE DISPLAYED FOR SALE, ADVERTISED OR SOLD AT RETAIL IN THIS STATE, UNLESS IT POSSESSES AN EASILY ACCESSIBLE MANUALLY-OPERATED ELECTRICAL SWITCH CAPABLE OF TERMINATING THE HEATING WHEN IT IS DEEMED NECESSARY. EACH SUCH SWITCH SHALL BE CLEARLY MARKED AS TO ITS PURPOSE AND FULLY DESCRIBED IN THE INSTRUCTION BOOK PROVIDED WITH THE APPLIANCE INCLUDING A CHART THAT INDICATES THE ANNUALIZED SAVINGS POSSIBLE BY USE OF THE SWITCH AT SEVERAL TYPICAL COSTS OF ELECTRICITY, AND A STATEMENT OF PERCENTAGE OF ENERGY SAVINGS POSSIBLE BY USE OF SUCH SWITCH.

EACH SUCH REFRIGERATOR, REFRIGERATOR/FREEZER OR FREEZER DISPLAYED FOR SALE, ADVERTISED, OR SOLD WITHOUT SUCH A SWITCH, WITHOUT SUCH DESCRIPTION IN SUCH INSTRUCTION BOOK OR WITHOUT SUCH CHART AND STATEMENT OF SAVINGS SHALL CONSTITUTE A VIOLATION.

EACH DAY A VIOLATION IS CONTINUED SHALL CONSTITUTE A SEPARATE VIOLATION.

A KNOWING VIOLATION OF THIS SECTION SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED TWO HUNDRED FIFTY DOLLARS.

S 15-112. ELECTRIC DISHWASHERS. NO ELECTRIC DISHWASHER WHICH IS MANUFACTURED ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, AND WHICH, UPON TERMINATION OF THE RINSE CYCLE, AUTOMATICALLY ENERGIZES AN ELECTRICAL RESISTANCE HEATING UNIT SHALL BE DISPLAYED FOR SALE, ADVERTISED OR SOLD AT RETAIL IN THIS STATE UNLESS IT POSSESSES AN EASILY ACCESSIBLE MANUALLY OPERATED ELECTRICAL SWITCH CAPABLE OF ELIMINATING THE HEATING PHASE OF THE DISHWASHER'S DRYING CYCLE. EACH SUCH SWITCH SHALL BE CLEARLY MARKED AS TO ITS PURPOSE, AND FULLY DESCRIBED IN THE INSTRUCTION BOOK PROVIDED WITH THE APPLIANCE INCLUDING A CHART THAT INDICATES THE ANNUALIZED SAVINGS POSSIBLE BY USE OF THE SWITCH AT SEVERAL TYPICAL COSTS OF ELECTRICITY, AND A STATEMENT OF PERCENTAGE OF ENERGY SAVINGS POSSIBLE BY USE OF SUCH SWITCH.

EACH SUCH DISHWASHER DISPLAYED FOR SALE, ADVERTISED OR SOLD WITHOUT SUCH A SWITCH, WITHOUT SUCH DESCRIPTION IN SUCH INSTRUCTION BOOK OR WITHOUT SUCH CHART AND STATEMENT OF SAVINGS SHALL CONSTITUTE A VIOLATION.

EACH DAY A VIOLATION IS CONTINUED SHALL CONSTITUTE A SEPARATE VIOLATION.

A KNOWING VIOLATION OF THIS SECTION SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED TWO HUNDRED FIFTY DOLLARS.

S 15-116. GAS APPLIANCES. 1. LEGISLATIVE INTENT. THE LEGISLATURE HEREBY FINDS AND DECLARES THAT CONSERVATION OF GASEOUS FUELS IS IN THE BEST INTEREST OF THE HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF THIS STATE AND THAT SUCH CONSERVATION ALSO SHALL RESULT IN ECONOMIC SAVINGS TO THE USERS OF SUCH FUELS. THE LEGISLATURE, FURTHER, FINDS THAT WITH THE ADVANCES IN TECHNOLOGY, THE USE OF CONTINUOUSLY OPERATED OR LIGHTED PILOT LIGHTS TO PROVIDE FOR IGNITION OF CERTAIN GAS APPLIANCES IS BOTH WASTEFUL AND NO LONGER NECESSARY.

2. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) GAS APPLIANCE. ANY FURNACE, AIR-CONDITIONER, HEATER, REFRIGERATOR, STOVE, RANGE, DISHWASHER, CLOTHES DRYER, CLOTHES WASHER, OR OTHER SUCH DEVICE, WHICH USES A GASEOUS FUEL OTHER THAN PROPANE FOR THE OPERATION THEREOF, AND WHICH IS MANUFACTURED AFTER THE EFFECTIVE DATE OF THIS SECTION, AND IS AUTOMATICALLY IGNITED BY A MEANS OTHER THAN AN INTERMITTENT IGNITION DEVICE.

THE TERM GAS APPLIANCE SHALL NOT INCLUDE A WATER HEATER WHICH HEATS WATER FOR DOMESTIC USE, A STOVE OR RANGE WHICH CONTAINS A SEPARATE SECTION SPECIFICALLY DESIGNED TO PROVIDE SPACE HEATING, OR A GRAVITY-TYPE ROOM HEATER, WALL FURNACE OR FLOOR FURNACE WHICH DOES NOT CONTAIN ANY ELECTRICAL COMPONENT.

(B) AUTOMATIC GAS APPLIANCE. ANY FURNACE, AIR CONDITIONER, HEATER, REFRIGERATOR, STOVE, RANGE, DISHWASHER, CLOTHES DRYER, CLOTHES WASHER, OR OTHER SUCH DEVICE, WHICH USES A GASEOUS FUEL OTHER THAN PROPANE FOR THE OPERATION THEREOF, AND WHICH IS MANUFACTURED AFTER THE EFFECTIVE DATE OF THIS SECTION, AND IS AUTOMATICALLY IGNITED BY AN INTERMITTENT IGNITION DEVICE.

THE TERM AUTOMATIC GAS APPLIANCE SHALL NOT INCLUDE A WATER HEATER WHICH HEATS WATER FOR DOMESTIC USE, A STOVE OR RANGE WHICH CONTAINS A SEPARATE SECTION SPECIFICALLY DESIGNED TO PROVIDE SPACE HEATING, OR A GRAVITY-TYPE ROOM HEATER, WALL FURNACE OR FLOOR FURNACE WHICH DOES NOT CONTAIN ANY ELECTRICAL COMPONENT.

(C) RESIDENCE. ANY BUILDING OR STRUCTURE IN THIS STATE USED PRINCIPALLY FOR DWELLING PURPOSES, INCLUDING, BUT NOT LIMITED TO, SINGLE AND MULTIPLE FAMILY DWELLINGS OR RESIDENCES OF ANY NATURE, INCLUDING APARTMENTS, APARTMENT BUILDINGS, APARTMENT PROJECTS, CONDOMINIUMS AND MOBILE HOMES, BUT NOT INCLUDING HOTELS OR MOTELS.

(D) INTERMITTENT IGNITION DEVICE. A DEVICE WHICH IGNITES AN AUTOMATIC GAS APPLIANCE TO BEGIN NORMAL OPERATION THEREOF, AND WHICH IS ACTIVATED ONLY AT THE TIME SUCH AUTOMATIC GAS APPLIANCE IS TO BE SO IGNITED.

3. PROHIBITIONS. THE FOLLOWING ACTS SHALL BE UNLAWFUL:

(A) THE SALE OR OFFERING FOR SALE BY ADVERTISEMENT OR OTHERWISE OR DISPLAYING FOR SALE OF GAS APPLIANCES FOR USE IN OR IN CONNECTION WITH A RESIDENCE.

(B) THE INSTALLATION OR CAUSING THE INSTALLATION OF A GAS APPLIANCE IN A RESIDENCE.

(C) THE IMPORTATION INTO THIS STATE OF A GAS APPLIANCE FOR USE IN OR IN CONNECTION WITH A RESIDENCE.

(D) THE DELIVERY IN THIS STATE AFTER SALE OR PURSUANT TO A CONTRACT OF SALE OF A GAS APPLIANCE FOR USE IN OR IN CONNECTION WITH A RESIDENCE.

(E) THE SALE OR DISPLAY FOR SALE OF AN AUTOMATIC GAS APPLIANCE FOR USE IN OR IN CONNECTION WITH A RESIDENCE, UNLESS SUCH AUTOMATIC GAS APPLIANCE IS LABELED IN A MANNER VISIBLE TO THE PURCHASER OR PROSPECTIVE PURCHASER WITH THE WORDS "INTERMITTENT IGNITION", "ELECTRIC IGNITION", "PILOTLESS IGNITION", "PILOTLESS ELECTRIC IGNITION", "SPARK IGNITION" OR SIMILAR WORDS APPROVED BY THE COMMISSIONER.

4. PENALTIES. A VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL BE PUNISHABLE BY A FINE NOT EXCEEDING FIVE HUNDRED DOLLARS FOR EACH SUCH VIOLATION. PROVIDED THAT EACH DAY OF A CONTINUING VIOLATION SHALL CONSTITUTE A SEPARATE AND DISTINCT OFFENSE.

S 15-118. AIR CONDITIONERS AND HEAT PUMPS. 1. DEFINITIONS. AS USED IN THIS ARTICLE:

(A) "AIR CONDITIONER" MEANS A COMBINATION OF COMPONENTS INCLUDING A COMPRESSOR, A CONDENSER AND AN EVAPORATOR POWERED BY SINGLE PHASE CURRENT, HAVING A COOLING CAPACITY RATING BELOW 65,000 BTU PER HOUR AND WHICH IS DESIGNED FOR THE PURPOSE OF COOLING ONE OR MORE ROOMS OF A BUILDING.

(B) "HEAT PUMP" MEANS A COMBINATION OF COMPONENTS INCLUDING A COMPRESSOR, A CONDENSER AND AN EVAPORATOR, WHICH MAY UTILIZE AIR OR WATER AS THE SOURCE OF HEAT, IS COMBINED WITH A CENTRAL AIR CONDITIONER, AND IS DESIGNED FOR THE PURPOSE OF HEATING AND COOLING ONE OR MORE ROOMS OF A BUILDING.

(C) "ROOM AIR CONDITIONER" MEANS AN ENCASED AIR CONDITIONER DESIGNED AS A UNIT FOR MOUNTING IN A WINDOW OR THROUGH THE WALL FOR THE PURPOSE OF PROVIDING DELIVERY OF CONDITIONED AIR TO AN ENCLOSED SPACE WITHOUT DUCTS, AND WHICH IS NOT A PACKAGED TERMINAL AIR CONDITIONER.

(D) "CENTRAL AIR CONDITIONER" MEANS AN AIR CONDITIONER WHICH IS NOT A ROOM AIR CONDITIONER OR A PACKAGED TERMINAL AIR CONDITIONER.

(E) "COOLING CAPACITY RATING" MEANS THE QUANTITY OF HEAT IN BRITISH THERMAL UNITS (BTU) WHICH AN AIR CONDITIONER IS CAPABLE OF REMOVING IN ONE HOUR.

(F) "POWER RATING" MEANS THE POWER REQUIRED IN WATTS TO PRODUCE THE COOLING CAPACITY RATING.

(G) "ENERGY EFFICIENCY RATIO (EER)" MEANS THE COOLING CAPACITY RATING FOR ROOM AIR CONDITIONERS OR PACKAGED TERMINAL AIR CONDITIONERS DIVIDED BY THE POWER RATING.

(H) "SEASONAL ENERGY EFFICIENCY RATIO (SEER)" MEANS THE TOTAL COOLING OF A CENTRAL AIR CONDITIONER IN BTU DURING ITS NORMAL ANNUAL USAGE PERIOD FOR COOLING DIVIDED BY THE TOTAL ELECTRIC POWER INPUT IN WATT-HOURS DURING THE SAME PERIOD.

(I) "ENERGY EFFICIENCY" MEANS THE EER OR SEER OF A ROOM AIR CONDITIONER OR CENTRAL AIR CONDITIONER RESPECTIVELY.

(J) "AT RETAIL" MEANS THE FIRST TRANSFER OF GOODS, FOR LAWFUL CONSIDERATION, FROM ANY PERSON WHO IS REGULARLY IN THE BUSINESS OF BUYING AND SELLING NEW AIR CONDITIONERS AND/OR HEAT PUMPS FOR PROFIT TO ANY PERSON WHO IS NOT REGULARLY IN THE BUSINESS OF BUYING AND SELLING NEW AIR CONDITIONERS AND/OR HEAT PUMPS FOR PROFIT.

(K) "PACKAGED TERMINAL AIR CONDITIONER" MEANS A WALL SLEEVE AND A SEPARATE UNCASED CHASSIS WITH A COMBINATION OF HEATING AND COOLING ASSEMBLIES INTENDED FOR MOUNTING THROUGH THE WALL. IT INCLUDES AN AIR CONDITIONER, OUTDOOR LOUVERS, FORCED VENTILATION, CONTROLS, AND HEATING CAPABILITY BY HEAT PUMP, ELECTRICITY, HOT WATER OR STEAM.

2. LABELING OF NEW AIR CONDITIONERS AND HEAT PUMPS. (A) NO PERSON SHALL SELL, OFFER, OR EXPOSE FOR SALE AT RETAIL ANY NEW ROOM AIR CONDITIONER AS HEREINAFTER SPECIFIED UNLESS SUCH AIR CONDITIONER SHALL CARRY IN A CONSPICUOUS POSITION A NAMEPLATE, SIGN OR LABEL STATING ITS: (I) COOLING CAPACITY RATING, (II) POWER RATING, AND (III) ENERGY EFFICIENCY.

(B) NO PERSON SHALL SELL, OFFER OR EXPOSE FOR SALE AT RETAIL ANY NEW CENTRAL AIR CONDITIONER OR HEAT PUMP UNLESS AN ENERGY FACT SHEET WHICH DISCLOSES THE (I) SEASONAL ENERGY EFFICIENCY RATIO AND (II) THE COOLING CAPACITY RATING HAS BEEN SHOWN TO THE PURCHASER PRIOR TO THE SALE OF THE PRODUCT. FOR PURPOSES OF PROVIDING THE REQUIRED ENERGY INFORMATION ON SPLIT SYSTEM CENTRAL AIR CONDITIONERS AND HEAT PUMPS, THE FACT SHEET DISCLOSURE SHALL BE BASED ON SYSTEM PERFORMANCE OF THE SPECIFIC CONDENSING UNIT AND EVAPORATOR COIL COMBINATION BEING SOLD.

(C) IF THE FEDERAL GOVERNMENT SHALL ADOPT LABELING REQUIREMENTS DIFFERENT FROM THOSE REQUIRED IN PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION, THEN UPON THE EFFECTIVE DATE OF THE FEDERAL LABELING REQUIREMENTS, NEW AIR CONDITIONERS OR HEAT PUMPS OFFERED FOR SALE AT RETAIL SHALL COMPLY WITH THE FEDERAL LABELING REQUIREMENTS, AND THE STATE LABELING REQUIREMENTS SHALL BE SUPERSEDED, PROVIDED, HOWEVER, FROM THE TIME THE FEDERAL GOVERNMENT SHALL HAVE PRESCRIBED SUCH LABELING REQUIREMENTS, TO THE TIME THAT SUCH REQUIREMENTS SHALL BECOME EFFECTIVE, COMPLIANCE WITH THIS SECTION MAY BE MET BY DISCLOSURE OF EITHER THE REQUIRED STATE LABELING INFORMATION OR THE PRESCRIBED FEDERAL LABELING INFORMATION.

(D) THE MONTH AND YEAR OF MANUFACTURE OF SUCH AIR CONDITIONER OR HEAT PUMP SHALL BE MARKED IN A READILY ACCESSIBLE LOCATION ON OR IN SAID AIR CONDITIONER OR HEAT PUMP.

3. TEST PROCEDURES. TEST PROCEDURES FOR THE PURPOSE OF DETERMINING THE COMPLIANCE WITH THIS SECTION SHALL BE IN ACCORDANCE WITH THE UNITED STATES DEPARTMENT OF ENERGY (USDOE) TEST PROCEDURES IN EFFECT AT TIME OF MANUFACTURE HOWEVER, IF NO USDOE TEST PROCEDURES HAVE BEEN ADOPTED, THE APPLICABLE TEST PROCEDURES ADOPTED BY THE AIR-CONDITIONING AND REFRIGERATION INSTITUTE SHALL APPLY.

4. ENERGY EFFICIENCY STANDARDS. (A) ROOM AIR CONDITIONERS. NO PERSON SHALL SELL, OFFER FOR SALE, OR EXPOSE FOR SALE AT RETAIL, ANY NEW ROOM AIR CONDITIONER WITH AN ENERGY EFFICIENCY RATIO LESS THAN THE RATIO LISTED:

MINIMUM ENERGY EFFICIENCY RATIO (EER)
IN BTU PER HOUR PER WATT

COOLING CAPACITY BTU PER HOUR	NOMINAL OPERATING VOLTAGE	ENERGY EFFICIENCY STANDARDS
5,999 AND LESS	LESS THAN 150	7.5
6,000 AND OVER	LESS THAN 150	8.5
ALL SIZES	150 OR GREATER	8.2

(B) CENTRAL AIR CONDITIONERS. NO PERSON SHALL SELL, OFFER FOR SALE, EXPOSE FOR SALE AT RETAIL OR INSTALL ANY CENTRAL AIR CONDITIONER WITH A SEASONAL ENERGY EFFICIENCY RATIO OF LESS THAN 9.5.

(C) HEAT PUMPS. NO PERSON SHALL SELL, OFFER FOR SALE, EXPOSE FOR SALE AT RETAIL OR INSTALL ANY COMBINED CENTRAL AIR CONDITIONER AND HEAT PUMP WITH A SEASONAL ENERGY EFFICIENCY RATIO OF LESS THAN 8.5.

(D) PACKAGED TERMINAL AIR CONDITIONERS. PACKAGED TERMINAL AIR CONDITIONERS SHALL MEET THE SAME REQUIREMENTS AS OTHER ROOM AIR CONDITIONERS, AS SPECIFIED IN THIS SUBDIVISION, EXCEPT THAT NO LATER THAN SEPTEMBER FIRST, TWO THOUSAND ELEVEN THE OFFICE SHALL, AFTER CONSULTATION WITH OTHER GOVERNMENT AGENCIES AND REPRESENTATIVES OF INDUSTRY AS IT DEEMS DESIRABLE, PROMULGATE A SCHEDULE OF MINIMUM ENERGY EFFICIENCY RATIOS FOR SUCH PACKAGED TERMINAL AIR CONDITIONERS.

5. ADVERTISING OF AIR CONDITIONERS AND HEAT PUMPS. ANY PRINTED ADVERTISING FOR AIR CONDITIONERS OR HEAT PUMPS TO BE SOLD AT RETAIL INCLUDING THE COOLING CAPACITY RATING SHALL ALSO INCLUDE THE APPLICABLE ENERGY EFFICIENCY IN A TYPEFACE NO SMALLER THAN THAT OF THE CORRESPONDING COOLING CAPACITY RATING.

6. PENALTIES. ANY PERSON WHO SHALL VIOLATE ANY PROVISION OF THIS SECTION EITHER PERSONALLY OR THROUGH AN AGENT OR EMPLOYEE, SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN TWENTY-FIVE DOLLARS NOR MORE THAN TWO HUNDRED FIFTY DOLLARS FOR EACH VIOLATION. FOR PURPOSES OF THIS SECTION, THE SALE, OFFER FOR SALE, OR EXPOSURE FOR SALE OR INSTALLATION OF ANY ONE AIR CONDITIONER OR HEAT PUMP WHICH FAILS TO MEET THE STANDARDS OF THIS SECTION, SHALL CONSTITUTE A VIOLATION.

S 15-120. FLUORESCENT LAMP BALLASTS. 1. DEFINITIONS. AS USED IN THIS SECTION:

(A) "ANSI" MEANS THE AMERICAN NATIONAL STANDARDS INSTITUTE, INC.

(B) "BALLAST EFFICIENCY FACTOR" MEANS THE RATIO OF RELATIVE LIGHT OUTPUT TO THE POWER INPUT.

(C) "FLUORESCENT LAMP BALLAST" OR "BALLAST" MEANS A DEVICE TO OPERATE FLUORESCENT LAMPS BY PROVIDING A STARTING VOLTAGE AND CURRENT AND LIMITING THE CURRENT DURING NORMAL OPERATION, AND WHICH IS (I) DESIGNED TO OPERATE AT NOMINAL INPUT VOLTAGES OF ONE HUNDRED TWENTY OR TWO HUNDRED SEVENTY-SEVEN VOLTS; (II) DESIGNED TO OPERATE WITH AN INPUT FREQUENCY OF SIXTY HERTZ; AND (III) DESIGNED FOR USE IN CONNECTION WITH AN F40T12 OR F96T12 LAMP; PROVIDED, HOWEVER, THAT THIS TERM SHALL NOT INCLUDE BALLASTS WHICH HAVE A DIMMING CAPABILITY OR ARE INTENDED FOR USE IN AMBIENT TEMPERATURES OF 0°F OR LESS OR HAVE A POWER FACTOR OF LESS THAN .60.

(D) "F40T12 LAMP" MEANS A TUBULAR FLUORESCENT LAMP WHICH (I) IS FORTY-EIGHT INCHES IN LENGTH AND ONE AND A HALF INCHES IN DIAMETER, (II) HAS A MAXIMUM OPERATING CURRENT OF GREATER THAN THREE HUNDRED FIFTY MILLIAMPERES AND LESS THAN FIVE HUNDRED MILLIAMPERES AND (III) CONFORMS TO ANSI STANDARD C78.1 - 1978.

(E) "F96T12 LAMP" MEANS A TUBULAR FLUORESCENT LAMP WHICH (I) IS NINETY-SIX INCHES IN LENGTH AND ONE AND A HALF INCHES IN DIAMETER, (II) HAS

A MAXIMUM OPERATING CURRENT OF GREATER THAN THREE HUNDRED FIFTY MILLIAMPERES AND LESS THAN FIVE HUNDRED MILLIAMPERES AND (III) CONFORMS TO ANSI STANDARD C78.3 - 1978.

(F) "LUMINAIRE" MEANS A COMPLETE LIGHTING UNIT CONSISTING OF A FLUORESCENT LAMP, OR LAMPS, TOGETHER WITH PARTS DESIGNED TO DISTRIBUTE THE LIGHT, TO POSITION AND PROTECT SUCH LAMPS, AND TO CONNECT SUCH LAMPS TO THE POWER SUPPLY.

(G) "NOMINAL INPUT VOLTAGE" MEANS AN INPUT VOLTAGE WITHIN PLUS FIVE PERCENT OR MINUS FIVE PERCENT OF A SPECIFIED VALUE.

(H) "NOMINAL LAMP WATTS" MEANS THE WATTAGE AT WHICH A FLUORESCENT LAMP IS DESIGNED TO OPERATE.

(I) "POWER INPUT" MEANS THE POWER CONSUMPTION IN WATTS OF A BALLAST AND FLUORESCENT LAMP OR LAMPS, AS DETERMINED IN ACCORDANCE WITH THE TEST PROCEDURES SPECIFIED IN SUBDIVISION TWO OF THIS SECTION.

(J) "RELATIVE LIGHT OUTPUT" MEANS LIGHT OUTPUT DELIVERED THROUGH THE USE OF A BALLAST DIVIDED BY THE LIGHT OUTPUT THROUGH THE USE OF A REFERENCE BALLAST, EXPRESSED AS A PERCENT, AS DETERMINED IN ACCORDANCE WITH THE TEST PROCEDURES SPECIFIED IN SUBDIVISION TWO OF THIS SECTION.

2. TEST PROCEDURES. RELATIVE LIGHT OUTPUT AND POWER INPUT SHALL BE DETERMINED IN ACCORDANCE WITH TEST PROCEDURES SPECIFIED BY ANSI STANDARD C82.2-1977.

3. ENERGY EFFICIENCY STANDARDS. (A) ON AND AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, NO PERSON SHALL SELL, OFFER FOR SALE, INSTALL, OR CAUSE TO BE INSTALLED WITHIN THE STATE ANY BALLAST MANUFACTURED AFTER SUCH DATE WHICH HAS A BALLAST EFFICIENCY FACTOR LESS THAN THE APPLICABLE VALUE SET FORTH BELOW:

BALLASTS DESIGNED FOR THE OPERATION OF	NOMINAL INPUT VOLTAGE	TOTAL NOMINAL LAMP WATTS	BALLAST EFFICIENCY FACTOR
ONE F40T12 LAMP	120	40	1.805
	277	40	1.805
TWO F40T12 LAMPS	120	80	1.060
	277	80	1.050
TWO F96T12 LAMPS	120	150	0.570
	277	150	0.570

PROVIDED, HOWEVER, THAT A BALLAST MANUFACTURED PRIOR TO JANUARY FIRST, TWO THOUSAND ELEVEN WHICH DOES NOT MEET THE BALLAST EFFICIENCY FACTORS SET OUT ABOVE MAY BE SOLD, OFFERED FOR SALE, INSTALLED, OR CAUSED TO BE INSTALLED WITHIN THE STATE ONLY IF THE DATE OF MANUFACTURE CAN BE READILY DETERMINED FROM THE MODEL NUMBER OF OTHER IDENTIFICATION PROVIDED ON THE BALLAST CARTON.

(B) ON AND AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, NO PERSON SHALL SELL, OFFER FOR SALE, INSTALL, OR CAUSE TO BE INSTALLED WITHIN THE STATE ANY BALLAST WHICH HAS A BALLAST EFFICIENCY FACTOR LESS THAN THE APPLICABLE VALUE SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION.

(C) ON AND AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, NO PERSON SHALL SELL OR OFFER FOR SALE WITHIN THE STATE ANY LUMINAIRE CONTAINING A BALLAST WHICH HAS A BALLAST EFFICIENCY FACTOR LESS THAN THE APPLICABLE VALUE SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION UNLESS SUCH BALLAST WAS MANUFACTURED PRIOR TO JANUARY FIRST, TWO THOUSAND ELEVEN.

(D) ON AND AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, NO PERSON SHALL SELL OR OFFER FOR SALE WITHIN THE STATE ANY LUMINAIRE WHICH CONTAINS A BALLAST WITH A BALLAST EFFICIENCY FACTOR LESS THAN THE APPLICABLE FACTOR SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION.

4. (A) NO MANUFACTURER OF FLUORESCENT LAMP BALLASTS MANUFACTURED AFTER JANUARY FIRST, TWO THOUSAND ELEVEN SHALL SELL OR CAUSE SUCH BALLASTS TO BE SOLD FOR RESALE OR INSTALLATION IN THE STATE UNLESS THERE HAS BEEN FILED WITH THE OFFICE A COMPLIANCE STATEMENT WHICH INCLUDES THE FOLLOWING INFORMATION: NAME AND ADDRESS OF THE BALLAST MANUFACTURER; BRAND NAME AND MODEL NUMBER OF THE BALLAST; NAME AND ADDRESS OF THE TESTING AGENT WHICH PERFORMED THE TEST PROCEDURES NECESSARY TO DETERMINE THE BALLAST EFFICIENCY FACTOR; THE DATE AND RESULTS OF SUCH TEST; AND A DECLARATION THAT THE FLUORESCENT LAMP BALLAST MEETS OR EXCEEDS THE BALLAST EFFICIENCY FACTOR SPECIFIED IN SUBDIVISION THREE OF THIS SECTION.

(B) THE COMMISSIONER MAY DETERMINE THAT APPROVAL BY AN INDUSTRY OR GOVERNMENTAL CERTIFICATION AGENCY WHICH REVIEWS THE SAME OR SIMILAR INFORMATION AS REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION SHALL SERVE IN LIEU OF THE COMPLIANCE STATEMENT.

5. PENALTIES. A VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL BE PUNISHABLE BY A FINE NOT EXCEEDING ONE HUNDRED DOLLARS. FOR THE PURPOSES OF THIS SECTION, EACH SALE, OFFER FOR SALE OR INSTALLATION OF A BALLAST WHICH FAILS TO MEET THE EFFICIENCY STANDARDS OF THIS SECTION, OR A LUMINAIRE CONTAINING SUCH A BALLAST, SHALL CONSTITUTE A SEPARATE VIOLATION.

S 7. Sections 12-101-a and 17-102 of the energy law are REPEALED.

S 8. Paragraph a-1 of subdivision 1 of section 553 of the executive law is REPEALED.

S 9. Continuance of rules and regulations. All rules, regulations, acts, determinations and decisions of the state consumer protection board, pertaining to articles 12 and 17 of the energy law, and assigned pursuant to this act to the state energy office shall continue in force and effect as rules, regulations, acts, determinations and decisions of the state energy office or the commissioner of the state energy office until duly modified or repealed.

S 10. Subdivision 1 of section 21 of the executive law, as amended by chapter 346 of the laws of 2002, is amended to read as follows:

1. There is hereby created in the executive department a disaster preparedness commission consisting of the commissioners of transportation, health, STATE ENERGY OFFICE, division of criminal justice services, education, [social services] TEMPORARY AND DISABILITY ASSISTANCE, CHILDREN AND FAMILY SERVICES, economic development, agriculture and markets, housing and community renewal, general services, labor, environmental conservation, mental health, the president of the New York state energy research and development authority, the superintendents of state police, insurance, banking, the secretary of state, the state fire administrator, the chair of the public service commission, the adjutant general, the director of the state office for technology, the chairman of the thruway authority, the chief professional officer of the state coordinating chapter of the American Red Cross and three additional members, to be appointed by the governor, two of whom shall be chief executives. The governor shall designate the chair of the commission. The members of the commission, except those who serve ex officio, shall be allowed their actual and necessary expenses incurred in the performance of their duties under this article but shall receive no additional compensation for services rendered pursuant to this article.

S 11. Paragraph (c) of subdivision 1 of section 169 of the executive law, as amended by chapter 634 of the laws of 1998, is amended to read as follows:

(c) commissioner of agriculture and markets, commissioner of alcoholism and substance abuse services, adjutant general, commissioner and

president of state civil service commission, commissioner of economic development, COMMISSIONER OF THE STATE ENERGY OFFICE, chair of the energy research and development authority, executive director of the board of real property services, president of higher education services corporation, commissioner of motor vehicles, member-chair of board of parole, director of probation and correctional alternatives, chair of public employment relations board, secretary of state, chair of the state racing and wagering board, [commissioner of alcoholism and substance abuse services,] executive director of the housing finance agency, commissioner of housing and community renewal, executive director of state insurance fund, commissioner-chair of state liquor authority, chair of the workers' compensation board;

S 12. Paragraph a of subdivision 1 of section 374 of the executive law, as amended by chapter 243 of the laws of 1997, is amended to read as follows:

a. Two members, to be appointed by the governor, from among the commissioners of the departments of economic development, correctional services, education, health[,] AND labor[, mental health and social services], [office] OFFICES of general services, ENERGY, MENTAL HEALTH, AND TEMPORARY AND DISABILITY ASSISTANCE, division of housing and community renewal, and the superintendent of insurance.

S 13. Subdivision 1 of section 5-0101 of the environmental conservation law, as amended by chapter 316 of the laws of 2001, is amended to read as follows:

1. There is hereby continued within the department the State Environmental Board, which shall consist of sixteen members, including the Commissioner of Environmental Conservation as chair; the Commissioner of Health as vice chair; the Commissioners of Agriculture and Markets, Economic Development, Transportation, Labor, and Parks, Recreation and Historic Preservation, the Secretary of State, the Chair of the Public Service Commission, the [President of the New York State Energy Research and Development Authority] COMMISSIONER OF THE STATE ENERGY OFFICE, and members to be appointed by the Governor with the advice and consent of the Senate. None of the members appointed by the Governor shall be officers or employees of any state department or agency and each shall be, by professional training or experience and attainment, qualified to analyze and interpret matters of environmental concern. Of such members, one shall be representative of conservationists of the state and shall be familiar with matters pertaining to the utilization of the natural resources of the state, one shall be representative of industry and as such shall be employed by a manufacturer or public utility, one shall be representative of agriculture and shall be familiar with matters pertaining to agriculture and three shall be from the fields of public health, natural sciences, urban studies or other disciplines relating to the environment, ecology or natural resource management.

S 14. Section 15-2901 of the environmental conservation law, as amended by chapter 83 of the laws of 1995, is amended to read as follows:

S 15-2901. Water resources planning council; organization.

There is hereby established within the department [of environmental conservation] a water resources planning council. It shall consist of fifteen members, including the commissioners of agriculture and markets, economic development, ENERGY, environmental conservation, health, transportation, the chair of the public service commission, [president of the New York state energy research and development authority,] secretary of state and seven members to be appointed by the governor including at

least one member who shall have expertise in the science of water resources planning and at least one member selected from a list proposed by public interest or environmental citizens organizations. These seven members shall serve terms of four years each. Two of the members shall be appointed upon the recommendation of the majority leader of the senate and two of the members shall be appointed upon the recommendation of the speaker of the assembly. The governor shall select a chair from among the members. Meetings of the council shall be called by the chair. Members shall receive reimbursement for expenses.

S 15. Subdivisions 1 and 2 of section 23-0311 of the environmental conservation law, as amended by chapter 83 of the laws of 1995, are amended to read as follows:

1. A thirteen member New York state oil, gas and solution mining advisory board shall be created within the department to advise and assist the commissioner and other state agencies on activities and policies related to the development, operation and regulation of the oil, gas and solution mining industry. The members shall be appointed by the governor, with a majority representative of the respective industries. Three of the members shall be appointed upon recommendation of the [majority leader] TEMPORARY PRESIDENT of the senate and three of the members shall be appointed upon recommendation of the speaker of the assembly. Appointments shall be made for three-year terms. Members shall continue in office until their successors have been appointed and qualified. The governor shall select a chair from among the members. The board shall meet at least twice yearly and the members shall receive reimbursement for expenses. The department shall provide the board with secretarial services.

2. The chair of the public service commission, the [president of the New York state energy research and development authority] COMMISSIONER OF THE STATE ENERGY OFFICE, the state geologist, and the commissioner shall serve the board in an ex-officio capacity.

S 16. Subdivision 3 of section 23-2101 of the environmental conservation law, as amended by chapter 83 of the laws of 1995, is amended to read as follows:

3. The [Commissioner] COMMISSIONER shall be the official representative of this state on the Interstate Oil Compact Commission. At the direction of the commissioner, any other officer or employee of the department may serve as substitute representative in the place and stead of the commissioner. The commissioner shall consult and coordinate with the [president of the New York state energy research and development authority] COMMISSIONER OF THE STATE ENERGY OFFICE on issues relating to state energy policy.

S 17. The closing paragraph of section 391-a of the general business law, as amended by chapter 83 of the laws of 1995, is amended to read as follows:

The provisions of this section shall not apply to any person acting pursuant to a directive or in accordance with an order issued by the [governor] COMMISSIONER OF THE STATE ENERGY OFFICE to avert or alleviate shortages or disruptions of supplies of liquid fuels, lubricating oils or similar products. Any such directive or order may impose disclosure requirements deemed by [the governor] SUCH COMMISSIONER to be in the public interest.

S 18. Section 84-a of the private housing finance law, as amended by chapter 83 of the laws of 1995, is amended to read as follows:

S 84-a. Additional supervision and regulation of housing companies. The commissioner shall require that every company file with him, within

six months of the effective date of regulations implementing this section and in such format as the commissioner shall prescribe, AFTER CONSULTATION WITH THE STATE ENERGY OFFICE, an energy audit report which identifies potential energy-saving building improvements, including alterations, modifications and adjustments to the building structure, heating, cooling, lighting and ventilation systems; their relative costs; potential energy and cost savings; and simple payback periods, which for the purpose of this section shall mean that period of time within which the estimated cost of such improvements, exclusive of the cost of capital, would be recovered from the savings generated by reduced energy consumption resulting from the improvements. The energy audit shall be conducted by a public utility, an engineer or architect licensed by the state, or the managing agent or other representative of the company IF SUCH INDIVIDUAL HAS ATTENDED AN ENERGY AUDIT TRAINING WORKSHOP SPONSORED BY THE COMMISSIONER OF THE STATE ENERGY OFFICE. A copy of the energy audit report, required herein, shall be given to any duly constituted tenant's association or cooperator's advisory council and a copy shall be available for inspection and copying by any individual tenant who requests it. The commissioner shall also require that every company certify by March thirty-first, nineteen hundred eighty-four that all compatible conservation measures identified in the energy audit report which have simple payback period of one year or less have been implemented; provided, however, if the commissioner determines within sixty days of the date the energy audit report is filed that one or more of such identified conservation measures cannot be implemented by March thirty-first, nineteen hundred eighty-four, given the projected rent revenues and any other monies available to the company from reserve funds, loans or grants from the state or federal government or any other source, the implementation of such conservation measures shall be provided for according to a schedule prescribed by the commissioner.

S 19. Subdivision 2 of section 1852 of the public authorities law, as amended by chapter 83 of the laws of 1995, is amended to read as follows:

2. The membership of the authority shall consist of thirteen members, to be as follows: the commissioner of the [department of transportation] STATE ENERGY OFFICE, WHO SHALL BE THE CHAIR, the commissioner of [the department of] environmental conservation, the chair of the public service commission, the chair of the power authority of the State of New York, all of whom, EXCEPT THE CHAIR, shall serve ex-officio; and nine members appointed by the governor by and with the advice and consent of the senate; one of whom shall be an engineer or a research scientist with a degree in the physical sciences or engineering who has not been employed in the nuclear fission field for three years preceding the appointment and who shall not be so employed during his or her term; one of whom shall be an economist who shall not have received more than one-tenth of his or her income from an electric utility or gas utility for three years preceding the appointment and who shall not so derive more than one-tenth of his or her income during such term; one of whom who shall be a member of a not-for-profit environmental group; one of whom shall be a member of a not-for-profit consumer group; one of whom who shall be an officer of a utility primarily engaged in the distribution of gas; and one OF whom shall be an officer of an electric utility. [The governor shall designate the chair.] Of the nine members appointed by the governor, two shall be appointed for terms expiring April first, nineteen hundred seventy-eight, two for terms expiring April first, nineteen hundred eighty, two for terms expiring April

first, nineteen hundred eighty-one, and three for terms expiring April first, nineteen hundred eighty-two. Persons appointed by the governor for full terms as successors to such members shall serve for terms of six years each commencing as of April first. In the event of a vacancy occurring in the office of a member by death, resignation or otherwise, the governor shall appoint a successor, by and with the advice and consent of the senate, to serve the balance of the unexpired term.

S 20. Subdivisions 10, 11, 12, 13, 14, 15, 16 and 17 of section 1854 of the public authorities law are REPEALED.

S 21. Transfer of records. The president of the New York state energy research and development authority shall deliver to the commissioner of the state energy office all books, papers, records and property of such authority pertaining to the functions transferred pursuant to this act to the state energy office.

S 22. Continuity of authority. For the purpose of succession to all functions, powers, duties and obligations of the New York state energy research and development authority transferred and assigned to, devolved upon and assumed by the state energy office pursuant to this act, such office shall be deemed and held to constitute the continuation of such authority and not a different agency or authority.

S 23. Completion of unfinished business. Any business or other matter undertaken or commenced by the New York state energy research and development authority pertaining to or connected with the functions, powers, obligations and duties hereby transferred and assigned, and pending on the effective date of this act, may be conducted and completed by the state energy office.

S 24. Continuance of rules and regulations. All rules, regulations, acts, determinations and decisions of the New York state energy research and development authority, pertaining to the functions transferred and assigned pursuant to this act to the state energy office in force at the time of such transfer, assignment, assumption or devolution shall continue in force and effect as rules, regulations, acts, determinations and decisions of the state energy office until duly modified or repealed.

S 25. Terms occurring in laws, contracts and other documents. Whenever the New York state energy research and development authority and the president thereof, the functions, powers, obligations and duties of which are transferred pursuant to this act to the state energy office or the commissioner thereof, are referred to or designated in any law, contract or document pertaining to the functions, powers, obligations and duties hereby transferred and assigned, such reference or designation shall be deemed to refer to the state energy office or the commissioner thereof.

S 26. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired, or affected by reason of the provisions of this act.

S 27. Pending actions and proceedings. No action or proceeding pending at the time this act takes effect, brought by or against the New York state energy research and development authority or the president thereof, the functions, duties and obligations of which are assigned pursuant to this act to the state energy office shall be affected by any provision of this act, but the same may be prosecuted or defended in the name of the commissioner of the state energy office. In all such actions and proceedings, the state energy office, upon application to the court, shall be substituted as a party.

S 28. Transfer of appropriations heretofore made. All appropriations or reappropriations heretofore made to the New York state energy research and development authority for the functions, duties and obligations assigned to the state energy office pursuant to this act, or segregated pursuant to law, to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated and whether obligated or unobligated, are transferred to and made available for use and expenditure by the state energy office for the same purposes for which originally appropriated or reappropriated and shall be payable on vouchers certified or approved by the commissioner of the state energy office or duly authorized representative of such commissioner on audit and warrant of the comptroller.

S 29. The state energy office shall administer loans, agreements, contracts and commitments of the New York state energy research and development authority in effect as of the effective date of this act.

S 30. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided that any and all actions necessary to implement the provisions of this act on its effective date are authorized and directed to be taken and completed on or before such date.