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

740

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. FUSCHILLO, DeFRANCISCO, GOLDEN, LIBOUS, MARTINS, MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the transportation law, the executive law and the public authorities law, in relation to authorizing innovative infrastructure development

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

Section 1. This act shall be known and may be cited as the "innovative infrastructure development act".

S 2. The transportation law is amended by adding a new article 24 to read as follows:

ARTICLE 24

INNOVATIVE INFRASTRUCTURE DEVELOPMENT

SECTION 500. DEFINITIONS.
501. AUTHORITY OF THE COMMISSIONER.
502. TRANSPORTATION INFRASTRUCTURE PROJECTS.
503. COST ANALYSIS.
504. PREPARATION OF PRELIMINARY SOLICITATIONS.
505. PRELIMINARY ACCEPTANCE OF BEST VALUE PROPOSALS.
506. GENERAL PROVISIONS.
507. AGREEMENTS.
508. REVENUES.
509. CONDEMNATION AND OPERATION IN THE EVENT OF A DEFAULT.
510. FEDERAL, STATE AND LOCAL ASSISTANCE.
511. POLICE POWERS; VIOLATIONS OF LAW.
512. POWERS AND DUTIES OF THE PRIVATE ENTITY.
513. CONFIDENTIALITY.
514. SEVERABILITY CLAUSE.

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

LBD01412-02-3

S 500. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS A DIFFERENT MEANING APPEARS FROM THE CONTEXT, THE FOLLOWING TERMS SHALL MEAN:

1. "PRIVATE ENTITY" MEANS ANY ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, FIRM, BUSINESS TRUST, JOINT VENTURE, NOT FOR PROFIT ENTITY, FUND OR OTHER PRIVATE BUSINESS ENTITY.

2. "PUBLIC ENTITY" MEANS THE STATE, THE FEDERAL GOVERNMENT, ANY OTHER STATE, ANY BI-STATE AUTHORITY OR COMMISSION, ANY MULTI-STATE AUTHORITY OR COMMISSION, ANY MULTI-NATIONAL AUTHORITY OR COMMISSION, ANY NATION, ANY PROVINCE, OR ANY AGENCY, COMMISSION, PUBLIC AUTHORITY, PUBLIC BENEFIT CORPORATION, POLITICAL SUBDIVISION OR MUNICIPALITY THEREOF, OR ANY OTHER GOVERNMENTAL ENTITY, OR ANY COMBINATION OF ANY OF THE FOREGOING.

3. "TRANSPORTATION INFRASTRUCTURE" MEANS (A) HIGHWAYS, RAILROADS, AIRPORTS, TRANSIT FACILITIES, BUSES, FERRIES, BRIDGES, TUNNELS, TRACKS, VEHICLES, PORTS, ROLLING STOCK, EQUIPMENT, PARKING FACILITIES, TRANSIT STATIONS, BUS STATIONS, INTERMODAL CENTERS, TERMINALS, REST AREAS, TRANSPORTATION MANAGEMENT AND INFORMATION SYSTEMS, INTELLIGENT TRANSPORTATION SYSTEMS, LAND USE CONTROL AND DEVELOPMENT, FUEL STORAGE, ENERGY SYSTEMS, SECURITY SYSTEMS, SEISMIC CONTROL SYSTEMS, UTILITY RELOCATION, AND RIGHTS-OF-WAY ASSOCIATED WITH EACH MODE OR FACILITY AND RELATED FACILITIES AND SYSTEMS, AND; (B) SERVICES FOR THE MOVEMENT OF PEOPLE, VEHICLES, GOODS OR INFORMATION ON, BY OR THROUGH THE USE OF THOSE ITEMS SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION, AND SHALL INCLUDE SERVICES PROVIDED PURSUANT TO TRANSPORTATION INFRASTRUCTURE AGREEMENTS.

4. "TRANSPORTATION INFRASTRUCTURE AGREEMENT" SHALL MEAN ANY AGREEMENT ENTERED INTO BY THE COMMISSIONER PURSUANT TO SECTION FIVE HUNDRED ONE OF THIS ARTICLE.

5. "TRANSPORTATION INFRASTRUCTURE PROJECT" SHALL MEAN THE PLANNING, ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL ANALYSIS, CONSTRUCTION, RECONSTRUCTION, RESTORATION, REHABILITATION, ESTABLISHMENT, IMPROVEMENT, RENOVATION, EXTENSION, REPAIR, MANAGEMENT, OPERATION, MAINTENANCE, DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION INFRASTRUCTURE.

6. "BOARD" SHALL MEAN THE INNOVATIVE INFRASTRUCTURE DEVELOPMENT BOARD AS ESTABLISHED BY SECTION NINE HUNDRED THIRTY OF THE EXECUTIVE LAW.

S 501. AUTHORITY OF THE COMMISSIONER. NOTWITHSTANDING THE PROVISIONS OF ANY LAW TO THE CONTRARY, THE COMMISSIONER IS AUTHORIZED TO ENTER INTO TRANSPORTATION INFRASTRUCTURE AGREEMENTS, ON SUCH TERMS AND CONDITIONS AS THE COMMISSIONER DEEMS APPROPRIATE AND SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET AND THE BOARD, AND IN ACCORDANCE WITH SECTION ONE HUNDRED TWELVE OF THE STATE FINANCE LAW, WITH PUBLIC AND/OR PRIVATE ENTITIES TO PROVIDE FOR, OR IN SUPPORT OF, OR ASSOCIATED WITH TRANSPORTATION INFRASTRUCTURE PROJECTS. IN FURTHERANCE OF SUCH AGREEMENTS, THE COMMISSIONER MAY:

1. ACCEPT, IN ACCORDANCE WITH THE STATE FINANCE LAW AND THE PUBLIC OFFICERS LAW, ANY APPROPRIATION, GRANT OR OFFER OF FUNDS OR PROPERTY OR OTHER FORMS OF ASSISTANCE FOR THE PURPOSES OF THIS ARTICLE FROM ANY PUBLIC AND/OR PRIVATE ENTITY AND COMPLY WITH THE TERMS AND CONDITIONS THEREOF;

2. ACCEPT, PURSUANT TO THE TERMS OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION, PROPERTY OR ANY INTERESTS THEREIN AND TRANSPORTATION INFRASTRUCTURE TO BE MAINTAINED AS PART OF THE STATE'S TRANSPORTATION SYSTEM. ANY SUCH INTEREST IN TRANSPORTATION INFRASTRUCTURE SO ACQUIRED SHALL BE DEEMED TO HAVE BEEN ACQUIRED BY THE COMMISSIONER PURSUANT TO SECTION THIRTY OF THE HIGHWAY LAW;

3. UTILIZE ANY OF THE POWERS OR AUTHORITY OF THE COMMISSIONER TO ACHIEVE THE PURPOSES OF THIS ARTICLE;

4. FINANCE ALL OR ANY PART OF THE COSTS TO THE DEPARTMENT OR TO ANY PUBLIC AND/OR PRIVATE ENTITY OF ANY TRANSPORTATION INFRASTRUCTURE PROJECT, INCLUDING FINANCING THROUGH OR ACCOMPANIED BY ONE OR MORE LEASES OR CONCESSIONS OF SUCH PROJECT OR ANY PART THEREOF BY OR TO SUCH ENTITY OR ENTITIES AND/OR BY OR TO THE DEPARTMENT; AND

5. UTILIZE THE COMMISSIONER'S EMINENT DOMAIN POWERS PURSUANT TO THE HIGHWAY LAW AND THE EMINENT DOMAIN PROCEDURE LAW, ON SUCH TERMS AND CONDITIONS AS THE COMMISSIONER DEEMS APPROPRIATE, TO ACQUIRE PROPERTY REQUIRED FOR TRANSPORTATION INFRASTRUCTURE PROJECTS THAT ARE THE SUBJECT OF TRANSPORTATION INFRASTRUCTURE AGREEMENTS WITH THE COMMISSIONER PURSUANT TO THIS SECTION.

S 502. TRANSPORTATION INFRASTRUCTURE PROJECTS. 1. TRANSPORTATION INFRASTRUCTURE PROJECTS PROVIDED PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT SHALL NOT BE SUBJECT TO THE PROVISIONS OF ANY LOCAL LAW, LAND USE REVIEW REQUIREMENTS, REAL PROPERTY TAX OR ANY OTHER LOCAL TAX.

2. WHENEVER A TRANSPORTATION INFRASTRUCTURE PROJECT INVOLVES THE CONSTRUCTION, RECONSTRUCTION OR IMPROVEMENT OF A STATE HIGHWAY, WHICH IS NOW OR WHICH SHALL HEREAFTER BE DESIGNATED IN SECTION THREE HUNDRED FORTY-ONE OF THE HIGHWAY LAW, SHALL PROVIDE FOR THE RELOCATION OF SUCH STATE HIGHWAY OR PORTION THEREOF ON A LOCATION WHICH DEVIATES FROM THE LOCATION OF THE EXISTING HIGHWAY FOR A CONTINUOUS LENGTH IN EXCESS OF ONE MILE AS MEASURED ALONG THE CENTER LINE OF THE EXISTING HIGHWAY, THE COMMISSIONER SHALL BEFORE FILING THE DESCRIPTIONS AND THE ORIGINAL TRACINGS OF ANY MAPS OR PROCEEDING WITH THE ACQUISITION OF PROPERTY OR THE WORK OF CONSTRUCTION, RECONSTRUCTION OR IMPROVEMENT, TRANSMIT SUCH PLANS TO THE BOARD OF SUPERVISORS OF EACH COUNTY IN WHICH SUCH RELOCATION OR ANY PORTION THEREOF IS SITUATED. IN CASE THE RELOCATION OR ANY PORTION THEREOF AS PROPOSED, IS SITUATED IN A COUNTY OTHER THAN THE COUNTY IN WHICH THE EXISTING HIGHWAY OR PORTION THEREOF IS LOCATED, SUCH PLANS SHALL BE TRANSMITTED TO BOTH OF SUCH COUNTIES AND SHALL BE SUBJECT TO REVIEW BY EACH OF SUCH COUNTIES IN THE MANNER AS HEREINAFTER PROVIDED. THE BOARD OF SUPERVISORS, AFTER THE RECEIPT OF SUCH PLANS, MAY CONDUCT A PUBLIC HEARING OR HEARINGS UPON SUCH NOTICE AS SUCH BOARD OF SUPERVISORS SHALL DEEM REASONABLE, BUT NOT LESS THAN TEN DAYS, TO THE COMMISSIONER AND TO SUCH OTHER PARTY OR PARTIES DEEMED BY SAID BOARD OF SUPERVISORS TO BE INTERESTED IN THE PROJECT. IN ANY EVENT, AND WITHIN FORTY-FIVE DAYS AFTER RECEIPT OF THE PLANS, THE BOARD OF SUPERVISORS SHALL, BY RESOLUTION, DULY ADOPTED BY A MAJORITY VOTE OF ITS MEMBERS, PROVIDE A RECOMMENDATION OF APPROVAL, DISAPPROVAL OR MODIFICATION IN SUCH PLANS AS THE PUBLIC INTEREST SHALL REQUIRE. SUCH RESOLUTION SHALL BE FORWARDED TO THE COMMISSIONER WITHIN FIVE DAYS OF ADOPTION. IN CASE SUCH RELOCATION IS SITUATED IN TWO OR MORE COUNTIES, SUCH RESOLUTION MUST BE SEPARATELY ADOPTED BY THE BOARD OF SUPERVISORS OF EACH COUNTY AS TO THE RELOCATION SITUATED THEREIN. THE FORM OF THE RESOLUTION SHALL BE PRESCRIBED BY THE COMMISSIONER. THE COMMISSIONER SHALL IN REVIEWING ANY TRANSPORTATION INFRASTRUCTURE PROJECT PROPOSAL SUBJECT TO THIS SUBDIVISION TAKE ANY RESOLUTION ADOPTED PURSUANT TO THIS SUBDIVISION INTO CONSIDERATION. UPON THE FAILURE OR OMISSION OF ANY BOARD OF SUPERVISORS TO ACT WITHIN THE TIME AND MANNER HEREIN REQUIRED, THE SAID PLANS SHALL BE DEEMED TO BE ACCEPTABLE SO FAR AS SUCH BOARD OF SUPERVISORS IS CONCERNED.

S 503. COST ANALYSIS. PRIOR TO ANY SOLICITATION OF PROPOSALS MADE PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW, THE COMMISSIONER SHALL CONDUCT A STUDY AND ISSUE A REPORT WHICH SHALL DETAIL THE RISK ADJUSTED ESTIMATED LIFE OF PROJECT COST FOR THE PROPOSED TRANS-

PORTATION INFRASTRUCTURE PROJECT WERE THE DEPARTMENT TO UNDERTAKE SUCH PROJECT THROUGH TRADITIONAL MEANS OF PROCUREMENT AND FINANCING.

S 504. PREPARATION OF PRELIMINARY SOLICITATIONS. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER IS AUTHORIZED TO PREPARE PRELIMINARY SOLICITATIONS FOR THE PROVISION OF TRANSPORTATION INFRASTRUCTURE PROJECTS. SUCH A SOLICITATION SHALL SET FORTH THE PROPOSED PARAMETERS FOR THE TRANSPORTATION INFRASTRUCTURE PROJECT AND SHALL BE SUBJECT TO APPROVAL OF THE BOARD PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW.

S 505. PRELIMINARY ACCEPTANCE OF BEST VALUE PROPOSALS. 1. AFTER A SOLICITATION MADE PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW, THE COMMISSIONER SHALL REVIEW ALL PROPER PROPOSALS AND MAY PRELIMINARILY ACCEPT AND ADVANCE TO THE BOARD FOR APPROVAL THE PROPOSAL THAT IS DETERMINED BY THE COMMISSIONER TO BE THE BEST VALUE AS DEFINED IN SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, CONSIDERING THE FOLLOWING:

(A) A PUBLIC NEED FOR THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(B) THE REASONABLENESS OF ESTIMATED COSTS, BENEFITS AND LIABILITIES OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(C) THE COMPATIBILITY OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT AND THE SCHEDULING OF ITS DEVELOPMENT OR IMPLEMENTATION AND ITS CONNECTIONS TO OR ROLE WITHIN THE EXISTING TRANSPORTATION SYSTEM AND THE COMPATIBILITY WITH THE TRANSPORTATION PLANS OF THE STATE AND OF ANY AFFECTED LOCAL JURISDICTIONS;

(D) THE FEASIBILITY OF THE FINANCING OF THE DEVELOPMENT, CONSTRUCTION, IMPLEMENTATION AND/OR OPERATION OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(E) THE QUALIFICATIONS, EXPERIENCE, AND FINANCIAL CAPACITY OF THE PUBLIC AND/OR PRIVATE ENTITY PROVIDING THE TRANSPORTATION INFRASTRUCTURE PROJECT; AND

(F) WHETHER THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT SATISFIES ANY OTHER CRITERIA ESTABLISHED IN THE SOLICITATION MADE PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW.

2. THE COMMISSIONER SHALL NOT ACCEPT OR ADVANCE ANY PROPOSAL UNLESS THE AGGREGATE LIFE OF PROJECT COST FOR THE TRANSPORTATION INFRASTRUCTURE PROJECT IS LESS THAN THE ESTIMATE PROVIDED IN THE COST ANALYSIS MADE PURSUANT TO SECTION FIVE HUNDRED THREE OF THIS ARTICLE.

S 506. GENERAL PROVISIONS. 1. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE THE COMMISSIONER OR BOARD TO ACCEPT ANY PROPOSAL, OR ENTER INTO ANY AGREEMENT WITH ANY PUBLIC AND/OR PRIVATE ENTITY.

2. NOTHING IN THIS ARTICLE SHALL BE DEEMED TO LIMIT THE APPLICABILITY OF EXISTING POWERS AND AUTHORITY OF THE COMMISSIONER OR TO REQUIRE THE COMMISSIONER TO ADVANCE ANY PROJECT THROUGH THE PROVISIONS OF THIS ARTICLE.

3. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT MAY CONVEY ANY INTEREST IN PROPERTY UNDER THE JURISDICTION OF THE DEPARTMENT TO A PUBLIC AND/OR PRIVATE ENTITY PURSUANT TO THE TERMS OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO SECTION FIVE HUNDRED ONE OF THIS ARTICLE, PROVIDED HOWEVER THAT NO SUCH CONVEYANCE SHALL BE A FEE SIMPLE ABSOLUTE AND ANY CONVEYANCE OF AN INTEREST IN PROPERTY IN EXCESS OF THIRTY-FIVE YEARS SHALL REQUIRE APPROVAL BY A SUPER-MAJORITY OF THE BOARD PURSUANT TO ARTICLE FORTY-THREE OF THE EXECUTIVE LAW.

4. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS A WAIVER OF OR LIMITATION UPON THE SOVEREIGN IMMUNITY OF THE STATE OR ANY INSTRUMENTALITY THEREOF.

5. THE COMMISSIONER IS HEREBY AUTHORIZED TO PROMULGATE ANY RULES AND REGULATIONS DEEMED NECESSARY OR DESIRABLE FOR THE IMPLEMENTATION OF THIS ARTICLE.

6. PROJECTS UNDERTAKEN BY THE COMMISSIONER PURSUANT TO THIS ARTICLE SHALL BE SUBJECT TO THE REQUIREMENTS OF ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW, AND, WHERE APPLICABLE, THE REQUIREMENTS OF THE NATIONAL ENVIRONMENTAL POLICY ACT.

S 507. AGREEMENTS. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER, THROUGH TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO PURSUANT TO SECTION FIVE HUNDRED ONE OF THIS ARTICLE, MAY PROVIDE FOR:

1. THE PLANNING, ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL ANALYSIS, CONSTRUCTION, RECONSTRUCTION, REHABILITATION, RESTORATION, ESTABLISHMENT, IMPROVEMENT, RENOVATION, EXTENSION, REPAIR, MANAGEMENT, OPERATION, MAINTENANCE, DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION INFRASTRUCTURE BY A SINGLE PUBLIC OR PRIVATE ENTITY OR COMBINATION OF PUBLIC AND PRIVATE ENTITIES;

2. THE ALLOCATION OF RESPONSIBILITY AND TIMING FOR SPECIFIC PROJECT ELEMENTS, REVENUE-SHARING ARRANGEMENTS, ALLOCATION OF FINANCIAL RESPONSIBILITY FOR COST OVERRUNS, ALLOCATION OF DEVELOPMENT COSTS, INSURANCE OR SURETY REQUIREMENTS, LIABILITY FOR NON-PERFORMANCE, STANDARDS AND INCENTIVES FOR PERFORMANCE, DEFAULT, TERMINATION, BUY-BACK, RENEGOTIATION OR AMENDMENT CLAUSES, INSPECTION CLAUSES, FINANCIAL REPORTING, ACCOUNTING AND AUDITING STANDARDS, ENVIRONMENTAL PERFORMANCE STANDARDS, ANY OTHER RIGHTS AND DUTIES; AND

3. THE CROSSING OF ANY STREET, HIGHWAY, RAILROAD, CANAL OR NAVIGABLE WATER COURSE OR RIGHT-OF-WAY, OR OTHER ROADWAY SO LONG AS THE CROSSING DOES NOT UNREASONABLY INTERFERE WITH THE REASONABLE USE THEREOF.

S 508. REVENUES. ANY DEPARTMENT REVENUES DERIVED FROM ANY LEASE, CONCESSION OR OTHER FINANCING STRUCTURE PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT MAY ONLY BE USED FOR THE PURPOSE OF THE DEVELOPMENT OF TRANSPORTATION INFRASTRUCTURE.

S 509. CONDEMNATION AND OPERATION IN THE EVENT OF A DEFAULT. IN THE EVENT A PUBLIC OR PRIVATE ENTITY DEFAULTS ON ITS OBLIGATIONS UNDER A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO SECTION FIVE HUNDRED ONE OF THIS ARTICLE, THE COMMISSIONER WITH BOARD APPROVAL IS HEREBY AUTHORIZED BUT NOT REQUIRED TO ACQUIRE, IN THE NAME OF THE PEOPLE OF THE STATE, ALL OR ANY PORTION OF ANY TRANSPORTATION INFRASTRUCTURE CONSTRUCTED OR UNDER CONSTRUCTION BY SUCH PUBLIC OR PRIVATE ENTITY, WITH ANY DAMAGES SUFFERED TO THE STATE AS A RESULT OF SUCH DEFAULT BEING AN OFFSET TO THE COMPENSATION PROVIDED FOR THE ACQUISITION OF THE TRANSPORTATION INFRASTRUCTURE. THE COMMISSIONER, WITH BOARD APPROVAL, MAY ALSO TERMINATE THE TRANSPORTATION INFRASTRUCTURE AGREEMENT AND EXERCISE ANY OTHER RIGHTS OR REMEDIES WHICH MAY BE AVAILABLE TO THE DEPARTMENT AT LAW OR IN EQUITY. IN THE EVENT OF SUCH ACQUISITION AND NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT IS HEREBY AUTHORIZED, BUT IS NOT REQUIRED, TO OPERATE AND MAINTAIN THE TRANSPORTATION INFRASTRUCTURE.

S 510. FEDERAL, STATE AND LOCAL ASSISTANCE. 1. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER, IN RELATION TO TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO PURSUANT TO SECTION FIVE HUNDRED ONE OF THIS ARTICLE, MAY:

(A) TAKE ANY ACTION TO OBTAIN FEDERAL, STATE OR LOCAL ASSISTANCE FOR A TRANSPORTATION INFRASTRUCTURE PROJECT THAT SERVES THE PURPOSES OF THIS ARTICLE AND MAY ENTER INTO ANY CONTRACTS REQUIRED TO RECEIVE SUCH ASSISTANCE. THE COMMISSIONER MAY USE SUCH ASSISTANCE FOR THE IMPLEMENTATION OF THE TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO PURSUANT TO SECTION FIVE HUNDRED ONE OF THIS ARTICLE.

(B) AGREE TO MAKE GRANTS OR LOANS OR OTHER FORMS OF ASSISTANCE FOR THE DEVELOPMENT AND/OR OPERATION OF THE TRANSPORTATION INFRASTRUCTURE PROJECT FROM TIME TO TIME FROM AMOUNTS RECEIVED FROM THE FEDERAL, STATE, OR ANY LOCAL GOVERNMENT, OR ANY AGENCY OR INSTRUMENTALITY THEREOF.

2. NOTHING IN THIS ARTICLE OR IN A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO THIS ARTICLE SHALL BE DEEMED TO ENLARGE, DIMINISH OR AFFECT THE AUTHORITY, IF ANY, CONCERNING THE DEBT CAPACITY OF THE STATE OR ANY OTHER PUBLIC ENTITY.

S 511. POLICE POWERS; VIOLATIONS OF LAW. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY:

1. ALL POLICE OFFICERS OF THE STATE AND OF EACH AFFECTED LOCAL JURISDICTION, SHALL HAVE THE SAME POWERS AND JURISDICTION WITHIN THE LIMITS OF THE TRANSPORTATION INFRASTRUCTURE AS THEY HAVE IN THEIR RESPECTIVE AREAS OF JURISDICTION AND SUCH POLICE OFFICERS SHALL HAVE ACCESS TO THE TRANSPORTATION INFRASTRUCTURE AT ANY TIME FOR THE PURPOSE OF EXERCISING SUCH POWERS AND JURISDICTION. THIS AUTHORITY DOES NOT EXTEND TO THE PRIVATE OFFICES, BUILDINGS, GARAGES, AND OTHER IMPROVEMENTS OF A PRIVATE ENTITY TO ANY GREATER DEGREE THAN THE POLICE POWER EXTENDS TO ANY OTHER PRIVATE BUILDINGS AND IMPROVEMENTS.

2. TO THE EXTENT THE TRANSPORTATION INFRASTRUCTURE IS A HIGHWAY, ROAD, BRIDGE, TUNNEL, OVERPASS, OR SIMILAR TRANSPORTATION INFRASTRUCTURE FOR MOTOR VEHICLES, THE TRAFFIC AND MOTOR VEHICLE LAWS GENERALLY APPLICABLE TO SUCH INFRASTRUCTURE UNDER THE JURISDICTION OF THE DEPARTMENT SHALL APPLY TO CONDUCT ON THE TRANSPORTATION INFRASTRUCTURE. PUNISHMENT FOR OFFENSES SHALL BE AS PRESCRIBED BY LAW FOR CONDUCT OCCURRING ON SIMILAR TRANSPORTATION INFRASTRUCTURE IN THE STATE.

S 512. POWERS AND DUTIES OF THE PRIVATE ENTITY. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY:

1. THE PRIVATE ENTITY SHALL HAVE ALL POWER ALLOWED BY LAW GENERALLY TO A PRIVATE ENTITY HAVING THE SAME FORM OF ORGANIZATION AS THE PRIVATE ENTITY AND SHALL HAVE THE POWER TO DEVELOP, MAINTAIN AND/OR OPERATE THE TRANSPORTATION INFRASTRUCTURE AND/OR ENTER INTO SERVICE CONTRACTS OR OTHER AGREEMENTS IN CONNECTION WITH THE USE THEREOF.

2. THE PRIVATE ENTITY MAY LEASE OR ACQUIRE ANY OTHER RIGHT TO USE OR DEVELOP, MAINTAIN AND/OR OPERATE THE TRANSPORTATION INFRASTRUCTURE CONSISTENT WITH SUBDIVISION THREE OF SECTION FIVE HUNDRED SIX OF THIS ARTICLE.

S 513. CONFIDENTIALITY. ANY REQUEST FOR PROPOSAL OR AGREEMENT ENTERED PURSUANT TO THIS ARTICLE SHALL MAKE PROVISION FOR THE PROTECTION OF INTERESTS AND RIGHTS IN INTELLECTUAL PROPERTY AND TRADE SECRETS AND CONFIDENTIAL INFORMATION OTHERWISE PROTECTED BY STATE OR FEDERAL LAW.

S 514. SEVERABILITY CLAUSE. IF ANY SECTION, CLAUSE OR PROVISION OF THIS ARTICLE SHALL BE DETERMINED TO BE UNCONSTITUTIONAL OR BE INEFFECTIVE IN WHOLE OR IN PART, TO THE EXTENT THAT IT IS NOT UNCONSTITUTIONAL OR INEFFECTIVE, IT SHALL BE VALID AND EFFECTIVE AND NO OTHER SECTION, CLAUSE OR PROVISION SHALL, ON ACCOUNT THEREOF, BE DEEMED INVALID OR INEFFECTIVE.

S 3. The executive law is amended by adding a new article 43 to read as follows:

ARTICLE 43

INNOVATIVE INFRASTRUCTURE DEVELOPMENT BOARD

SECTION 930. INNOVATIVE INFRASTRUCTURE DEVELOPMENT BOARD.

931. POWERS AND DUTIES.

S 930. INNOVATIVE INFRASTRUCTURE DEVELOPMENT BOARD. 1. THERE IS HEREBY ESTABLISHED IN THE EXECUTIVE DEPARTMENT AN INNOVATIVE INFRASTRUCTURE DEVELOPMENT BOARD ("BOARD") TO CONSIST OF NINE MEMBERS, WHO SHALL BE APPOINTED AS FOLLOWS: (A) THREE SHALL BE APPOINTED BY THE GOVERNOR, PROVIDED THAT ONE SHALL BE THE COMMISSIONER OF TRANSPORTATION AND OF THE REMAINING TWO, ONE EACH SHALL BE FROM EACH OF THE TWO MAJOR POLITICAL PARTIES; (B) TWO SHALL BE APPOINTED ON THE WRITTEN RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE; (C) TWO SHALL BE APPOINTED ON THE WRITTEN RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY; (D) ONE SHALL BE APPOINTED ON THE WRITTEN RECOMMENDATION OF THE MINORITY LEADER OF THE SENATE; AND (E) ONE SHALL BE APPOINTED ON THE WRITTEN RECOMMENDATION OF THE MINORITY LEADER OF THE ASSEMBLY.

2. THE GOVERNOR SHALL DESIGNATE THE CHAIR FROM AMONG THE MEMBERS OF THE BOARD.

3. (A) AT LEAST ONE MEMBER EACH APPOINTED BY THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY SHALL BE AN EXPERT IN TRANSPORTATION, AND/OR PUBLIC FINANCE AND/OR INFRASTRUCTURE MANAGEMENT.

(B) AT LEAST ONE MEMBER EACH APPOINTED BY THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY SHALL BE FROM THE PRIVATE SECTOR, PROVIDED, HOWEVER THAT THE MEMBER APPOINTED PURSUANT TO THIS PARAGRAPH MAY BE THE SAME AS THAT MEMBER APPOINTED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION.

(C) NO MEMBER OF THE BOARD SHALL ALSO BE A MEMBER OF THE LEGISLATURE.

4. THE MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICE AS MEMBERS, BUT SHALL BE ENTITLED TO ACTUAL NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES. MEMBERS OF THE BOARD SHALL BE CONSIDERED PUBLIC OFFICERS FOR PURPOSES OF SECTION SEVENTEEN OF THE PUBLIC OFFICERS LAW.

5. A QUORUM SHALL CONSIST OF A MAJORITY OF THE MEMBERS OF THE BOARD. A QUORUM SHALL BE REQUIRED TO CONDUCT BUSINESS. APPROVAL OF ANY MATTER PROPERLY BEFORE THE BOARD SHALL REQUIRE THE AFFIRMATIVE VOTE OF THE MAJORITY OF THE BOARD; PROVIDED HOWEVER THAT ANY PROVISION OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT, AS DEFINED IN SECTION FIVE HUNDRED OF THE TRANSPORTATION LAW OR SUBDIVISION ONE OF SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW, WHICH PROVIDES FOR THE CONVEYANCE OF ANY INTEREST IN EXCESS OF THIRTY-FIVE YEARS SHALL REQUIRE AN AFFIRMATIVE VOTE BY A SUPER-MAJORITY OF SIX MEMBERS FOR APPROVAL.

6. MEETINGS SHALL BE CALLED BY THE CHAIR OR BY A MAJORITY OF THOSE MEMBERS APPOINTED. MEETINGS SHALL BE HELD AT LEAST BI-ANNUALLY.

7. THE BOARD MAY APPOINT SUCH OFFICERS AND EMPLOYEES AS IT MAY REQUIRE FOR THE PERFORMANCE OF ITS DUTIES AND FIX AND DETERMINE THEIR QUALIFICATIONS, DUTIES, AND COMPENSATION, AND RETAIN OR EMPLOY COUNSEL, AUDITORS AND PRIVATE FINANCIAL CONSULTANTS AND OTHER SERVICES ON A CONTRACT BASIS OR OTHERWISE FOR RENDERING PROFESSIONAL, BUSINESS OR TECHNICAL SERVICES AND ADVICE; SUCH AUTHORITY SHALL BE SUBJECT TO APPROPRIATION.

8. THE BOARD SHALL ESTABLISH BY-LAWS FOR THE MANAGEMENT AND REGULATION OF ITS AFFAIRS.

S 931. POWERS AND DUTIES. 1. SOLICITATION OF PROPOSALS. THE BOARD MAY APPROVE AND PUBLICLY SOLICIT A PRELIMINARY PROPOSAL ADVANCED PURSUANT TO SECTION FIVE HUNDRED FOUR OF THE TRANSPORTATION LAW OR SUBDIVISION FOUR OF SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW, OR

MAY PUBLICLY SOLICIT OTHER PROPOSALS FROM PUBLIC AND/OR PRIVATE ENTITIES FOR TRANSPORTATION INFRASTRUCTURE PROJECTS AS DEFINED IN SUBDIVISION SIX OF SECTION FIVE HUNDRED OF THE TRANSPORTATION LAW, SUBDIVISION ONE OF SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW OR SUBDIVISION ONE OF SECTION FIVE HUNDRED FORTY-THREE OF THE PUBLIC AUTHORITIES LAW.

2. APPROVAL OF BEST VALUE PROPOSALS. (A) THE BOARD MAY APPROVE A PROPOSAL PRELIMINARILY ACCEPTED PURSUANT TO SECTION FIVE HUNDRED FIVE OF THE TRANSPORTATION LAW, SUBDIVISION FIVE OF SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW, SUBDIVISION FIVE OF SECTION FIVE HUNDRED FORTY-THREE OF THE PUBLIC AUTHORITIES LAW, OR ANY OTHER PROPOSAL PROPERLY SUBMITTED IN RESPONSE TO A SOLICITATION MADE PURSUANT TO SUBDIVISION ONE OF THIS SECTION IF THE BOARD DETERMINES THAT SUCH PROPOSAL PRESENTS THE BEST VALUE AS DEFINED IN SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW CONSIDERING THE FOLLOWING:

(I) A PUBLIC NEED FOR THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(II) THE REASONABLENESS OF ESTIMATED COSTS, BENEFITS AND LIABILITIES OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(III) THE COMPATIBILITY OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT, AND THE SCHEDULING OF ITS DEVELOPMENT OR IMPLEMENTATION AND ITS CONNECTIONS TO OR ROLE WITHIN THE EXISTING TRANSPORTATION SYSTEM AND THE COMPATIBILITY WITH THE TRANSPORTATION PLANS OF THE STATE AND OF ANY AFFECTED LOCAL JURISDICTIONS;

(IV) THE FEASIBILITY OF THE FINANCING OF THE DEVELOPMENT, CONSTRUCTION, IMPLEMENTATION AND/OR OPERATION OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(V) THE QUALIFICATIONS, EXPERIENCE, AND FINANCIAL CAPACITY OF THE PUBLIC AND/OR PRIVATE ENTITY PROVIDING THE TRANSPORTATION INFRASTRUCTURE PROJECT; AND

(VI) WHETHER THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT SATISFIES ANY OTHER CRITERIA ESTABLISHED BY THE BOARD IN THE SOLICITATION MADE PURSUANT TO SUBDIVISION ONE OF THIS SECTION.

(B) THE BOARD SHALL NOT APPROVE ANY PROPOSAL UNLESS THE AGGREGATE LIFE OF PROJECT COST FOR THE TRANSPORTATION INFRASTRUCTURE PROJECT IS LESS THAN THE ESTIMATE PROVIDED IN THE COST ANALYSIS MADE PURSUANT TO SECTION FIVE HUNDRED THREE OF THE TRANSPORTATION LAW, SUBDIVISION THREE OF SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW OR SUBDIVISION THREE OF SECTION FIVE HUNDRED FORTY-THREE OF THE PUBLIC AUTHORITIES LAW.

(C) THE BOARD MAY ONLY APPROVE A PROPOSAL CONTAINING THE CONVEYANCE OF ANY INTEREST IN EXCESS OF THIRTY-FIVE YEARS WITH THE AFFIRMATIVE VOTE OF A SUPER-MAJORITY AS SET FORTH IN SUBDIVISION FIVE OF SECTION NINE HUNDRED THIRTY OF THIS ARTICLE.

3. APPROVAL OF TRANSPORTATION INFRASTRUCTURE AGREEMENTS. BOARD APPROVAL SHALL BE REQUIRED OF ANY TRANSPORTATION INFRASTRUCTURE AGREEMENT TO BE ENTERED INTO PURSUANT TO SECTION FIVE HUNDRED ONE OF THE TRANSPORTATION LAW, SUBDIVISION TWO OF SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW, OR SUBDIVISION TWO OF SECTION FIVE HUNDRED FORTY-THREE OF THE PUBLIC AUTHORITIES LAW.

4. APPROVAL OF ACQUISITION OF ALL OR PART OF TRANSPORTATION INFRASTRUCTURE. BOARD APPROVAL SHALL BE REQUIRED FOR THE ACQUISITION OF ALL OR ANY PART OF ANY TRANSPORTATION INFRASTRUCTURE PURSUANT TO SECTION FIVE HUNDRED TEN OF THE TRANSPORTATION LAW OR SUBDIVISION NINE OF SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW.

5. ANNUAL REPORT. THE BOARD SHALL PREPARE AN ANNUAL REPORT AND SHALL SUBMIT SUCH REPORT ON OR BEFORE JANUARY THIRTY-FIRST OF EACH YEAR TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY AND THE CHAIRS OF THE SENATE AND ASSEMBLY TRANSPORTATION COMMITTEES. (A) THE ANNUAL REPORT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

(I) DETAILS OF ANY SOLICITATION OR PRELIMINARY SOLICITATION MADE OR PREPARED DURING THE REPORTING PERIOD;

(II) DETAILS OF ANY PROPOSAL SUBMITTED OR ACCEPTED PURSUANT TO A PUBLIC SOLICITATION DURING THE REPORTING PERIOD;

(III) DETAILS ON THE PROGRESS OF ONGOING TRANSPORTATION INFRASTRUCTURE PROJECT AGREEMENT NEGOTIATIONS;

(IV) DETAILS ON ANY AMENDMENTS TO EXISTING TRANSPORTATION INFRASTRUCTURE AGREEMENTS DURING THE REPORTING PERIOD;

(V) DETAILS OF ONGOING TRANSPORTATION INFRASTRUCTURE PROJECTS, INCLUDING BUT NOT LIMITED TO THE MEETING OR FAILURE TO MEET ANY TIME DEADLINES, THE ACHIEVEMENT OR FAILURE TO ACHIEVE ANY PERFORMANCE GOALS, ANY COST OVERRUNS, ANY DEFAULT AND ANY OTHER INFORMATION PERTINENT TO THE PROJECT'S ONGOING OPERATION; AND

(VI) AN ACCOUNTING OF ANY REVENUES AND EXPENDITURES ASSOCIATED WITH ONGOING TRANSPORTATION INFRASTRUCTURE PROJECTS DURING THE REPORTING PERIOD.

(B) THE ANNUAL REPORT MAY ADDITIONALLY INCLUDE ANY RECOMMENDATIONS FOR LEGISLATION RELATED TO TRANSPORTATION INFRASTRUCTURE PROJECT DEVELOPMENT.

S 4. The public authorities law is amended by adding a new section 389 to read as follows:

S 389. INNOVATIVE INFRASTRUCTURE DEVELOPMENT. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY:

1. AS USED IN THIS SECTION, UNLESS A DIFFERENT MEANING APPEARS FROM THE CONTEXT, THE TERMS:

(A) "PRIVATE ENTITY" MEANS ANY ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, FIRM, BUSINESS TRUST, JOINT VENTURE, NOT-FOR-PROFIT ENTITY, FUND OR OTHER PRIVATE BUSINESS ENTITY.

(B) "PUBLIC ENTITY" MEANS THE STATE, THE FEDERAL GOVERNMENT, ANY OTHER STATE, ANY BI-STATE AUTHORITY OR COMMISSION, ANY MULTI-STATE AUTHORITY OR COMMISSION, ANY MULTI-NATIONAL AUTHORITY OR COMMISSION, ANY NATION, ANY PROVINCE, OR ANY AGENCY, COMMISSION, PUBLIC AUTHORITY, PUBLIC BENEFIT CORPORATION, POLITICAL SUBDIVISION OR MUNICIPALITY THEREOF, OR ANY OTHER GOVERNMENTAL ENTITY, OR ANY COMBINATION OF THE FOREGOING.

(C) "TRANSPORTATION INFRASTRUCTURE" MEANS THE THRUWAY SYSTEM AS DEFINED IN SECTION THREE HUNDRED FIFTY-ONE OF THIS TITLE AND THE PROVISIONS FOR THE MOVEMENT OF PEOPLE, VEHICLES, GOODS OR INFORMATION ON, BY OR THROUGH THE USE OF THE THRUWAY SYSTEM AND SHALL INCLUDE SERVICES PROVIDED PURSUANT TO TRANSPORTATION INFRASTRUCTURE AGREEMENTS.

(D) "TRANSPORTATION INFRASTRUCTURE AGREEMENT" SHALL MEAN ANY AGREEMENT ENTERED INTO BY THE AUTHORITY PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

(E) "TRANSPORTATION INFRASTRUCTURE PROJECT" SHALL MEAN THE PLANNING, ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL ANALYSIS, CONSTRUCTION, RECONSTRUCTION, RESTORATION, REHABILITATION, ESTABLISHMENT, IMPROVEMENT, RENOVATION, EXTENSION, REPAIR, MANAGEMENT, OPERATION, MAINTENANCE, DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION INFRASTRUCTURE, INCLUDING, BUT NOT LIMITED TO, AGREEMENTS RELATING TO THE DISTRIBUTION OF FARE AND TOLL PAYMENT MEDIA AND ELECTRONIC PAYMENT DEVICES, AND THE ESTAB-

LISHMENT AND COLLECTION OF USER FEES, PURSUANT TO ONE OR MORE TRANSPORTATION INFRASTRUCTURE AGREEMENTS.

(F) "USER FEES" MEANS THE RATES, TOLLS, FARES, RENTALS OR FEES OR OTHER CHARGES IMPOSED FOR OR ASSOCIATED WITH THE USE AND OPERATION OF ALL OR A PORTION OF TRANSPORTATION INFRASTRUCTURE PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT.

(G) "BOARD" MEANS THE INNOVATIVE INFRASTRUCTURE DEVELOPMENT BOARD AS ESTABLISHED BY SECTION NINE HUNDRED THIRTY OF THE EXECUTIVE LAW.

2. NOTWITHSTANDING THE PROVISIONS OF ANY LAW TO THE CONTRARY, THE AUTHORITY IS AUTHORIZED, AS ADDITIONAL CORPORATE PURPOSES THEREOF, TO ENTER INTO TRANSPORTATION INFRASTRUCTURE AGREEMENTS, ON SUCH TERMS AND CONDITIONS AS THE AUTHORITY DEEMS APPROPRIATE AND SUBJECT TO THE APPROVAL OF THE DIRECTOR OF BUDGET AND THE BOARD, AND IN ACCORDANCE WITH SECTION ONE HUNDRED TWELVE OF THE STATE FINANCE LAW, WITH PUBLIC AND/OR PRIVATE ENTITIES TO PROVIDE FOR, OR IN SUPPORT OF, OR ASSOCIATED WITH TRANSPORTATION INFRASTRUCTURE PROJECTS. IN FURTHERANCE OF SUCH AGREEMENTS, THE AUTHORITY MAY:

(A) ACCEPT IN ACCORDANCE WITH THE STATE FINANCE LAW AND THE PUBLIC OFFICERS LAW, ANY APPROPRIATION, GRANT, OR OFFER OF FUNDS OR PROPERTY OR OTHER FORMS OF ASSISTANCE FOR THE PURPOSES OF THIS SECTION FROM ANY PUBLIC AND/OR PRIVATE ENTITY AND TO COMPLY WITH THE TERMS AND CONDITIONS THEREOF;

(B) ACCEPT, PURSUANT TO THE TERMS OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT, PROPERTY OR ANY INTEREST THEREIN AND TRANSPORTATION INFRASTRUCTURE TO BE MAINTAINED AS PART OF THE THRUWAY SYSTEM. ANY SUCH INTEREST IN TRANSPORTATION INFRASTRUCTURE SO ACQUIRED SHALL BE DEEMED TO HAVE BEEN ACQUIRED BY THE AUTHORITY OR AT THE AUTHORITY'S REQUEST PURSUANT TO THIS TITLE;

(C) UTILIZE ANY OF ITS POWERS OR AUTHORITY TO ACHIEVE THE PURPOSES OF THIS SECTION INCLUDING BUT NOT LIMITED TO THE POWER TO ISSUE BONDS, NOTES AND OTHER OBLIGATIONS;

(D) FINANCE ALL OR ANY PART OF THE COSTS TO THE AUTHORITY OR TO ANY PUBLIC AND/OR PRIVATE ENTITY OF ANY TRANSPORTATION INFRASTRUCTURE PROJECT, INCLUDING FINANCING THROUGH OR ACCOMPANIED BY ONE OR MORE LEASES OR CONCESSIONS OF SUCH PROJECT OR ANY PART THEREOF BY OR TO SUCH ENTITY OR ENTITIES AND/OR BY OR TO THE AUTHORITY OR ANY OF ITS SUBSIDIARIES OR AFFILIATES;

(E) UTILIZE THE AUTHORITY'S EMINENT DOMAIN POWERS, PURSUANT TO SECTIONS THREE HUNDRED FIFTY-EIGHT AND THREE HUNDRED FIFTY-EIGHT-A OF THIS TITLE, ON SUCH TERMS AND CONDITIONS AS THE AUTHORITY DEEMS APPROPRIATE, TO ACQUIRE PROPERTY REQUIRED FOR TRANSPORTATION INFRASTRUCTURE PROJECTS; AND

(F) PROVIDE FOR THE COLLECTION AND/OR RETENTION OF USER FEES PURSUANT TO THIS ARTICLE; PROVIDED HOWEVER THAT ANY PROVISION OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT WHICH PROVIDES FOR INCREASES IN USER FEES ON INFRASTRUCTURE CURRENTLY SUBJECT TO USER FEES, ESTABLISHMENT OF USER FEES IN A NEW LOCATION ON INFRASTRUCTURE CURRENTLY SUBJECT TO USER FEES, OR THE ESTABLISHMENT OF USER FEES ON NEWLY CONSTRUCTED INFRASTRUCTURE OR INFRASTRUCTURE IMPROVED TO INCREASE CAPACITY SHALL BE CONSISTENT WITH THE POWERS OF THE AUTHORITY TO ESTABLISH OR INCREASE USER FEES PURSUANT TO THIS TITLE.

3. COST ANALYSIS. PRIOR TO ANY SOLICITATION OF PROPOSALS MADE PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW THE AUTHORITY SHALL CONDUCT A STUDY AND ISSUE A REPORT WHICH SHALL DETAIL THE RISK ADJUSTED ESTIMATED LIFE OF PROJECT COST FOR THE PROPOSED TRANSPORTATION

INFRASTRUCTURE PROJECT WERE THE AUTHORITY TO UNDERTAKE SUCH PROJECT THROUGH TRADITIONAL MEANS OF PROCUREMENT AND FINANCING.

4. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY IS AUTHORIZED TO PREPARE PRELIMINARY SOLICITATIONS FOR THE PROVISION OF TRANSPORTATION INFRASTRUCTURE PROJECTS. SUCH SOLICITATIONS SHALL SET FORTH THE PROPOSED PARAMETERS OF THE PROJECT AND SHALL BE SUBJECT TO APPROVAL OF THE BOARD PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW.

5. (A) AFTER A SOLICITATION MADE PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW, THE AUTHORITY SHALL REVIEW ALL PROPER PROPOSALS AND MAY PRELIMINARILY ACCEPT AND ADVANCE TO THE BOARD FOR APPROVAL THE PROPOSAL THAT IS DETERMINED BY THE AUTHORITY TO BE THE BEST VALUE AS DEFINED IN SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW CONSIDERING THE FOLLOWING:

(I) A PUBLIC NEED FOR THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(II) THE REASONABLENESS OF ESTIMATED COSTS, BENEFITS AND LIABILITIES OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(III) THE COMPATIBILITY OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT AND THE SCHEDULING OF ITS DEVELOPMENT OR IMPLEMENTATION AND ITS CONNECTIONS TO OR ROLE WITHIN THE EXISTING THRUWAY SYSTEM AND THE COMPATIBILITY WITH THE TRANSPORTATION PLANS OF THE AUTHORITY AND OF ANY STATE OR LOCAL JURISDICTIONS;

(IV) THE FEASIBILITY OF THE FINANCING OF THE DEVELOPMENT, CONSTRUCTION, IMPLEMENTATION AND/OR OPERATION OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(V) THE QUALIFICATIONS, EXPERIENCE, AND FINANCIAL CAPACITY OF THE PUBLIC AND/OR PRIVATE ENTITY PROVIDING THE TRANSPORTATION INFRASTRUCTURE PROJECT; AND

(VI) WHETHER THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT SATISFIES ANY OTHER CRITERIA ESTABLISHED IN THE SOLICITATION MADE PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW.

(B) THE AUTHORITY SHALL NOT ACCEPT OR ADVANCE ANY PROPOSAL UNLESS THE AGGREGATE LIFE OF PROJECT COST FOR THE TRANSPORTATION INFRASTRUCTURE PROJECT IS LESS THAN THE ESTIMATE PROVIDED IN THE COST ANALYSIS MADE PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

6. (A) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE AUTHORITY OR BOARD TO MAKE ANY SOLICITATION, ACCEPT ANY PROPOSAL OR ENTER INTO ANY AGREEMENT WITH ANY PUBLIC AND/OR PRIVATE ENTITY.

(B) NOTHING IN THIS SECTION SHALL BE DEEMED TO: (I) LIMIT THE AUTHORITY'S EXISTING POWERS AND AUTHORITY; (II) REQUIRE THE AUTHORITY TO ACCEPT ANY PROJECT THROUGH THE PROVISIONS OF THIS SECTION; (III) REQUIRE THE AUTHORITY TO ENTER INTO ANY AGREEMENTS PURSUANT TO THIS SECTION; OR (IV) REQUIRE THE AUTHORITY TO TAKE ANY ACTION THAT WOULD CONTRADICT OR IMPAIR ANY EXISTING AUTHORITY CONTRACT OR AGREEMENT WITH ITS BONDHOLDERS OR OTHER ENTITIES.

(C) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY MAY CONVEY AN INTEREST IN PROPERTY, IN WHICH THE AUTHORITY HAS AN INTEREST TO A PUBLIC AND/OR PRIVATE ENTITY PURSUANT TO THE TERMS OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT, PROVIDED HOWEVER THAT NO SUCH INTEREST SHALL BE A FEE SIMPLE ABSOLUTE AND ANY CONVEYANCE OF AN INTEREST IN PROPERTY IN EXCESS OF THIRTY-FIVE YEARS SHALL REQUIRE APPROVAL OF A SUPER-MAJORITY OF THE BOARD PURSUANT TO ARTICLE FORTY-THREE OF THE EXECUTIVE LAW.

(D) THE AUTHORITY IS HEREBY AUTHORIZED TO PROMULGATE ANY RULES AND REGULATIONS DEEMED NECESSARY OR DESIRABLE FOR THE IMPLEMENTATION OF THIS SECTION.

(E) PROJECTS UNDERTAKEN BY THE AUTHORITY PURSUANT TO THIS ARTICLE SHALL BE SUBJECT TO THE REQUIREMENTS OF ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW, AND, WHERE APPLICABLE, THE REQUIREMENTS OF THE NATIONAL ENVIRONMENTAL POLICY ACT.

7. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO PURSUANT TO THIS SECTION MAY PROVIDE FOR:

(A) THE PLANNING, ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL ANALYSIS, CONSTRUCTION, RECONSTRUCTION, RESTORATION, REHABILITATION, ESTABLISHMENT, IMPROVEMENT, RENOVATION, EXTENSION, REPAIR, MANAGEMENT, OPERATION, MAINTENANCE, DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION FACILITIES AND THE PROVISION OF TRANSPORTATION INFRASTRUCTURE BY A SINGLE PUBLIC OR PRIVATE ENTITY OR COMBINATION OF PUBLIC AND PRIVATE ENTITIES;

(B) THE ALLOCATION OF RESPONSIBILITY AND TIMING FOR SPECIFIC PROJECT ELEMENTS, REVENUE-SHARING ARRANGEMENTS, ALLOCATION OF FINANCIAL RESPONSIBILITY FOR COST OVERRUNS, ALLOCATION OF DEVELOPMENT COSTS, INSURANCE OR SURETY REQUIREMENTS, LIABILITY FOR NON-PERFORMANCE, STANDARDS AND INCENTIVES FOR PERFORMANCE, DEFAULT, TERMINATION, BUY-BACK, RENEGOTIATION OR AMENDMENT CLAUSES, INSPECTION CLAUSES, FINANCIAL REPORTING, ACCOUNTING AND AUDITING STANDARDS, ENVIRONMENTAL PERFORMANCE STANDARDS, ANY OTHER RIGHTS AND DUTIES;

(C) THE IMPOSITION BY THE AUTHORITY, OR THE ESTABLISHMENT BY THE PUBLIC AND/OR PRIVATE ENTITY WITH WHICH THE AUTHORITY CONTRACTS PURSUANT TO THIS SECTION, OF USER FEES AND THE PLEDGE OF ALL OR ANY PORTION THEREOF IN CONNECTION WITH ANY FINANCING THEREON CONSISTENT WITH PARAGRAPH (F) OF SUBDIVISION TWO OF THIS SECTION AND EXISTING CONTRACTS OR RESOLUTIONS RELATING THERETO; AND

(D) THE CROSSING OF ANY STREET, HIGHWAY, RAILROAD, CANAL OR NAVIGABLE WATER COURSE OR RIGHT-OF-WAY, OR OTHER ROADWAY SO LONG AS THE CROSSING DOES NOT UNREASONABLY INTERFERE WITH THE REASONABLE USE THEREOF.

8. ANY AUTHORITY REVENUES DERIVED FROM ANY LEASE, CONCESSION OR OTHER FINANCING STRUCTURE PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT MAY ONLY BE USED FOR THE PURPOSE OF THE DEVELOPMENT OF TRANSPORTATION INFRASTRUCTURE.

9. IN THE EVENT A PUBLIC OR PRIVATE ENTITY DEFAULTS ON ITS OBLIGATIONS UNDER A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO SUBDIVISION TWO OF THIS SECTION, THE AUTHORITY WITH BOARD APPROVAL IS HEREBY AUTHORIZED BUT NOT REQUIRED TO ACQUIRE ALL OR ANY PORTION OF ANY TRANSPORTATION INFRASTRUCTURE CONSTRUCTED OR UNDER CONSTRUCTION OR DEVELOPMENT BY OR IN CONJUNCTION WITH SUCH PUBLIC OR PRIVATE ENTITY, WITH ANY DAMAGES SUFFERED TO THE AUTHORITY AS A RESULT OF SUCH DEFAULT BEING AN OFFSET TO THE COMPENSATION PROVIDED FOR THE ACQUISITION OF THE TRANSPORTATION INFRASTRUCTURE. THE AUTHORITY MAY ALSO TERMINATE THE TRANSPORTATION INFRASTRUCTURE AGREEMENT AND EXERCISE ANY OTHER RIGHTS OR REMEDIES WHICH MAY BE AVAILABLE TO IT AT LAW OR IN EQUITY. IN THE EVENT OF SUCH ACQUISITION AND NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY IS HEREBY AUTHORIZED, BUT NOT REQUIRED, TO OPERATE AND MAINTAIN THE TRANSPORTATION INFRASTRUCTURE, INCLUDING THE IMPOSITION AND COLLECTION OF APPLICABLE USER FEES.

10. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY, THE AUTHORITY, THROUGH TRANSPORTATION INFRASTRUCTURE AGREEMENTS MAY:

(A) TAKE ANY ACTION TO OBTAIN FEDERAL, STATE OR LOCAL ASSISTANCE FOR A TRANSPORTATION INFRASTRUCTURE PROJECT THAT SERVES THE PUBLIC PURPOSE OF THIS CHAPTER AND MAY ENTER INTO ANY CONTRACTS REQUIRED TO RECEIVE SUCH FEDERAL ASSISTANCE. THE AUTHORITY MAY USE SUCH ASSISTANCE FOR THE IMPLEMENTATION OF THE TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO PURSUANT TO SUBDIVISION TWO OF THIS SECTION; AND

(B) AGREE TO MAKE GRANTS OR LOANS OR OTHER FORMS OF ASSISTANCE FOR THE DEVELOPMENT AND/OR OPERATION OF THE TRANSPORTATION INFRASTRUCTURE PROJECT FROM TIME TO TIME FROM AMOUNTS RECEIVED FROM THE FEDERAL, STATE, OR LOCAL GOVERNMENT, OR ANY AGENCY OR INSTRUMENTALITY THEREOF.

11. NOTHING IN THIS SECTION OR IN A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION SHALL BE DEEMED TO ENLARGE, DIMINISH OR AFFECT THE AUTHORITY, IF ANY, OTHERWISE POSSESSED BY THE AUTHORITY TO TAKE ACTION THAT WOULD IMPACT THE DEBT CAPACITY OF THE STATE OR ANY OTHER PUBLIC ENTITY.

12. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY:

(A) THE PRIVATE ENTITY SHALL HAVE ALL POWER ALLOWED BY LAW GENERALLY TO A PRIVATE ENTITY HAVING THE SAME FORM OF ORGANIZATION AS THE PRIVATE ENTITY AND SHALL HAVE THE POWER TO DEVELOP AND/OR OPERATE THE TRANSPORTATION INFRASTRUCTURE AND IMPOSE USER FEES PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT CONSISTENT WITH PARAGRAPH (F) OF SUBDIVISION TWO OF THIS SECTION AND/OR ENTER INTO SERVICE CONTRACTS OR OTHER AGREEMENTS IN CONNECTION WITH THE USE THEREOF;

(B) THE PRIVATE ENTITY MAY LEASE OR ACQUIRE ANY OTHER RIGHT TO USE OR DEVELOP AND/OR OPERATE THE TRANSPORTATION INFRASTRUCTURE CONSISTENT WITH PARAGRAPH (C) OF SUBDIVISION SIX OF THIS SECTION; AND

(C) IN OPERATING THE TRANSPORTATION INFRASTRUCTURE, THE PRIVATE ENTITY MAY PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT MAKE CLASSIFICATIONS ACCORDING TO REASONABLE CATEGORIES FOR ASSESSMENT OF USER FEES PROVIDED SUCH PRIVATE ENTITY GETS NECESSARY APPROVAL IN ACCORDANCE WITH THE TERMS OF THE TRANSPORTATION INFRASTRUCTURE AGREEMENT.

13. ANY REQUEST FOR PROPOSAL OR AGREEMENT ENTERED PURSUANT TO THIS SECTION SHALL MAKE PROVISION FOR THE PROTECTION OF INTERESTS AND RIGHTS IN INTELLECTUAL PROPERTY AND TRADE SECRETS AND INFORMATION OTHERWISE PROTECTED BY STATE OR FEDERAL LAW.

14. IF ANY CLAUSE OR PROVISION OF THIS SECTION SHALL BE DETERMINED TO BE UNCONSTITUTIONAL OR BE INEFFECTIVE IN WHOLE OR IN PART, TO THE EXTENT THAT IT IS NOT UNCONSTITUTIONAL OR INEFFECTIVE, IT SHALL BE VALID AND EFFECTIVE AND NO OTHER CLAUSE OR PROVISION SHALL, ON ACCOUNT THEREOF, BE DEEMED INVALID OR INEFFECTIVE.

S 5. The public authorities law is amended by adding a new section 543 to read as follows:

S 543. INNOVATIVE INFRASTRUCTURE DEVELOPMENT. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY:

1. AS USED IN THIS SECTION, UNLESS A DIFFERENT MEANING APPEARS FROM THE CONTEXT, THE TERMS:

(A) "PRIVATE ENTITY" MEANS ANY ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, FIRM, BUSINESS TRUST, JOINT VENTURE, NOT-FOR-PROFIT ENTITY, FUND OR OTHER PRIVATE BUSINESS ENTITY.

(B) "PUBLIC ENTITY" MEANS THE STATE, THE FEDERAL GOVERNMENT, ANY OTHER STATE, ANY BI-STATE AUTHORITY OR COMMISSION, ANY MULTI-STATE AUTHORITY OR COMMISSION, ANY MULTI-NATIONAL AUTHORITY OR COMMISSION, ANY NATION, ANY PROVINCE, OR ANY AGENCY, COMMISSION, PUBLIC AUTHORITY, PUBLIC BENEFIT CORPORATION, POLITICAL SUBDIVISION OR MUNICIPALITY THEREOF, OR ANY OTHER GOVERNMENTAL ENTITY, OR ANY COMBINATION OF THE FOREGOING.

(C) "TRANSPORTATION INFRASTRUCTURE" MEANS BRIDGES AS DEFINED IN SUBDIVISION NINE OF SECTION FIVE HUNDRED TWENTY-SIX OF THIS TITLE AND THE PROVISIONS FOR THE MOVEMENT OF PEOPLE, VEHICLES, GOODS OR INFORMATION ON, BY OR THROUGH THE USE OF BRIDGES AND SHALL INCLUDE SERVICES PROVIDED PURSUANT TO TRANSPORTATION INFRASTRUCTURE AGREEMENTS.

(D) "TRANSPORTATION INFRASTRUCTURE AGREEMENT" SHALL MEAN ANY AGREEMENT ENTERED INTO BY THE AUTHORITY PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

(E) "TRANSPORTATION INFRASTRUCTURE PROJECT" SHALL MEAN THE PLANNING, ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL ANALYSIS, CONSTRUCTION, RECONSTRUCTION, RESTORATION, REHABILITATION, ESTABLISHMENT, IMPROVEMENT, RENOVATION, EXTENSION, REPAIR, MANAGEMENT, OPERATION, MAINTENANCE, DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION INFRASTRUCTURE, INCLUDING, BUT NOT LIMITED TO, AGREEMENTS RELATING TO THE DISTRIBUTION OF FARE AND TOLL PAYMENT MEDIA AND ELECTRONIC PAYMENT DEVICES, AND THE ESTABLISHMENT AND COLLECTION OF USER FEES, PURSUANT TO ONE OR MORE TRANSPORTATION INFRASTRUCTURE AGREEMENTS.

(F) "USER FEES" MEANS THE RATES, TOLLS, FARES, RENTALS OR FEES OR OTHER CHARGES IMPOSED FOR OR ASSOCIATED WITH THE USE AND OPERATION OF ALL OR A PORTION OF TRANSPORTATION INFRASTRUCTURE PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT.

(G) "BOARD" MEANS THE INNOVATIVE INFRASTRUCTURE DEVELOPMENT BOARD AS ESTABLISHED BY SECTION NINE HUNDRED THIRTY OF THE EXECUTIVE LAW.

2. NOTWITHSTANDING THE PROVISIONS OF ANY LAW TO THE CONTRARY, THE AUTHORITY IS AUTHORIZED, AS ADDITIONAL CORPORATE PURPOSES THEREOF, TO ENTER INTO TRANSPORTATION INFRASTRUCTURE AGREEMENTS, ON SUCH TERMS AND CONDITIONS AS THE AUTHORITY DEEMS APPROPRIATE AND SUBJECT TO THE APPROVAL OF THE DIRECTOR OF BUDGET AND THE BOARD, AND IN ACCORDANCE WITH SECTION ONE HUNDRED TWELVE OF THE STATE FINANCE LAW, WITH PUBLIC AND/OR PRIVATE ENTITIES TO PROVIDE FOR, OR IN SUPPORT OF, OR ASSOCIATED WITH TRANSPORTATION INFRASTRUCTURE PROJECTS. IN FURTHERANCE OF SUCH AGREEMENTS, THE AUTHORITY MAY:

(A) ACCEPT IN ACCORDANCE WITH THE STATE FINANCE LAW AND THE PUBLIC OFFICERS LAW, ANY APPROPRIATION, GRANT, OR OFFER OF FUNDS OR PROPERTY OR OTHER FORMS OF ASSISTANCE FOR THE PURPOSES OF THIS SECTION FROM ANY PUBLIC AND/OR PRIVATE ENTITY AND TO COMPLY WITH THE TERMS AND CONDITIONS THEREOF;

(B) ACCEPT, PURSUANT TO THE TERMS OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT, PROPERTY OR ANY INTEREST THEREIN AND TRANSPORTATION INFRASTRUCTURE TO BE MAINTAINED BY THE AUTHORITY. ANY SUCH INTEREST IN TRANSPORTATION INFRASTRUCTURE SO ACQUIRED SHALL BE DEEMED TO HAVE BEEN ACQUIRED BY THE AUTHORITY OR AT THE AUTHORITY'S REQUEST PURSUANT TO THIS TITLE;

(C) UTILIZE ANY OF ITS POWERS OR AUTHORITY TO ACHIEVE THE PURPOSES OF THIS SECTION INCLUDING BUT NOT LIMITED TO THE POWER TO ISSUE BONDS, NOTES AND OTHER OBLIGATIONS;

(D) FINANCE ALL OR ANY PART OF THE COSTS TO THE AUTHORITY OR TO ANY PUBLIC AND/OR PRIVATE ENTITY OF ANY TRANSPORTATION INFRASTRUCTURE PROJECT, INCLUDING FINANCING THROUGH OR ACCOMPANIED BY ONE OR MORE LEASES OR CONCESSIONS OF SUCH PROJECT OR ANY PART THEREOF BY OR TO SUCH ENTITY OR ENTITIES AND/OR BY OR TO THE AUTHORITY OR ANY OF ITS SUBSIDIARIES OR AFFILIATES;

(E) UTILIZE THE AUTHORITY'S EMINENT DOMAIN POWERS, PURSUANT TO SECTION FIVE HUNDRED TWENTY-NINE OF THIS TITLE, ON SUCH TERMS AND CONDITIONS AS THE AUTHORITY DEEMS APPROPRIATE, TO ACQUIRE PROPERTY REQUIRED FOR TRANSPORTATION INFRASTRUCTURE PROJECTS; AND

(F) PROVIDE FOR THE COLLECTION AND/OR RETENTION OF USER FEES PURSUANT TO THIS ARTICLE; PROVIDED HOWEVER THAT ANY PROVISION OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT WHICH PROVIDES FOR INCREASES IN USER FEES ON INFRASTRUCTURE CURRENTLY SUBJECT TO USER FEES, ESTABLISHMENT OF USER FEES IN A NEW LOCATION ON INFRASTRUCTURE CURRENTLY SUBJECT TO USER FEES, OR THE ESTABLISHMENT OF USER FEES ON NEWLY CONSTRUCTED INFRASTRUCTURE OR INFRASTRUCTURE IMPROVED TO INCREASE CAPACITY SHALL BE CONSISTENT WITH THE POWERS OF THE AUTHORITY TO ESTABLISH OR INCREASE USER FEES PURSUANT TO THIS TITLE.

3. COST ANALYSIS. PRIOR TO ANY SOLICITATION OF PROPOSALS MADE PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW THE AUTHORITY SHALL CONDUCT A STUDY AND ISSUE A REPORT WHICH SHALL DETAIL THE RISK ADJUSTED ESTIMATED LIFE OF PROJECT COST FOR THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT WERE THE DEPARTMENT TO UNDERTAKE SUCH PROJECT THROUGH TRADITIONAL MEANS OF PROCUREMENT AND FINANCING.

4. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY IS AUTHORIZED TO PREPARE PRELIMINARY SOLICITATIONS FOR THE PROVISION OF TRANSPORTATION INFRASTRUCTURE PROJECTS. SUCH SOLICITATIONS SHALL SET FORTH THE PROPOSED PARAMETERS OF THE PROJECT AND SHALL BE SUBJECT TO APPROVAL OF THE BOARD PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW.

5. (A) AFTER A SOLICITATION MADE PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW, THE AUTHORITY SHALL REVIEW ALL PROPER PROPOSALS AND MAY PRELIMINARILY ACCEPT AND ADVANCE TO THE BOARD FOR APPROVAL THE PROPOSAL THAT IS DETERMINED BY THE AUTHORITY TO BE THE BEST VALUE AS DEFINED IN SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW CONSIDERING THE FOLLOWING:

(I) A PUBLIC NEED FOR THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(II) THE REASONABLENESS OF ESTIMATED COSTS, BENEFITS AND LIABILITIES OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(III) THE COMPATIBILITY OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT AND THE SCHEDULING OF ITS DEVELOPMENT OR IMPLEMENTATION AND ITS CONNECTIONS TO OR ROLE WITHIN THE EXISTING AUTHORITY INFRASTRUCTURE AND THE COMPATIBILITY WITH THE TRANSPORTATION PLANS OF THE AUTHORITY AND OF ANY STATE OR LOCAL JURISDICTIONS;

(IV) THE FEASIBILITY OF THE FINANCING OF THE DEVELOPMENT, CONSTRUCTION, IMPLEMENTATION AND/OR OPERATION OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(V) THE QUALIFICATIONS, EXPERIENCE, AND FINANCIAL CAPACITY OF THE PUBLIC AND/OR PRIVATE ENTITY PROVIDING THE TRANSPORTATION INFRASTRUCTURE PROJECT; AND

(VI) WHETHER THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT SATISFIES ANY OTHER CRITERIA ESTABLISHED IN THE SOLICITATION MADE PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW.

(B) THE AUTHORITY SHALL NOT ACCEPT OR ADVANCE ANY PROPOSAL UNLESS THE AGGREGATE LIFE OF PROJECT COST FOR THE TRANSPORTATION INFRASTRUCTURE PROJECT IS LESS THAN THE ESTIMATE PROVIDED IN THE COST ANALYSIS MADE PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

6. (A) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE AUTHORITY OR BOARD TO MAKE ANY SOLICITATION, ACCEPT ANY PROPOSAL OR ENTER INTO ANY AGREEMENT WITH ANY PUBLIC AND/OR PRIVATE ENTITY.

(B) NOTHING IN THIS SECTION SHALL BE DEEMED TO: (I) LIMIT THE AUTHORITY'S EXISTING POWERS AND AUTHORITY; (II) REQUIRE THE AUTHORITY TO ACCEPT ANY PROJECT THROUGH THE PROVISIONS OF THIS SECTION; (III) REQUIRE THE AUTHORITY TO ENTER INTO ANY AGREEMENTS PURSUANT TO THIS SECTION; OR (IV)

REQUIRE THE AUTHORITY TO TAKE ANY ACTION THAT WOULD CONTRADICT OR IMPAIR ANY EXISTING AUTHORITY CONTRACT OR AGREEMENT WITH ITS BONDHOLDERS OR OTHER ENTITIES.

(C) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY MAY CONVEY AN INTEREST IN PROPERTY, IN WHICH THE AUTHORITY HAS AN INTEREST TO A PUBLIC AND/OR PRIVATE ENTITY PURSUANT TO THE TERMS OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT, PROVIDED HOWEVER THAT NO SUCH INTEREST SHALL BE A FEE SIMPLE ABSOLUTE AND ANY CONVEYANCE OF AN INTEREST IN PROPERTY IN EXCESS OF THIRTY-FIVE YEARS SHALL REQUIRE APPROVAL OF A SUPER-MAJORITY OF THE BOARD PURSUANT TO ARTICLE FORTY-THREE OF THE EXECUTIVE LAW.

(D) THE AUTHORITY IS HEREBY AUTHORIZED TO PROMULGATE ANY RULES AND REGULATIONS DEEMED NECESSARY OR DESIRABLE FOR THE IMPLEMENTATION OF THIS SECTION.

(E) PROJECTS UNDERTAKEN BY THE AUTHORITY PURSUANT TO THIS ARTICLE SHALL BE SUBJECT TO THE REQUIREMENTS OF ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW, AND, WHERE APPLICABLE, THE REQUIREMENTS OF THE NATIONAL ENVIRONMENTAL POLICY ACT.

7. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO PURSUANT TO THIS SECTION MAY PROVIDE FOR:

(A) THE PLANNING, ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL ANALYSIS, CONSTRUCTION, RECONSTRUCTION, RESTORATION, REHABILITATION, ESTABLISHMENT, IMPROVEMENT, RENOVATION, EXTENSION, REPAIR, MANAGEMENT, OPERATION, MAINTENANCE, DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION FACILITIES AND THE PROVISION OF TRANSPORTATION INFRASTRUCTURE BY A SINGLE PUBLIC OR PRIVATE ENTITY OR COMBINATION OF PUBLIC AND PRIVATE ENTITIES;

(B) THE ALLOCATION OF RESPONSIBILITY AND TIMING FOR SPECIFIC PROJECT ELEMENTS, REVENUE-SHARING ARRANGEMENTS, ALLOCATION OF FINANCIAL RESPONSIBILITY FOR COST OVERRUNS, ALLOCATION OF DEVELOPMENT COSTS, INSURANCE OR SURETY REQUIREMENTS, LIABILITY FOR NON-PERFORMANCE, STANDARDS AND INCENTIVES FOR PERFORMANCE, DEFAULT, TERMINATION, BUY-BACK, RENEGOTIATION OR AMENDMENT CLAUSES, INSPECTION CLAUSES, FINANCIAL REPORTING, ACCOUNTING AND AUDITING STANDARDS, ENVIRONMENTAL PERFORMANCE STANDARDS, ANY OTHER RIGHTS AND DUTIES;

(C) THE IMPOSITION BY THE AUTHORITY, OR THE ESTABLISHMENT BY THE PUBLIC AND/OR PRIVATE ENTITY WITH WHICH THE AUTHORITY CONTRACTS PURSUANT TO THIS SECTION, OF USER FEES AND THE PLEDGE OF ALL OR ANY PORTION THEREOF IN CONNECTION WITH ANY FINANCING THEREON CONSISTENT WITH PARAGRAPH (F) OF SUBDIVISION TWO OF THIS SECTION AND EXISTING CONTRACTS OR RESOLUTIONS RELATING THERETO; AND

(D) THE CROSSING OF ANY STREET, HIGHWAY, RAILROAD, CANAL OR NAVIGABLE WATER COURSE OR RIGHT-OF-WAY, OR OTHER ROADWAY SO LONG AS THE CROSSING DOES NOT UNREASONABLY INTERFERE WITH THE REASONABLE USE THEREOF.

8. ANY AUTHORITY REVENUES DERIVED FROM ANY LEASE, CONCESSION OR OTHER FINANCING STRUCTURE PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT MAY ONLY BE USED FOR THE PURPOSE OF THE DEVELOPMENT OF TRANSPORTATION INFRASTRUCTURE.

9. IN THE EVENT A PUBLIC OR PRIVATE ENTITY DEFAULTS ON ITS OBLIGATIONS UNDER A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO SUBDIVISION TWO OF THIS SECTION, THE AUTHORITY WITH BOARD APPROVAL IS HEREBY AUTHORIZED BUT NOT REQUIRED TO ACQUIRE ALL OR ANY PORTION OF ANY TRANSPORTATION INFRASTRUCTURE CONSTRUCTED OR UNDER CONSTRUCTION OR DEVELOPMENT BY OR IN CONJUNCTION WITH SUCH PUBLIC OR PRIVATE ENTITY, WITH ANY DAMAGES SUFFERED TO THE AUTHORITY AS A RESULT OF SUCH DEFAULT

BEING AN OFFSET TO THE COMPENSATION PROVIDED FOR THE ACQUISITION OF THE TRANSPORTATION INFRASTRUCTURE. THE AUTHORITY MAY ALSO TERMINATE THE TRANSPORTATION INFRASTRUCTURE AGREEMENT AND EXERCISE ANY OTHER RIGHTS OR REMEDIES WHICH MAY BE AVAILABLE TO IT AT LAW OR IN EQUITY. IN THE EVENT OF SUCH ACQUISITION AND NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY IS HEREBY AUTHORIZED, BUT NOT REQUIRED, TO OPERATE AND MAINTAIN THE TRANSPORTATION INFRASTRUCTURE, INCLUDING THE IMPOSITION AND COLLECTION OF APPLICABLE USER FEES.

10. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY, THE AUTHORITY, THROUGH TRANSPORTATION INFRASTRUCTURE AGREEMENTS MAY:

(A) TAKE ANY ACTION TO OBTAIN FEDERAL, STATE OR LOCAL ASSISTANCE FOR A TRANSPORTATION INFRASTRUCTURE PROJECT THAT SERVES THE PUBLIC PURPOSE OF THIS CHAPTER AND MAY ENTER INTO ANY CONTRACTS REQUIRED TO RECEIVE SUCH FEDERAL ASSISTANCE. THE AUTHORITY MAY USE SUCH ASSISTANCE FOR THE IMPLEMENTATION OF THE TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO PURSUANT TO SUBDIVISION TWO OF THIS SECTION; AND

(B) AGREE TO MAKE GRANTS OR LOANS OR OTHER FORMS OF ASSISTANCE FOR THE DEVELOPMENT AND/OR OPERATION OF THE TRANSPORTATION INFRASTRUCTURE PROJECT FROM TIME TO TIME FROM AMOUNTS RECEIVED FROM THE FEDERAL, STATE, OR LOCAL GOVERNMENT, OR ANY AGENCY OR INSTRUMENTALITY THEREOF.

11. NOTHING IN THIS SECTION OR IN A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION SHALL BE DEEMED TO ENLARGE, DIMINISH OR AFFECT THE AUTHORITY, IF ANY, OTHERWISE POSSESSED BY THE AUTHORITY TO TAKE ACTION THAT WOULD IMPACT THE DEBT CAPACITY OF THE STATE OR ANY OTHER PUBLIC ENTITY.

12. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY:

(A) THE PRIVATE ENTITY SHALL HAVE ALL POWER ALLOWED BY LAW GENERALLY TO A PRIVATE ENTITY HAVING THE SAME FORM OF ORGANIZATION AS THE PRIVATE ENTITY AND SHALL HAVE THE POWER TO DEVELOP AND/OR OPERATE THE TRANSPORTATION INFRASTRUCTURE AND IMPOSE USER FEES PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT CONSISTENT WITH PARAGRAPH (F) OF SUBDIVISION TWO OF THIS SECTION AND/OR ENTER INTO SERVICE CONTRACTS OR OTHER AGREEMENTS IN CONNECTION WITH THE USE THEREOF.

(B) THE PRIVATE ENTITY MAY LEASE OR ACQUIRE ANY OTHER RIGHT TO USE OR DEVELOP AND/OR OPERATE THE TRANSPORTATION INFRASTRUCTURE CONSISTENT WITH PARAGRAPH (C) OF SUBDIVISION SIX OF THIS SECTION; AND

(C) IN OPERATING THE TRANSPORTATION INFRASTRUCTURE, THE PRIVATE ENTITY MAY PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT MAKE CLASSIFICATIONS ACCORDING TO REASONABLE CATEGORIES FOR ASSESSMENT OF USER FEES PROVIDED SUCH PRIVATE ENTITY GETS NECESSARY APPROVAL IN ACCORDANCE WITH THE TERMS OF THE TRANSPORTATION INFRASTRUCTURE AGREEMENT.

13. ANY REQUEST FOR PROPOSAL OR AGREEMENT ENTERED PURSUANT TO THIS SECTION SHALL MAKE PROVISION FOR THE PROTECTION OF INTERESTS AND RIGHTS IN INTELLECTUAL PROPERTY AND TRADE SECRETS AND INFORMATION OTHERWISE PROTECTED BY STATE OR FEDERAL LAW.

14. IF ANY CLAUSE OR PROVISION OF THIS SECTION SHALL BE DETERMINED TO BE UNCONSTITUTIONAL OR BE INEFFECTIVE IN WHOLE OR IN PART, TO THE EXTENT THAT IT IS NOT UNCONSTITUTIONAL OR INEFFECTIVE, IT SHALL BE VALID AND EFFECTIVE AND NO OTHER CLAUSE OR PROVISION SHALL, ON ACCOUNT THEREOF, BE DEEMED INVALID OR INEFFECTIVE.

S 6. This act shall take effect immediately.