

2142

2011-2012 Regular Sessions

I N A S S E M B L Y

January 14, 2011

Introduced by M. of A. CASTELLI, PAULIN, TOBACCO, GIGLIO, MURRAY, BURLING, RAI, McKEVITT, CALHOUN, COLTON, FITZPATRICK, JORDAN, McDONOUGH, MONTESANO, FINCH, AMEDORE -- Multi-Sponsored by -- M. of A. BARCLAY, BUTLER, CROUCH, GALEF, HAWLEY, P. LOPEZ, MOLINARO, OAKS, RABBITT, SAYWARD, SPANO, WEISENBERG -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the state finance law, the general municipal law, the education law, the economic development law and the environmental conservation law, in relation to state environmental purchasing and intergovernmental agreements; and to repeal section 409-i of the education law and section 163-b of the state finance law relating to environmentally-sensitive cleaning and maintenance products

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 environmental purchasing act".
3 S 2. Subdivision 5 of section 160 of the state finance law, as added
4 by chapter 83 of the laws of 1995, is amended to read as follows:
5 5. "Costs" as used in this article shall be quantifiable and may
6 include, without limitation, the price of the given good or service
7 being purchased; the administrative, training, storage, maintenance or
8 other overhead associated with a given good or service; the value of
9 warranties, delivery schedules, financing costs and foregone opportunity
10 costs associated with a given good or service; and the life span and
11 associated life cycle costs of the given good or service being
12 purchased. Life cycle costs may include, but shall not be limited to,
13 costs or savings associated with RAW MATERIALS, PRODUCTION, MANUFACTUR-
14 ING, construction, PACKAGING, DISTRIBUTION, USE, energy use, mainte-
15 nance, operation, and salvage or disposal, AND ANY ASSOCIATED PUBLIC
16 HEALTH AND ENVIRONMENTAL COSTS.

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

LBD05486-01-1

1 S 3. Paragraph a of subdivision 1 of section 161 of the state finance
2 law, as amended by chapter 175 of the laws of 2010, is amended to read
3 as follows:

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

29 S 4. Paragraphs k, l, m and n of subdivision 2 of section 161 of the
30 state finance law, paragraphs k and l as added by chapter 83 of the laws
31 of 1995, paragraph m as added by chapter 95 of the laws of 2000, para-
32 graph n as added by chapter 173 of the laws of 2010, are amended and a
33 new paragraph o is added to read as follows:

34 k. Report by December thirty-first, nineteen hundred ninety-five and
35 thereafter biennially to the governor, the legislature and the director
36 of the budget, the significant findings of the council including, but
37 not limited to, substantial savings generated by council initiatives and
38 the recommendations of the council concerning the state's procurement
39 practices; [and]

40 l. Undertake other related activities as are necessary to effectuate
41 this article including the development of a strategic plan for the
42 improvement of state procurement[.];

43 m. Establish and, from time to time, amend guidelines with respect to
44 publishing by state agencies of quarterly listings of projected procure-
45 ments having a value greater than five thousand dollars but less than
46 fifteen thousand dollars in the procurement opportunities newsletter
47 established by article four-C of the economic development law[.];

48 n. Recommend to the commissioner necessary legislative changes or
49 modifications to existing or proposed rules, regulations and procedures
50 that would increase access to the state's procurement process by minori-
51 ty-owned business enterprises and women-owned business enterprises and
52 create model language to be used by agencies when issuing requests for
53 bids or proposals to other solicitations or offers that would increase
54 the ability of small businesses to participate in state procurements[.];
55 AND

1 O. MAKE RECOMMENDATIONS TO THE COMMISSIONER FOR "TARGET CATEGORIES" OF
2 COMMODITIES, SERVICES AND/OR TECHNOLOGIES WHICH FOR THE PURPOSES OF THIS
3 SECTION SHALL MEAN BROAD CATEGORIES OF COMMODITIES, SERVICES AND/OR
4 TECHNOLOGIES ROUTINELY PROCURED BY THE STATE WHICH MAY HAVE AN ADVERSE
5 IMPACT ON PUBLIC HEALTH OR THE ENVIRONMENT AND FOR WHICH MORE ENVIRON-
6 MENTALLY PREFERABLE PRODUCTS SHOULD BE IDENTIFIED AND SUBSTITUTED
7 CONSISTENT WITH THE GOALS AND STANDARDS SET FORTH IN ARTICLE TEN-A OF
8 THIS CHAPTER.

9 S 5. Subparagraph (vii) of paragraph b of subdivision 3 of section 163
10 of the state finance law, as added by chapter 584 of the laws of 2005,
11 is amended to read as follows:

12 (vii) maintain a list of contractors which produce or manufacture or
13 offer for sale [environmentally-sensitive cleaning and maintenance
14 products in the form, function and utility generally used by elementary
15 and secondary schools] ENVIRONMENTALLY PREFERABLE PRODUCTS in accordance
16 with specifications or guidelines promulgated pursuant to [section four
17 hundred nine-i of the education law] ARTICLE TEN-A OF THIS CHAPTER.

18 S 6. The state finance law is amended by adding a new article 10-A to
19 read as follows:

20 ARTICLE 10-A

21 STATE ENVIRONMENTAL PURCHASING

22 SECTION 159-A. DEFINITIONS.

23 159-B. OFFICE OF THE ENVIRONMENTAL EXECUTIVE.

24 159-C. AGENCY ENVIRONMENTAL EXECUTIVES.

25 159-D. INTERAGENCY COMMITTEE ON SUSTAINABILITY AND GREEN
26 PROCUREMENT.

27 159-E. ISSUE-SPECIFIC TASK FORCES.

28 159-F. ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM.

29 159-G. STATE AGENCY RESPONSIBILITIES.

30 159-H. ENVIRONMENTAL PROCUREMENT INITIATIVES.

31 159-I. BUSINESS DEVELOPMENT AND GUIDANCE.

32 S 159-A. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE:

33 1. "ENERGY STAR" MEANS A DESIGNATION FROM THE UNITED STATES ENVIRON-
34 MENTAL PROTECTION AGENCY OR DEPARTMENT OF ENERGY INDICATING THAT A PROD-
35 UCT MEETS THE ENERGY EFFICIENCY STANDARDS SET FORTH BY THE AGENCY FOR
36 COMPLIANCE WITH THE ENERGY STAR PROGRAM.

37 2. "ELEMENTARY OR SECONDARY SCHOOL" MEANS A FACILITY USED FOR INSTRUC-
38 TION OF ELEMENTARY OR SECONDARY STUDENTS BY: (A) ANY SCHOOL DISTRICT,
39 INCLUDING A SPECIAL ACT SCHOOL DISTRICT AND A CITY SCHOOL DISTRICT IN A
40 CITY HAVING A POPULATION OF ONE HUNDRED TWENTY-FIVE THOUSAND INHABITANTS
41 OR MORE, (B) A BOARD OF COOPERATIVE EDUCATIONAL SERVICES, (C) A CHARTER
42 SCHOOL, (D) AN APPROVED PRIVATE SCHOOL FOR THE EDUCATION OF STUDENTS
43 WITH DISABILITIES, (E) A STATE-SUPPORTED SCHOOL FOR THE DEAF OR BLIND
44 OPERATED PURSUANT TO ARTICLE EIGHTY-FIVE OF THE EDUCATION LAW, AND (F)
45 ANY OTHER PRIVATE OR PAROCHIAL ELEMENTARY OR SECONDARY SCHOOL.

46 3. "ENVIRONMENTALLY PREFERABLE PRODUCTS" MEANS BUT SHALL NOT BE LIMIT-
47 ED TO PRODUCTS AND SERVICES THAT: CONTAIN RECYCLED MATERIALS, CONSERVE
48 ENERGY OR WATER, MINIMIZE WASTE, ARE LESS TOXIC AND HAZARDOUS, REDUCE
49 THE GENERATION, RELEASE OR DISPOSAL OF TOXIC SUBSTANCES, PROTECT OPEN
50 SPACE, AND/OR OTHERWISE LESSEN THE IMPACT OF SUCH PRODUCTS OR SERVICES
51 ON PUBLIC HEALTH AND THE ENVIRONMENT.

52 4. "ELECTRONIC PRODUCT ENVIRONMENTAL ASSESSMENT TOOL" MEANS A TOOL FOR
53 EVALUATING THE ENVIRONMENTAL PERFORMANCE OF ELECTRONIC PRODUCTS THROUGH-
54 OUT THEIR LIFE CYCLE DEVELOPED BY THE FEDERAL GOVERNMENT AND OTHER
55 STAKEHOLDERS.

1 5. "INDEPENDENT AGENCIES" MEANS ANY PUBLIC BENEFIT CORPORATIONS OR
2 PUBLIC AUTHORITIES NOT INCLUDED IN THE DEFINITION OF STATE AGENCIES.

3 6. "RECOVERED MATERIALS" MEANS WASTE MATERIALS AND BYPRODUCTS WHICH
4 HAVE BEEN RECOVERED OR DIVERTED FROM SOLID WASTE, BUT SUCH TERM DOES NOT
5 INCLUDE THOSE MATERIALS AND BYPRODUCTS GENERATED FROM AND COMMONLY
6 REUSED WITHIN AN ORIGINAL MANUFACTURING PROCESS.

7 7. "RECYCLED CONTENT" SHALL MEAN RECYCLED COMMODITY AS THAT TERM IS
8 DEFINED IN PARAGRAPH A OF SUBDIVISION THREE OF SECTION ONE HUNDRED
9 SIXTY-FIVE OF THIS CHAPTER.

10 8. "REMANUFACTURED" SHALL HAVE THE SAME MEANING AS SET FORTH IN PARA-
11 GRAPH A OF SUBDIVISION THREE OF SECTION ONE HUNDRED SIXTY-FIVE OF THIS
12 CHAPTER.

13 9. "STATE AGENCIES" MEANS ANY DEPARTMENT, DIVISION, BOARD, BUREAU,
14 COMMISSION, OFFICE, AGENCY, AUTHORITY OR PUBLIC CORPORATION OF THE
15 STATE.

16 S 159-B. OFFICE OF THE ENVIRONMENTAL EXECUTIVE. 1. THE OFFICE OF THE
17 ENVIRONMENTAL EXECUTIVE SHALL BE DESIGNATED BY THE GOVERNOR AND SHALL BE
18 LOCATED WITHIN THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION. THE ENVI-
19 RONMENTAL EXECUTIVE SHALL TAKE ALL ACTIONS NECESSARY TO ENSURE THAT
20 STATE AGENCIES COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE AND SHALL
21 GENERATE AN ANNUAL REPORT TO THE DIVISION OF BUDGET, AT THE TIME OF
22 AGENCY BUDGET SUBMISSIONS, ON THE ACTIONS TAKEN BY STATE AGENCIES TO
23 COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE. IN CARRYING OUT HIS OR HER
24 FUNCTIONS, THE ENVIRONMENTAL EXECUTIVE SHALL CONSULT WITH THE COMMIS-
25 SIONER OF ENVIRONMENTAL CONSERVATION.

26 2. A MINIMUM OF FOUR FULL TIME STAFF PERSONS ARE TO BE PROVIDED TO
27 ASSIST THE ENVIRONMENTAL EXECUTIVE, ONE OF WHOM SHALL HAVE EXPERIENCE IN
28 SPECIFICATION REVIEW AND PROGRAM REQUIREMENTS, ONE OF WHOM SHALL HAVE
29 EXPERIENCE IN PROCUREMENT PRACTICES AND ONE OF WHOM SHALL HAVE EXPERI-
30 ENCE IN SOLID WASTE PREVENTION AND RECYCLING. THESE FOUR STAFF PERSONS
31 SHALL BE APPOINTED AND REPLACED AS FOLLOWS:

32 (A) THE ADJUTANT GENERAL OF THE DIVISION OF MILITARY AND NAVAL AFFAIRS
33 OR HIS OR HER DESIGNEE SHALL BE DETAILED FOR NOT LESS THAN ONE YEAR AND
34 NO MORE THAN TWO YEARS;

35 (B) THE COMMISSIONER OF GENERAL SERVICES OR HIS OR HER DESIGNEE SHALL
36 BE DETAILED FOR NOT LESS THAN ONE YEAR AND NO MORE THAN TWO YEARS;

37 (C) THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION OR HIS OR HER
38 DESIGNEE SHALL BE DETAILED FOR NOT LESS THAN ONE YEAR AND NO MORE THAN
39 TWO YEARS; AND

40 (D) THE PRESIDENT OF THE NEW YORK STATE ENVIRONMENTAL FACILITIES
41 CORPORATION OR HIS OR HER DESIGNEE FOR NOT MORE THAN ONE YEAR.

42 3. STATE AGENCIES ARE REQUESTED TO MAKE THEIR SERVICES, PERSONNEL AND
43 FACILITIES AVAILABLE TO THE ENVIRONMENTAL EXECUTIVE TO THE MAXIMUM
44 EXTENT PRACTICABLE FOR THE PERFORMANCE OF FUNCTIONS.

45 4. THE ENVIRONMENTAL EXECUTIVE, IN CONSULTATION WITH THE AGENCY ENVI-
46 RONMENTAL EXECUTIVES DESIGNATED PURSUANT TO SECTION ONE HUNDRED
47 FIFTY-NINE-C OF THIS ARTICLE, SHALL:

48 (A) IDENTIFY AND RECOMMEND INITIATIVES FOR GOVERNMENT-WIDE IMPLEMENTA-
49 TION THAT WILL PROMOTE THE PURPOSES OF THIS ARTICLE, INCLUDING:

50 (I) THE DEVELOPMENT OF A STATE PLAN FOR AGENCY IMPLEMENTATION AND
51 APPROPRIATE INCENTIVES TO ENCOURAGE THE ACQUISITION OF RECYCLED AND
52 ENVIRONMENTALLY PREFERABLE PRODUCTS BY THE STATE GOVERNMENT;

53 (II) THE DEVELOPMENT OF A STATE IMPLEMENTATION PLAN AND GUIDANCE FOR
54 INSTITUTING ECONOMICALLY EFFICIENT STATE WASTE PREVENTION, ENERGY AND
55 WATER EFFICIENCY PROGRAMS, AND RECYCLING PROGRAMS WITHIN EACH AGENCY;
56 AND

1 (III) THE DEVELOPMENT OF A PLAN FOR MAKING MAXIMUM USE OF AVAILABLE
2 FUNDING ASSISTANCE PROGRAMS;

3 (B) ELECTRONICALLY COLLECT AND DISSEMINATE INFORMATION CONCERNING
4 METHODS TO REDUCE WASTE, MATERIALS THAT CAN BE RECYCLED, COSTS AND
5 SAVINGS ASSOCIATED WITH WASTE PREVENTION AND RECYCLING, AND CURRENT
6 MARKET SOURCES OF PRODUCTS THAT ARE ENVIRONMENTALLY PREFERABLE OR
7 PRODUCED WITH RECOVERED MATERIALS;

8 (C) PROVIDE GUIDANCE AND ASSISTANCE TO STATE AGENCIES IN SETTING UP
9 AND REPORTING ON AGENCY PROGRAMS AND MONITORING THEIR EFFECTIVENESS;

10 (D) ESTABLISH A WEBSITE FOR THE OFFICE OF THE ENVIRONMENTAL EXECUTIVE
11 AND COORDINATE APPROPRIATE GOVERNMENT-WIDE EDUCATION AND TRAINING
12 PROGRAMS FOR STATE AGENCIES; AND

13 (E) PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE DEEMED NECESSARY
14 AND APPROPRIATE TO EFFECTUATE THE PROVISIONS OF THIS ARTICLE.

15 S 159-C. AGENCY ENVIRONMENTAL EXECUTIVES. WITHIN NINETY DAYS AFTER THE
16 EFFECTIVE DATE OF THIS ARTICLE, THE HEAD OF EACH EXECUTIVE DEPARTMENT
17 AND MAJOR PROCURING AGENCY SHALL DESIGNATE AN AGENCY ENVIRONMENTAL EXEC-
18 UTIVE FROM AMONG HIS OR HER STAFF. THE AGENCY ENVIRONMENTAL EXECUTIVE
19 WILL BE RESPONSIBLE FOR:

20 1. COORDINATING ALL ENVIRONMENTAL PROGRAMS IN THE AREAS OF PROCUREMENT
21 AND ACQUISITION, STANDARDS AND SPECIFICATION REVIEW, FACILITIES MANAGE-
22 MENT, WASTE PREVENTION AND RECYCLING, AND LOGISTICS;

23 2. PARTICIPATING IN THE INTERAGENCY DEVELOPMENT OF A STATE PLAN TO:

24 (A) CREATE AN AWARENESS AND OUTREACH PROGRAM FOR THE PRIVATE SECTOR TO
25 FACILITATE MARKETS FOR ENVIRONMENTALLY PREFERABLE AND RECYCLED PRODUCTS
26 AND SERVICES, PROMOTE NEW TECHNOLOGIES, IMPROVE AWARENESS ABOUT FEDERAL
27 EFFORTS IN THIS AREA, AND EXPEDITE AGENCY EFFORTS TO PROCURE NEW
28 PRODUCTS IDENTIFIED UNDER THIS ORDER;

29 (B) ESTABLISH INCENTIVES, PROVIDE GUIDANCE AND COORDINATE APPROPRIATE
30 EDUCATIONAL PROGRAMS FOR AGENCY EMPLOYEES; AND

31 (C) COORDINATE THE DEVELOPMENT OF STANDARD AGENCY REPORTS REQUIRED BY
32 THIS ARTICLE.

33 3. REVIEWING STATE AGENCY PROGRAMS AND ACQUISITIONS TO ENSURE COMPLI-
34 ANCE WITH THIS ORDER.

35 S 159-D. INTERAGENCY COMMITTEE ON SUSTAINABILITY AND GREEN PROCURE-
36 MENT. 1. THERE IS HEREBY ESTABLISHED AN INTERAGENCY COMMITTEE ON
37 SUSTAINABILITY AND GREEN PROCUREMENT. THE COMMITTEE SHALL BE COMPRISED
38 OF THE DIRECTOR OF THE BUDGET, THE COMMISSIONER OF GENERAL SERVICES, THE
39 COMMISSIONER OF ENVIRONMENTAL CONSERVATION, THE COMMISSIONER OF HEALTH,
40 THE COMMISSIONER OF ECONOMIC DEVELOPMENT, THE PRESIDENT OF THE URBAN
41 DEVELOPMENT CORPORATION, THE COMMISSIONER OF TRANSPORTATION, THE PRESI-
42 DENT OF THE ENVIRONMENTAL FACILITIES CORPORATION, THE PRESIDENT OF THE
43 NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, THE CHAIR OF
44 THE POWER AUTHORITY OF THE STATE OF NEW YORK, AND THE EXECUTIVE DIRECTOR
45 OF THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK. THE COMMISSIONER OF
46 GENERAL SERVICES AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION
47 SHALL SERVE AS CO-CHAIRS OF THE COMMITTEE.

48 2. MEMBERS OF THE COMMITTEE MAY DESIGNATE AN EXECUTIVE STAFF MEMBER TO
49 REPRESENT THEM AND PARTICIPATE ON THE COMMITTEE ON THEIR BEHALF. A
50 MAJORITY OF THE MEMBERS OF THE COMMITTEE SHALL CONSTITUTE A QUORUM, AND
51 ALL ACTIONS AND RECOMMENDATIONS OF THE COMMITTEE SHALL REQUIRE APPROVAL
52 OF A MAJORITY OF THE TOTAL MEMBERS OF THE COMMITTEE.

53 S 159-E. ISSUE-SPECIFIC TASK FORCES. 1. THE COMMITTEE SHALL HAVE THE
54 AUTHORITY TO DESIGNATE ISSUE-SPECIFIC TASK FORCES TO EXAMINE SPECIFIC
55 AREAS OF ENVIRONMENTAL PROCUREMENT AND PROVIDE TARGETED TECHNICAL
56 ASSISTANCE AND GUIDANCE TO AGENCIES AS NEEDED.

1 2. ONE SUCH TASK FORCE SHALL BE A TOXIC REDUCTION TASK FORCE TO BE
2 OVERSEEN BY THE OFFICE OF THE ENVIRONMENTAL EXECUTIVE IN COORDINATION
3 WITH THE OFFICE OF GENERAL SERVICES.

4 (A) THE OFFICE OF GENERAL SERVICES SHALL:

5 (I) PROVIDE THE TOXIC REDUCTION TASK FORCE WITH RELEVANT INFORMATION
6 ON WHAT CHEMICALS AND PRODUCTS ARE PROCURED, AND THE AMOUNTS USED AND BY
7 WHOM, IN THE STATE; AND

8 (II) WORK WITH OFFICE OF THE ENVIRONMENTAL EXECUTIVE AND OTHER STAKE-
9 HOLDERS TO IMPLEMENT THE TOXIC REDUCTION TASK FORCE RECOMMENDATIONS.

10 (B) WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS ARTICLE, THE
11 OFFICE OF THE ENVIRONMENTAL EXECUTIVE SHALL CONSULT WITH THE OFFICE OF
12 GENERAL SERVICES IN ESTABLISHING SAID TOXIC REDUCTION TASK FORCE, WHICH
13 SHALL MEET PERIODICALLY, BUT NOT LESS THAN TWO TIMES PER YEAR, TO
14 PROVIDE GUIDANCE ON AND ASSIST AGENCIES WITH IDENTIFYING AND ELIMINATING
15 PURCHASES OF PRODUCTS THAT CONTAIN TOXIC CHEMICALS.

16 (C) TOXIC REDUCTION TASK FORCE MEMBERS SHALL INCLUDE, BUT NOT BE
17 LIMITED TO THE COMMISSIONER OF GENERAL SERVICES, THE COMMISSIONER OF
18 ENVIRONMENTAL CONSERVATION, THE COMMISSIONER OF HEALTH, AND THE COMMIS-
19 SIONER OF LABOR, AND EACH SHALL APPOINT REPRESENTATIVES TO THE TASK
20 FORCE WITHIN THIRTY DAYS OF THEIR NOTIFICATION BY THE OFFICE OF THE
21 ENVIRONMENTAL EXECUTIVE.

22 (D) THE TASK FORCE SHALL PERIODICALLY CONSULT WITH THE COMMITTEE AND
23 ANY OTHER APPROPRIATE NON-GOVERNMENTAL STAKEHOLDERS OR STATE AGENCIES,
24 INCLUDING, BUT NOT LIMITED TO, THE OFFICE OF GENERAL SERVICES, THE
25 DEPARTMENT OF EDUCATION, THE DEPARTMENT OF HEALTH AND THE DEPARTMENT OF
26 TRANSPORTATION, TO IDENTIFY OPPORTUNITIES FOR THE INTEGRATION OF LESS
27 TOXIC PRODUCTS INTO PUBLIC SCHOOLS, HEALTHCARE FACILITIES, CONSTRUCTION
28 PROJECTS AND THROUGHOUT THE STATE AND LOCAL GOVERNMENT.

29 3. MEMBERS OF OTHER TASK FORCES SHALL BE APPOINTED BY THE CHAIR OF THE
30 COMMITTEE IN CONSULTATION WITH THE MEMBERS OF THE COMMITTEE.

31 4. ON OR BEFORE FEBRUARY FIRST OF EACH YEAR, THE ENVIRONMENTAL EXECU-
32 TIVE SHALL REPORT TO THE COMMITTEE ON THE PROGRESS MADE BY THE TOXIC
33 REDUCTION TASK FORCE AND ANY OTHER TASK FORCE OVERSEEN BY THE OFFICE OF
34 THE ENVIRONMENTAL EXECUTIVE IN THE PRIOR FISCAL YEAR TOWARD MEETING THE
35 GOALS AND REQUIREMENTS OF THIS ARTICLE.

36 S 159-F. ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM. THE INTERAGENCY
37 COMMITTEE ON SUSTAINABILITY AND GREEN PROCUREMENT SHALL DEVELOP AND
38 IMPLEMENT AN ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM. 1. THE ENVI-
39 RONMENTALLY PREFERABLE PRODUCTS PROGRAM SHALL:

40 (A) ESTABLISH MINIMUM ENVIRONMENTAL STANDARDS FOR PRODUCTS AND
41 SERVICES PROCURED BY STATE AGENCIES WHEREVER FEASIBLE AND PRACTICABLE;

42 (B) PROVIDE GUIDANCE TO STATE AGENCIES ON HOW TO ENSURE THAT THEIR
43 PROCUREMENTS ARE IN COMPLIANCE WITH THESE STANDARDS AND ENCOURAGE STATE
44 AGENCIES TO ESTABLISH ANNUAL ENVIRONMENTALLY PREFERABLE PRODUCT PROCURE-
45 MENT GOALS;

46 (C) INCLUDE ENVIRONMENTALLY PREFERABLE PRODUCTS IN STATEWIDE CONTRACTS
47 AND LIMIT CONTRACT AWARDS TO ENVIRONMENTALLY PREFERABLE PRODUCTS EXCLU-
48 SIVELY, CONSISTENT WITH ARTICLE ELEVEN OF THIS CHAPTER AND THE REGU-
49 LATIONS THEREUNDER AND THE ENVIRONMENTALLY PREFERABLE PRODUCT PROCURE-
50 MENT GOALS AND STANDARDS;

51 (D) FACILITATE THE PURCHASE, DEMONSTRATION AND USE OF NEW AND INNOVA-
52 TIVE ENVIRONMENTALLY PREFERABLE PRODUCTS, TECHNOLOGIES AND SERVICES;

53 (E) ENCOURAGE STATE CONTRACTORS TO INCORPORATE ENVIRONMENTALLY PREFER-
54 ABLE PRODUCTS AND SUSTAINABLE PRACTICES IN THEIR OPERATIONS;

55 (F) IMPLEMENT AN ENVIRONMENTALLY PREFERABLE PRODUCT CERTIFICATION
56 PROGRAM FOR STATE AGENCIES AND OTHER PUBLIC PURCHASERS AND/OR WORK WITH

1 PARTNERS WITHIN AND OUTSIDE THE STATE TO DEVELOP SUCH A CERTIFICATION ON
2 A NATIONAL LEVEL; AND

3 (G) SUPPORT DEVELOPMENT OF APPROPRIATE TRAINING AND OUTREACH ON
4 PROCURING ENVIRONMENTALLY PREFERABLE PRODUCTS AND IDENTIFICATION OF
5 THEIR FISCAL, ENVIRONMENTAL, AND HEALTH BENEFITS.

6 2. ON OR BEFORE FEBRUARY FIRST OF EACH YEAR, THE ENVIRONMENTALLY PREF-
7 ERABLE PRODUCTS PROGRAM SHALL REPORT TO THE DIVISION OF BUDGET AND THE
8 DEPARTMENT OF ENVIRONMENTAL CONSERVATION ON THE PROGRESS MADE IN THE
9 PRIOR FISCAL YEAR TOWARD MEETING THE GOALS SET FORTH IN THIS SECTION AS
10 WELL AS PROVIDE AVAILABLE DATA ON ACTUAL ENVIRONMENTALLY PREFERABLE
11 PRODUCT PURCHASES AND THEIR ASSOCIATED ENVIRONMENTAL, HEALTH, AND FISCAL
12 BENEFITS, WHEREVER POSSIBLE.

13 3. ALL OFFICE OF GENERAL SERVICES STAFF SHALL COOPERATE WITH THE ENVI-
14 RONMENTALLY PREFERABLE PRODUCTS PROGRAM IN THESE EFFORTS AND INCORPORATE
15 ENVIRONMENTAL GOALS INTO THE PERFORMANCE MEASUREMENTS OF PROCUREMENT
16 OFFICERS AND OTHER APPROPRIATE STAFF.

17 4. THE STATE PURCHASING AGENT SHALL DIRECT THE NEW YORK STATE ENERGY
18 RESEARCH AND DEVELOPMENT AUTHORITY TO FACILITATE COORDINATION BETWEEN
19 THE GREEN JOBS-GREEN NEW YORK PROGRAM AND THE ENVIRONMENTALLY PREFERABLE
20 PRODUCTS PROGRAM AND INCLUDE ENVIRONMENTALLY PREFERABLE PRODUCTS
21 CONTRACT INFORMATION IN ALL APPROPRIATE TRAINING SESSIONS.

22 5. THE ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM SHALL DEVELOP AND
23 CONDUCT OUTREACH PROGRAMS FOR MUNICIPALITIES AND, IN COLLABORATION WITH
24 THE DEPARTMENT OF EDUCATION, ELEMENTARY OR SECONDARY SCHOOLS.

25 6. INDEPENDENT AGENCIES MAY ADOPT THE ENVIRONMENTALLY PREFERABLE
26 PRODUCTS POLICIES AND PROGRAMS CONSISTENT WITH THIS SECTION.

27 S 159-G. STATE AGENCY RESPONSIBILITIES. 1. WHERE STATE AGENCIES HAVE
28 THE RESPONSIBILITY AND OPPORTUNITY TO CONDUCT PROCUREMENTS AND TO
29 PURCHASE PRODUCTS AND SERVICES EITHER THROUGH STATEWIDE CONTRACTS OR
30 DEPARTMENT PROCUREMENTS AND CONTRACTS, INCLUDING CONSULTANTS, SERVICE
31 PROVIDERS, AND/OR LEASE AGREEMENTS, THEY SHALL INCORPORATE ENVIRON-
32 MENTALLY PREFERABLE PRODUCTS INTO THOSE ACTIVITIES TO THE GREATEST
33 EXTENT FEASIBLE.

34 2. STATE AGENCIES SHALL:

35 (A) WORK WITH THEIR CONTRACTORS AND AGENCY PERSONNEL TO PROVIDE ALL
36 NECESSARY AND APPROPRIATE SUPPORT TO THE ENVIRONMENTALLY PREFERABLE
37 PRODUCTS PROGRAM IN AN EFFORT TO ENSURE THAT ANNUAL FISCAL YEAR PURCHAS-
38 ING DATA IS REPORTED TO THE OFFICE OF GENERAL SERVICES WITHIN NINETY
39 DAYS OF THE CLOSE OF EACH FISCAL YEAR;

40 (B) EXAMINE THE BENEFITS OF ESTABLISHING ANNUAL ENVIRONMENTALLY PREF-
41 ERABLE PRODUCT PROCUREMENT GOALS AND CONSULT WITH THE ENVIRONMENTALLY
42 PREFERABLE PRODUCTS PROGRAM TO TARGET APPROPRIATE PROCUREMENT AREAS;

43 (C) SUPPORT AND ENCOURAGE KEY AGENCY STAFF PARTICIPATION IN ENVIRON-
44 MENTALLY PREFERABLE PRODUCT PROCUREMENT TRAINING; AND

45 (D) WORK TO INCORPORATE THE USE OF ENVIRONMENTALLY PREFERABLE PRODUCTS
46 IN CONTRACTS AUTHORIZED BY THE PUBLIC HEALTH LAW AND THE REGULATIONS
47 PROMULGATED THEREUNDER, CONSTRUCTION, RENOVATION AND MAINTENANCE
48 CONTRACTS, FOOD SERVICE CONTRACTS, DISPOSAL CONTRACTS, LEASE AGREEMENTS,
49 GRANT PROGRAMS, AND OTHER CONTRACTS OVERSEEN BY STATE AGENCIES.

50 S 159-H. ENVIRONMENTAL PROCUREMENT INITIATIVES. 1. (A) WHEN PROCURING
51 PRODUCTS THAT CONSUME ENERGY, ALL STATEWIDE CONTRACTS AND AGENCY
52 PROCUREMENTS SHALL FOLLOW THE MINIMUM ENERGY EFFICIENCY STANDARDS
53 PROMULGATED BY THE PRESIDENT OF THE NEW YORK STATE ENERGY RESEARCH AND
54 DEVELOPMENT AUTHORITY AND TAKE INTO ACCOUNT, IN THE PROCUREMENT'S SPEC-
55 IFICATIONS, THE LIFETIME ENERGY COSTS NECESSARY TO OPERATE ENERGY
56 CONSUMING PRODUCTS AND EQUIPMENT.

1 (B) THE ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM SHALL REVIEW
2 EXISTING STANDARDS AND ESTABLISH MINIMUM ENERGY PERFORMANCE STANDARDS,
3 TAKING INTO ACCOUNT INITIAL AND OPERATING COSTS, AND STATE AGENCIES
4 SHALL ADHERE TO SAID STANDARDS. AT A MINIMUM, UNLESS OTHERWISE SET FORTH
5 IN THE MINIMUM ENERGY PERFORMANCE STANDARDS, STATE AGENCIES SHALL:

6 (I) PROCURE ONLY ENERGY STAR RATED OFFICE EQUIPMENT, APPLIANCES, HEAT-
7 ING, VENTILATING AND AIR CONDITIONING EQUIPMENT, AND OTHER ENERGY STAR
8 RATED PRODUCTS UNLESS SUCH PRODUCTS CAN BE DEMONSTRATED TO BE COST
9 PROHIBITIVE OVER THEIR LIFE;

10 (II) ENSURE THAT ALL ENERGY STAR EQUIPMENT HAS THE POWER SAVING MODE
11 ENABLED AT THE TIME OF INSTALLATION AND THAT ALL STAFF ARE AWARE OF
12 THESE FUNCTIONS AND THEIR BENEFITS;

13 (III) PURCHASE ONLY ENERGY EFFICIENT LIGHT BULBS, SUCH AS, BUT NOT
14 LIMITED TO, COMPACT FLUORESCENT LAMPS OR LIGHT EMITTING DIODES UNLESS
15 THE PURCHASE OF A STANDARD BULB, SUCH AS AN INCANDESCENT, IS NECESSARY
16 FOR A SPECIFIC PURPOSE OR FUNCTION THAT CAN ONLY BE SERVED BY SAID BULB;

17 (IV) PROCURE THE MOST EFFICIENT AND COST-EFFECTIVE LINEAR LIGHTS
18 POSSIBLE THAT WILL MEET AGENCY NEEDS AND, WHEREVER POSSIBLE, REPLACE
19 OLDER LAMP BALLASTS WITH NEWER MORE EFFICIENT ELECTRONIC BALLASTS;

20 (V) ENSURE THAT ALL NEW STREET LIGHTS UTILIZE THE MOST EFFICIENT LIGHT
21 SOURCES POSSIBLE AND THAT ALL TRAFFIC LIGHTS INSTALLED OR REPLACED BY
22 AGENCIES UTILIZE ONLY LIGHT EMITTING DIODES OR SIMILARLY EFFICIENT TECH-
23 NOLOGY; AND

24 (VI) SUPPORT THE PROCUREMENT OF OTHER ENERGY EFFICIENT PRODUCTS WHER-
25 EVER POSSIBLE, INCLUDING BUT NOT LIMITED TO, HIGH EFFICIENCY MOTORS,
26 TANKLESS WATER HEATERS, PROGRAMMABLE THERMOSTATS, HEATING, VENTILATION
27 AND AIR CONDITIONING UNITS/SYSTEMS AND FOOD SERVICE EQUIPMENT.

28 2. (A) THE ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM AND STATE AGEN-
29 CIES SHALL, WHEREVER FEASIBLE, ELIMINATE PRODUCTS PROCURED BY THE STATE
30 THAT CONTAIN TOXIC CHEMICALS IN CONCENTRATIONS THAT POSE A SIGNIFICANT
31 THREAT TO THE ENVIRONMENT AND/OR PUBLIC HEALTH.

32 (B) WHEN LESS TOXIC OR NON-TOXIC ALTERNATIVES ARE READILY AVAILABLE,
33 MEET STATE AGENCY PERFORMANCE REQUIREMENTS, AND ARE COST COMPETITIVE,
34 THE ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM SHALL MOVE PROMPTLY TO
35 MAKE THESE ALTERNATIVES AVAILABLE THROUGH STATEWIDE CONTRACTS. STATE
36 AGENCIES SHALL PURCHASE ONLY THESE LESS TOXIC OR NON-TOXIC ALTERNATIVES
37 UNLESS IT CAN BE DEMONSTRATED THAT SUCH ALTERNATIVES DO NOT MEET THE
38 ESSENTIAL NEEDS OF THE AGENCY.

39 (C) THROUGH BOTH STATEWIDE AND/OR DEPARTMENTAL CONTRACTS, STATE AGEN-
40 CIES SHALL:

41 (I) PURCHASE AND USE ONLY THOSE CLEANING PRODUCTS, INCLUDING FLOOR
42 FINISHES, THAT MEET THE ENVIRONMENTAL SPECIFICATIONS ESTABLISHED BY THE
43 ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM;

44 (II) WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE, REQUIRE
45 CLEANING SERVICE CONTRACTORS TO UTILIZE CLEANING PRODUCTS THAT MEET THE
46 SAME OR BETTER ENVIRONMENTALLY PREFERABLE PRODUCT STANDARDS;

47 (III) REQUIRE PEST CONTROL FIRMS OR LICENSED STATE STAFF TO EMPLOY AN
48 INTEGRATED PEST MANAGEMENT APPROACH IN STATE FACILITIES;

49 (IV) ENSURE ADHERENCE TO TITLE TWENTY-ONE OF ARTICLE TWENTY-SEVEN OF
50 THE ENVIRONMENTAL CONSERVATION LAW AND THE REGULATIONS THEREUNDER
51 CONCERNING MERCURY-ADDED CONSUMER PRODUCTS OR DEVELOP STANDARDS THAT THE
52 ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM DEEMS APPROPRIATE;

53 (V) PROCURE PRODUCTS THAT CONTAIN NO OR LOW AMOUNTS OF VOLATILE ORGAN-
54 IC COMPOUNDS WHEREVER FEASIBLE, INCLUDING BUT NOT LIMITED TO OFFICE
55 EQUIPMENT, FURNITURE, FLOORING, PAINT, AND CONSTRUCTION MATERIALS; AND

1 (VI) PURCHASE COMPUTERS, MONITORS, LAPTOPS, AND OTHER RELEVANT EQUIP-
2 MENT THAT HAVE ACHIEVED A MINIMUM SILVER RATING FROM THE ELECTRONIC
3 PRODUCTS ENVIRONMENTAL ASSESSMENT TOOL.

4 (D) THE ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM SHALL WORK WITH
5 AGENCIES TO DEVELOP BEST MANAGEMENT PRACTICES AND SPECIFICATIONS WITH
6 THE INTENT OF INCREASING THE PROCUREMENT OF:

7 (I) LESS TOXIC WATER TREATMENT CHEMICALS AND PROCESSES;

8 (II) PAPER PRODUCTS PROCESSED WITHOUT ELEMENTAL CHLORINE;

9 (III) ORGANIC AND/OR LESS TOXIC FERTILIZERS, PESTICIDES AND OTHER
10 LANDSCAPING PRODUCTS;

11 (IV) VEHICLE TIRES WITH LEAD-FREE WHEEL WEIGHTS;

12 (V) PACKAGING IN CONFORMANCE WITH THE SPECIFICATIONS DEVELOPED BY THE
13 COALITION OF NORTHEASTERN GOVERNORS DESIGNED TO REDUCE HEAVY METALS AND
14 TOXICS;

15 (VI) FURNISHINGS, CLOTHING, AND OTHER PRODUCTS THAT MEET REQUIRED
16 FLAMMABILITY STANDARDS WITHOUT THE USE OF TOXIC FLAME RETARDANTS KNOWN
17 AS POLYBROMINATED DIPHENYL ETHERS; AND

18 (VII) OTHER PRODUCTS IDENTIFIED BY A TASK FORCE ESTABLISHED BY THE
19 COMMITTEE PURSUANT TO SECTION ONE HUNDRED FIFTY-NINE-E OF THIS ARTICLE.

20 3. RECYCLED CONTENT AND WASTE MINIMIZATION. (A) THE ENVIRONMENTALLY
21 PREFERABLE PRODUCTS PROGRAM SHALL DEVELOP AND EXPAND MINIMUM RECYCLED
22 CONTENT AND REMANUFACTURED STANDARDS FOR ALL APPROPRIATE PRODUCTS AND
23 MATERIALS.

24 (B) THE ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM SHALL UTILIZE,
25 WHEREVER APPLICABLE, THE MINIMUM STANDARDS ESTABLISHED BY THE FEDERAL
26 ENVIRONMENTAL PROTECTION AGENCY'S COMPREHENSIVE PROCUREMENT GUIDELINES
27 AS SET FORTH IN PART TWO HUNDRED FORTY-SEVEN OF TITLE FORTY OF THE
28 UNITED STATES CODE OF FEDERAL REGULATIONS OR DEVELOP STANDARDS THAT THE
29 ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM DEEMS APPROPRIATE.

30 (C) THE ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM SHALL CONSIDER THE
31 ULTIMATE DISPOSAL OF PRODUCTS AND THEIR PACKAGING WHEN DEVELOPING
32 CONTRACT SPECIFICATIONS AND MAKING CONTRACT AWARDS. AGENCIES SHALL
33 PROCURE PRODUCTS THAT COMPLY WITH ALL RECYCLED CONTENT AND WASTE
34 REDUCTION STANDARDS ESTABLISHED BY THE ENVIRONMENTALLY PREFERABLE
35 PRODUCTS PROGRAM.

36 (D) THE ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM SHALL ENSURE THAT
37 THE FOLLOWING PRODUCT CATEGORIES CONTAIN MINIMUM RECYCLED CONTENT STAND-
38 ARDS AND ARE INCLUDED ON STATEWIDE CONTRACTS:

39 (I) OFFICE PAPER, PRINTED MATERIALS, OFFICE SUPPLIES, PACKAGING AND
40 STORAGE BOXES;

41 (II) OFFICE PANELS AND INTERIOR AND EXTERIOR FURNITURE AND EQUIPMENT;

42 (III) JANITORIAL PAPER PRODUCTS AND TRASH LINERS;

43 (IV) TRANSPORTATION PRODUCTS SUCH AS ANTIFREEZE, MOTOR OIL, RETREAD
44 TIRES AND TRAFFIC CONTROL DEVICES;

45 (V) CARPETING AND FLOORING;

46 (VI) COMPOST AND MULCH; AND

47 (VII) PLASTIC CONTAINERS SUCH AS RECYCLING CONTAINERS AND COMPOST
48 BINS.

49 (E) THE ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM SHALL WORK TO
50 DEVELOP STANDARDS AND CONTRACTS FOR ADDITIONAL RECYCLED CONTENT PRODUCTS
51 IDENTIFIED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S COMPREHEN-
52 SIVE PROCUREMENT GUIDELINES AS SET FORTH IN PART TWO HUNDRED FORTY-SEVEN
53 OF TITLE FORTY OF THE UNITED STATES CODE OF FEDERAL REGULATIONS, AS WELL
54 AS WATER AND WASTE MINIMIZING PRODUCTS SUCH AS DOUBLE-SIDED COPIERS AND
55 PRINTERS, WATERLESS AND LOW-FLOW PLUMBING DEVICES, AND COMPOSTING
56 TOILETS.

1 (F) THE ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM SHALL ENCOURAGE
2 VENDOR RESPONSIBILITY FOR THE REUSE OR RECYCLING OF PACKAGING AND/OR
3 PRODUCTS AT THE END OF THEIR USEFUL LIFE.

4 (G) AGENCIES SHALL ENSURE THAT THEY INTEGRATE INCREASED RECYCLING
5 PRACTICES IN THE DISPOSAL OF THEIR OWN WASTE MATERIALS, INCLUDING BUT
6 NOT LIMITED TO PAPER, GLASS, CANS, PLASTIC BOTTLES, CONTAINERS, AND
7 ELECTRONIC EQUIPMENT. THIS EFFORT SHALL INCLUDE THE POSITIONING OF RECY-
8 CLING BINS IN THEIR OFFICES AND THE CONTRACTING FOR RECYCLING SERVICES
9 TO PICK UP AND RECYCLE THESE MATERIALS.

10 4. (A) IN DEVELOPING STANDARDS AND SPECIFICATIONS FOR ENVIRONMENTALLY
11 PREFERABLE PRODUCTS, THE ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM
12 SHALL ENCOURAGE AND PRIORITIZE THE PROCUREMENT OF GOODS THAT ARE GROWN,
13 MANUFACTURED, TRANSPORTED, AND HANDLED IN A SUSTAINABLE MANNER USING, TO
14 THE GREATEST EXTENT FEASIBLE, A LIFE-CYCLE ANALYSIS OF MATERIALS AND
15 OTHER INPUTS INTO THE PRODUCTION OF THE FINAL PRODUCT. SUCH GOODS SHALL
16 INCLUDE, BUT NOT BE LIMITED TO:

17 (I) LUMBER AND BUILDING MATERIALS;

18 (II) ORGANIC AND LOCALLY GROWN FOODS;

19 (III) COMPOSTABLE FOOD SERVICE PRODUCTS; AND

20 (IV) BIO-BASED PRODUCTS SUCH AS LUBRICANTS, FOOD-SERVICE WARE, FUELS,
21 PLASTICS AND COATINGS.

22 S 159-I. BUSINESS DEVELOPMENT AND GUIDANCE. THE ENVIRONMENTALLY PREF-
23 ERABLE PRODUCTS PROGRAM SHALL COLLABORATE WITH RELEVANT STATE AGENCIES
24 TO PROMOTE ENVIRONMENTALLY PREFERABLE PRODUCTS AND SUSTAINABLE BUSINESS
25 SOLUTIONS TO NEW YORK COMPANIES AS WELL AS THOSE LOOKING TO RELOCATE TO
26 THE STATE. SUCH EFFORTS MAY INCLUDE GUIDANCE ON HOW SUSTAINABLE PRAC-
27 TICES AND ENVIRONMENTAL PURCHASING CAN RESULT IN A COMPETITIVE EDGE WHEN
28 BIDDING ON STATEWIDE CONTRACTS AND HOW THE USE OF ENVIRONMENTALLY PREF-
29 ERABLE PRODUCTS CAN REDUCE ENVIRONMENTAL IMPACTS WHILE MINIMIZING OPER-
30 ATING COSTS.

31 S 7. The general municipal law is amended by adding a new section
32 109-c to read as follows:

33 S 109-C. INTERGOVERNMENTAL AGREEMENTS. 1. FOR PURPOSES OF THIS
34 SECTION, THE TERM "PUBLIC AGENCY" SHALL MEAN ANY COUNTY, CITY, TOWN,
35 VILLAGE, SCHOOL DISTRICT, IMPROVEMENT DISTRICT OR DISTRICT CORPORATION
36 OF THE STATE OF NEW YORK.

37 2. ANY POWER OR POWERS, PRIVILEGE OR PRIVILEGES, AUTHORITY OR UNDER-
38 TAKING, EXERCISED OR CAPABLE OF EXERCISE, OR WHICH MAY BE ENGAGED IN,
39 AND ANY PUBLIC WORKS WHICH MAY BE UNDERTAKEN, BY A PUBLIC AGENCY ACTING
40 ALONE MAY BE EXERCISED, ENJOYED, ENGAGED IN OR UNDERTAKEN JOINTLY WITH
41 ANY OTHER PUBLIC AGENCY WHICH COULD LIKEWISE ACT ALONE.

42 3. ANY TWO OR MORE PUBLIC AGENCIES MAY ENTER INTO A WRITTEN AGREEMENT
43 WITH ONE ANOTHER FOR JOINT OR COOPERATIVE ACTION PURSUANT TO THE
44 PROVISIONS OF THIS SECTION. APPROPRIATE ACTION BY ORDINANCE, RESOLUTION
45 OR OTHERWISE PURSUANT TO LAW OF THE GOVERNING BODIES OF THE PARTICIPAT-
46 ING PUBLIC AGENCIES SHALL BE NECESSARY BEFORE ANY SUCH AGREEMENT SHALL
47 BECOME EFFECTIVE. ANY SEPARATELY LEGAL OR ADMINISTRATIVE ENTITY ESTAB-
48 LISHED HEREUNDER IS A PUBLIC CORPORATION AND MAY EXIST FOR THE LENGTH OF
49 TIME SET FORTH IN THE INTERGOVERNMENTAL AGREEMENT.

50 S 8. Section 409-i of the education law is REPEALED and a new section
51 409-i is added to read as follows:

52 S 409-I. IMPLEMENTATION OF THE ENVIRONMENTALLY PREFERABLE PRODUCTS
53 PROGRAM. 1. FOR THE PURPOSE OF THIS SECTION THE FOLLOWING TERMS SHALL
54 MEAN:

55 (A) "ELEMENTARY OR SECONDARY SCHOOL" MEANS A FACILITY USED FOR
56 INSTRUCTION OF ELEMENTARY OR SECONDARY STUDENTS BY: (I) ANY SCHOOL

1 DISTRICT, INCLUDING A SPECIAL ACT SCHOOL DISTRICT AND A CITY SCHOOL
2 DISTRICT IN A CITY HAVING A POPULATION OF ONE HUNDRED TWENTY-FIVE THOU-
3 SAND INHABITANTS OR MORE, (II) A BOARD OF COOPERATIVE EDUCATIONAL
4 SERVICES, (III) A CHARTER SCHOOL, (IV) AN APPROVED PRIVATE SCHOOL FOR
5 THE EDUCATION OF STUDENTS WITH DISABILITIES, (V) A STATE-SUPPORTED
6 SCHOOL FOR THE DEAF OR BLIND OPERATED PURSUANT TO ARTICLE EIGHTY-FIVE OF
7 THIS CHAPTER, AND (VI) ANY OTHER PRIVATE OR PAROCHIAL ELEMENTARY OR
8 SECONDARY SCHOOL.

9 (B) "ENVIRONMENTALLY PREFERABLE PRODUCTS PROGRAM" MEANS THE PROGRAM
10 DESCRIBED BY THE PROVISIONS OF SECTION ONE HUNDRED FIFTY-NINE-F OF THE
11 STATE FINANCE LAW.

12 2. ELEMENTARY AND SECONDARY SCHOOLS SHALL BE REQUIRED TO IMPLEMENT THE
13 STANDARDS ESTABLISHED BY THE ENVIRONMENTALLY PREFERABLE PROGRAM CONSIST-
14 ENT WITH THE PROVISIONS OF SECTION ONE HUNDRED FIFTY-NINE-F OF THE STATE
15 FINANCE LAW.

16 3. THE COMMISSIONER OF GENERAL SERVICES SHALL DISSEMINATE TO ALL
17 ELEMENTARY AND SECONDARY SCHOOLS GUIDELINES AND SPECIFICATIONS FOR
18 IMPLEMENTATION OF THE STANDARDS ESTABLISHED BY THE ENVIRONMENTALLY PREF-
19 ERABLE PRODUCTS PROGRAM. THE COMMISSIONER OF GENERAL SERVICES SHALL
20 PROVIDE ASSISTANCE AND GUIDANCE TO ELEMENTARY AND SECONDARY SCHOOLS IN
21 CARRYING OUT THE REQUIREMENTS OF THIS SECTION.

22 S 9. Section 163-b of the state finance law is REPEALED.

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

28 c. maintain, provide and market a compilation of existing programs
29 providing incentives for new or expanded business enterprises which
30 could be utilized by the secondary materials processing industry OR
31 WHICH MANUFACTURE, PRODUCE OR PROVIDE ENVIRONMENTALLY PREFERABLE
32 PRODUCTS;

33 d. promote the utilization of such incentives for new or expanded
34 business enterprises which process or utilize secondary materials OR
35 WHICH MANUFACTURE, PRODUCE OR PROVIDE ENVIRONMENTALLY PREFERABLE
36 PRODUCTS to locate in New York state;

37 e. promote incentives for existing businesses to expand their utiliza-
38 tion of secondary materials [and], their adoption of waste prevention
39 technologies and practices AND THEIR DEVELOPMENT, MANUFACTURE,
40 PRODUCTION AND PROVISION OF ENVIRONMENTALLY PREFERABLE PRODUCTS;

41 f. identify special needs and problems facing the secondary materials
42 processing industry [and], THE implementation of waste prevention AND
43 THE DEVELOPMENT, MANUFACTURE, PRODUCTION AND PROVISION OF ENVIRON-
44 MENTALLY PREFERABLE PRODUCTS within New York state;

45 g. contact institutions, organizations and commercial enterprises that
46 are potential consumers of secondary materials and products manufactured
47 with secondary materials OR ENVIRONMENTALLY PREFERABLE PRODUCTS; urging
48 their expanded consumption of [secondary] SUCH materials and products
49 and establishing markets for such [secondary] materials and products
50 through the use of letters of intent and such other techniques as the
51 commissioner may deem appropriate;

52 h. conduct market surveys of the potential consumers of secondary
53 materials and products manufactured with secondary materials AND OF
54 ENVIRONMENTALLY PREFERABLE PRODUCTS;

55 i. conduct surveys to determine the potential supply of secondary
56 materials AND ENVIRONMENTALLY PREFERABLE PRODUCTS in the state;

1 1. provide information concerning local and regional markets for
2 secondary materials AND ENVIRONMENTALLY PREFERABLE PRODUCTS;

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

7 S 11. Subdivision 5 of section 261 of the economic development law, as
8 amended by chapter 471 of the laws of 1998, is amended to read as
9 follows:

10 5. The department shall fund feasibility studies for testing of waste
11 prevention technologies or practices [or both] AND ENVIRONMENTALLY PREF-
12 ERABLE PRODUCTS to reduce the amount of waste and to promote energy and
13 resource conservation by the adoption OR USE of such technologies [or],
14 practices OR PRODUCTS by small and medium sized firms in New York state.

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

18 10. Technical feasibility study. The department shall require the
19 applicant to submit a technical feasibility study which identifies and
20 analyzes in detail the waste prevention projects which the applicant
21 wishes to implement. All feasibility studies must include the cost of
22 implementation, a construction schedule and, a description of how the
23 project will minimize, reduce or eliminate the generation of wastes, use
24 or reuse wastes, increase energy efficiency or water conservation,
25 INCREASE THE MANUFACTURE, PRODUCTION, PROVISION OR USE OF ENVIRON-
26 MENTALLY PREFERABLE PRODUCTS, improve air or water quality and/or
27 improve process economics.

28 S 13. Subdivision 14 of section 261 of the economic development law,
29 as amended by chapter 524 of the laws of 2005, is amended to read as
30 follows:

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

45 S 14. The opening paragraph of subdivision 1 of section 3-0311 of the
46 environmental conservation law, as amended by chapter 741 of the laws of
47 1991, is amended to read as follows:

48 Each state agency as defined in subdivision five of this section shall
49 annually audit the environmental problems created by its operations or
50 the operations of contractors it has hired and over whom it has exer-
51 cised or is required to exercise direct oversight, acting in fulfillment
52 of their contracts. Such audit shall identify the extent to which these
53 operations are in violation of this chapter, or regulations adopted
54 thereunder. SUCH AUDIT ALSO SHALL EVALUATE THE ENVIRONMENTAL PROBLEMS
55 CREATED BY THE AGENCY'S PROCUREMENT OF COMMODITIES, ITS ENERGY USE,
56 WASTE PRODUCTION, WATER AND PAPER USE, AND THE USE OF ANY TOXIC MATERI-

1 ALS OF PRODUCTS REASONABLY ANTICIPATED TO BE CARCINOGENS. Each such
2 state agency shall submit a report to the department on or before April
3 first of each year. The report shall:
4 S 15. This act shall take effect on the sixtieth day after it shall
5 have become a law; provided, that the amendments to subparagraph (vii)
6 of paragraph b of subdivision 3 of section 163 of the state finance law
7 made by section five of this act shall not affect the repeal of such
8 section and shall be deemed repealed therewith; provided, however, that
9 effective immediately, the addition, amendment and/or repeal of any rule
10 or regulation necessary for the implementation of this act on its effec-
11 tive date are authorized and directed to be made and completed on or
12 before such effective date.