STATE OF NEW YORK

9508--B

IN ASSEMBLY

January 18, 2018

A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to enhancing the ability of the state to enforce state and federal law relating to motor carriers, commercial drivers and bus operators and to increase penalties for violations of state law relating thereto (Part A); intentionally omitted (Part B); to amend the transportation law, in relation to enhancing the ability of the state to enforce state and federal law relating to the safety of rail fixed guideway public transportation systems under the oversight of the department of transportation (Part C); intentionally omitted (Part D); to amend the transportation law, in relation to authorizing the department of transportation to charge one hundred twenty dollars for a semi-annual inspection of certain for-profit fleets (Part E); intentionally omitted (Part F); intentionally omitted (Part G); to amend part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, in relation to the submission of reports; and in relation to extending the effectiveness thereof (Part H); to amend the vehicle and traffic law and the state finance law, in relation to certain fines in the city of New York (Part I); intentionally omitted (Part J); to amend the tax law, in relation to the disposition of certain fees and assessments; to amend the public authorities law, in relation to the metropolitan transportation authority finance fund; and to amend the state finance law, in relation to the metropolitan transportation authority financial assistance fund (Part K); intentionally omitted (Part L); intentionally omitted (Part M); intentionally omitted (Part N); to amend the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part O); to amend the chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part

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

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P); to amend the executive law, the state finance law, the public authorities law, and the public buildings law, in relation to the reauthorization of the minority and women-owned business enterprise program; to amend chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure fund, in relation to the effectiveness of certain provisions thereof; to amend the state finance law, in relation to creating the minority and women-owned business enterprise fund; and to amend the executive law, in relation to establishing the workforce diversity program; and providing for the repeal of certain provisions upon expiration thereof (Part Q); intentionally omitted (Part R); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending the expiration date thereof (Part S); intentionally omitted (Part T); to amend the general municipal law, in relation to brownfield opportunity areas (Part U); to repeal section 159-j of the executive law, relating to the local share requirement for providers under the federal community services block grant program (Part V); to amend the banking law, in relation to requiring the licensure of student loan services (Subpart A); to amend the financial services law, in relation to student debt collectors (Subpart B); and relating to prohibiting adverse action against licensees based upon a student loan obligation (Subpart C)(Part W); intentionally omitted (Part X); to amend part S of chapter 58 of the laws of 2016, amending the New York state urban development corporation act relating to transferring the statutory authority for the promulgation of marketing orders from the department of agriculture and markets to the New York state urban development corporation, in relation to the effectiveness thereof (Part Y); intentionally omitted (Part Z); intentionally omitted (Part AA); to amend the environmental conservation law, in relation to the donation of excess food and recycling of food scraps (Part BB); to amend the environmental conservation law, in relation to the central pine barrens area and the core preservation area (Part CC); authorizing utility and cable television assessments to provide funds to the department of health from cable television assessment revenues and to the departments of agriculture and markets, environmental conservation, office of parks, recreation and historic preservation, and state from utility assessment revenues (Part DD); authorizing the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY programs, as well as the department of environmental conservation's climate change program and the department of agriculture and markets' Fuel NY program, from an assessment on gas and electric corporations (Part EE); to amend the public authorities law, in relation to energy-related projects, programs and services of the power authority of the state of New York (Part FF); to amend the public authorities law, in relation to the provision of renewable power and energy by the power authority of the state of New York; and providing for the repeal of such provisions upon expiration thereof (Part GG); to amend the real property actions and proceedings law and the civil practice law and rules, in relation to foreclosure upon a reverse mortgage (Part HH); establishing the metropolitan transportation sustainability workgroup; and providing for the repeal of such provisions upon expiration thereof (Subpart A); to amend the public

authorities law, in relation to the independent audit of capital elements (Subpart B); to amend the public authorities law, in relation to the creation of a supplemental revenue transparency program (Subpart C); to amend the executive law, in relation to a prohibition on diversion of funds dedicated to public transportation systems (Subpart D); and to amend the public authorities law, in relation to cashless tolling (Subpart E) (Part II); to amend the New York state urban development corporation act, in relation to economic development entities (Part JJ); to amend the New York state urban development corporation act and the economic development law, in relation to the creation of a searchable database (Part KK); to amend the New York state urban development corporation act, in relation to creating the small business innovation research/small business technology transfer technical assistance program; and repealing section 3102-c of the public authorities law relating thereto (Part LL); to amend the New York state urban development corporation act, in relation to establishing the New York state innovation voucher program (Part MM); to amend the economic development law, in relation to restoring the reporting requirements for the START-UP NY program (Part NN); to amend the New York state urban development corporation act, in relation to the creation of the strategic investment in workforce development program (Part OO); to amend the environmental conservation law, in relation to establishing the New York state environmental justice act and grants (Part PP); to amend the environmental conservation law, the public service law, the public authorities law, the labor law and the community risk and resiliency act, in relation to establishing the New York state climate and community protection act (Part QQ); to amend the environmental conservation law, in relation to establishing a paint stewardship program (Part RR); to amend the business corporation law, the executive law, the general associations law, the limited liability law, the not-for-profit corporation law, the partnership law, the tax law, the administrative code of the city of New York, the real property law, the general business law, the navigation law, and the vehicle and traffic law, in relation to expanding service of process to the department of state in the city of New York (Part SS); to authorize, for certain public works undertaken pursuant to project labor agreements, use of the alternative delivery method known as design-build contracts; and providing for the repeal of such provisions upon expiration thereof (Part TT); establishing the "New York City Housing Authority Facilities Modernization Act"; and providing for the repeal of such provisions upon expiration thereof (Subpart A); and to amend the public housing law, in relation to reporting on lead-based paint poisoning prevention and control (Subpart B)(Part UU); and to amend the vehicle and traffic law, in relation to photo speed violation monitoring systems in school speed zones in the city of New York; to amend chapter 189 of the laws of 2013, amending the vehicle and traffic law and the public officers law relating to establishing in a city with a population of one million people or more a demonstration program implementing speed violation monitoring systems in school zones by means of photo devices, in relation to the effectiveness thereof; and to amend chapter 43 of the laws of 2014, amending the vehicle and traffic law, the public officers law and the general municipal law relating to photo speed violation monitoring systems in school speed zones in the city of New York, in relation to making technical corrections thereto (Part VV)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2018-2019 state fiscal year. Each component is wholly contained within a Part identified as Parts A through VV. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Subparagraph (iii) of paragraph (b) of subdivision 2 of section 510 of the vehicle and traffic law, as amended by chapter 349 of the laws of 1993, is amended to read as follows:

(iii) such registrations shall be suspended when necessary to comply with subdivision nine of section one hundred forty or subdivision four of section one hundred forty-five of the transportation law **or with an out of service order issued by the United States department of transportation**. The commissioner shall have the authority to deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where it has been determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision. **Any suspension issued pursuant to this subdivision by reason of an out of service order issued by the United States department of transportation shall remain in effect until such time as the commissioner is notified by the United States department of transportation or the commissioner of transportation that the order resulting in the suspension is no longer in effect.**

§ 2. This act shall take effect immediately.

PART B

Intentionally Omitted

PART C

Section 1. Section 14 of the transportation law is amended by adding a new subdivision 36 to read as follows:

36. a. To enforce the requirements of subsection (e) of section five thousand three hundred twenty-nine of title forty-nine of the United States Code, as amended from time to time, as it pertains to rail fixed guideway public transportation systems.

b. For the purposes of this subdivision, the term "rail fixed guideway public transportation system" shall mean any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway that (i) is not regulated by the federal railroad administration and (ii) is included in the federal transit administration's

calculation of fixed guideway route miles or receives funding under the federal transit administration's formula program for urbanized areas pursuant to section five thousand three hundred sixty-six of title forty-nine of the United States Code as amended from time to time or (iii) has submitted documentation to the federal transit administration indicating its intent to be included in the federal transit administration's calculation of fixed guideway route miles to receive funding under such formula program for urbanized areas.

§ 2. This act shall take effect immediately.

PART D

Intentionally Omitted

PART E

Section 1. The transportation law is amended by adding a new section 144 to read as follows:

§ 144. Fees and charges. The commissioner or authorized officer or employee of the department shall charge and collect one hundred twenty dollars for the inspection or re-inspection of all motor vehicles transporting passengers subject to the department's inspection requirements pursuant to section one hundred forty of this article, except such motor vehicles operated under contract with a municipality to provide statewide mass transportation operating assistance eligible service or motor vehicles used primarily to transport passengers pursuant to subparagraphs (i), (iii), (iv) and (v) of paragraph a of subdivision two of section one hundred forty of this article. The department may deny inspection of any motor vehicle transporting passengers subject to the department's inspection requirements if such fee is not paid within ninety days of the date noted on the department invoice.

§ 2. This act shall take effect immediately.

PART F

Intentionally Omitted

PART G

Intentionally Omitted

PART H

Section 1. Section 2 of part FF of chapter 55 of the laws of 2017, relating to motor vehicles equipped with autonomous vehicle technology, is amended to read as follows:

§ 2. The commissioner of motor vehicles shall, in consultation with the superintendent of state police, submit a report to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the senate and assembly transportation committees on the demonstrations and tests authorized by section one of this act. Such report shall include, but not be limited to, a description of the parameters and purpose of such demonstrations and tests, the location or locations where demonstrations and tests were conducted, the demonstrations' and tests' impacts on safety, traffic control, traffic

enforcement, emergency services, and such other areas as may be identified by such commissioner. Such commissioner shall submit such report on or before June 1, 2018 **and June 1, 2019**.

§ 2. Section 3 of part FF of chapter 55 of the laws of 2017, relating to motor vehicles equipped with autonomous vehicle technology, is amended to read as follows:

§ 3. This act shall take effect April 1, 2017; provided, however, that section one of this act shall expire and be deemed repealed April 1, [~~2018~~] **2019**.

§ 3. This act shall take effect immediately.

PART I

Section 1. Subdivision 5 of section 227 of the vehicle and traffic law, as amended by section 1 of part GG of chapter 55 of the laws of 2017, is amended to read as follows:

5. All penalties and forfeited security collected pursuant to the provisions of this article shall be paid to the department of audit and control to the credit of the justice court fund and shall be subject to the applicable provisions of section eighteen hundred three of this chapter. After such audit as shall reasonably be required by the comptroller, such penalties and forfeited security shall be paid quarterly or, in the discretion of the comptroller, monthly, to the appropriate jurisdiction in which the violation occurred in accordance with the provisions of section ninety-nine-a of the state finance law, except that the sum of four dollars for each violation occurring in such jurisdiction for which a complaint has been filed with the administrative tribunal established pursuant to this article shall be retained by the state. Notwithstanding any law to the contrary an additional annual sum of three million dollars collected from fines and assessed to the city of New York, shall be deposited into the general fund [~~in accordance with the provisions of section ninety-nine-a of the state finance law~~]. The amount distributed during the first three quarters to the city of Rochester in any given fiscal year shall not exceed seventy percent of the amount which will be otherwise payable. Provided, however, that if the full costs of administering this article shall exceed the amounts received and retained by the state for any period specified by the commissioner, then such additional sums as shall be required to offset such costs shall be retained by the state out of the penalties and forfeited security collected pursuant to this article.

§ 2. Subdivision 5 of section 227 of the vehicle and traffic law, as amended by section 3 of chapter 157 of the laws of 2017, is amended to read as follows:

5. All penalties and forfeited security collected pursuant to the provisions of this article shall be paid to the department of audit and control to the credit of the justice court fund and shall be subject to the applicable provisions of section eighteen hundred three of this chapter. After such audit as shall reasonably be required by the comptroller, such penalties and forfeited security shall be paid quarterly or, in the discretion of the comptroller, monthly, to the appropriate jurisdiction in which the violation occurred in accordance with the provisions of section ninety-nine-a of the state finance law, except that the sum of four dollars for each violation occurring in such jurisdiction for which a complaint has been filed with the administrative tribunal established pursuant to this article shall be retained by the state. Notwithstanding any law to the contrary an additional annual sum

of three million dollars collected from fines and assessed to the city of New York, shall be deposited into the general fund [~~in accordance with the provisions of section ninety-nine-a of the state finance law~~]. Provided, however, that if the full costs of administering this article shall exceed the amounts received and retained by the state for any period specified by the commissioner, then such additional sums as shall be required to offset such costs shall be retained by the state out of the penalties and forfeited security collected pursuant to this article.

§ 3. Subdivision 3 of section 99-a of the state finance law, as amended by section 3 of part GG of chapter 55 of the laws of 2017, is amended to read as follows:

3. The comptroller is hereby authorized to implement alternative procedures, including guidelines in conjunction therewith, relating to the remittance of fines, penalties, forfeitures and other moneys by town and village justice courts, and by the Nassau and Suffolk counties traffic and parking violations agencies, and by the city of Buffalo traffic violations agency, [~~and by the city of New York pursuant to article two-A of the vehicle and traffic law,~~] to the justice court fund and for the distribution of such moneys by the justice court fund. Notwithstanding any law to the contrary, the alternative procedures utilized may include:

a. electronic funds transfer;

b. remittance of funds by the justice court to the chief fiscal office of the town or village, or, in the case of the Nassau and Suffolk counties traffic and parking violations agencies, to the county treasurer, or, in the case of the Buffalo traffic violations agency, to the city of Buffalo comptroller, for distribution in accordance with instructions by the comptroller [~~or, in the case of the city of New York, pursuant to article two-A of the vehicle and traffic law to the city comptroller~~]; and/or

c. monthly, rather than quarterly, distribution of funds.

The comptroller may require such reporting and record keeping as he or she deems necessary to ensure the proper distribution of moneys in accordance with applicable laws. A justice court or the Nassau and Suffolk counties traffic and parking violations agencies or the city of Buffalo traffic violations agency [~~or the city of New York pursuant to article two-A of the vehicle and traffic law~~] may utilize these procedures only when permitted by the comptroller, and such permission, once given, may subsequently be withdrawn by the comptroller on due notice.

§ 4. Subdivision 3 of section 99-a of the state finance law, as amended by section 10 of chapter 157 of the laws of 2017, is amended to read as follows:

3. The comptroller is hereby authorized to implement alternative procedures, including guidelines in conjunction therewith, relating to the remittance of fines, penalties, forfeitures and other moneys by town and village justice courts, and by the Nassau and Suffolk counties traffic and parking violations agencies, and by the city of Buffalo traffic violations agency, and by the city of Rochester traffic violations agency, [~~and by the city of New York pursuant to article two-A of the vehicle and traffic law,~~] to the justice court fund and for the distribution of such moneys by the justice court fund. Notwithstanding any law to the contrary, the alternative procedures utilized may include:

a. electronic funds transfer;

b. remittance of funds by the justice court to the chief fiscal office of the town or village, or, in the case of the Nassau and Suffolk counties traffic and parking violations agencies, to the county treasurer,

or, in the case of the Buffalo traffic violations agency, to the city of Buffalo comptroller, or in the case of the Rochester traffic violations agency, to the city of Rochester treasurer for distribution in accordance with instructions by the comptroller [~~or, in the case of the city of New York, pursuant to article two-A of the vehicle and traffic law to the city comptroller~~]; and/or

c. monthly, rather than quarterly, distribution of funds.

The comptroller may require such reporting and record keeping as he or she deems necessary to ensure the proper distribution of moneys in accordance with applicable laws. A justice court or the Nassau and Suffolk counties traffic and parking violations agencies or the city of Buffalo traffic violations agency or the city of Rochester traffic violations agency [~~or the city of New York pursuant to article two-A of the vehicle and traffic law~~] may utilize these procedures only when permitted by the comptroller, and such permission, once given, may subsequently be withdrawn by the comptroller on due notice.

§ 5. This act shall take effect immediately, provided, however that

(a) the amendments to subdivision 5 of section 227 of the vehicle and traffic law as made by section two of this act shall take effect on the same date and in the same manner as section 3 of chapter 157 of the laws of 2017 takes effect, and shall be subject to the expiration of such subdivision pursuant to section 4 of part GG of chapter 55 of the laws of 2017, as amended, and shall be deemed expired therewith; and

(b) the amendments to subdivision 3 of section 99-a of the state finance law as made by section four of this act shall take effect on the same date and in the same manner as section 10 of chapter 157 of the laws of 2017 takes effect, and shall be subject to the expiration of such subdivision pursuant to section 4 of part GG of chapter 55 of the laws of 2017, as amended, and shall be deemed expired therewith.

PART J

Intentionally Omitted

PART K

Section 1.Intentionally omitted.

§ 2. Intentionally omitted.

§ 3. Intentionally omitted.

§ 4. Intentionally omitted.

§ 5. Intentionally omitted.

§ 6. Intentionally omitted.

§ 7. Intentionally omitted.

§ 8. Intentionally omitted.

§ 9. Intentionally omitted.

§ 10. Intentionally omitted.

§ 11. Subsection (b) of section 805 of the tax law, as added by section 1 of part C of chapter 25 of the laws of 2009, is amended to read as follows:

(b) On or before the twelfth and twenty-sixth day of each succeeding month, after reserving such amount for such refunds and deducting such amounts for such costs, as provided for in subsection (a) of this section, the commissioner shall certify to the comptroller the amount of all revenues so received during the prior month as a result of the taxes, interest and penalties so imposed. The amount of revenues so certified shall be paid over by the fifteenth and the final business day

of each succeeding month from such account without appropriation into the [~~mobility tax trust account of the metropolitan transportation authority financial assistance fund established pursuant to section ninety-two-ff of the state finance law, for payment, pursuant to appropriations by the legislature to the~~] metropolitan transportation authority finance fund established pursuant to section twelve hundred seventy-h of the public authorities law, provided, however, that the comptroller shall ensure that any payments to the metropolitan transportation authority finance fund which are due to be paid by the final business day in the month of December pursuant to this subsection shall be received by the metropolitan transportation authority finance fund on the same business day in which it is paid.

§ 12. Section 4 of the state finance law is amended by adding a new subdivision 12 to read as follows:

12. Notwithstanding subdivision one of this section and any other law to the contrary, the revenue (including taxes, interest and penalties) from the metropolitan commuter transportation mobility tax imposed pursuant to article twenty-three of the tax law which are paid in accordance with subsection (b) of section eight hundred five of the tax law into the metropolitan transportation authority finance fund established by section twelve hundred seventy-h of the public authorities law shall be made pursuant to statute but without an appropriation.

§ 13. Subdivision 2 of section 1270-h of the public authorities law, as added by section 16 of part H of chapter 25 of the laws of 2009, is amended to read as follows:

2. The comptroller shall deposit into the metropolitan transportation authority finance fund (a) monthly, pursuant to appropriation, [~~into the metropolitan transportation authority finance fund~~] the moneys deposited in the mobility tax trust account of the metropolitan transportation authority financial assistance fund pursuant to [~~article twenty-three of the tax law, and~~] any [~~other~~] provision of law directing or permitting the deposit of moneys in such fund, and (b) without appropriation, the revenue including taxes, interest and penalties collected in accordance with article twenty-three of the tax law.

§ 14. Subdivisions 3 and 5 of section 92-ff of the state finance law, as added by section 1 of part G of chapter 25 of the laws of 2009, are amended to read as follows:

3. Such fund shall consist of all moneys collected [~~therefore~~] therefor or credited or transferred thereto from any other fund, account or source, including, without limitation, the [~~revenues derived from the metropolitan commuter transportation mobility tax imposed by article twenty-three of the tax law;~~] revenues derived from the special supplemental tax on passenger car rentals imposed by section eleven hundred sixty-six-a of the tax law; revenues derived from the transportation surcharge imposed by article twenty-nine-A of the tax law; the supplemental registration fees imposed by article seventeen-C of the vehicle and traffic law; and the supplemental metropolitan commuter transportation district license fees imposed by section five hundred three of the vehicle and traffic law. Any interest received by the comptroller on moneys on deposit in the metropolitan transportation authority financial assistance fund shall be retained in and become a part of such fund.

5. (a) The "mobility tax trust account" shall consist of [~~revenues required to be deposited therein pursuant to the provisions of article twenty-three of the tax law and all other~~] moneys credited or transferred thereto from any [~~other~~] fund or source pursuant to law.

(b) Moneys in the "mobility tax trust account" shall, pursuant to appropriation by the legislature, be transferred on a monthly basis to the metropolitan transportation authority finance fund established by section twelve hundred seventy-h of the public authorities law and utilized in accordance with said section. It is the intent of the legislature to enact two appropriations from the mobility tax trust account to the metropolitan transportation authority finance fund established by section twelve hundred seventy-h of the public authorities law. One such appropriation shall be equal to the amounts expected to be available [~~for such purpose pursuant to article twenty-three of the tax law or~~] from any [~~other~~] monies described in paragraph (a) of this subdivision during the two thousand [~~nine~~] eighteen--two thousand [~~ten~~] nineteen fiscal year and shall be effective in that fiscal year. The other such appropriation shall be equal to the amounts expected to be available [~~for such purpose pursuant to article twenty-three of the tax law or~~] from any [~~other~~] monies described in paragraph (a) of this subdivision during the two thousand [~~ten~~] nineteen--two thousand [~~eleven~~] twenty fiscal year and shall, notwithstanding the provisions of section forty of this chapter, take effect on the first day of the two thousand [~~ten~~] nineteen--two thousand [~~eleven~~] twenty fiscal year and lapse on the last day of that fiscal year. It is the intent of the governor to submit and the legislature to enact for each fiscal year after the two thousand [~~nine~~] eighteen--two thousand [~~ten~~] nineteen fiscal year in an annual budget bill: (i) an appropriation for the amount expected to be available in the mobility tax trust account during such fiscal year for the metropolitan transportation authority [~~pursuant to article twenty-three of the tax law or~~] from any [~~other~~] monies described in paragraph (a) of this subdivision; and (ii) an appropriation for the amount projected by the director of the budget to be deposited in the mobility tax trust account [~~pursuant to article twenty-three of the tax law or~~] from any [~~other~~] monies described in paragraph (a) of this subdivision for the next succeeding fiscal year. Such appropriation for payment of revenues projected to be deposited in the succeeding fiscal year shall, notwithstanding the provisions of section forty of this chapter, take effect on the first day of such succeeding fiscal year and lapse on the last day of such fiscal year. If for any fiscal year commencing on or after the first day of April, two thousand ten the governor fails to submit a budget bill containing the foregoing, or the legislature fails to enact a bill with such provisions, then the metropolitan transportation authority shall notify the comptroller, the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee of amounts required to be disbursed from the appropriation made during the preceding fiscal year for payment in such fiscal year. In no event shall the comptroller make any payments from such appropriation prior to May first of such fiscal year, and unless and until the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee have been notified of the required payments and the timing of such payments to be made from the mobility tax trust account to the metropolitan transportation authority finance fund established by section twelve hundred seventy-h of the public authorities law at least forty-eight hours prior to any such payments. Until such time as payments pursuant to such appropriation are made in full, revenues in the mobility tax trust account shall not be paid over to any person other than the metropolitan transportation authority.

§ 15. This act shall take effect April 1, 2018.

PART L

Intentionally Omitted

PART M

Intentionally Omitted

PART N

Intentionally Omitted

PART O

Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, as amended by section 1 of part M of chapter 58 of the laws of 2017, is amended to read as follows:

3. The provisions of this section shall expire, notwithstanding any inconsistent provision of subdivision 4 of section 469 of chapter 309 of the laws of 1996 or of any other law, on July 1, [~~2018~~] **2019**.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2018.

PART P

Section 1. Section 2 of chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, as amended by section 1 of part N of chapter 58 of the laws of 2017, is amended to read as follows:

§ 2. This act shall take effect immediately provided, however, that section one of this act shall expire on July 1, [~~2018~~] **2019**, at which time the provisions of subdivision 26 of section 5 of the New York state urban development corporation act shall be deemed repealed; provided, however, that neither the expiration nor the repeal of such subdivision as provided for herein shall be deemed to affect or impair in any manner any loan made pursuant to the authority of such subdivision prior to such expiration and repeal.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2018.

PART Q

Section 1. Subdivisions 2, 7, 8, 13, 15, 16, 19, 20, 21 and 22 of section 310 of the executive law, subdivisions 2 and 8 as added by chapter 261 of the laws of 1988, subdivisions 7 and 15 as amended by chapter 22 of the laws of 2014, subdivision 13 as amended by chapter 506 of the laws of 2009, subdivision 16, as amended by section 3 of part BB of chapter 59 of the laws of 2006, subdivisions 19, 20, 21 and 22 as added by chapter 175 of the laws of 2010 are amended and a new subdivision 24 is added to read as follows:

2. "Contracting agency" shall mean a state agency **or state-funded entity** which is a party or a proposed party to a state contract or, in the case of a state contract described in paragraph (c) of subdivision thirteen of this section, shall mean the New York state housing finance

agency, housing trust fund corporation or affordable housing corporation, whichever has made or proposes to make the grant or loan for the state assisted housing project.

7. "Minority-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

(a) at least fifty-one percent owned by one or more minority group members;

(b) an enterprise in which such minority ownership is real, substantial and continuing;

(c) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(d) an enterprise authorized to do business in this state and independently owned and operated; **and**

(e) [~~an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and~~

~~(f)~~] an enterprise that is a small business pursuant to subdivision twenty of this section.

8. "Minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

(a) Black persons having origins in any of the Black African racial groups;

(b) [~~Hispanic~~] **Hispanic/Latino** persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(c) Native American or Alaskan native persons having origins in any of the original peoples of North America.

(d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

13. "State contract" shall mean: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars, whereby a contracting agency is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; (b) a written agreement in excess of one hundred thousand dollars whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; [~~and~~] (c) a written agreement in excess of one hundred thousand dollars whereby the owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project**; and (d) a written agreement or purchase order instrument, providing for a total expenditure in excess of one hundred thousand dollars, whereby the majority of the funds a state-funded entity is committed to expend or does expend are paid to the state-funded entity by the state of New York, including those paid to the state-funded entity pursuant to an appropriation, for any product or service**.

15. "Women-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

(a) at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women;

(b) an enterprise in which the ownership interest of such women is real, substantial and continuing;

(c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(d) an enterprise authorized to do business in this state and independently owned and operated; **and**

(e) [~~an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and~~

~~(f)~~] an enterprise that is a small business pursuant to subdivision twenty of this section.

A firm owned by a minority group member who is also a woman may be certified as a minority-owned business enterprise, a women-owned business enterprise, or both, and may be counted towards either a minority-owned business enterprise goal or a women-owned business enterprise goal, in regard to any contract or any goal, set by an agency or authority, but such participation may not be counted towards both such goals. Such an enterprise's participation in a contract may not be divided between the minority-owned business enterprise goal and the women-owned business enterprise goal.

16. "Statewide advocate" shall mean the person appointed by the [~~commissioner~~] **director** to serve in the capacity of the minority and women-owned business enterprise statewide advocate.

[~~19. "Personal net worth" shall mean the aggregate adjusted net value of the assets of an individual remaining after total liabilities are deducted. Personal net worth includes the individual's share of assets held jointly with said individual's spouse and does not include the individual's ownership interest in the certified minority and women-owned business enterprise, the individual's equity in his or her primary residence, or up to five hundred thousand dollars of the present cash value of any qualified retirement savings plan or individual retirement account held by the individual less any penalties for early withdrawal.~~]

20. "Small business" as used in this section, unless otherwise indicated, shall mean a business which has a significant business presence in the state, is independently owned and operated, not dominant in its field and employs, based on its industry, a certain number of persons as determined by the director[~~, but not to exceed three hundred~~], taking into consideration factors which include, but are not limited to, federal small business administration standards pursuant to 13 CFR part 121 and any amendments thereto. The director may issue regulations on the construction of the terms in this definition.

21. "The [~~2010~~] disparity study" shall refer to the **most recent** disparity study commissioned by the [~~empire state development corporation~~] **department of economic development**, pursuant to section three hundred twelve-a of this article, and published on [~~April twenty-nine, two thousand ten~~] **June thirtieth, two thousand seventeen**.

22. "Diversity practices" shall mean the contractor's practices and policies with respect to:

(a) utilizing **or mentoring** certified minority and women-owned business enterprises in contracts awarded by a state agency or other public corporation, as subcontractors and suppliers; [~~and~~]

(b) entering into partnerships, joint ventures or other similar arrangements with certified minority and women-owned business enterprises as defined in this article or other applicable statute or regulation governing an entity's utilization of minority or women-owned business enterprises**; and**

(c) the representation of minority group members and women as members of the board of directors or executive officers of the contractor.

24. "State-funded entity" shall mean any unit of local government, including, but not limited to, a county, city, town, village, or school district that is paid pursuant to an appropriation in any state fiscal year provided, however, a state-funded entity shall not include any unit of local government that, pursuant to local law, has a minority and women-owned business enterprise program.

§ 1-a. Subdivision 3 of section 311 of the executive law, as added by chapter 261 of the laws of 1988, paragraphs (d) and (e) as amended by chapter 55 of the laws of 1992, paragraphs (g) and (h) as amended and paragraph (i) as added by section 1 of part BB of chapter 59 of the laws of 2006, is amended to read as follows:

3. The director shall have the following powers and duties:

(a) to encourage and assist contracting agencies in their efforts to increase participation by minority and women-owned business enterprises on state contracts and subcontracts so as to facilitate the award of a fair share of such contracts to them;

(b) to develop standardized forms and reporting documents necessary to implement this article;

(c) to conduct educational programs consistent with the purposes of this article;

(d) to review periodically the practices and procedures of each contracting agency with respect to compliance with the provisions of this article, and to require them to file periodic reports with the division of minority and women's business development as to the level of minority and women-owned business enterprises participation in the awarding of agency contracts for goods and services;

(d-1) to require all contracting state agencies to develop a three year growth plan to determine a means of promoting and increasing participation by minority-owned and women-owned business enterprises with respect to state contracts and subcontracts. Every three years, beginning May fifteenth, two thousand nineteen, each contracting state agency shall submit a three year growth plan as part of its annual report to the governor and legislature pursuant to section one hundred sixty-four of this chapter.

(e) on January first of each year report to the governor and the chairpersons of the senate finance and assembly ways and means committees on the level of minority and women-owned business enterprises participating in each agency's contracts for goods and services and on activities of the office and effort by each contracting agency to promote employment of minority group members and women, and to promote and increase participation by certified businesses with respect to state contracts and subcontracts so as to facilitate the award of a fair share of state contracts to such businesses. The comptroller shall assist the division in collecting information on the participation of certified business for each contracting agency. Such report may recommend new activities and programs to effectuate the purposes of this article;

(f) to prepare and update periodically a directory of certified minority and women-owned business enterprises which shall, wherever practicable, be divided into categories of labor, services, supplies, equipment, materials and recognized construction trades and which shall indicate areas or locations of the state where such enterprises are available to perform services**, and to use this information to create an internet based, searchable, centralized state registry detailing certifications, denials, waivers and all documents submitted during the life of the contract**;

(g) to appoint independent hearing officers who by contract or terms of employment shall preside over adjudicatory hearings pursuant to section three hundred fourteen of this article for the office and who are assigned no other work by the office;

(h) notwithstanding the provisions of section two hundred ninety-six of this chapter, to file a complaint pursuant to the provisions of section two hundred ninety-seven of this chapter where the director has knowledge that a contractor may have violated the provisions of paragraph (a), (b) or (c) of subdivision one of section two hundred ninety-six of this chapter where such violation is unrelated, separate or distinct from the state contract as expressed by its terms; [~~and~~]

(i) to streamline the state certification process to accept federal and municipal corporation certifications**;**

(j) to keep a record of partial and total waivers of compliance reported pursuant to paragraph (b) of subdivision six of section three hundred thirteen of this article and to make such record publicly available on the division's website. The record shall provide, at a minimum: (i) information identifying the contract, including the value of the contract; (ii) information identifying the contracting agency; (iii) the name of the contractor receiving the waiver; and (iv) the date of the waiver;

(k) to perform inspections of minority or women-owned business's place of business, warehouse or storage facility to confirm the existence of a workforce, equipment and supplies;

(l) to perform inspections of financial records of minority or women-owned business enterprises to ensure such enterprises are in compliance with applicable laws; and

(m) to ensure the protection of individuals who report suspected violations of this article and applicable laws related to minority and women-owned business enterprises.

§ 2. Subdivision 4 of section 311 of the executive law, as amended by chapter 361 of the laws of 2009, is amended to read as follows:

4. The director [~~may~~] **shall** provide assistance to, and facilitate access to programs serving [~~certified businesses as well as applicants~~] **minority and women-owned business enterprises** to ensure that such businesses benefit, as needed, from technical, managerial and financial, and general business assistance; training; marketing; organization and personnel skill development; project management assistance; technology assistance; bond and insurance education assistance; and other business development assistance. **The director shall maintain a toll-free number at the department of economic development to be used to answer questions concerning the MWBE certification process.** In addition, the director may, either independently or in conjunction with other state agencies:

(a) develop a clearinghouse of information on programs and services provided by entities that may assist such businesses;

(b) review bonding and paperwork requirements imposed by contracting agencies that may unnecessarily impede the ability of such businesses to compete; and

(c) seek to maximize utilization by minority and women-owned business enterprises of available federal resources including but not limited to federal grants, loans, loan guarantees, surety bonding guarantees, technical assistance, and programs and services of the federal small business administration.

§ 3. Section 311-a of the executive law, as added by section 4 of part BB of chapter 59 of the laws of 2006, is amended to read as follows:

§ 311-a. Minority and women-owned business enterprise statewide advocate. 1. There is hereby established within the [~~department of economic~~] division of minority and women's business development [~~an office of the minority and women-owned business enterprise~~] a statewide advocate. The statewide advocate shall be appointed by the commissioner with the advice of the small business advisory board as established in section one hundred thirty-three of the economic development law and shall serve in the unclassified service of the director. [~~The statewide advocate shall be located in the Albany empire state development office.~~]

2. The advocate shall act as a liaison for minority and women-owned business enterprises (MWBEs) to assist them in obtaining technical, managerial, financial and other business assistance for certified businesses and applicants. The advocate shall receive and investigate complaints brought by or on behalf of MWBEs concerning certification delays and instances of violations of [~~law~~] the requirements of this article by contractors and state agencies. The statewide advocate shall assist certified businesses and applicants in the certification process. Other functions of the statewide advocate shall be directed by the commissioner. The advocate may request and the director may appoint staff and employees of the division of minority and women business development to support the administration of the office of the statewide advocate.

3. The statewide advocate [~~shall establish a toll-free number at the department of economic development to be used to answer questions concerning the MWBE certification process~~] shall conduct periodic audits of state agencies' compliance with the requirements of section three hundred fifteen of this article, which audits shall include a review of the books and records of state agencies concerning, among other things, annual agency expenditures, annual participation of minority and women-owned business enterprises as prime contractors and subcontractors in state agencies' state contracts, and documentation of state agencies' good faith efforts to maximize minority and women-owned business enterprise participation in such state agencies' contracting.

4. The statewide advocate shall report to the director and commissioner by November fifteenth on an annual basis on all activities related to fulfilling the obligations of the office of the statewide advocate. The commissioner shall include the unedited text of the statewide advocate's report within the reports submitted by the department of economic development to the governor and the legislature.

§ 4. Section 312-a of the executive law, as amended by section 1 of part Q of chapter 58 of the laws of 2015, is amended to read as follows:

§ 312-a. Study of minority and women-owned business [~~enterprise programs~~] enterprises. 1. The director of the division of minority and [~~women-owned~~] women's business development [~~in the department of economic development~~] is authorized and directed to recommission a statewide disparity study regarding the participation of minority and women-owned

business enterprises in state contracts since the amendment of this article to be delivered to the governor and legislature no later than August fifteenth, [~~two thousand sixteen~~] two thousand twenty-two. The study shall be prepared by an entity independent of the department and selected through a request for proposal process. The purpose of such study is:

(a) to determine whether there is a disparity between the number of qualified minority and women-owned businesses ready, willing and able to perform state contracts for commodities, services and construction, and the number of such contractors actually engaged to perform such contracts, and to determine what changes, if any, should be made to state policies affecting minority and women-owned business enterprises; and (b) to determine whether there is a disparity between the number of qualified minorities and women ready, willing and able, with respect to labor markets, qualifications and other relevant factors, to participate in contractor employment, management level bodies, including boards of directors, and as senior executive officers within contracting entities and the number of such group members actually employed or affiliated with state contractors in the aforementioned capacities, and to determine what changes, if any, should be made to state policies affecting minority and women group populations with regard to state contractors' employment and appointment practices relative to diverse group members. Such study shall include, but not be limited to, an analysis of the history of minority and women-owned business enterprise programs and their effectiveness as a means of securing and ensuring participation by minorities and women, and a disparity analysis by market area and region of the state, the effectiveness of the current net worth thresholds, a statistical analysis of the participation of minority and women-owned business enterprises correlated with such business enterprises' net worth, whether minority and women-owned business enterprises' net worth at the time of certification has any effect on such business enterprise's success or lack thereof in participation in statewide procurement, the effectiveness of the regulations adopted since the most recent disparity study, the extent of compliance by state agencies and state authorities with such regulations, an analysis of the number of minority and women-owned business enterprises seeking certification since the most recent disparity study, and the reasons, if any, for any increase or decrease in such certifications. Such study shall distinguish between minority males, minority females and non-minority females in the statistical analysis.

2. The director of the division of minority and [~~women-owned~~] women's business development is directed to transmit the disparity study to the governor and the legislature [~~not later than August fifteenth, two thousand sixteen~~], and to post the study on the website of the department of economic development.

§ 5. Section 313 of the executive law, as amended by chapter 175 of the laws of 2010, is amended to read as follows:

§ 313. Opportunities for minority and women-owned business enterprises. 1. Goals and requirements for agencies and contractors. Each agency shall structure procurement procedures for contracts made directly or indirectly to minority and women-owned business enterprises, in accordance with the findings of the [~~two thousand ten~~] disparity study, consistent with the purposes of this article, to attempt to achieve [~~the following~~] the recommended results with regard to [~~total~~] annual statewide procurement for each of the following:

(a) construction industry for certified minority-owned business enterprises[~~: fourteen and thirty-four hundredths percent~~];
(b) construction industry for certified women-owned business enterprises[~~: eight and forty-one hundredths percent~~];
(c) construction related professional services industry for certified minority-owned business enterprises[~~: thirteen and twenty-one hundredths percent~~];
(d) construction related professional services industry for certified women-owned business enterprises[~~: eleven and thirty-two hundredths percent~~];
(e) non-construction related services industry for certified minority-owned business enterprises[~~: nineteen and sixty hundredths percent~~];
(f) non-construction related services industry for certified women-owned business enterprises[~~: seventeen and forty-four hundredths percent~~];
(g) commodities industry for certified minority-owned business enterprises[~~: sixteen and eleven hundredths percent~~];
(h) commodities industry for certified women-owned business enterprises[~~: ten and ninety-three hundredths percent~~];
(i) overall agency total dollar value of procurement for certified minority-owned business enterprises[~~: sixteen and fifty-three hundredths percent~~];
(j) overall agency total dollar value of procurement for certified women-owned business enterprises[~~: twelve and thirty-nine hundredths percent~~]; and
(k) overall agency total dollar value of procurement for certified minority, women-owned business enterprises[~~: twenty-eight and ninety-two hundredths percent~~].

1-a. The director shall ensure that each state agency has been provided with a copy of the [~~two thousand ten~~] **most recent** disparity study.

1-b. Each agency shall develop and adopt agency-specific goals based on the findings of the [~~two thousand ten~~] **most recent** disparity study.

1-c. The goals set pursuant to subdivision one of this section shall be consistent with the findings of the most recent disparity study.

2. The director shall promulgate rules and regulations pursuant to the goals established in subdivision one of this section that provide measures and procedures to ensure that certified minority and women-owned businesses shall be given the opportunity for maximum feasible participation in the performance of state contracts and to assist in the agency's identification of those state contracts for which minority and women-owned certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of state contracts so as to facilitate the agency's achievement of the maximum feasible portion of the goals for state contracts to such businesses.

2-a. The director shall promulgate rules and regulations that will accomplish the following:
(a) provide for the certification and decertification of minority and women-owned business enterprises for all agencies through a single process that meets applicable requirements;
(b) require that each contract solicitation document accompanying each solicitation set forth the expected degree of minority and women-owned business enterprise participation based, in part, on:
(i) the potential subcontract opportunities available in the prime procurement contract; [~~and~~]

(ii) the availability, as contained within the study, of certified minority and women-owned business enterprises to respond competitively to the potential subcontract opportunities**, as reflected in the division's directory of certified minority and women-owned business enterprises**; **and**

(iii) the findings of the disparity study.

(c) require that each agency provide a current list of certified minority business enterprises to each prospective contractor;

(d) allow a contractor that is a certified minority-owned or women-owned business enterprise to use the work it performs to meet requirements for use of certified minority-owned or women-owned business enterprises as subcontractors;

(d-1) establish criteria for agencies to credit the participation of minority and women-owned business enterprises towards the achievement of the minority and women-owned business enterprise participation goals on a state contract based on the commercially useful function provided by each minority and women-owned business enterprise on the contract;

(e) provide for joint ventures, which a bidder may count toward meeting its minority and women-owned business enterprise participation;

(f) consistent with subdivision six of this section, provide for circumstances under which an agency **or state-funded entity** may waive obligations of the contractor relating to minority and women-owned business enterprise participation;

(g) require that an agency **or state-funded entity** verify that minority and women-owned business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(h) provide for the collection of statistical data by each agency concerning actual minority and women-owned business enterprise participation; [~~and~~]

(i) require each agency to consult the most current disparity study when calculating [~~agency-wide and contract-specific~~] **contract-specific** participation goals pursuant to this article**; and**

(j) provide for the periodic collection of reports from state-funded entities in such form and at such time as the director shall require.

3. Solely for the purpose of providing the opportunity for meaningful participation by certified businesses in the performance of state contracts as provided in this section, state contracts shall include leases of real property by a state agency to a lessee where: the terms of such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements thereon by such lessee; and the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements thereon shall exceed the sum of one hundred thousand dollars. Reports to the director pursuant to section three hundred fifteen of this article shall include activities with respect to all such state contracts. Contracting agencies shall include or require to be included with respect to state contracts for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, such provisions as may be necessary to effectuate the provisions of this section in every bid specification and state contract, including, but not limited to: (a) provisions requiring contractors to make a good faith effort to solicit active participation by enterprises identified in the directory of certified businesses provided to the contracting agency by the office; (b) requiring the parties to agree as a condition of entering into such contract, to be bound by the provisions of section

three hundred sixteen of this article; and (c) requiring the contractor to include the provisions set forth in paragraphs (a) and (b) of this subdivision in every subcontract in a manner that the provisions will be binding upon each subcontractor as to work in connection with such contract. Provided, however, that no such provisions shall be binding upon contractors or subcontractors in the performance of work or the provision of services that are unrelated, separate or distinct from the state contract as expressed by its terms, and nothing in this section shall authorize the director or any contracting agency to impose any requirement on a contractor or subcontractor except with respect to a state contract.

4. In the implementation of this section, the contracting agency shall (a) consult the findings contained within the disparity study evidencing relevant industry specific availability of certified businesses **and disparities in the utilization of minority and women-owned businesses relative to their availability**;

(b) implement a program that will enable the agency to evaluate each contract to determine the [~~**appropriateness of the**~~] **appropriate** goal pursuant to subdivision one of this section **for participation by minority-owned business enterprises and women-owned business enterprises**;

(c) consider where practicable, the severability of construction projects and other bundled contracts; and

(d) consider compliance with the requirements of any federal law concerning opportunities for minority and women-owned business enterprises which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of any such law duplicate or conflict with the provisions hereof and if such duplication or conflict exists, the contracting agency shall waive the applicability of this section to the extent of such duplication or conflict.

5. (a) Contracting agencies shall administer the rules and regulations promulgated by the director in a good faith effort to [~~**meet**~~] **achieve** the maximum feasible portion of the agency's goals adopted pursuant to this article and the regulations of the director. Such rules and regulations: shall require a contractor to submit a utilization plan after bids are opened, when bids are required, but prior to the award of a state contract; shall require the contracting agency to review the utilization plan submitted by the contractor and to post the utilization plan and any waivers of compliance issued pursuant to subdivision six of this section on the website of the contracting agency within a reasonable period of time as established by the director; shall require the contracting agency to notify the contractor in writing within a period of time specified by the director as to any deficiencies contained in the contractor's utilization plan; shall require remedy thereof within a period of time specified by the director; shall require the contractor to submit periodic compliance reports relating to the operation and implementation of any utilization plan; shall not allow any automatic waivers but shall allow a contractor to apply for a partial or total waiver of the minority and women-owned business enterprise participation requirements pursuant to subdivisions six and seven of this section; shall allow a contractor to file a complaint with the director pursuant to subdivision eight of this section in the event a contracting agency has failed or refused to issue a waiver of the minority and women-owned business enterprise participation requirements or has denied such request for a waiver; and shall allow a contracting agency to file a complaint with the director pursuant to subdivision nine of this section

in the event a contractor is failing or has failed to comply with the minority and women-owned business enterprise participation requirements set forth in the state contract where no waiver has been granted.

(b) The rules and regulations promulgated pursuant to this subdivision regarding a utilization plan shall provide that where enterprises have been identified within a utilization plan, a contractor shall attempt, in good faith, to utilize such enterprise at least to the extent indicated. A contracting agency may require a contractor to indicate, within a utilization plan, what measures and procedures he or she intends to take to comply with the provisions of this article, but may not require, as a condition of award of, or compliance with, a contract that a contractor utilize a particular enterprise in performance of the contract.

(c) Without limiting other grounds for the disqualification of bids or proposals on the basis of non-responsibility, a contracting agency may disqualify the bid or proposal of a contractor as being non-responsible for failure to remedy notified deficiencies contained in the contractor's utilization plan within a period of time specified in regulations promulgated by the director after receiving notification of such deficiencies from the contracting agency. Where failure to remedy any notified deficiency in the utilization plan is a ground for disqualification, that issue and all other grounds for disqualification shall be stated in writing by the contracting agency. Where the contracting agency states that a failure to remedy any notified deficiency in the utilization plan is a ground for disqualification the contractor shall be entitled to an administrative hearing, on a record, involving all grounds stated by the contracting agency. Such hearing shall be conducted by the appropriate authority of the contracting agency to review the determination of disqualification. A final administrative determination made following such hearing shall be reviewable in a proceeding commenced under article seventy-eight of the civil practice law and rules, provided that such proceeding is commenced within thirty days of the notice given by certified mail return receipt requested rendering such final administrative determination. Such proceeding shall be commenced in the supreme court, appellate division, third department and such proceeding shall be preferred over all other civil causes except election causes, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Appeals taken to the court of appeals of the state of New York shall be subject to the same preference.

6. **(a)** Where it appears that a contractor cannot, after a good faith effort, comply with the minority and women-owned business enterprise participation requirements set forth in a particular state contract, a contractor may file a written application with the contracting agency requesting a partial or total waiver of such requirements setting forth the reasons for such contractor's inability to meet any or all of the participation requirements together with an explanation of the efforts undertaken by the contractor to obtain the required minority and women-owned business enterprise participation. In implementing the provisions of this section, the contracting agency shall consider the number and types of minority and women-owned business enterprises [~~located~~] **available to provide goods or services required under the contract** in the region in which the state contract is to be performed, the total dollar value of the state contract, the scope of work to be performed and the project size and term. If, based on such considerations, the contracting

agency determines there is not a reasonable availability of contractors on the list of certified business to furnish services for the project, it shall issue a waiver of compliance to the contractor. In making such determination, the contracting agency shall first consider the availability of other business enterprises located in the region and shall thereafter consider the financial ability of minority and women-owned businesses located outside the region in which the contract is to be performed to perform the state contract.

(b) Within thirty days of the issuance of a partial or total waiver of compliance as provided in paragraph (a) of this subdivision, the contracting agency shall:

(i) report the issuance of the waiver to the director; and

(ii) publish on the contracting agency's website: (A) information identifying the contract, including the value of the contract; (B) the name of the contractor receiving the waiver; (C) the date of the waiver; (D) whether the waiver was a total or partial waiver; and (E) the specific contract provisions to which the waiver applies.

7. For purposes of determining a contractor's good faith effort to comply with the requirements of this section or to be entitled to a waiver therefrom the contracting agency shall consider:

(a) whether the contractor has advertised in general circulation media, trade association publications, and minority-focus and women-focus media and, in such event, (i) whether or not certified minority or women-owned businesses which have been solicited by the contractor exhibited interest in submitting proposals for a particular project by attending **or having attended** a pre-bid conference**, if any, scheduled by the state agency awarding the state contract with certified minority and women-owned business enterprises**; and

(ii) whether certified businesses which have been solicited by the contractor have responded in a timely fashion to the contractor's solicitations for timely competitive bid quotations prior to the contracting agency's bid date; and

(b) whether [~~**there has been**~~] **the contractor provided timely** written notification **of subcontracting opportunities on the state contract** to appropriate certified businesses that appear in the directory of certified businesses prepared pursuant to paragraph (f) of subdivision three of section three hundred eleven of this article; and

(c) whether the contractor can reasonably structure the amount of work to be performed under subcontracts in order to increase the likelihood of participation by certified businesses.

8. In the event that a contracting agency fails or refuses to issue a waiver to a contractor as requested within twenty days after having made application therefor pursuant to subdivision six of this section or if the contracting agency denies such application, in whole or in part, the contractor may file a complaint with the director pursuant to section three hundred sixteen of this article setting forth the facts and circumstances giving rise to the contractor's complaint together with a demand for relief. The contractor shall serve a copy of such complaint upon the contracting agency by personal service or by certified mail, return receipt requested. The contracting agency shall be afforded an opportunity to respond to such complaint in writing.

9. If, after the review of a contractor's minority and women owned business utilization plan or review of a periodic compliance report and after such contractor has been afforded an opportunity to respond to a notice of deficiency issued by the contracting agency in connection therewith, it appears that a contractor is failing or refusing to comply

with the minority and women-owned business participation requirements as set forth in the state contract and where no waiver from such requirements has been granted, the contracting agency may file a written complaint with the director pursuant to section three hundred sixteen of this article setting forth the facts and circumstances giving rise to the contracting agency's complaint together with a demand for relief. The contracting agency shall serve a copy of such complaint upon the contractor by personal service or by certified mail, return receipt requested. The contractor shall be afforded an opportunity to respond to such complaint in writing.

§ 6. Section 314 of the executive law, as added by chapter 261 of the laws of 1988, subdivision 2-a as amended by chapter 175 of the laws of 2010, subdivision 4 as amended and subdivision 5 as added by chapter 399 of the laws of 2014, is amended to read as follows:

§ 314. Statewide certification program. 1. The director shall promulgate rules and regulations providing for the establishment of a statewide certification program including rules and regulations governing the approval, denial or revocation of any such certification**, including revocations for felony convictions for fraudulently misrepresenting the status of minority or women-owned business enterprises**. Such rules and regulations shall include, but not be limited to, such matters as may be required to ensure that the established procedures thereunder shall at least be in compliance with the code of fair procedure set forth in section seventy-three of the civil rights law **and consistent with the provisions of article twenty-three of the correction law**.

2. For the purposes of this article, the office shall be responsible for verifying businesses as being owned, operated, and controlled by minority group members or women and for certifying such verified businesses. The director shall prepare a directory of certified businesses for use by contracting agencies and contractors in carrying out the provisions of this article. The director shall periodically update the directory.

2-a. (a) The director shall establish a procedure enabling the office to accept New York municipal corporation certification verification for minority and women-owned business enterprise applicants in lieu of requiring the applicant to complete the state certification process. The director shall promulgate rules and regulations to set forth criteria for the acceptance of municipal corporation certification. All eligible municipal corporation certifications shall require business enterprises seeking certification to meet the following standards:

(i) have at least fifty-one percent ownership by a minority or a women-owned enterprise and be owned by United States citizens or permanent resident aliens;

(ii) be an enterprise in which the minority and/or women-ownership interest is real, substantial and continuing;

(iii) be an enterprise in which the minority and/or women-ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(iv) be an enterprise authorized to do business in this state;

(v) be subject to a physical site inspection to verify the fifty-one percent ownership requirement; **and**

(vi) [~~**be owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, as adjusted annually for inflation according to the consumer price index; and**~~

~~(vii)~~] be an enterprise that is a small business pursuant to subdivision twenty of section three hundred ten of this article.

(b) The director shall work with all municipal corporations that have a municipal minority and women-owned business enterprise program to develop standards to accept state certification to meet the municipal corporation minority and women-owned business enterprise certification standards.

(c) The director shall establish a procedure enabling the division to accept federal certification verification for minority and women-owned business enterprise applicants, provided said standards comport with those required by the state minority and women-owned business program, in lieu of requiring the applicant to complete the state certification process. The director shall promulgate rules and regulations to set forth criteria for the acceptance of federal certification.

2-b. (a) Each business applying for minority or women-owned business enterprise certification pursuant to this section must agree to allow: (i) the department of taxation and finance to share its tax information with the division and (ii) the department of labor to share its tax and employer information with the division.

(b) Such information provided pursuant to paragraph (a) of this subdivision shall be kept confidential by the division in the same manner and under the same conditions as such information is kept by the department of taxation and finance or the department of labor.

2-c. The director shall establish a procedure enabling the office to approve an application by a business entity that is wholly owned by an Indian nation or tribe, as defined in section two of the Indian law, in lieu of requiring the applicant to complete the state certification process.

3. Following application for certification pursuant to this section, the director shall provide the applicant with written notice of the status of the application, including notice of any outstanding deficiencies, within [~~thirty~~] **fifteen** days. Within [~~sixty~~] **thirty** days of submission of a final completed application, the director shall provide the applicant with written notice of a determination by the office approving or denying such certification and, in the event of a denial a statement setting forth the reasons for such denial. Upon a determination denying or revoking certification, the business enterprise for which certification has been so denied or revoked shall, upon written request made within thirty days from receipt of notice of such determination, be entitled to a hearing before an independent hearing officer designated for such purpose by the director. In the event that a request for a hearing is not made within such thirty day period, such determination shall be deemed to be final. The independent hearing officer shall conduct a hearing and upon the conclusion of such hearing, issue a written recommendation to the director to affirm, reverse or modify such determination of the director. Such written recommendation shall be issued to the parties. The director, within thirty days, by order, must accept, reject or modify such recommendation of the hearing officer and set forth in writing the reasons therefor. The director shall serve a copy of such order and reasons therefor upon the business enterprise by personal service or by certified mail return receipt requested. The order of the director shall be subject to review pursuant to article seventy-eight of the civil practice law and rules.

4. The director may, after performing an availability analysis and upon a finding that industry-specific factors coupled with personal net worth or small business eligibility requirements pursuant to subdivi-

sions nineteen and twenty of section three hundred ten of this article, respectively, have led to the significant exclusion of businesses owned by minority group members or women in that industry, grant provisional MWBE certification status to applicants from that designated industry, provided, however, that all other eligibility requirements pursuant to subdivision seven or fifteen of section three hundred ten of this article, as applicable, are satisfied. Any industry-based determination made under this section by the director shall be made widely available to the public and posted on the division's website.

5. With the exception of provisional MWBE certification, as provided for in subdivision twenty-three of section three hundred ten of this article, all **minority and women-owned business enterprise** certifications shall be valid for a period of three years.

§ 6-a. The executive law is amended by adding a new section 314-a to read as follows:

§ 314-a. Post completion certification. The director, in collaboration with the division of minority and women's business development and the department of small business services, shall develop the following standardized certification forms that must be completed under penalty of perjury prior to the prime contractor being paid:

1. certification from a representative of the prime contractor that the minority or women-owned business enterprise in fact performed the services or provided the materials that they were contracted to perform or provide; and

2. certification from a representative of the minority or women-owned business enterprise that they in fact performed the services or provided the materials that they were contracted to perform or provide.

§ 7. Subdivisions 3, 4, 5, 6 and 7 of section 315 of the executive law, subdivision 3 as amended and subdivisions 4, 5, 6 and 7 as added by chapter 175 of the laws of 2010, are amended to read as follows:

3. Each contracting agency shall report to the director with respect to activities undertaken to promote employment of minority group members and women and promote and increase participation by certified businesses with respect to state contracts and subcontracts. Such reports shall be submitted periodically, but not less frequently than annually, as required by the director, and shall include such information as is necessary for the director to determine whether the contracting agency and contractor have complied with the purposes of this article, including, without limitation, a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by the contracting agency during the period covered by the report, including a description of the basis of the waiver request and the rationale for granting any such waiver **as well as any instances in which the state agency has deemed a contractor to have committed a violation pursuant to section three hundred sixteen-a of this article, and such other information as the director shall require**. Each agency shall also include in such annual report whether or not it has been required to prepare a remedial plan, and, if so, the plan and the extent to which the agency has complied with each element of the plan.

4. The division of minority and women's business development shall issue an annual report which: (a) summarizes the report submitted by each contracting agency pursuant to subdivision three of this section; (b) contains such comparative or other information as the director deems appropriate, including but not limited to goals compared to actual participation of minority and women-owned business enterprises in state contracting, to evaluate the effectiveness of the activities undertaken

by each such contracting agency to promote increased participation by certified minority or women-owned businesses with respect to state contracts and subcontracts; (c) contains a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by each contracting agency during the period covered by the report, including a description of the basis of the waiver request and the contracting agency's rationale for granting any such waiver; (d) describes any efforts to create a database or other information storage and retrieval system containing information relevant to contracting with minority and women-owned business enterprises; [~~and~~] (e) contains a summary of: (i) all determinations of violations of this article by a contractor or a contracting agency made during the period covered by the annual report pursuant to section three hundred sixteen-a of this article; and (ii) the penalties or sanctions, if any, assessed in connection with such determinations and the rationale for such penalties or sanctions; **and (f) contains information on each contract identifying the following: (i) whether it is a contract for goods or services; (ii) whether the contract was awarded to a certified minority-owned business enterprise or a certified women-owned business enterprise and identify which minority group member the minority-owned business enterprise relies on for certification pursuant to this article; (iii) the name and business address of prime contractors and subcontractors providing services under such contract; and (iv) the dollar value of such contract; and (g) contains a summary of all certified minority and women-owned business enterprises, categorized by the minority group member that such minority-owned business enterprise relies on for certification pursuant to this article and by gender**. Copies of the annual report shall be provided to the commissioner, the governor, the comptroller, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly and shall also be made widely available to the public via, among other things, publication on a website maintained by the division of minority and women's business development.

5. Each agency shall include in its annual report to the governor and legislature pursuant to section one hundred sixty-four of [~~the executive law~~] **this chapter** its annual goals for contracts with minority-owned and women-owned business enterprises, the number of actual contracts issued to minority-owned and women-owned business enterprises; and a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by the reporting agency during the preceding year, including a description of the basis of the waiver request and the rationale for granting such waiver. Each agency shall also include in such annual report whether or not it has been required to prepare a remedial plan, and, if so, the plan and the extent to which the agency has complied with each element of the plan. **Each agency shall also include in such annual report its three year growth plan prepared pursuant to section three hundred eleven of this article.**

6. Each contracting agency that substantially fails to meet the goals supported by the disparity study **or make a good faith effort**, as defined by regulation of the director, **to achieve the maximum feasible participation of minority and women-owned business enterprises in such agency's contracting** shall be required to submit to the director a remedial action plan to remedy such failure.

7. If it is determined by the director that any agency has failed to act in good faith to implement the remedial action plan, pursuant to subdivision six of this section within one year, the director shall

provide written notice of such a finding, which shall be publicly available, and direct implementation of remedial actions to:

(a) assure that sufficient and effective solicitation efforts to women and minority-owned business enterprises are being made by said agency;

(b) divide contract requirements, when economically feasible, into quantities that will expand the participation of women and minority-owned business enterprises;

(c) eliminate extended experience or capitalization requirements, when programmatically and economically feasible, that will expand participation by women and minority-owned business enterprises;

(d) identify specific proposed contracts as particularly attractive or appropriate for participation by women and minority-owned business enterprises with such identification to result from and be coupled with the efforts of paragraphs (a), (b), and (c) of this subdivision; and

(e) upon a finding by the director that an agency has failed to take affirmative measures to implement the remedial plan and to follow any of the remedial actions set forth by the director, and in the absence of any objective progress towards the agency's goals, require some or all of the agency's procurement, for a specified period of time, be placed under the direction and control of another agency or agencies**, unless such agency is a state funded entity**.

§ 7-a. Section 316 of the executive law, as amended by chapter 175 of the laws of 2010, is amended to read as follows:

§ 316. Enforcement. **1.** Upon receipt by the director of a complaint by a contracting agency that a contractor has violated the provisions of a state contract which have been included to comply with the provisions of this article or of a contractor that a contracting agency has violated such provisions or has failed or refused to issue a waiver where one has been applied for pursuant to subdivision six of section three hundred thirteen of this article or has denied such application, the director shall attempt to resolve the matter giving rise to such complaint. If efforts to resolve such matter to the satisfaction of all parties are unsuccessful, the director shall refer the matter, within thirty days of the receipt of the complaint, to the division's hearing officers. Upon conclusion of the administrative hearing, the hearing officer shall submit to the director his or her decision regarding the alleged violation of the contract and recommendations regarding the imposition of sanctions, fines or penalties. The director, within ten days of receipt of the decision, shall file a determination of such matter and shall cause a copy of such determination along with a copy of this article to be served upon the contractor by personal service or by certified mail return receipt requested. The decision of the hearing officer shall be final and may only be vacated or modified as provided in article seventy-eight of the civil practice law and rules upon an application made within the time provided by such article. The determination of the director as to the imposition of any fines, sanctions or penalties shall be reviewable pursuant to article seventy-eight of the civil practice law and rules. The penalties imposed for any violation which is premised upon either a fraudulent or intentional misrepresentation by the contractor or the contractor's willful and intentional disregard of the minority and women-owned participation requirement included in the contract may include a determination that the contractor shall be ineligible to submit a bid to any contracting agency or be awarded any such contract for a period not to exceed one year following the final determination; provided however, if a contractor has previously been determined to be ineligible to submit a bid pursuant to this section, the

penalties imposed for any subsequent violation, if such violation occurs within five years of the first violation, may include a determination that the contractor shall be ineligible to submit a bid to any contracting agency or be awarded any such contract for a period not to exceed five years following the final determination. The division of minority and women's business development shall maintain a website listing all contractors that have been deemed ineligible to submit a bid pursuant to this section and the date after which each contractor shall once again become eligible to submit bids.

2. Any fines, or portion thereof, imposed pursuant to subdivision one of this section, or imposed by a court of competent jurisdiction related to convictions involving fraud related to this article or otherwise involving a minority or women-owned business enterprise, may be required by the entity imposing such fines to be paid to the minority and women-owned business enterprise fund established pursuant to section ninety-seven-j of the state finance law.

§ 8. Section 316-a of the executive law, as added by chapter 175 of the laws of 2010, is amended to read as follows:

§ 316-a. Prohibitions in contracts; violations. Every contracting agency shall include a provision in its state contracts expressly providing that any contractor who willfully and intentionally fails to comply with the minority and women-owned participation requirements of this article as set forth in such state contract shall be liable to the contracting agency for liquidated or other appropriate damages and shall provide for other appropriate remedies on account of such breach. A contracting agency that elects to proceed against a contractor for breach of contract as provided in this section shall be precluded from seeking enforcement pursuant to section three hundred sixteen of this article; provided however, that the contracting agency shall include a summary of all enforcement actions undertaken pursuant to this section in its annual report submitted pursuant to [~~subdivision three of~~] section three hundred fifteen of this article.

§ 9. Subdivision 6 of section 163 of the state finance law, as amended by chapter 569 of the laws of 2015, is amended to read as follows:

6. Discretionary buying thresholds. Pursuant to guidelines established by the state procurement council: the commissioner may purchase services and commodities in an amount not exceeding eighty-five thousand dollars without a formal competitive process; state agencies may purchase services and commodities in an amount not exceeding fifty thousand dollars without a formal competitive process; and state agencies may purchase commodities or services from small business concerns or those certified pursuant to articles fifteen-A and seventeen-B of the executive law, or commodities or technology that are recycled or remanufactured, or commodities that are food, including milk and milk products, grown, produced or harvested in New York state in an amount not exceeding [~~two~~] **four** hundred thousand dollars without a formal competitive process.

§ 10. Subparagraph (i) of paragraph (b) of subdivision 3 of section 2879 of the public authorities law, as amended by chapter 174 of the laws of 2010, is amended to read as follows:

(i) for the selection of such contractors on a competitive basis, and provisions relating to the circumstances under which the board may by resolution waive competition, including, notwithstanding any other provision of law requiring competition, the purchase of goods or services from small business concerns or those certified as minority or women-owned business enterprises, or goods or technology that are recy-

cled or remanufactured, in an amount not to exceed [~~two~~] four hundred thousand dollars without a formal competitive process;

§ 11. Paragraph a of subdivision 3 of section 139-j of the state finance law is amended by adding two new subparagraphs 10 and 11 to read as follows:

(10) Complaints by minority-owned business enterprises or women-owned business enterprises, certified as such by the division of minority and women's business development, to the minority and women-owned business enterprise statewide advocate concerning the procuring governmental entity's failure to comply with the requirements of section three hundred fifteen of the executive law;

(11) Communications between the minority and women-owned business enterprise statewide advocate and the procuring governmental entity in furtherance of an investigation of the minority and women-owned business enterprise statewide advocate pursuant to section three hundred twelve-a of the executive law;

§ 12. Subdivision 6 of section 8 of the public buildings law, as amended by chapter 840 of the laws of 1980, is amended to read as follows:

6. All contracts for amounts in excess of five thousand dollars for the work of construction, reconstruction, alteration, repair or improvement of any state building, whether constructed or to be constructed must be offered for public bidding and may be awarded to the lowest responsible and reliable bidder, as will best promote the public interest, by the said department or other agency with the approval of the comptroller for the whole or any part of the work to be performed, and, in the discretion of the said department or other agency, such contracts may be sublet; provided, however, that no such contract shall be awarded to a bidder other than the lowest responsible and reliable bidder, except for certain contracts awarded to minority or women-owned business enterprises as provided herein, without the written approval of the comptroller. When a proposal consists of unit prices of items specified to be performed, the lowest bid shall be deemed to be that which specifically states the lowest gross sum for which the entire work will be performed, except for certain contracts awarded to minority or women-owned business enterprises as provided herein, including all the items specified in the proposal thereof. The lowest bid shall be determined by the commissioner of general services on the basis of the gross sum for which the entire work will be performed, arrived at by a correct computation of all the items specified in the proposal therefor at the unit prices contained in the bid. Provided, however, that where a responsible and reliable bidder certified as a minority-owned business enterprise or women-owned business enterprise pursuant to article fifteen-A of the executive law submits a bid of one million four hundred thousand dollars or less, as adjusted annually for inflation beginning January first, two thousand nineteen, the bid of the minority or women-owned business enterprise shall be deemed the lowest bid unless it exceeds the bid of the lowest bidder by more than ten percent.

§ 13. The state finance law is amended by adding a new section 97-j to read as follows:

§ 97-j. Minority and women-owned business enterprise fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "minority and women-owned business enterprise fund".

2. Such funds shall consist of all moneys appropriated for the purpose of such fund, all moneys transferred or paid to such fund pursuant to

law, including pursuant to section three hundred sixteen of the executive law, and contributions consisting of grants, including grants or other financial assistance from any agency of government and all moneys required by the provisions of this section or any other law to be paid into or credited to this fund.

3. Monies of the fund, following appropriation by the legislature, shall be expended to acquire software, employ personnel to audit, investigate and prosecute minority and women-owned business enterprise fraud and to underwrite minority and women-owned business enterprise programs to assist minority and women business enterprise owners to develop sustainable businesses.

§ 14. The opening paragraph of subdivision (h) of section 121 of chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure trust fund, as amended by section 1 of part CCC of chapter 59 of laws of 2017, is amended to read as follows:

The provisions of sections sixty-two through sixty-six of this act shall expire [~~April fifteenth, two thousand eighteen, provided, however, that if the statewide disparity study regarding the participation of minority and women-owned business enterprises in state contracts required pursuant to subdivision one of section three hundred twelve-a of the executive law is completed and delivered to the governor and the legislature on or before June thirtieth, two thousand seventeen, then the provisions of sections sixty-two through sixty-six of this act shall expire~~] and be deemed repealed on December thirty-first, two thousand [~~eighteen~~] twenty-three, except that:

§ 15. The executive law is amended by adding a new article 28 to read as follows:

ARTICLE 28
WORKFORCE DIVERSITY PROGRAM

Section 821. Definitions.
822. Workforce participation goals.
823. Reporting.
824. Enforcement.
825. Powers and responsibilities of the division.
826. Severability.

§ 821. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Contractor" shall mean an individual, a business enterprise, including a sole proprietorship, a partnership, a corporation, a not-for-profit corporation, or any other party to a state contract, or a bidder in conjunction with the award of a state contract or a proposed party to a state contract.

2. "Department" shall mean the department of labor.

3. "Director" shall mean the director of the division of minority and women's business development.

4. "Disparity study" shall mean the most recent study of disparities between the utilization of minority group members and women in the performance of state contracts and the availability of minority group members and women to perform such work by the director pursuant to article fifteen-A of this chapter.

5. "Division" shall mean the department of economic development's division of minority and women's business development.

6. "List of non-compliant contractors" shall mean a list of contractors and subcontractors, maintained by the division and published on the

website of the division, that are ineligible to participate as contractors or subcontractors in the performance of state contracts for a term determined by the director.

7. "Minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

(a) Black persons having origins in any of the Black African racial groups;

(b) Hispanic/Latino persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(c) Native American or Alaskan native persons having origins in any of the original peoples of North America;

(d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

8. "Non-compliant contractor" shall mean a contractor or subcontractor that has failed to make a good faith effort to meet the workforce participation goal established by a state agency on a state contract, and has been listed by the division on its list of non-compliant contractors.

9. "State agency" shall mean (a)(i) any state department, or (ii) any division, board, commission or bureau of any state department, or (iii) the state university of New York and the city university of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the state, or (iv) a board, a majority of whose members are appointed by the governor or who serve by virtue of being state officers or employees as defined in subparagraph (i), (ii) or (iii) of paragraph (i) of subdivision one of section seventy-three of the public officers law.

(b) a "state authority," as defined in subdivision one of section two of the public authorities law, and the following:

Albany County Airport Authority;
Albany Port District Commission;
Alfred, Almond, Hornellsville Sewer Authority;
Battery Park City Authority;
Cayuga County Water and Sewer Authority;
(Nelson A. Rockefeller) Empire State Plaza Performing Arts Center Corporation;
Industrial Exhibit Authority;
Livingston County Water and Sewer Authority;
Long Island Power Authority;
Long Island Rail Road;
Long Island Market Authority;
Manhattan and Bronx Surface Transit Operating Authority;
Metro-North Commuter Railroad;
Metropolitan Suburban Bus Authority;
Metropolitan Transportation Authority;
Natural Heritage Trust;
New York City Transit Authority;
New York Convention Center Operating Corporation;
New York State Bridge Authority;
New York State Olympic Regional Development Authority;
New York State Thruway Authority;
Niagara Falls Public Water Authority;

Niagara Falls Water Board;
Port of Oswego Authority;
Power Authority of the State of New York;
Roosevelt Island Operating Corporation;
Schenectady Metroplex Development Authority;
State Insurance Fund;
Staten Island Rapid Transit Operating Authority;
State University Construction Fund;
Syracuse Regional Airport Authority;
Triborough Bridge and Tunnel Authority;
Upper Mohawk valley regional water board;
Upper Mohawk valley regional water finance authority;
Upper Mohawk valley memorial auditorium authority;
Urban Development Corporation and its subsidiary corporations.
(c) the following only to the extent of state contracts entered into for its own account or for the benefit of a state agency as defined in paragraph (a) or (b) of this subdivision:
Dormitory Authority of the State of New York;
Facilities Development Corporation;
New York State Energy Research and Development Authority;
New York State Science and Technology Foundation.

10. "State contract" shall mean: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars, whereby a state agency is committed to expend or does expend or grant funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or any combination of the foregoing, to be performed on behalf of, for, or rendered or furnished to the state agency; (b) a written agreement in excess of one hundred thousand dollars whereby a state agency is committed to expend or does expend or grant funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; and (c) a written agreement in excess of one hundred thousand dollars whereby the owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project.

11. "Subcontractor" shall mean any individual or business enterprise that provides goods or services to any individual or business for use in the performance of a state contract, whether or not such goods or services are provided to a party to a state contract.

§ 822. Workforce participation goals. 1. The director, in consultation with the department, shall develop aspirational goals for the utilization of minority group members and women in construction trade, profession, and occupation.

(a) Aspirational goals for the utilization of minority group members and women must set forth the expected participation of minority group members and women in each construction trade, profession, and occupation, and shall be expressed as a percentage of the total hours of work to be performed by each trade, profession, and occupation based on the availability of minority group members and women within each trade, profession, and occupation.

(i) The aspirational goals shall set forth separate levels of expected participation by men and women for each minority group, and for Caucasian women, in each construction trade, profession, and occupation.

(ii) Aspirational goals for the expected participation of minority group members and women shall be established for each county of the state. The director may establish aspirational goals for the expected participation of minority group members and women for municipalities where the director deems feasible and appropriate.

(iii) The director shall, in establishing the aspirational goals, consider the findings of the most recent disparity study and any relevant data published by the United States Census Bureau.

(b) The director shall update the aspirational goals on a periodic basis, no less than annually.

2. State agencies shall, for each invitation for bids, request for proposals, or other solicitation that will result in the award of a state contract, set forth the expected degree of workforce participation by minority group members and women.

(a) Each workforce participation goal established by a state agency shall set forth the expected level of participation by minority group members and women in the performance of each trade, profession, and occupation required in the performance of the contract.

(b) Goals for the participation of minority group members and women shall set forth separate goals for each of the following groups in each trade, profession, and occupation:

(i) Black men;

(ii) Black women;

(iii) Hispanic/Latino men;

(iv) Hispanic/Latino women;

(v) Native American men;

(vi) Native American women;

(vii) Asian men;

(viii) Asian women;

(ix) Caucasian women.

(c) In establishing workforce participation goals, state agencies shall consider factors including, but not limited to:

(i) the findings of the most recent disparity study;

(ii) any relevant data published by the United States Census Bureau; and

(iii) if applicable, any aspirational goal established by the division.

(d) In any case where a state agency establishes a workforce participation goal on an invitation for bids, request for proposals, or other solicitation that will result in the award of a state contract for construction that deviates from the aspirational goal for construction work in the county or municipality in which the work will be performed, the state agency shall document numerical evidence demonstrating that the application of the aspirational goal would not be practical, feasible, or appropriate.

3. Every contractor responding to an invitation for bids, request for proposals, or other solicitation that will result in the award of a state contract subject to workforce participation goals pursuant to this section shall agree to make a good faith effort to achieve such workforce participation goal or request a waiver of such goal.

(a) A contractor that certifies that it will make a good faith effort to achieve a workforce participation goal shall provide with its response to the applicable invitation for bids, request for proposals, or other solicitation:

(i) A certification stating that the contractor will make a good faith effort to achieve the applicable workforce participation goal and will

contractually require any subcontractors to the contractor to make a good faith effort to achieve the applicable workforce participation goal in any subcontracted work, which certification shall acknowledge that failure by the contractor or any of its subcontractors to make a good faith effort to achieve the applicable workforce participation goal may result in a determination by the contracting state agency that the contractor or its subcontractor is a non-compliant contractor;

(ii) The level of anticipated participation by minority group members and women as employees to the contractor, or, if the state agency has specifically indicated that such documentation is not required as part of the response to the invitation for bids, request for proposals, or other solicitation, a date certain for the submission of such documentation after the award of the state contract;

(iii) A list of all subcontractors anticipated to perform work on the state contract and the level of anticipated participation by minority group members and women as employees to each subcontractor, or, if the state agency has specifically indicated that such documentation is not required as part of the response to the invitation for bids, request for proposals, or other solicitation, a date certain for the submission of such documentation after the award of the state contract; and

(iv) Such other information as the contracting state agency shall require.

(b) A contractor that requests a waiver of a workforce participation goal shall provide with its response to the applicable invitation for bids, request for proposals, or other solicitation:

(i) Numerical evidence setting forth why the achievement of the workforce participation goal is not practical, feasible, or appropriate in light of the trades, professions, and occupations required to perform the work of the state contract;

(ii) Documentation of the contractor's efforts, and any efforts by subcontractors to the contractor, to promote the inclusion of minority group members and women in trades, professions, and occupations required in the performance of the state contract;

(iii) The maximum feasible level of participation by minority group members and women in each of the trades, professions, and occupations required in the performance of the work of the state contract;

(iv) The level of anticipated participation by minority group members and women as employees to the contractor;

(v) A list of all subcontractors anticipated to perform work on the state contract and the level of anticipated participation by minority group members and women as employees to each subcontractor; and

(vi) Any other relevant information evidencing that the contractor's achievement of the workforce participation goal would not be practical, feasible, or appropriate.

4. A state agency shall not award a state contract to a contractor unless the contractor has (i) certified that it will make a good faith effort to achieve the applicable workforce participation goal and provided documentation of the workforce anticipated to perform the work of the state contract or (ii) submitted a waiver request which the state agency deems to reflect the maximum feasible participation of minority group members and women in each of the trades, professions, and occupations required in performance of the work of the state contract.

(a) In the event that a contractor submits a certification or waiver request that is accepted by the state agency, the state agency shall establish in the state contract the expected level of participation by minority group members and women in each of the trades, professions, and

occupations required in performance of the work of the state contract, require that the contractor make good faith efforts to achieve such workforce participation goals, require that the contractor require any subcontractors to make a good faith effort to achieve the applicable workforce participation goal in any subcontracted work, and indicate that the failure of the contractor or any of its subcontractors to make a good faith effort to achieve the workforce participation goal may result in the contractor or subcontractor being deemed a non-compliant contractor.

(b) In the event that a contractor fails to submit a certification, waiver request, or any other information required by the state agency, or the state agency determines that a contractor's waiver request does not demonstrate that the applicable workforce participation goal is impractical, unfeasible, or inappropriate, the state agency shall notify the contractor of the deficiency in writing and provide the contractor ten business days to remedy the noticed deficiency. A state agency shall reject any bid or proposal of a contractor that fails to timely respond to a notice of deficiency or to provide documentation remedying the deficiency to the satisfaction of the state agency.

(i) Where failure to remedy any notified deficiency in the workforce utilization plan is a ground for disqualification, that issue and all other grounds for disqualification shall be stated in writing by the contracting state agency. The contractor shall be entitled to an administrative hearing, on a record, involving all grounds stated by the contracting state agency in its notice of the contractor's disqualification. Such hearing shall be conducted by the division to review the determination of disqualification. Contractors required to submit to such hearing shall have an opportunity to be heard. A final administrative determination made following such hearing shall be reviewable in a proceeding commenced under article seventy-eight of the civil practice law and rules, provided that such proceeding is commenced within one hundred twenty days of the notice given by certified mail return receipt requested rendering such final administrative determination. Such proceeding shall be commenced in the supreme court and such proceeding shall be preferred over all other civil causes except election causes, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Appeals taken to the court of appeals of the state of New York shall be subject to the same preference.

§ 823. Reporting. 1. State contracts shall require contractors to submit, and to require any subcontractors to submit, to the contracting state agency reports documenting the hours worked by employees of the contractor and any subcontractors in the performance of the work of the state contract. Such reports shall be submitted no less frequently than monthly for state contracts for construction and quarterly for all other state contracts. Such reports shall identify the race, ethnicity, gender, and trade, profession, and occupation of each employee performing work on a state contract.

2. State agencies shall submit periodic reports to the director, or the designee of the director, concerning the participation of minority group members and women in state contracts let by such agencies and such state agencies' compliance with this article. Such reports shall be submitted at such time, and include such information, as the director shall require in regulations. State agencies shall make available their facilities, books, and records for inspection, upon reasonable notice, by the director or the director's designee.

3. The department shall provide such assistance as the director shall require in carrying out the requirements of this section.

§ 824. Enforcement. 1. Where it appears that a contractor cannot, after a good faith effort, meet the workforce participation goals set forth in a particular state contract, a contractor may file a written application with the contracting state agency requesting a partial or total waiver of such requirements. Such request shall set forth the reasons for such contractor's inability to meet the workforce participation goal, specifically describe the reasons for any deviations from the anticipated workforce participation set forth in the contractor's bid or proposal leading to the award of the state contract, and describe the efforts by the contractor and any subcontractors to achieve the maximum feasible participation of minority group members and women in the performance of the work of the state contract. Where the contractor's inability to achieve the workforce participation goal on a state contract is attributable to the failure of one or more subcontractors to make good faith efforts to achieve the maximum feasible participation of minority group members and women in the performance of the work of the state contract, the contractor shall identify such subcontractor or subcontractors to the contracting state agency.

2. A state agency shall grant a request for a waiver of workforce participation goals on a state contract where:

(a) The contractor demonstrates that the contractor and its subcontractors made good faith efforts to achieve the workforce participation goal on the state contract, and that insufficient minority group members or women were available in the trades, professions, and occupations required to perform the work of the state contract; or,

(b) The contractor contractually required each of its subcontractors to make a good faith effort to achieve the maximum feasible participation of minority group members and women in the performance of the subcontracted work, periodically monitored such subcontractors' deployment of minority group members and women in the performance of the subcontracted work, provided notice to such subcontractors of any deficiencies in their deployment of minority group members and women in the performance of such subcontracted work, and could not achieve the workforce participation goal for one or more trades, professions, or occupations without the good faith efforts of such subcontractors.

3. Where a state agency denies a contractor's request for a waiver of workforce participation goals pursuant to this section, the state agency may recommend to the director and the department that the contractor be deemed a non-compliant contractor.

4. Where a state agency grants a request for a waiver of workforce participation goals pursuant to this section based on one or more subcontractors' failure to make good faith efforts to achieve the maximum feasible participation of minority group members and women in the performance of the subcontracted work, the state agency may recommend to the director and the department that the subcontractor be deemed a non-compliant contractor.

5. Upon receipt of a recommendation from a state agency that a contractor or subcontractor should be deemed a non-compliant contractor, the director shall, with the assistance of the department, review the facts and circumstances forming the basis of the recommendation and issue a determination as to whether or not the contractor or subcontractor should be deemed a non-compliant contractor and, if so, the duration of such status as a non-compliant contractor. Such status shall last for a maximum of four years in duration. In determining the duration of a

contractor's or subcontractor's status as a non-compliant contractor, the director shall consider:

(i) whether the contractor or subcontractor has previously been deemed a non-compliant contractor;

(ii) the number of hours of expected participation by minority group members and women lost as a result of the contractor's or subcontractor's failure to make good faith efforts to include minority group members or women in the performance of one or more state contracts; and

(iii) whether the contractor or subcontractor has offered to provide employment opportunities, training, or other remedial benefits to minority group members or women in relevant trades, professions, or occupations.

6. A contractor or subcontractor deemed a non-compliant contractor by the director may request an administrative hearing before an independent hearing officer to appeal the determination of the director. The decision of the hearing officer shall be final and may only be vacated or modified as provided in article seventy-eight of the civil practice law and rules upon an application made within the time provided by such article.

7. Upon a final determination that a contractor or subcontractor is a non-compliant contractor, the director shall list the contractor or subcontractor as such on its website and indicate the term of such contractor's or subcontractor's status as a non-compliant contractor. A non-compliant contractor shall be ineligible to participate as a contractor or subcontractor on any state contract.

§ 825. Powers and responsibilities of the division. 1. The director shall post to the website of the division on or before April first of each year the aspirational goals for the utilization of minority group members and women in construction required pursuant to section eight hundred twenty-two of this article.

2. The director shall promulgate rules and regulations for the implementation of this article, including, but not limited to, procedures for the submission of certifications and workforce utilization plans by contractors, criteria for granting waivers of workforce participation goals, and the contents of reports by state agencies concerning their implementation of the requirements of this article.

3. The division shall, from time to time, review the facilities, books, and records of state agencies to ascertain the accuracy of their reports and their compliance with the requirements of this article. The department shall provide such assistance as the director shall require in carrying out the requirements of this section.

§ 826. Severability. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this article directly involved in the controversy in which the judgment shall have been rendered.

§ 16. The executive law is amended by adding a new section 312-b to read as follows:

§ 312-b. Study of the feasibility of a minority and women-owned business enterprise capacity mentorship program. 1. The empire state development corporation shall conduct a study to explore the feasibility of a minority and women-owned business enterprise capacity mentorship program. The study should focus on which agencies and industries would benefit most from such program, the utilization of any existing minority

and women-owned business enterprise mentorship programs, and any fiscal implications. The study shall specifically focus on:

(a) which state agencies would benefit most from such program concentrating in construction;

(b) which state agencies would benefit most from such program concentrating in professional services;

(c) which state agencies would benefit most from such program concentrating in non-professional services;

(d) which state agencies would benefit most from such program concentrating in purchases of commodities;

(e) the duration of time minority and women-owned business enterprises should participate in each program concentration described in paragraphs (a) through (d) of this subdivision;

(f) the feasibility that such successful completion of such program could be used as a factor for prequalifying participating minority and women-owned business enterprises; and

(g) how such program can be tailored to better prepare minority and women-owned business enterprises for bidding on contracts with such agencies upon successful completion of the program.

2. Within twelve months of the effective date of this section, the empire state development corporation shall issue a report of its findings and recommendations to the governor, the temporary president of the senate and the speaker of the assembly. Such report shall include, but not be limited to, the following:

(a) actions that can be implemented to establish such capacity mentorship program, a plan of action for such implementation, and the estimated cost of the program including any additional division personnel that may be required;

(b) any regulatory actions required by any agency in order to implement such program, a plan of action for implementing such actions, and the estimated cost of such implementation;

(c) actions that require statutory changes in order to be implemented and the estimated cost of such implementation; and

(d) the extent to which any existing minority and women-owned business enterprise mentorship program, including pursuant to section one hundred forty-seven of the state finance law, has been implemented, and the relative success of such programs.

3. Within twenty-four months of the effective date of this section, the empire state development corporation shall issue a report detailing the actions taken to implement the recommendations of such study to the governor, the temporary president of the senate and the speaker of the assembly. Such report shall include a full examination of all aspects of a minority and women-owned business enterprise capacity mentorship program, the benefits of such program, a proposed plan of action for the permanent establishment of such program and the estimated cost of such program.

§ 17. This act shall take effect April 1, 2018; provided, however, that:

(a) the amendments to article 15-A of the executive law, made by sections one, one-a, two, three, four, five, six, six-a, seven, seven-a, eight and sixteen of this act, shall not affect the expiration and repeal of such article and shall expire and be deemed repealed therewith;

(b) the amendments to section 163 of the state finance law, made by section nine of this act, shall not affect the expiration and repeal of such section, and shall expire and be deemed repealed therewith;

(c) the amendments to section 139-j of the state finance law, made by section eleven of this act, shall not affect the expiration and repeal of such section, and shall expire and be deemed repealed therewith;

(d) section fifteen of this act shall expire and be deemed repealed December 31, 2023; and

(e) section 97-j of the state finance law, as added by section thirteen of this act, shall expire and be deemed repealed on the same date as article 15-A of the executive law, pursuant to subdivision (h) of section 121 of chapter 261 of the laws of 1988, as amended.

PART R

Intentionally Omitted

PART S

Section 1. Section 2 of chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, as amended by section 1 of part Q of chapter 58 of the laws of 2017, is amended to read as follows:

§ 2. This act shall take effect immediately, provided however, that section one of this act shall be deemed to have been in full force and effect on and after April 1, 2003 and shall expire March 31, [~~2018~~] 2019.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 31, 2018.

PART T

Intentionally Omitted

PART U

Section 1. Section 970-r of the general municipal law, as added by section 1 of part F of chapter 1 of the laws of 2003, subdivision 1, paragraph f of subdivision 3 and paragraph h of subdivision 6 as amended by section 1 of part F of chapter 577 of the laws of 2004, paragraph a of subdivision 1 as amended and paragraph h of subdivision 1 as added by chapter 386 of the laws of 2007, paragraph i of subdivision 1 as added and paragraph e of subdivision 1, paragraph a of subdivision 2, paragraph d of subdivision 2, the opening paragraph of paragraph e of subdivision 2, subparagraph 6 of paragraph e of subdivision 2, paragraph f of subdivision 2, paragraph g of subdivision 2, paragraph b of subdivision 3, the opening paragraph of paragraph f of subdivision 3, subparagraph 6 of paragraph f of subdivision 3, paragraph g of subdivision 3, paragraph h of subdivision 3, paragraph i of subdivision 3, and subdivisions 7 and 9 as amended by chapter 390 of the laws of 2008, paragraph b of subdivision 2 as amended by section 26 and subparagraphs 2 and 5 of paragraph c of subdivision 2 as amended by section 27, paragraph a of subdivision 3 as amended by section 28, subparagraphs 2 and 5 of paragraph e of subdivision 3 and subdivision 4 as amended by section 29, paragraph a and subparagraphs 2 and 5 of paragraph e of subdivision 6 as amended by section 30 and subdivision 10 as added by section 31 of part BB of chapter 56 of the laws of 2015, is amended to read as follows:

§ 970-r. State assistance for brownfield opportunity areas. 1. Definitions. a. "Applicant" shall mean the municipality, community board and/or community based organization submitting an application in the manner authorized by this section.

b. "Commissioner" shall mean the commissioner of the department of environmental conservation.

c. "Community based organization" shall mean a not-for-profit corporation exempt from taxation under section 501(c)(3) of the internal revenue code whose stated mission is promoting reuse of brownfield sites **or community revitalization** within a specified geographic area in which the community based organization is located; which has twenty-five percent or more of its board of directors residing in the community in such area; and represents a community with a demonstrated financial need. "Community based organization" shall not include any not-for-profit corporation that has caused or contributed to the release or threatened release of a contaminant from or onto the brownfield site, or any not-for-profit corporation that generated, transported, or disposed of, or that arranged for, or caused, the generation, transportation, or disposal of contamination from or onto the brownfield site. This definition shall not apply if more than twenty-five percent of the members, officers or directors of the not-for-profit corporation are or were employed or receiving compensation from any person responsible for a site under title thirteen or title fourteen of article twenty-seven of the environmental conservation law, article twelve of the navigation law or under applicable principles of statutory or common law liability.

d. "Brownfield site" shall have the same meaning as set forth in section 27-1405 of the environmental conservation law.

e. "Department" shall mean the department of state.

f. "Contamination" or "contaminated" shall have the same meaning as provided in section 27-1405 of the environmental conservation law.

g. "Municipality" shall have the same meaning as set forth in subdivision fifteen of section 56-0101 of the environmental conservation law.

h. "Community board" shall have the same meaning as set forth in section twenty-eight hundred of the New York city charter.

i. "Secretary" shall mean the secretary of state.

j. "Nomination" shall mean a written plan for redevelopment and revitalization of any area wherein one or more known or suspected brownfield sites are located.

2. State assistance for pre-nomination study for brownfield opportunity areas. a. Within the limits of appropriations therefor, the secretary is authorized to provide, on a competitive basis, financial assistance to municipalities, to community based organizations, to community boards, or to municipalities and community based organizations acting in cooperation to prepare a pre-nomination study for a brownfield opportunity area designation. Such financial assistance shall not exceed ninety percent of the costs of such pre-nomination study for any such area.

b. Activities eligible to receive such assistance shall include, but are not limited to, the assembly and development of basic information about:

(1) the borders of the proposed brownfield opportunity area;

(2) the number and size of known or suspected brownfield sites;

(3) current and anticipated uses of the properties in the proposed brownfield opportunity area;

(4) current and anticipated future conditions of groundwater in the proposed brownfield opportunity area;

(5) known data about the environmental conditions of the properties in the proposed brownfield opportunity area;

(6) ownership of the properties in the proposed brownfield opportunity area and whether the owners are participating in the brownfield opportunity area planning process; and

(7) preliminary descriptions of possible remediation strategies, reuse opportunities, necessary infrastructure improvements and other public or private measures needed to stimulate investment, promote revitalization, and enhance community health and environmental conditions.

c. Funding preferences shall be given to applications for such assistance that relate to areas having one or more of the following characteristics:

(1) areas for which the application is a partnered application by a municipality and a community based organization;

(2) areas with concentrations of known or suspected brownfield sites;

(3) areas for which the application demonstrates support from a municipality and a community based organization;

(4) areas showing indicators of economic distress including low resident incomes, high unemployment, high commercial vacancy rates, depressed property values; and

(5) areas with known or suspected brownfield sites presenting strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.

d. The secretary, upon the receipt of an application for such assistance from a community based organization not in cooperation with the local government having jurisdiction over the proposed brownfield opportunity area, shall request the municipal government to review and state the municipal government's support or lack of support. The municipal government's statement shall be considered a part of the application.

e. Each application for assistance shall be submitted to the secretary in a format, and containing such information, as prescribed by the secretary but shall include, at a minimum, the following:

(1) a statement of the rationale or relationship between the proposed assistance and the criteria set forth in this subdivision for the evaluation and ranking of assistance applications;

(2) the processes by which local participation in the development of the application has been sought;

(3) the process to be carried out with the state assistance including, but not limited to, the goals of and budget for the effort, the work plan and timeline for the attainment of these goals, and the intended process for community participation in the process;

(4) the manner and extent to which public or governmental agencies with jurisdiction over issues that will be addressed in the data gathering process will be involved in this process;

(5) other planning and development initiatives proposed or in progress in the proposed brownfield opportunity area; and

(6) for each community based organization which is an applicant or a co-applicant, a copy of its determination of tax exempt status issued by the federal internal revenue service pursuant to section 501 of the internal revenue code, a description of the relationship between the community based organization and the area that is the subject of the application, its financial and institutional accountability, its experience in conducting and completing planning initiatives and in working with the local government associated with the proposed brownfield opportunity area.

f. Prior to making an award for assistance, the secretary shall notify the temporary president of the senate and speaker of the assembly.

g. Following notification to the applicant that assistance has been awarded, and prior to disbursement of funds, a contract shall be executed between the department and the applicant or co-applicants. The secretary shall establish terms and conditions for such contracts as the secretary deems appropriate, including provisions to define: applicant's work scope, work schedule, and deliverables; fiscal reports on budgeted and actual use of funds expended; and requirements for submission of a final fiscal report. The contract shall also require the distribution of work products to the department, and, for community based organizations, to the applicant's municipality. Applicants shall be required to make the results publicly available.

3. State assistance for nominations to designate brownfield opportunity areas. a. Within the limits of appropriations therefor, the secretary is authorized to provide, on a competitive basis, financial assistance to municipalities, to community based organizations, to community boards, or to municipalities and community based organizations acting in cooperation to prepare a nomination for designation of a brownfield opportunity area. Such financial assistance shall not exceed ninety percent of the costs of such nomination for any such area. A nomination study must include sufficient information to designate the brownfield opportunity area. The contents of the nomination study shall be developed based on pre-nomination study information**, if conducted**, which shall principally consist of an area-wide study, documenting the historic brownfield uses in the area proposed for designation.

b. An application for such financial assistance shall include an indication of support from owners of brownfield sites in the proposed brownfield opportunity area. All residents and property owners in the proposed brownfield opportunity area shall receive notice in such form and manner as the secretary shall prescribe.

c. No application for such financial assistance shall be considered unless the applicant demonstrates that it has, to the maximum extent practicable, solicited and considered the views of residents of the proposed brownfield opportunity area, the views of state and local officials elected to represent such residents and the local organizations representing such residents.

d. Activities eligible to receive such financial assistance shall include the identification, preparation, creation, development and assembly of information and elements to be included in a nomination for designation of a brownfield opportunity area, including but not limited to:

(1) the borders of the proposed brownfield opportunity area;

(2) the location **and size** of each known or suspected brownfield site in the proposed brownfield opportunity area;

(3) the identification of strategic sites within the proposed brownfield opportunity area;

(4) the type of potential developments anticipated for sites within the proposed brownfield opportunity area proposed by either the current or the prospective owners of such sites;

(5) local legislative or regulatory action which may be required to implement a plan for the redevelopment of the proposed brownfield opportunity area;

(6) priorities for public and private investment in infrastructure, open space, economic development, housing, or community facilities in the proposed brownfield opportunity area;

(7) **identification and** mapping of current and anticipated uses of the properties and groundwater in the proposed brownfield opportunity area;

(8) existing detailed assessments of individual brownfield sites and, where the consent of the site owner has been obtained, the need for conducting on-site assessments;

(9) known data about the environmental conditions of properties in the proposed brownfield opportunity area;

(10) ownership of the **known or suspected brownfield** properties in the proposed brownfield opportunity area **to the extent such info is readily publicly available**;

(11) descriptions of possible remediation strategies, **reuse opportunities,** brownfield redevelopment, necessary infrastructure improvements and other public or private measures needed to stimulate investment, promote revitalization, and enhance community health and environmental conditions;

(12) the goals and objectives, both short term and long term, for the economic revitalization of the proposed brownfield opportunity area; [~~and~~]

(13) the publicly controlled and other developable lands and buildings within the proposed brownfield opportunity area which are or could be made available for residential, industrial and commercial development[~~.~~]**; and**

(14) a community participation strategy to maximize public awareness and to solicit and consider the views of residents, businesses and other stakeholders of the proposed brownfield opportunity area.

e. Funding preferences shall be given to applications for such assistance that relate to areas having one or more of the following characteristics:

(1) areas for which the application is a partnered application by a municipality and a community based organization;

(2) areas with concentrations of known or suspected brownfield sites;

(3) areas for which the application demonstrates support from a municipality and a community based organization;

(4) areas showing indicators of economic distress including low resident incomes, high unemployment, high commercial vacancy rates, depressed property values; and

(5) areas with known or suspected brownfield sites presenting strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.

f. Each application for such assistance shall be submitted to the secretary in a format, and containing such information, as prescribed by the secretary but shall include, at a minimum, the following:

(1) a statement of the rationale or relationship between the proposed assistance and the criteria set forth in this section for the evaluation and ranking of assistance applications;

(2) the processes by which local participation in the development of the application has been sought;

(3) the process to be carried out under the state assistance including, but not limited to, the goals of and budget for the effort, the work plan and timeline for the attainment of these goals, and the intended process for public participation in the process;

(4) the manner and extent to which public or governmental agencies with jurisdiction over issues that will be addressed in the data gathering process will be involved in this process;

(5) other planning and development initiatives proposed or in progress in the proposed brownfield opportunity area;

(6) for each community based organization which is an applicant or a co-applicant, a copy of its determination of tax exempt status issued by the federal internal revenue service pursuant to section 501 of the internal revenue code, a description of the relationship between the community based organization and the area that is the subject of the application, its financial and institutional accountability, its experience in conducting and completing planning initiatives and in working with the local government associated with the proposed brownfield opportunity area; and

(7) the financial commitments the applicant will make to the brownfield opportunity area for activities including, but not limited to, marketing of the area for business development, human resource services for residents and businesses in the brownfield opportunity area, and services for small and minority and women-owned businesses.

g. [~~The secretary, upon the receipt of an~~] **An** application for such assistance from a community based organization not in cooperation with the local government having jurisdiction over the proposed brownfield opportunity area, shall [~~request the municipal government to review and state the municipal government's support or lack of support~~] **include a resolution from the city, town, or village with planning and land use authority in which the brownfield opportunity area is proposed, stating support or lack of support**. The [~~municipal government's statement~~] **resolution from such city, town, or village** shall be considered a part of the application.

h. Prior to making an award for assistance, the secretary shall notify the temporary president of the senate and speaker of the assembly.

i. Following notification to the applicant that assistance has been awarded, and prior to disbursement of funds, a contract shall be executed between the department and the applicant or co-applicants. The secretary shall establish terms and conditions for such contracts as the secretary deems appropriate, including provisions to define: applicant's work scope, work schedule, and deliverables; fiscal reports on budgeted and actual use of funds expended; and requirements for submission of a final fiscal report. The contract shall also require the distribution of work products to the department, and, for community based organizations, to the applicant's municipality. Applicants shall be required to make the results publicly available. Such contract shall further include a provision providing that if any responsible party payments become available to the applicant, the amount of such payments attributable to expenses paid by the award shall be paid to the department by the applicant; provided that the applicant may first apply such responsible party payments toward any actual project costs incurred by the applicant.

4. Designation of brownfield opportunity area. Upon completion of a nomination for designation of a brownfield opportunity area, it shall be forwarded by the applicant to the secretary, who shall determine whether it is consistent with the provisions of this section. The secretary may review and approve a nomination for designation of a brownfield opportunity area at any time. If the secretary determines that the nomination is consistent with the provisions of this section, the brownfield opportunity area shall be designated. If the secretary determines that the nomination is not consistent with the provisions of this section, the secretary shall make recommendations in writing to the applicant of the manner and nature in which the nomination should be amended.

5. Priority and preference. The designation of a brownfield opportunity area pursuant to this section is intended to serve as a planning tool. It alone shall not impose any new obligations on any property or

property owner. To the extent authorized by law, projects in brownfield opportunity areas designated pursuant to this section shall receive a priority and preference when considered for financial assistance pursuant to articles fifty-four and fifty-six of the environmental conservation law. To the extent authorized by law, projects in brownfield opportunity areas designated pursuant to this section may receive a priority and preference when considered for financial assistance pursuant to any other state, federal or local law.

6. State assistance for brownfield site assessments in brownfield opportunity areas. a. Within the limits of appropriations therefor, the secretary of state, is authorized to provide, on a competitive basis, financial assistance to municipalities, to community based organizations, to community boards, or to municipalities and community based organizations acting in cooperation to conduct brownfield site assessments. Such financial assistance shall not exceed ninety percent of the costs of such brownfield site assessment.

b. Brownfield sites eligible for such assistance must be owned by a municipality, or volunteer as such term is defined in section 27-1405 of the environmental conservation law.

c. Brownfield site assessment activities eligible for funding include, but are not limited to, testing of properties to determine the nature and extent of the contamination (including soil and groundwater), environmental assessments, the development of a proposed remediation strategy to address any identified contamination, and any other activities deemed appropriate by the commissioner in consultation with the secretary of state. Any environmental assessment shall be subject to the review and approval of such commissioner.

d. Applications for such assistance shall be submitted to the commissioner in a format, and containing such information, as prescribed by the commissioner in consultation with the secretary of state.

e. Funding preferences shall be given to applications for such assistance that relate to areas having one or more of the following characteristics:

(1) areas for which the application is a partnered application by a municipality and a community based organization;

(2) areas with concentrations of known or suspected brownfield sites;

(3) areas for which the application demonstrates support from a municipality and a community based organization;

(4) areas showing indicators of economic distress including low resident incomes, high unemployment, high commercial vacancy rates, depressed property values; and

(5) areas with known or suspected brownfield sites presenting strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.

f. The commissioner, upon the receipt of an application for such assistance from a community based organization not in cooperation with the local government having jurisdiction over the proposed brownfield opportunity area, shall request the municipal government to review and state the municipal government's support or lack of support. The municipal government's statement shall be considered a part of the application.

g. Prior to making an award for assistance, the commissioner shall notify the temporary president of the senate and the speaker of the assembly.

h. Following notification to the applicant that assistance has been awarded, and prior to disbursement of funds, a contract shall be

executed between the department and the applicant or co-applicants. The commissioner shall establish terms and conditions for such contracts as the commissioner deems appropriate in consultation with the secretary of state, including provisions to define: applicant's work scope, work schedule, and deliverables; fiscal reports on budgeted and actual use of funds expended; and requirements for submission of a final fiscal report. The contract shall also require the distribution of work products to the department, and, for community based organizations, to the applicant's municipality. Applicants shall be required to make the results publicly available. Such contract shall further include a provision providing that if any responsible party payments become available to the applicant, the amount of such payments attributable to expenses paid by the award shall be paid to the department by the applicant; provided that the applicant may first apply such responsible party payments towards actual project costs incurred by the applicant.

7. Amendments to designated area. Any proposed amendment to a brownfield opportunity area designated pursuant to this section shall be proposed, and reviewed by the secretary, in the same manner and using the same criteria set forth in this section and applicable to an initial nomination for the designation of a brownfield opportunity area.

8. Applications. a. All applications for pre-nomination study assistance or applications for designation of a brownfield opportunity area shall demonstrate that the following community participation activities have been or will be performed by the applicant:

(1) identification of the interested public and preparation of a contact list;

(2) identification of major issues of public concern;

(3) [~~provision to~~] **public** access to **(i)** the draft and final application for pre-nomination assistance and brownfield opportunity area designation**, and (ii) any** supporting documents in a manner convenient to the public;

(4) public notice and newspaper notice of (i) the intent of the municipality and/or community based organization to undertake a pre-nomination process or prepare a brownfield opportunity area plan, and (ii) the availability of such application.

b. Application for nomination of a brownfield opportunity area shall provide the following minimum community participation activities:

(1) a comment period of at least thirty days on a draft application;

(2) a public meeting on a brownfield opportunity area draft application.

9. Financial assistance; advance payment. Notwithstanding any other law to the contrary, financial assistance pursuant to this section provided by the commissioner and the secretary pursuant to an executed contract may include an advance payment up to twenty-five percent of the contract amount.

10. The secretary shall establish criteria for brownfield opportunity area conformance determinations for purposes of the brownfield redevelopment tax credit component pursuant to clause (ii) of subparagraph (B) of paragraph [~~(5)~~] **five** of subdivision (a) of section twenty-one of the tax law. In establishing criteria, the secretary shall be guided by, but not limited to, the following considerations: how the proposed use and development advances the designated brownfield opportunity area plan's vision statement, goals and objectives for revitalization; how the density of development and associated buildings and structures advances the plan's objectives, desired redevelopment and priorities for invest-

ment; and how the project complies with zoning and other local laws and standards to guide and ensure appropriate use of the project site.

§ 2. This act shall take effect immediately.

PART V

Section 1. Section 159-j of the executive law is REPEALED.

§ 2. This act shall take effect October 1, 2018.

PART W

Section 1. This Part enacts into law major components of legislation relating to student loan servicers and student debt relief consultants. Each component is wholly contained within a Subpart identified as Subparts A through C. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found.

SUBPART A

Section 1. The banking law is amended by adding a new article 14-A to read as follows:

ARTICLE XIV-A

STUDENT LOAN SERVICERS

Section 710. Definitions.
711. Licensing.
712. Application for a student loan servicer license; fees.
713. Application process to receive license to engage in the business of student loan servicing.
714. Changes in officers and directors.
715. Changes in control.
716. Grounds for suspension or revocation of license.
717. Books and records; reports and electronic filing.
718. Rules and regulations.
719. Prohibited practices.
720. Servicing student loans without a license.
721. Responsibilities.
722. Examinations.
723. Penalties for violation of this article.
724. Severability of provisions.
725. Compliance with other laws.

§ 710. Definitions. 1. "Applicant" shall mean any person applying for a license to be a student loan servicer.

2. "Borrower" shall mean any resident of this state who has received a student loan or agreed in writing to pay a student loan or any person who shares a legal obligation with such resident for repaying a student loan.

3. "Borrower benefit" shall mean an incentive offered to a borrower in connection with the origination of a student loan, including but not limited to an interest rate reduction, principal rebate, fee waiver or rebate, loan cancellation, or cosigner release.

4. "Exempt organization" shall mean any banking organization, foreign banking corporation, national bank, federal savings association, federal credit union, or any bank, trust company, savings bank, savings and loan association, or credit union organized under the laws of any other state.

5. "Person" shall mean any individual, association, corporation, limited liability company, partnership, trust, unincorporated organization, or any other entity.

6. "Servicer" or "student loan servicer" shall mean a person licensed pursuant to section seven hundred eleven of this article to engage in the business of servicing any student loan of a borrower.

7. "Servicing" shall mean:

(a) receiving any payment from a borrower pursuant to the terms of any student loan;

(b) applying any payment to a borrower's account pursuant to the terms of a student loan or the contract governing the servicing of any such loan;

(c) providing any notification of amounts owed on a student loan by or on account of any borrower;

(d) during a period when a borrower is not required to make a payment on a student loan, maintaining account records for the student loan and communicating with the borrower regarding the student loan on behalf of the owner of the student loan promissory note;

(e) interacting with a borrower with respect to or regarding any attempt to avoid default on the borrower's student loan, or facilitating the activities described in paragraph (a) or (b) of this subdivision; or

(f) performing other administrative services with respect to a borrower's student loan.

8. "Student loan" shall mean any loan to a borrower to finance postsecondary education or expenses related to postsecondary education.

§ 711. Licensing. 1. No person shall engage in the business of servicing student loans owed by one or more borrowers residing in this state without first being licensed by the superintendent as a student loan servicer in accordance with this article and such regulations as may be prescribed by the superintendent.

2. The licensing provisions of this subdivision shall not apply to any exempt organization.

§ 712. Application for a student loan servicer license; fees. 1. The application for a license to be a student loan servicer shall be in writing, under oath, and in the form prescribed by the superintendent. Notwithstanding article three of the state technology law or any other law to the contrary, the superintendent may require that an application for a license or any other submission or application for approval as may be required by this article be made or executed by electronic means if he or she deems it necessary to ensure the efficient and effective administration of this article. The application shall include a description of the activities of the applicant, in such detail and for such periods as the superintendent may require, including:

(a) an affirmation of financial solvency noting such capitalization requirements as may be required by the superintendent, and access to such credit as may be required by the superintendent;

(b) a financial statement prepared by a certified public accountant, the accuracy of which is sworn to under oath before a notary public by an officer or other representative of the applicant who is authorized to execute such documents;

(c) an affirmation that the applicant, or its members, officers, partners, directors and principals as may be appropriate, are at least twenty-one years of age;

(d) information as to the character, fitness, financial and business responsibility, background and experiences of the applicant, or its members, officers, partners, directors and principals as may be appropriate; and

(e) any additional detail or information required by the superintendent.

2. An application to become a student loan servicer or any application with respect to a student loan servicer shall be accompanied by a fee as prescribed pursuant to section eighteen-a of this chapter.

§ 713. Application process to receive license to engage in the business of student loan servicing. 1. Upon the filing of an application for a license, if the superintendent shall find that the financial responsibility, experience, character, and general fitness of the applicant and, if applicable, the members, officers, partners, directors and principals of the applicant are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this article, the superintendent shall thereupon issue a license in duplicate to engage in the business of servicing student loans described in section seven hundred ten of this article in accordance with the provisions of this article. If the superintendent shall not so find, the superintendent shall not issue a license, and the superintendent shall so notify the applicant. The superintendent shall transmit one copy of a license to the applicant and file another copy in the office of the department of financial services. Upon receipt of such license, a student loan servicer shall be authorized to engage in the business of servicing student loans in accordance with the provisions of this article. Such license shall remain in full force and effect until it is surrendered by the servicer or revoked or suspended as hereinafter provided.

2. The superintendent may refuse to issue a license pursuant to this article if he or she shall find that the applicant, or any person who is a director, officer, partner, agent, employee, member or substantial stockholder of the applicant:

(a) lacks the good moral character and general fitness such as to warrant belief that the licensed entity would be operated honestly, fairly and efficiently within the purposes of this article;

(b) has had a license or registration revoked by the superintendent or any other regulator or jurisdiction;

(c) has been an officer, director, partner, member or substantial stockholder of an entity which has had a license or registration revoked by the superintendent or any other regulator or jurisdiction; or

(d) has been an agent, employee, officer, director, partner or member of an entity which has had a license or registration revoked by the superintendent where such person shall have been found by the superintendent to bear responsibility in connection with the revocation.

3. The term "substantial stockholder", as used in this section, shall be deemed to refer to a person owning or controlling directly or indirectly ten per centum or more of the total outstanding stock of a corporation.

§ 714. Changes in officers and directors. Upon any change of any of the executive officers, directors, partners or members of any student loan servicer, the student loan servicer shall submit to the superintendent the name, address, and occupation of each new officer, director,

partner or member, and provide such other information as the superintendent may require.

§ 715. Changes in control. 1. It shall be unlawful, except with the prior approval of the superintendent, for any action to be taken which results in a change of control of the business of a student loan servicer. Prior to any change of control, the person desirous of acquiring control of the business of a student loan servicer shall make written application to the superintendent and pay an investigation fee as prescribed pursuant to section eighteen-a of this chapter to the superintendent. The application shall contain such information as the superintendent, by rule or regulation, may prescribe as necessary or appropriate for the purpose of making the determination required by subdivision two of this section. Such information shall include, but not be limited to, the information and other material required for a student loan servicer by subdivision one of section seven hundred twelve of this article.

2. The superintendent shall approve or disapprove the proposed change of control of a student loan servicer in accordance with the provisions of section seven hundred thirteen of this article.

3. For a period of six months from the date of qualification thereof and for such additional period of time as the superintendent may prescribe, in writing, the provisions of subdivisions one and two of this section shall not apply to a transfer of control by operation of law to the legal representative, as hereinafter defined, of one who has control of a student loan servicer. Thereafter, such legal representative shall comply with the provisions of subdivisions one and two of this section. The provisions of subdivisions one and two of this section shall be applicable to an application made under this section by a legal representative. The term "legal representative", for the purposes of this subdivision, shall mean a person duly appointed by a court of competent jurisdiction to act as executor, administrator, trustee, committee, conservator or receiver, including a person who succeeds a legal representative and a person acting in an ancillary capacity thereto in accordance with the provisions of such court appointment.

4. As used in this section the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a student loan servicer, whether through the ownership of voting stock of such student loan servicer, the ownership of voting stock of any person which possesses such power or otherwise. Control shall be presumed to exist if any person, directly or indirectly, owns, controls or holds with power to vote ten per centum or more of the voting stock of any student loan servicer or of any person which owns, controls or holds with power to vote ten per centum or more of the voting stock of any student loan servicer, but no person shall be deemed to control a student loan servicer solely by reason of being an officer or director of such student loan servicer. The superintendent may in his discretion, upon the application of a student loan servicer or any person who, directly or indirectly, owns, controls or holds with power to vote or seeks to own, control or hold with power to vote any voting stock of such student loan servicer, determine whether or not the ownership, control or holding of such voting stock constitutes or would constitute control of such student loan servicer for purposes of this section.

§ 716. Grounds for suspension or revocation of license. 1. The superintendent may revoke any license to engage in the business of a student

loan servicer issued pursuant to this article if a determination has been made, after notice and a hearing, that:

(a) a servicer has violated any provision of this article, any rule or regulation promulgated by the superintendent under and within the authority of this article, or any other applicable law;

(b) a servicer engages in fraud, intentional misrepresentation, or gross negligence in servicing a student loan;

(c) the competence, experience, character, or general fitness of the servicer, an individual controlling, directly or indirectly, ten percent or more of the outstanding interests, or any person responsible for servicing a student loan for the servicer indicates that it is not in the public interest to permit the servicer to continue servicing student loans;

(d) the servicer is insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors; or

(e) the servicer has violated the laws of this state, any other state law or any federal law involving fraudulent or dishonest dealing, or a final judgment has been entered against a student loan servicer in a civil action upon grounds of fraud, misrepresentation or deceit.

2. The superintendent may, on good cause shown, or where there is a substantial risk of public harm, suspend any license for a period not exceeding thirty days, pending investigation. "Good cause", as used in this subdivision, shall exist when a student loan servicer has defaulted in performing its financial engagements or engages in dishonest or inequitable practices which may cause substantial harm to the persons afforded the protection of this article.

3. No license shall be revoked or suspended except after notice and a hearing thereon. Any order of suspension issued after notice and a hearing may include as a condition of reinstatement that the student loan servicer make restitution to consumers of fees or other charges which have been improperly charged or collected, including but not limited to by allocating payments contrary to a borrower's direction or in a manner that fails to help a borrower avoid default, as determined by the superintendent. Any hearing held pursuant to the provisions of this section shall be noticed, conducted and administered in compliance with the state administrative procedure act.

4. Any student loan servicer may surrender any license by delivering to the superintendent written notice that the student loan servicer thereby surrenders such license, but such surrender shall not affect the servicer's civil or criminal liability for acts committed prior to the surrender. If such surrender is made after the issuance by the superintendent of a statement of charges and notice of hearing, the superintendent may proceed against the servicer as if the surrender had not taken place.

5. No revocation, suspension, or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the student loan servicer and any person, including the department of financial services.

6. Every license issued pursuant to this article shall remain in full force and effect until the same shall have been surrendered, revoked or suspended in accordance with any other provisions of this article.

7. Whenever the superintendent shall revoke or suspend a license issued pursuant to this article, he or she shall forthwith execute in duplicate a written order to that effect. The superintendent shall file one copy of the order in the office of the department of financial services and shall forthwith serve the other copy upon the student loan

servicer. Any such order may be reviewed in the manner provided by article seventy-eight of the civil practice law and rules.

§ 717. Books and records; reports and electronic filing. 1. Each student loan servicer shall keep and use in its business such books, accounts and records as will enable the superintendent to determine whether the servicer is complying with the provisions of this article and with the rules and regulations lawfully made by the superintendent. Every servicer shall preserve such books, accounts, and records, for at least three years.

2. (a) Each student loan servicer shall annually, on or before a date to be determined by the superintendent, file a report with the superintendent giving such information as the superintendent may require concerning the business and operations during the preceding calendar year of such servicer under authority of this article. Such report shall be subscribed and affirmed as true by the servicer under the penalties of perjury and shall be in the form prescribed by the superintendent.

(b) In addition to annual reports, the superintendent may require such additional regular or special reports as he or she may deem necessary to the proper supervision of student loan servicers under this article. Such additional reports shall be subscribed and affirmed as true by the servicer under the penalties of perjury and shall be in the form prescribed by the superintendent.

3. Notwithstanding article three of the state technology law or any other law to the contrary, the superintendent may require that any submission or approval as may be required by the superintendent be made or executed by electronic means if he or she deems it necessary to ensure the efficient administration of this article.

§ 718. Rules and regulations. 1. In addition to such powers as may otherwise be prescribed by this chapter, the superintendent is hereby authorized and empowered to promulgate such rules and regulations as may in the judgment of the superintendent be consistent with the purposes of this article, or appropriate for the effective administration of this article, including, but not limited to:

(a) such rules and regulations in connection with the activities of student loan servicers as may be necessary and appropriate for the protection of borrowers in this state;

(b) such rules and regulations as may be necessary and appropriate to define unfair, deceptive or abusive acts or practices in connection with the activities of student loan servicers in servicing student loans;

(c) such rules and regulations as may define the terms used in this article and as may be necessary and appropriate to interpret and implement the provisions of this article; and

(d) such rules and regulations as may be necessary for the enforcement of this article.

2. The superintendent is hereby authorized and empowered to make such specific rulings, demands and findings as the superintendent may deem necessary for the proper conduct of the student loan servicing industry.

§ 719. Prohibited practices. No student loan servicer shall:

1. Directly employ any scheme, device or artifice to defraud or mislead a borrower.

2. Intentionally engage in any unfair, deceptive or predatory act or practice toward any person or misrepresent or omit any material information in connection with the servicing of a student loan, including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a student loan, the terms and

conditions of the loan agreement or the borrower's obligations under the loan.

3. Intentionally misapply payments to the outstanding balance of any student loan or to any related interest or fees.

4. Intentionally provide misleading information to a consumer reporting agency.

5. Refuse to communicate with an authorized representative of the borrower who provides a written authorization signed by the borrower, provided that the servicer may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the borrower.

6. Knowingly make any false statement or make any omission of a material fact in connection with any information or reports filed with a governmental agency or in connection with any investigation conducted by the superintendent or another governmental agency.

§ 720. Servicing student loans without a license. Whenever, in the opinion of the superintendent, a person is engaged in the business of servicing student loans, either actually or through subterfuge, without a license from the superintendent, the superintendent may order that person to desist and refrain from engaging in the business of servicing student loans in the state. If, within thirty days after an order is served, a request for a hearing is filed in writing and the hearing is not held within sixty days of the filing, the order shall be rescinded.

§ 721. Responsibilities. 1. If a student loan servicer regularly reports information to a consumer reporting agency, the servicer shall accurately report a borrower's payment performance to at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis as defined in Section 603(p) of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(p)), upon acceptance as a data furnisher by that consumer reporting agency.

2. (a) Except as provided in federal law or required by a student loan agreement, a student loan servicer shall inquire of a borrower how to apply a borrower's nonconforming payment. A borrower's direction on how to apply a nonconforming payment shall remain in effect for any future nonconforming payment during the term of a student loan until the borrower provides different directions.

(b) For purposes of this subdivision, "nonconforming payment" shall mean a payment that is either more or less than the borrower's required student loan payment.

3. (a) If the sale, assignment, or other transfer of the servicing of a student loan results in a change in the identity of the person to whom the borrower is required to send subsequent payments or direct any communications concerning the student loan, a student loan servicer shall transfer all information regarding a borrower, a borrower's account, and a borrower's student loan, including but not limited to the borrower's repayment status and any borrower benefits associated with the borrower's student loan, to the new student loan servicer servicing the borrower's student loan within forty-five days.

(b) A student loan servicer shall adopt policies and procedures to verify that it has received all information regarding a borrower, a borrower's account, and a borrower's student loan, including but not limited to the borrower's repayment status and any borrower benefits associated with the borrower's student loan, when the servicer obtains the right to service a student loan.

4. If a student loan servicer sells, assigns, or otherwise transfers the servicing of a student loan to a new servicer, the sale, assignment

or other transfer shall be completed at least seven days before the borrower's next payment is due.

5. (a) A student loan servicer that sells, assigns, or otherwise transfers the servicing of a student loan shall require as a condition of such sale, assignment or other transfer that the new student loan servicer shall honor all borrower benefits originally represented as being available to a borrower during the repayment of the student loan and the possibility of such benefits, including any benefits that were represented as being available but for which the borrower had not yet qualified.

(b) A student loan servicer that obtains the right to service a student loan shall honor all borrower benefits originally represented as being available to a borrower during the repayment of the student loan and the possibility of such benefits, including any benefits that were represented as being available but for which the borrower had not yet qualified.

6. A student loan servicer shall respond within thirty days after receipt to a written inquiry from a borrower or a borrower's authorized representative.

7. A student loan servicer shall preserve records of each student loan and all communications with borrowers for not less than two years following the final payment on a student loan or the sale, assignment or other transfer of the servicing of a student loan, whichever occurs first, or such longer period as may be required by any other provision of law.

§ 722. Examinations. 1. The superintendent may at any time, and as often as he or she may determine, either personally or by a person duly designated by the superintendent, investigate the business and examine the books, accounts, records, and files used therein of every student loan servicer. For that purpose the superintendent and his or her duly designated representative shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of all student loan servicers. The superintendent and any person duly designated by him or her shall have the authority to require the attendance of and to examine under oath all persons whose testimony he or she may require relative to such business.

2. No person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records, computer records or other information.

3. The expenses incurred in making any examination pursuant to this section shall be assessed against and paid by the student loan servicer so examined, except that traveling and subsistence expenses so incurred shall be charged against and paid by servicers in such proportions as the superintendent shall deem just and reasonable, and such proportionate charges shall be added to the assessment of the other expenses incurred upon each examination. Upon written notice by the superintendent of the total amount of such assessment, the servicer shall become liable for and shall pay such assessment to the superintendent.

4. In any hearing in which a department employee acting under authority of this chapter is available for cross-examination, any official written report, worksheet, other related papers, or duly certified copy thereof, compiled, prepared, drafted, or otherwise made by such department employee, after being duly authenticated by the employee, may be admitted as competent evidence upon the oath of the employee that such worksheet, investigative report, or other related documents were prepared as a result of an examination of the books and records of a

servicer or other person, conducted pursuant to the authority of this chapter.

5. Unless otherwise exempt pursuant to subdivision two of section seven hundred eleven of this article, affiliates of a student loan servicer shall be subject to examination by the superintendent on the same terms as the servicer, but only when reports from, or examination of, a servicer provides evidence of unlawful activity between a servicer and affiliate benefitting, affecting, or arising from the activities regulated by this article.

§ 723. Penalties for violation of this article. 1. In addition to such penalties as may otherwise be applicable by law, the superintendent may, after notice and hearing, require any person found violating the provisions of this article or the rules or regulations promulgated hereunder to pay to the people of this state a penalty for each violation of this article or any regulation or policy promulgated hereunder a sum not to exceed an amount as determined pursuant to section forty-four of this chapter for each such violation.

2. Nothing in this article shall limit any statutory or common-law right of any person to bring any action in any court for any act, or the right of the state to punish any person for any violation of any law.

§ 724. Severability of provisions. If any provision of this article, or the application of such provision to any person or circumstance, shall be held invalid, illegal or unenforceable, the remainder of the article, and the application of such provision to persons or circumstances other than those as to which it is held invalid, illegal or unenforceable, shall not be affected thereby.

§ 725. Compliance with other laws. 1. Student loan servicers shall engage in the business of servicing student loans in conformity with the provisions of this chapter, such rules and regulations as may be promulgated by the superintendent thereunder and all applicable federal laws and the rules and regulations promulgated thereunder.

2. Nothing in this section shall be construed to limit any otherwise applicable state or federal law or regulations.

§ 2. Subdivision 10 of section 36 of the banking law, as amended by chapter 182 of the laws of 2011, is amended to read as follows:

10. All reports of examinations and investigations, correspondence and memoranda concerning or arising out of such examination and investigations, including any duly authenticated copy or copies thereof in the possession of any banking organization, bank holding company or any subsidiary thereof (as such terms "bank holding company" and "subsidiary" are defined in article three-A of this chapter), any corporation or any other entity affiliated with a banking organization within the meaning of subdivision six of this section and any non-banking subsidiary of a corporation or any other entity which is an affiliate of a banking organization within the meaning of subdivision six-a of this section, foreign banking corporation, licensed lender, licensed casher of checks, licensed mortgage banker, registered mortgage broker, licensed mortgage loan originator, licensed sales finance company, registered mortgage loan servicer, licensed student loan servicer, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, any other person or entity subject to supervision under this chapter, or the department, shall be confidential communications, shall not be subject to subpoena and shall not be made public unless, in the judgment of the superintendent, the ends of justice and the public advantage will be subserved by the publication thereof, in which event the superintendent may publish or authorize the

publication of a copy of any such report or any part thereof in such manner as may be deemed proper or unless such laws specifically authorize such disclosure. For the purposes of this subdivision, "reports of examinations and investigations, and any correspondence and memoranda concerning or arising out of such examinations and investigations", includes any such materials of a bank, insurance or securities regulatory agency or any unit of the federal government or that of this state any other state or that of any foreign government which are considered confidential by such agency or unit and which are in the possession of the department or which are otherwise confidential materials that have been shared by the department with any such agency or unit and are in the possession of such agency or unit.

§ 3. Subdivisions 1, 2, 3 and 5 of section 39 of the banking law, subdivisions 1, 2 and 5 as amended by chapter 123 of the laws of 2009 and subdivision 3 as amended by chapter 155 of the laws of 2012, are amended to read as follows:

1. To appear and explain an apparent violation. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to do business or maintain a representative office in this state has violated any law or regulation, he or she may, in his or her discretion, issue an order describing such apparent violation and requiring such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation to appear before him or her, at a time and place fixed in said order, to present an explanation of such apparent violation.

2. To discontinue unauthorized or unsafe and unsound practices. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to do business in this state is conducting business in an unauthorized or unsafe and unsound manner, he or she may, in his or her discretion, issue an order directing the discontinuance of such unauthorized or unsafe and unsound practices, and fixing a time and place at which such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state

state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation may voluntarily appear before him or her to present any explanation in defense of the practices directed in said order to be discontinued.

3. To make good impairment of capital or to ensure compliance with financial requirements. Whenever it shall appear to the superintendent that the capital or capital stock of any banking organization, bank holding company or any subsidiary thereof which is organized, licensed or registered pursuant to this chapter, is impaired, or the financial requirements imposed by subdivision one of section two hundred two-b of this chapter or any regulation of the superintendent on any branch or agency of a foreign banking corporation or the financial requirements imposed by this chapter or any regulation of the superintendent on any licensed lender, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner or private banker are not satisfied, the superintendent may, in the superintendent's discretion, issue an order directing that such banking organization, bank holding company, branch or agency of a foreign banking corporation, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, or private banker make good such deficiency forthwith or within a time specified in such order.

5. To keep books and accounts as prescribed. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, agency or branch of a foreign banking corporation licensed by the superintendent to do business in this state, does not keep its books and accounts in such manner as to enable him or her to readily ascertain its true condition, he or she may, in his or her discretion, issue an order requiring such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, or foreign banking corporation, or the officers or agents thereof, or any of them, to open and keep such books or accounts as he or she may, in his or her discretion, determine and prescribe for the purpose of keeping accurate and convenient records of its transactions and accounts.

§ 4. Paragraph (a) of subdivision 1 of section 44 of the banking law, as amended by chapter 155 of the laws of 2012, is amended to read as follows:

(a) Without limiting any power granted to the superintendent under any other provision of this chapter, the superintendent may, in a proceeding after notice and a hearing, require any safe deposit company, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed mortgage banker, **licensed student loan servicer,** regis-

tered mortgage broker, licensed mortgage loan originator, registered mortgage loan servicer or licensed budget planner to pay to the people of this state a penalty for any violation of this chapter, any regulation promulgated thereunder, any final or temporary order issued pursuant to section thirty-nine of this article, any condition imposed in writing by the superintendent in connection with the grant of any application or request, or any written agreement entered into with the superintendent.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law.

SUBPART B

Section 1. The financial services law is amended by adding a new article 7 to read as follows:

ARTICLE 7
STUDENT DEBT CONSULTANTS

Section 701. Definitions.
702. Prohibitions.
703. Disclosure requirements.
704. Student debt consulting contracts.
705. Penalties and other provisions.
706. Rules and regulations.

§ 701. Definitions. (a) The term "advertisement" shall include, but is not limited to, all forms of marketing, solicitation, or dissemination of information related, directly or indirectly, to securing or obtaining a student debt consulting contract or services. Further, it shall include all commonly recognized forms of media marketing via television, radio, print media, all forms of electronic communication via the internet, and all prepared sales presentations given in person or over the internet to the general public.

(b) "Borrower" means any resident of this state who has received a student loan or agreed in writing to pay a student loan or any person who shares a legal obligation with such resident for repaying a student loan.

(c) "FSA ID" means a username and password allocated to an individual by the federal government to enable the individual to log in to certain United States department of education websites, and may be used to sign certain documents electronically.

(d) "Student loan" means any loan to a borrower to finance post-secondary education or expenses related to post-secondary education.

(e) "Student debt consulting contract" or "contract" means an agreement between a borrower and a consultant under which the consultant agrees to provide student debt consulting services.

(f) "Student debt consultant" or "consultant" means an individual or a corporation, partnership, limited liability company or other business entity that, directly or indirectly, solicits or undertakes employment to provide student debt consulting services. A consultant does not include the following:

(1) a person or entity who holds or is owed an obligation on the student loan while the person or entity performs services in connection with the student loan;

(2) a bank, trust company, private banker, bank holding company, savings bank, savings and loan association, thrift holding company, credit union or insurance company organized under the laws of this

state, another state or the United States, or a subsidiary or affiliate of such entity or a foreign banking corporation licensed by the superintendent of financial services or the comptroller of the currency;

(3) a bona fide not-for-profit organization that offers counseling or advice to borrowers; or

(4) such other persons as the superintendent prescribes by rule.

(g) "Student debt consulting services" means services that a student debt consultant provides to a borrower that the consultant represents will help to achieve any of the following:

(1) stop, enjoin, delay, void, set aside, annul, stay or postpone a default, bankruptcy, tax offset, or garnishment proceeding;

(2) obtain a forbearance, deferment, or other relief that temporarily halts repayment of a student loan;

(3) assist the borrower with preparing or filing documents related to student loan repayment;

(4) advise the borrower which student loan repayment plan or forgiveness program to consider;

(5) enroll the borrower in any student loan repayment, forgiveness, discharge, or consolidation program;

(6) assist the borrower in re-establishing eligibility for federal student financial assistance;

(7) assist the borrower in removing a student loan from default; or

(8) educate the borrower about student loan repayment.

§ 702. Prohibitions. A student debt consultant is prohibited from doing the following:

(a) performing student debt consulting services without a legal written, fully-executed contract with a borrower that comports with the provisions of this article;

(b) charging for or accepting any payment for student debt consulting services before the full completion of all such services, including a payment to be placed in escrow or any other account pending the completion of such services;

(c) taking a power of attorney from a borrower;

(d) retaining any original loan document or other original document related to a borrower's student loan;

(e) requesting that a borrower provide his or her FSA ID to the consultant, or accepting a borrower's FSA ID;

(f) stating or implying that a borrower will not be able to obtain relief on their own;

(g) misrepresenting, expressly or by implication, that:

(1) the consultant is a part of, affiliated with, or endorsed or sponsored by the government, government loan programs, the United States department of education, or borrowers' student loan servicers; or

(2) some or all of a borrower's payments to the consultant will be applied towards the borrower's student loans.

(h) inducing or attempting to induce a student debtor to enter a contract that does not fully comply with the provisions of this article; or

(i) engaging in any unfair, deceptive, or abusive act or practice.

§ 703. Disclosure requirements. (a) A student debt consultant shall clearly and conspicuously disclose in all advertisements:

(1) the actual services the consultant provides to borrowers;

(2) that borrowers may apply for consolidation loans from the United States department of education at no cost, including providing a direct link in all online advertising and contact information in all print

advertising to the application materials for a Direct Consolidation Loan from the United States department of education;

(3) that consolidation or other services offered by the consultant may not be the best or only option for borrowers;

(4) that alternative federal student loan repayment plans, including income-based programs, that do not require consolidating existing federal student loans may be available; and

(5) that borrowers should consider consulting their student loan servicer before signing any legal document concerning a student loan.

(b) The disclosures required by subsection (a) of this section, if disseminated through print media or the internet, shall be clearly and legibly printed or displayed in not less than twelve-point bold type, or, if the advertisement is printed to be displayed in print that is smaller than twelve point, in bold type print that is no smaller than the print in which the text of the advertisement is printed or displayed.

(c) The provisions of this section shall apply to all consultants who disseminate advertisements in the state of New York or who intend to directly or indirectly contact a borrower who has a student loan and is in New York state. Consultants shall establish and at all times maintain control over the content, form and method of dissemination of all advertisements of their services. Further, all advertisements shall be sufficiently complete and clear to avoid the possibility to mislead or deceive.

§ 704. Student debt consulting contracts. (a) A student debt consulting contract shall:

(1) contain the entire agreement of the parties;

(2) be provided in writing to the borrower for review before signing;

(3) be printed in at least twelve-point type and written in the same language that is used by the borrower and was used in discussions between the consultant and the borrower to describe the borrower's services or to negotiate the contract;

(4) fully disclose the exact nature of the services to be provided by the consultant or anyone working in association with the consultant;

(5) fully disclose the total amount and terms of compensation for such services;

(6) contain the name, business address and telephone number of the consultant and the street address, if different, and facsimile number or email address of the consultant where communications from the debtor may be delivered;

(7) be dated and personally signed by the borrower and the consultant and be witnessed and acknowledged by a New York notary public; and

(8) contain the following notice, which shall be printed in at least fourteen-point boldface type, completed with the name of the Provider, and located in immediate proximity to the space reserved for the debtor's signature:

"NOTICE REQUIRED BY NEW YORK LAW

You may cancel this contract, without any penalty or obligation, at any time before midnight of

..... (fifth business day after execution).

..... (Name of consultant) (the "Consultant") or anyone working for the Consultant may not take any money from you or ask you for money until the consultant has completely finished doing everything this Contract says the Consultant will do.

You should consider contacting your student loan servicer before signing any legal document concerning your student loan. In addition, you may

want to visit the New York State Department of Financial Services' student lending resource center at www.dfs.ny.gov/studentprotection. The law requires that this contract contain the entire agreement between you and the Provider. You should not rely upon any other written or oral agreement or promise."

The Provider shall accurately enter the date on which the right to cancel ends.

(b) (1) The borrower has the right to cancel, without any penalty or obligation, any contract with a consultant until midnight of the fifth business day following the day on which the consultant and the borrower sign a consulting contract. Cancellation occurs when the borrower, or a representative of the borrower, either delivers written notice of cancellation in person to the address specified in the consulting contract or sends a written communication by facsimile, by United States mail or by an established commercial letter delivery service. A dated proof of facsimile delivery or proof of mailing creates a presumption that the notice of cancellation has been delivered on the date the facsimile is sent or the notice is deposited in the mail or with the delivery service. Cancellation of the contract shall release the borrower from all obligations to pay fees or any other compensation to the consultant.

(2) The contract shall be accompanied by two copies of a form, captioned "notice of cancellation" in at least twelve-point bold type. This form shall be attached to the contract, shall be easily detachable, and shall contain the following statement written in the same language as used in the contract, and the contractor shall insert accurate information as to the date on which the right to cancel ends and the contractor's contact information:

"NOTICE OF CANCELLATION

Note: You may cancel this contract, without any penalty or obligation, at any time before midnight of (Enter date)

To cancel this contract, sign and date both copies of this cancellation notice and personally deliver one copy or send it by facsimile, United States mail, or an established commercial letter delivery service, indicating cancellation to the Consultant at one of the following:

Name of Consultant

Street Address

City, State, Zip

Facsimile:

I hereby cancel this transaction.

Name of Borrower:

Signature of Borrower:

Date: "

(3) Within ten days following receipt of a notice of cancellation given in accordance with this subsection, the consultant shall return any original contract and any other documents signed by or provided by the borrower. Cancellation shall release the borrower of all obligations to pay any fees or compensation to the consultant.

§ 705. Penalties and other provisions. (a) If the superintendent finds, after notice and hearing, that a consultant has intentionally violated any provision of this article, the superintendent may: (1) make null and void any agreement between the borrower and the consultant; and (2) impose a civil penalty of not more than ten thousand dollars for each violation.

(b) If the consultant violates any provision of this article and the borrower suffers damage because of the violation, the borrower may

recover actual and consequential damages and costs from the consultant in an action based on this article. If the consultant recklessly violates any provision of this article, the court may award attorneys' fees and costs. If the consultant intentionally violates any provision of this article, the court may award treble damages, attorneys' fees and costs.

(c) Any provision of a student debt consulting contract that attempts or purports to limit the liability of the consultant under this article shall be null and void. Inclusion of such provision shall at the option of the borrower render the contract void. Any provision in a contract which attempts or purports to require arbitration of any dispute arising under this article shall be void at the option of the borrower. Any waiver of the provisions of this article shall be void and unenforceable as contrary to public policy.

(d) The provisions of this article are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law.

§ 706. Rules and regulations. In addition to such powers as may otherwise be prescribed by this chapter, the superintendent is hereby authorized and empowered to promulgate such rules and regulations as may in the judgment of the superintendent be consistent with the purposes of this article, or appropriate for the effective administration of this article.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.

SUBPART C

Section 1. Definitions. As used in this act, the following terms shall have the following meanings unless otherwise specified:

(a) "Professional license" shall mean the authorization, licensure, or certification to practice any professional activity in New York state, whether temporary or permanent, issued by any agency, department, office, board, or any other instrumentality of New York state.

(b) "Student loan" shall mean any loan to a borrower to finance post-secondary education or expenses related to postsecondary education.

§ 2. Notwithstanding any other provision of law, rule, or regulation to the contrary, any agency, department, office, board, or any other instrumentality of New York state, county or locality authorized to issue professional licenses in New York state shall be prohibited from taking any adverse action against any licensee, including but not limited to fine, nonrenewal, suspension, or revocation of a professional license, based upon the status of any student loan obligation of such licensee.

§ 3. Notwithstanding any other provision of law, rule, or regulation to the contrary, any agency, department, office, board, or any other instrumentality of New York state, county or locality authorized to issue professional licenses in New York state shall be prohibited from taking any adverse action related to issuance of a professional license against any individual or applicant for a professional license, including but not limited to denial of a professional license or disapproval of an application for a professional license, based upon the status of any student loan obligation of such individual or applicant for a professional license.

§ 4. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or subpart of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or subpart thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Subparts A through C of this act shall be as specifically set forth in the last section of such Subparts.

PART X

Intentionally Omitted

PART Y

Section 1. Section 3 of part S of chapter 58 of the laws of 2016 amending the New York state urban development corporation act relating to transferring the statutory authority for the promulgation of marketing orders from the department of agriculture and markets to the New York state urban development corporation is amended to read as follows:

§ 3. This act shall take effect on the ninetieth day after it shall have become a law and shall expire and be deemed repealed [~~two years after such date~~] **on July 31, 2020**; provided, however, that any assessment due and payable under such marketing orders shall be remitted to the urban development corporation starting 30 days after such effective date.

§ 2. This act shall take effect immediately.

PART Z

Intentionally Omitted

PART AA

Intentionally Omitted

PART BB

Section 1. Approximately 40 percent of the food produced in the United States today goes uneaten. Much of this organic waste is disposed of in solid waste landfills, where its decomposition accounts for over 15 percent of our nation's emissions of methane, a potent greenhouse gas. Meanwhile, an estimated 2.8 million New Yorkers are facing hunger and food insecurity. Recognizing the importance of food scraps to our environment, economy, and the health of New Yorkers, this act establishes a food scraps hierarchy for the state of New York. The first tier of the hierarchy is source reduction, reducing the volume of surplus food generated. The second tier is recovery, feeding wholesome food to hungry people. Third is repurposing, feeding animals. Fourth is recycling, processing any leftover food such as by composting or anaerobic digestion to create a nutrient-rich soil amendment. This legislation is designed to address each tier of the hierarchy by: encouraging the

prevention of food waste generation by commercial generators and residents; directing the recovery of excess edible food from high-volume commercial food waste generators; and ensuring that a significant portion of inedible food waste from large volume food waste generators is managed in a sustainable manner, and does not end up being sent to landfills or incinerators. In addition, the state has supported the recovery of wholesome food by providing grants from the environmental protection fund to increase capacity of food banks, conduct food scraps audits of high-volume generators of food scraps, support implementation of pollution prevention projects identified by such audits, and expand capacity of generators and municipalities to donate and recycle food.

§ 2. Article 27 of the environmental conservation law is amended by adding a new title 22 to read as follows:

TITLE 22

FOOD DONATION AND FOOD SCRAPS RECYCLING

Section 27-2201. Definitions.
27-2203. Designated food scraps generator responsibilities.
27-2205. Waste transporter responsibilities.
27-2207. Transfer station.
27-2209. Food scraps disposal prohibition.
27-2211. Department responsibilities.
27-2213. Regulations.
27-2215. Exclusions.
27-2217. Annual Report.
27-2219. Severability.

§ 27-2201. Definitions.

1. "Designated food scraps generator" means a person who generates at a single location an annual average of two tons per week or more of food scraps based on a methodology established by the department pursuant to regulations, including, supermarkets, restaurants, higher educational institutions, hotels, food processors, correctional facilities, sports or entertainment venues and health care facilities. For a location with multiple independent food service businesses, such as a mall or college campus, the entity responsible for contracting for solid waste hauling services is responsible for managing food scraps from the independent businesses.

2. "Food scraps" means inedible food, trimmings from the preparation of food, food-soiled paper, and edible food that is not donated. Food scraps shall not include used cooking oil, yellow grease or food from residential sources, or any food identified in regulations promulgated by the department in consultation with the department of agriculture and markets or any food which is subject to a recall or seizure due to the presence of pathogens, including but not limited to: Listeria Monocytogenes, confirmed Clostridium Botulinum, E. coli 0157:H7 and all salmonella in ready-to-eat foods.

3. "Organics recycler" means a facility, permitted by the department, that recycles food scraps through use as animal feed or a feed ingredient, rendering, land application, composting, aerobic digestion, anaerobic digestion, fermentation, or ethanol production. Animal scraps, food soiled paper, and post-consumer food scraps are prohibited for use as animal feed or as a feed ingredient. The proportion of the product created from food scraps by a composting or digestion facility, including a wastewater treatment plant that operates a digestion facility, or other treatment system, must be used in a beneficial manner as a soil amendment and shall not be disposed of or incinerated.

4. "Person" means any business entity, partnership, company, corporation, not-for-profit corporation, association, governmental entity, public benefit corporation, public authority, firm, or organization.

5. "Single location" means contiguous property under common ownership, which may include one or more buildings.

6. "Incinerator" shall have the same meaning as provided in section 72-0401 of this chapter.

7. "Landfill" shall have the same meaning as provided in section 72-0401 of this chapter.

8. "Transfer station" means a solid waste management facility, whether owned or operated by a private or public entity, other than a recyclables handling and recovery facility, used oil facility, or a construction and demolition debris processing facility, where solid waste is received for the purpose of subsequent transfer to another solid waste management facility for processing, treating, disposal, recovery, or further transfer.

§ 27-2203. Designated food scraps generator responsibilities.

1. Effective January first, two thousand twenty-one:

(a) all designated food scraps generators shall separate their excess edible food for donation for human consumption to the maximum extent practicable, and in accordance with applicable laws, rules and regulations related to food donation; and

(b) except as provided in paragraph (c) of this subdivision, each designated food scraps generator that is within fifteen miles of an organics recycler, to the extent that the recycler has capacity to accept all of such generator's food scraps based on the department's yearly estimate of an organic recyclers' capacity pursuant to section 27-2211 of this title, shall:

(i) separate its remaining food scraps from other solid waste;

(ii) ensure proper storage for food scraps on site which shall preclude such materials from becoming odorous or attracting vectors, such as a container that has a lid and a latch that keeps the lid closed and is resistant to tampering by rodents or other wildlife and has sufficient capacity;

(iii) have information available and provide training for employees concerning the proper methods to separate and store food scraps; and

(iv) obtain a transporter that will deliver food scraps to an organics recycler, self-haul its food scraps to an organics recycler, or provide for organics recycling on-site via in vessel composting, aerobic or anaerobic digestion or any other method of processing organic waste that the department approves by regulation, for some or all of the food waste it generates on its premises, provided that the remainder is delivered to an organics recycler.

(c) The provisions of paragraph (b) of this subdivision shall not apply to any designated food scraps generator that has all of its food scraps processed in a mixed solid waste composting or mixed solid waste anaerobic digestion facility.

2. All designated food scraps generators shall submit an annual report to the department on or before March first, two thousand twenty-two, and annually thereafter, in an electronic format. The annual report must summarize the amount of edible food donated, the amount of food scraps recycled, the organics recycler or recyclers and associated transporters used, and any other information as required by the department.

3. A designated food scraps generator may petition the department for a temporary waiver from some or all of the requirements of this title. The petition must include evidence of undue hardship based on:

(a) the designated food scraps generator does not meet the two tons per week threshold;

(b) the cost of processing organic waste is not reasonably competitive with the cost of disposing of waste by landfill;

(c) the organics recycler does not have sufficient capacity, despite the department's calculation; or

(d) the unique circumstances of the generator.

A waiver shall be no longer than one year in duration provided, however, the department may renew such waiver.

§ 27-2205. Waste transporter responsibilities.

1. Any waste transporter that collects food scraps for recycling from a designated food scraps generator shall:

(a) deliver food scraps to a transfer station that will deliver such food scraps to an organics recycler unless such generator has received a temporary waiver under subdivision three of section 27-2203 of this title; or

(b) deliver such food scraps directly to an organics recycler.

2. Any waste transporter that collects food scraps from a designated food scraps generator shall take all reasonable precautions to not deliver those food scraps to an incinerator or a landfill nor commingle the material with any other solid waste unless such commingled waste can be processed by an organics recycler or unless such generator has received a temporary waiver under subdivision three of section 27-2203 of this title.

§ 27-2207. Transfer station.

Any transfer station that receives food scraps from a designated food scraps generator must ensure that the food scraps are taken to an organics recycler unless such generator has received a temporary waiver under subdivision three of section 27-2203 of this title. A transfer station shall take all reasonable precautions to not commingle the material with any other solid waste unless such commingled waste can be processed by an organics recycler.

§ 27-2209. Food scraps disposal prohibition.

Incinerators and landfills shall take all reasonable precautions to not accept food scraps from designated food scraps generators required to send their food scraps to an organics recycler as outlined under section 27-2203 of this title, after January first, two thousand twenty-one, unless the designated food scraps generator has received a temporary waiver under subdivision three of section 27-2203 of this title.

§ 27-2211. Department responsibilities.

1. The department shall publish on its website: (a) the methodology the department will use to determine who is a designated food scrap generator; (b) the waiver process; (c) procedures to minimize odors and vectors; and (d) a list of all designated food scraps generators, organics recyclers, and all waste transporters that manage source-separated organics.

2. No later than June first, two thousand twenty and annually thereafter, the department shall assess the capacity of each organic recycler and notify designated food scraps generators if they are required to comply with the provisions of paragraph (b) of subdivision one of section 27-2203 of this title.

3. The department shall develop and make available educational materials to assist designated food scraps generators with compliance with this title. The department shall also develop education materials on food waste minimization and encourage municipalities to disseminate

these materials both on their municipal websites and in any such future mailings to their residents as they may distribute.

4. The department shall regulate organics recyclers to ensure that their activities do not impair water quality or otherwise harm human health and the environment.

§ 27-2213. Regulations.

The department shall, after one or more public hearings, promulgate rules and regulations necessary to implement the provisions of this title including: (a) the methodology the department will use to determine who is a designated food scraps generator; (b) the waiver process; (c) procedures to minimize odors and vectors; (d) a list of all designated food scraps generators, organics recyclers, and all waste transporters that manage source-separated organics; and (e) how designated food scraps generators shall comply with the provisions of paragraph (a) and subparagraph (i) of paragraph (b) of subdivision one of section 27-2203 of this title.

§ 27-2215. Exclusions.

1. This title shall not apply to any designated food scraps generators located in a city with a population of one million or more which has a local law, ordinance or regulation in place which requires the diversion of edible food and food scraps from disposal.

2. This title does not apply to hospitals, elementary and secondary schools.

§ 27-2217. Annual report.

No later than January first, two thousand twenty-two, and on an annual basis thereafter, the department shall submit an annual report to the governor and legislature describing the operation of the food donation and food scraps recycling program including amount of edible food donated, amount of food scraps recycled, sample educational materials, and number of waivers provided.

§ 27-2219. Severability.

The provisions of this title shall be severable and if any portion thereof or the applicability thereof to any person or circumstance is held invalid, the remainder of this title and the application thereof shall not be affected thereby.

§ 3. This act shall take effect immediately.

PART CC

Section 1. Subdivisions 10 and 11 of section 57-0107 of the environmental conservation law, as amended by chapter 267 of the laws of 2015, are amended to read as follows:

10. "Central Pine Barrens area" shall mean the contiguous area as described and bounded as follows:

Beginning at a point where the southerly side of Route 25A intersects the easterly side of Miller Place Road; thence southward along the easterly boundary of Miller Place Road to Helme Avenue; thence southward along the easterly boundary of Helme Avenue to Miller Place-Middle Island Road; thence southward along the easterly boundary of Miller Place-Middle Island Road to Whiskey Road; thence westward along the southerly boundary of Whiskey Road to Mount Sinai-Coram Road; thence southward along the easterly boundary of Mount Sinai-Coram Road to Middle Country Road (Route 25); thence westward along the southerly boundary of Route 25 to Patchogue-Mount Sinai Road (County Route 83); thence southward along the easterly boundary of County Route 83 to Bicycle Path Drive; thence southeastward along the easterly side of Bicycle

Path Drive to Mt. McKinley Avenue; thence southward along the easterly boundary of Mt. McKinley Avenue to Granny Road; thence northeastward along the northerly boundary of Granny Road to Port Jefferson-Patchogue Road (Route 112); thence southward along the easterly boundary of Route 112 to Horse Block Road (County Route 16); thence eastward along the northerly boundary of County Route 16 to Maine Avenue; thence northward along the westerly boundary of Maine Avenue to Fire Avenue; thence eastward along the northerly boundary of Fire Avenue to John Roe Smith Avenue; thence southward along the easterly boundary of John Roe Smith Avenue to Jeff Street; thence eastward along the northerly boundary of Jeff Street to Hagerman Avenue; thence southward along the easterly boundary of Hagerman Avenue to the Long Island Expressway (Route 495); thence eastward along the northerly boundary of Route 495 to the westerly side of Yaphank Avenue (County Road 21); thence southward along the westerly side of Yaphank Avenue to the south side of the Long Island Expressway (Route 495); thence eastward along the southerly side of the Long Island Expressway (Route 495) to the easterly side of Yaphank Avenue; thence southward along the easterly side of Yaphank Avenue, crossing Sunrise Highway (Route 27) to the south side of Montauk Highway (County Road 80); thence southwestward along the south side of Montauk Highway (County Road 80) to South Country Road; thence southward along the easterly side of South Country Road to Fireplace Neck Road; thence southward along the easterly side of Fireplace Neck Road to Beaver Dam Road; thence eastward along the northerly side of Beaver Dam Road to the westerly boundary of the Carmans River and the lands owned by the United States known as Wertheim National Wildlife Refuge (the "Refuge"); thence generally westerly and southerly to the waters of Bellport Bay; thence generally easterly across the Bay and northerly along the easterly boundary of the Refuge, including all lands currently part of the Refuge and any lands which may become part of the Refuge in the future, to the east side of the southern terminus of Smith Road; thence northward along the easterly side of Smith Road to the southwesterly corner of the property identified as District 200, Section 974.50, Block 1, Lot 11; thence eastward, northward and westward in a counter-clockwise direction along the southern, eastern and northern boundaries of that property to the easterly side of Smith Road; thence northward along the east side of Smith Road to Merrick Road; thence northeasterly along the northerly side of Merrick Road to the easterly side of Surrey Circle and the southwest corner of the property identified as District 200, Section 880, Block 3, Lot 58.1; running thence easterly along the southerly side of said lot to the west side of William Floyd Parkway (County Road 46); thence northerly along the westerly side of William Floyd Parkway (County Road 46), crossing Route 27, to the Long Island Railroad (LIRR); thence eastward along the northerly boundary of the Long Island Rail Road tracks 7,500 feet; thence southward 500 feet; thence eastward 525 feet to the intersection of North Street and Manor-Yaphank Road; thence southward along the easterly boundary of Manor-Yaphank Road to Moriches-Middle Island Road; **thence eastward along the northerly boundary of Moriches-Middle Island Road to a point due north of the easterly boundary of Cranford Boulevard; thence southward across Moriches-Middle Island Road and along the easterly boundary of Cranford Boulevard to the southwestern corner of the property identified as District 200, Section 645, Block 3, Lot 29.1; thence southeastward along the southerly boundary of said property to its intersection with property identified as District 200, Section 712, Block 9, Lot 1; thence generally southward along the westerly boundary of said property to its intersection with the norther-**

ly side of the eastward extension of Grove Drive; thence southward crossing Grove Drive to its south side; thence westward along the southerly boundary of the Grove Drive road extension to the northwestern corner of the property identified as District 200, Section 749, Block 3, Lot 41.1; and comprised of parcels owned by the county of Suffolk and the town of Brookhaven; thence southward to the southwestern corner of property identified as District 200, Section 749, Block 3, Lot 43; thence eastward along the southerly boundary of said property to the west side of Lambert Avenue; thence crossing Lambert Avenue to its easterly side; thence southward along the easterly boundary of Lambert Avenue to the northerly boundary of the Sunrise Highway Service Road; thence northeastward along the northerly boundary of the Sunrise Highway Service Road to Barnes Road; thence northward along the westerly boundary of Barnes Road to the northeastern corner of property identified as District 200, Section 750, Block 3, Lot 40.2; thence westward along the northerly boundary of said property to the property identified as District 200, Section 713, Block 1, Lot 2; thence westward along the northerly boundary of property identified as District 200, Section 713, Block 1, Lot 1; thence northward along the westerly side of Weeks Avenue to the northeastern corner of property identified as District 200, Section 713, Block 3, Lot 1; thence westward along the northerly boundary of said property to Michigan Avenue; thence northward along the easterly boundary of Michigan Ave to Moriches-Middle Island Road; thence eastward along the northerly boundary of Moriches-Middle Island Road to Sunrise Highway (Route 27); thence eastward along the northerly boundary of Route 27 to an old railroad grade (unpaved); thence southeastward along the northerly boundary of the old railroad grade (unpaved) to Old County Road (Route 71); thence eastward along the northerly boundary of Route 71 to the Long Island Rail Road tracks; thence eastward along the northerly boundary of the Long Island Rail Road tracks to Montauk Highway; thence eastward along the northerly boundary of Montauk Highway to Route 24; thence northward along the westerly boundary of Route 24 to Sunrise Highway (Route 27); thence eastward along the northerly boundary of Route 27 to Squiretown Road; thence northward along the westerly boundary of Squiretown Road to Upper Red Creek Road; thence westward along the southern boundary of Upper Red Creek to Lower Red Creek Road; thence southward along the easterly boundary of Lower Red Creek Road to Hubbard County Park; thence westward along the northern boundary of Hubbard County Park to Riverhead-Hampton Bays Road (Route 24); thence westward along the southerly boundary of Route 24 to Peconic Avenue; thence northward along the westerly boundary of Peconic Avenue to the Riverhead-Southampton border; thence westward along the Riverhead-Southampton border and the Riverhead-Brookhaven border to the Forge Road Bridge; thence northward along the westerly boundary of the Forge Road Bridge to Forge Road; thence northwestward along the westerly boundary of Forge Road to the railroad tracks; thence northward along the westerly boundary of Forge Road (unpaved) to the intersection of Route 25 and River Road; thence westward along the southerly boundary of River Road to Edwards Avenue; thence northward along the westerly boundary of Edwards Avenue 3,800 feet; thence westward 4,400 feet to an unnamed, unpaved road; thence northward along the westerly boundary of the unnamed, unpaved road 150 feet; thence westward and northwestward along the eastern boundary of the United States Navy/Grumman Aerospace Corporation property (as of 1982) up to its intersection with Middle Country Road (Route 25); thence westward along the southerly boundary of Route 25 to the intersection of Route 25 and 25A; thence northeastward, west-

ward, and southwestward along the eastern and northern boundary of the United States Navy/Grumman Aerospace Corporation (as of 1982) and located immediately east of Route 25A, to its intersection with Route 25A; **thence westward along the southerly boundary of Route 25A to a point due south of the southeast corner of the parcel identified as District 200, Section 128, Block 1, lot 3.1; thence northeastward, northward and westward along the southerly, easterly and northerly sides of the parcel identified as District 200, section 128, Block 1, lot 1 to the southeast corner of the parcel identified as District 200, Section 82, Block 1, Lot 5.2; thence northward along the east side of this parcel to North Country Road; thence northward crossing North Country Road to its northerly side; thence eastward along the northerly side of North Country Road to the Brookhaven Town-Riverhead Town line; thence in a generally northwestward direction along said town line to a point in Wading River Creek with the coordinates 40.96225 latitude and -72.863633 longitude; thence westward a distance of approximately 90 feet to the easterly side of LILCO Road; thence southward along LILCO Road to its intersection with the north side of North Country Road; thence westward along the north side of North Country Road to the southeast corner of the parcel identified as District 200, Section 39, Block 1, Lot 2; thence in a northward and westward direction along the easterly and northerly sides of said parcel to its northwest corner; thence northward along the westerly boundary of the parcel identified as District 200, Section 83, Block 1, Lot 1.4 to its northwest corner; and thence continuing in a westward direction along the northerly side of the parcel identified as District 200, Section 39, Block 1, Lot 1.2 and the southerly extent of Long Island Sound to the northwest corner of the property identified as District 200, Section 39, Block 1, Lot 1.2; thence southward along the westerly boundary of said property to North Country Road; thence west along the southerly boundary of North Country Road to the northwestern corner of property identified as District 200, Section 82, Block 1, Lot 1.1; thence south along the westerly boundary of said property and the westerly boundary of the property identified as District 200, Section 82, Block 1, Lot 1.2 to the northwest corner of property identified as District 200, Section 82, Block 1, Lot 5.1; thence southward along the westerly boundary of said property to the northeast corner of the property identified as District 200, Section 105, Block 3, Lot 5, thence southward along the easterly boundary of said property to the north side of Route 25A; thence southward crossing Route 25A to its south side;** thence westward along the southerly boundary of Route 25A to the point or place of beginning, and excluding [~~one~~] **two** distinct [~~area~~] **areas** described as follows: The **first** area defined as beginning at a point where the westerly side of William Floyd Parkway (County Road 46) meets northerly side of the Long Island Railroad (LIRR); thence westward along the northerly side of the LIRR to Moriches-Middle Island Road; thence generally northwestward along the northerly side of Moriches-Middle Island Road to the southerly side of Long Island Expressway (Route 495); thence eastward along the southerly side of the Long Island Expressway (Route 495) to the westerly side of William Floyd Parkway (County Road 46); thence southward along the westerly side of William Floyd Parkway (County Road 46) and containing the subdivision known as RB Industrial Park, to the point or place of beginning **and the second area defined as the property described as District 200, Section 39, Block 1, Lot 1.1**.

11. "Core preservation area" shall mean the core preservation area of the Central Pine Barrens area which comprise the largest intact areas of undeveloped pine barrens as described and bounded as follows:

Beginning at a point where the northwestern corner of the New York State Rocky Point Natural Resource Management Area (the "NYS Rocky Point Land") intersects the southerly side of NYS Route 25A; thence generally southward and eastward along the generally westerly and southerly boundaries of the NYS Rocky Point Land (including the Currans Road Pond State Wildlife Management Area, all adjacent or contiguous undeveloped Town of Brookhaven parks, preserves, open space areas, or reserved areas, and the crossings of the undeveloped Suffolk County property known as the Port Jefferson - Westhampton road right of way, Whiskey Road, County Route 21, and Currans Road), and including those properties identified as District 200, Section 346, Block 1, Lots 3 and 4, to the point where the NYS Rocky Point Land meets the northerly side of NYS Route 25 (Middle Country Road); thence eastward along the northerly boundary of NYS Route 25 to the southeastern corner of that property west of Woodlots Road which is identified as District 200, Section 349, Block 2, Lot 1.3; thence northward along the easterly boundary of that property to the Suffolk County Pine Trail Nature Preserve; thence eastward and southeastward along the southerly boundary of the Suffolk County Pine Trail Nature Preserve where the Preserve is adjacent to developed parcels or parcels in agricultural or horticultural use, or along a line parallel to, and 100 (one hundred) feet south of, the Preserve where the Preserve is adjacent to parcels which are undeveloped as of June 1, 1993, to County Route 46; thence southward along the easterly boundary of County Route 46 to NYS Route 25; thence eastward along the southerly boundary of NYS Route 25 to the Suffolk County Pine Trail Nature Preserve; thence southward along the westerly boundary of the Suffolk County Pine Trail Nature Preserve where the Preserve is adjacent to developed parcels, or along a line parallel to, and 100 (one hundred) feet west of, the Preserve where the Preserve is adjacent to parcels which are undeveloped as of June 1, 1993, to the northern boundary of the United States land known as Brookhaven National Laboratory; thence generally westward along the northerly boundary of Brookhaven National Laboratory to County Route 46 (William Floyd Parkway); thence generally northwestward on a straight line to the intersection of Sally Lane and Pond Lane; thence westward along the southerly side of Pond Lane to Ruth Lane; thence northward along the westerly side of Ruth Lane to NYS Route 25; thence westward along the northerly side of NYS Route 25 to the southeast corner of the NYS Middle Island State Game Farm and Environmental Education Center; thence northward, westward, and southward along the easterly, northerly, and westerly boundaries of the NYS Middle Island State Game Farm and Environmental Education Center to NYS Route 25; thence westward along the southerly side of NYS Route 25, excluding all parcels abutting that road which are developed as of June 1, 1993, to Giant Oak Road; thence southward along the easterly side of Giant Oak Road to Medford Road; thence southwestward along the southeasterly side of Medford Road crossing to the west side of Smith Road; thence southerly along the westerly side of Smith Road to the southeast corner of District 200, Section 406, Block 1, Lot 6; thence westward and northward along the southerly and westerly sides of said parcel to the southerly side of the developed lands known as Strathmore Ridge; thence westward, northward and eastward along the southerly, westerly and northerly sides of the developed lands known as Strathmore Ridge to the westerly side of Smith Road; thence northerly along the westerly side of Smith Road to

the southerly side of NYS Route 25; thence westerly along the southerly side of NYS Route 25, to the northwestern corner of that property which is identified as District 200, Section 406, Block 1, Lot 4.3; thence southerly along the westerly boundary of that property and continuing southward along the westerly sides of the properties identified as District 200, Section 406, Block 1, Lot 4.6; District 200, Section 406, Block 1, Lot 4.4 and District 200, Section 504, Block 1, Lot 2 to the southerly side of Longwood Road; thence eastward along the southerly side of Longwood Road to the northwest corner of the property identified as District 200, Section 504, Block 1, Lot 7.2; thence southward and westward along the generally westerly boundary of that parcel to the eastern end of Rugby Lane (also known as Rugby Avenue or Rugby Road), a paper street shown on Suffolk County tax maps District 200, Sections 500, 502, and 503; thence westward along the northerly boundary of Rugby Lane, across County Route 21, to the westerly boundary of County Route 21 (Yaphank - Middle Island Road); thence southward along the westerly boundary of County Route 21 to the northeastern corner of the parcel identified as District 200, Section 529, Block 1, Lot 28, and which is coterminous with the southerly boundaries of the parcels located on the south side of Rustic Lane; thence westward along the northerly boundary of that parcel to the southwest corner of the parcel identified as District 200, Section 528, Block 5, Lot 2; thence northward along a portion of the easterly boundary of the Carmans River, which comprises the easterly boundary of the parcel identified as District 200, Section 528, Block 5, Lot 1, to its intersection with the southern boundary of the Suffolk County Nature Preserve parcel identified as District 200, Section 500, Block 1, Lot 1.4; thence eastward along the southern boundary of that parcel to the southeast corner of that parcel; thence northward along the easterly boundary of that Suffolk County Nature Preserve parcel to the southeast corner of the Suffolk County Nature Preserve parcel identified as District 200, Section 500, Block 1, Lot 3.1, thence generally northward along the easterly boundary of that parcel to the north side of East Bartlett Road; thence easterly along the north side of East Bartlett Road to the east side of County Road 21; thence southerly along the east side of County Road 21 to the southwest corner of District 200, Section 501, Block 1, Lot 2.1; thence easterly and northerly along the southern and eastern sides of that property and northward along the easterly side of District 0200, 50100, Block 0100, Lot 002002 and across to the north side of Longwood Road; thence westerly along the north side of Longwood Road to the southeast corner of District 200, Section 482, Block 1, Lot 3.1; thence northward and eastward along the easterly and southerly boundaries of that parcel to the northwest corner of the parcel identified as District 200, Section 483, Block 2, Lot 1.4; thence eastward along the southerly property boundary of the parcel identified as District 200, Section 482, Block 1, Lot 4 to the southeast corner of that parcel; thence northward along the easterly boundary of that parcel to the northeast corner of that parcel; thence eastward and northward along the southerly and easterly boundaries of the parcel identified as District 200, Section 456, Block 2, Lot 4 to the northeast corner of that parcel; thence generally northerly and westerly along the easterly and northerly boundary of Prosser Pines County Nature Preserve to County Road 21; thence westward (directly across County Route 21) along the southerly boundary of the property identified as District 200, Section 434, Block 1, Lot 12.1, to the southwest corner of the property identified as District 200, Section 434, Block 1, Lot 14.3, adjacent to the eastern side of Cathedral Pines County Park; thence northward along

the eastern boundary of Cathedral Pines County Park to the southeast corner of the property identified as District 200, Section 402, Block 1, Lot 23.1, thence continuing northward along the easterly boundary of that property to the southerly side of Lafayette Road; thence westward along the southerly side of Lafayette Road to the eastern boundary of the property identified as District 200, Section 402, Block 1, Lot 24.7; thence generally in a counter-clockwise direction along the easterly, northerly, westerly and northerly boundaries of that property to the easterly boundary of the parcel identified as District 200, Section 402, Block 1, Lot 19.2; thence northerly along the easterly side of said lot to the southeast corner of the property identified as District 200, Section 402, Block 1, Lot 20, thence westward and northward along the southerly and westerly sides of that property to the southerly side of NYS Route 25; thence westward along the southerly boundary of NYS Route 25 to the northwestern corner of the parcel identified as District 200, Section 402, Block 1, Lot 16.4; thence generally southward along the westerly boundary of that parcel to the northerly boundary of the parcel identified as District 200, Section 454, Block 1, Lot 9.1; thence westward along the northerly boundary of that parcel to East Bartlett Road; thence southward along the easterly boundary of East Bartlett Road to its intersection with Ashton Road; thence westward to the northeastern corner of the old filed map shown on District 200, Section 499; thence westward and southward along the northerly and westerly boundaries of the old filed map shown on Suffolk County tax maps District 200, Sections 498, 499, and 527 to Hillcrest Road; thence eastward along the southerly boundary of Hillcrest Road to Ashton Road; thence southward along the easterly side of Ashton Road to Granny Road; thence eastward along the southerly side of Granny Road to the northwesterly corner of District 200, Section 547, Block 1, Lot 18.1; thence generally southward, westward, southward, eastward and northward in a counter-clockwise direction along the western, northern, southern and eastern boundaries of said parcel to the southeast corner of the parcel identified as District 200, Section 548, Block 1, Lot 3; thence northward along the easterly boundary of that parcel to its northeast corner; thence generally northward, northeastward and eastward along the westerly, northwesterly and northerly sides of German Boulevard to its intersection with the northeasterly side of Lakeview Boulevard; thence southeastward along the northeasterly side of Lakeview Boulevard to the westerly boundary of the parcel identified as District 200, Section 611, Block 1, Lot 5; thence northward along the westerly boundary of that parcel to its northwest corner; thence southward along the westerly boundary of the parcel identified as District 200, Section 579, Block 3, Lot 1, comprising part of the western bank of the Carmans River also known as Upper Lake, to the northerly side of Mill Road, also known as County Route 101; thence eastward along the northerly side of Mill Road to the northeast corner of the parcel identified as District 200, Section 579, Block 3, Lot 19; thence westerly along the northerly boundary of that parcel to the eastern boundary of the parcel identified as District 200, Section 579, Block 3, Lot 1; thence northward along the easterly side of that parcel, comprising part of the eastern bank of the Carmans River also known as Upper Lake, to the southwest corner of the parcel identified as District 200, Section 548, Block 2, Lot 5.1; thence eastward along the southern boundary of that parcel to its southeast corner; thence eastward across County Route 21 to its easterly side; thence northward along the easterly boundary of County Route 21 to the southwest corner of the Suffolk County Nature Preserve parcel known as

Warbler Woods and identified as District 200, Section 551, Block 1, Lot 4; thence generally eastward along the southerly boundary of the Warbler Woods parcel and then southward along the westerly boundary of an extension of that parcel's southerly boundary to the southeast corner of the southern terminus of Harold Road; thence generally westward, southward and westward in a counter-clockwise direction along the northerly, westerly, northerly and westerly boundaries of the Suffolk County Nature Preserve parcel known as Fox Lair, and identified as District 200, Section 580, Block 3, Lot 24.2, to the northwest corner of the parcel Suffolk County Water Authority parcel identified as District 200, Section 580, Block 3, Lot 24.6; thence southward, eastward and southward along the westerly boundary and southerly boundaries of that Suffolk County Water Authority parcel to Main Street; thence eastward along the north side of Main Street to the southeast corner of said Suffolk County Water Authority parcel to its southeast corner; thence northward along the easterly boundary of that parcel to the southwest property boundary of the Suffolk County Nature Preserve parcel known as Fox Lair and identified as District 200, Section 580, Block 3, Lot 24.2, thence generally eastward, southward, eastward, northward and eastward along the southerly boundaries of said parcel and eastward along the southerly boundary of the Suffolk County Nature Preserve parcel identified as District 200, Section 583, Block 1, Lot 4.1, to the west side of the unimproved north-south oriented road known variously as Smith Road, Longwood Road and Private Road; thence southward along the westerly boundary of Smith Road to the north side of the Long Island Expressway; thence westward along the northerly boundary of the Long Island Expressway to the south side of Main Street in Yaphank; thence westward along the southerly boundary of Main Street in Yaphank to the westernmost extent along Main Street of the Southaven County Park boundary; thence westward across County Road 21 to the western boundary of the County Road 21 right-of-way; thence southward along the western boundary of the County Road 21 right-of-way to the northerly side of the parcel identified as District 200, Section 611, Block 3, Lot 16, comprising the northerly bank of the Carmans River known as Lower Lake; thence westward along the northerly side of that property to the southwest corner of the parcel identified as District 200, Section 612, Block 4, Lot 1; thence northward along the westerly boundary of that parcel to the southerly side of County Route 21 known as Main Street; thence westward along the southerly side of County Route 21 known as Main Street to the northeast corner of the parcel identified as District 200, Section 612, Block 2, Lot 12; thence southward along the easterly boundary of that parcel to the southeast corner of the parcel identified as District 200, Section 612, Block 2, Lot 11; thence westward and northwestward along the northerly and northeasterly boundaries of the Town of Brookhaven parcel identified as District 200, Section 611, Block 3, Lot 9 to the south side of Mill Road, also known as County Road 101; thence generally westward and southward along the southerly side of Mill Road and continuing southward along the eastern side of Patchogue-Yaphank Road, also known as County Road 101, to the southerly side of Gerard Road; thence eastward along the southerly side of Gerard Road to its westerly boundary known as the map of Grand Heights, filed in the offices of the Suffolk County clerk; thence southward along the westerly map line of the filed map known as Grand Heights to the north side of the Long Island Expressway NYS Route 495; thence easterly along the northerly side of the Long Island Expressway NYS Route 495 to the westerly side of County Route 21 known as Yaphank Avenue; thence southward along the westerly side of Yaphank Avenue to

the south side of the Long Island Expressway; thence eastward along the south side of the Long Island Expressway to the westerly boundary of Southaven County Park, thence generally southward along the westerly boundary of Southaven County Park to the northeast corner of the lands of Suffolk County identified as District 200, Section 665, Block 2, Lot 1; thence generally southward along the easterly boundary of said lot, crossing the LIRR and Park Street and continuing southward along the westerly boundary of Davenport Avenue as shown on the old filed map known as Bellhaven Terrace; thence southward and eastward along the westerly and southerly boundaries of the parcel identified as District 200, Section 744, Block 1, Lot 10 to the westerly boundary of the parcel identified as District 200, Section 781, Block 1, Lot 3.1; thence continuing southerly along the westerly boundary of that parcel to the easterly boundary of Gerard Road; thence southward along the easterly boundary of Gerard Road to Victory Avenue; thence eastward along the northerly boundary of Victory Avenue to a point where the west bank of the Carmans River passes under Victory Avenue and Route 27; thence south under Route 27 to the southerly side of Montauk Highway also known as County Road 80; thence westward along the southerly side of Montauk Highway County Road 80, including lands owned by the United States known as Wertheim National Wildlife Refuge (the "Refuge"), to the eastern side of Old Stump Road; thence southward along the easterly side of Old Stump Road to the northerly side of Beaver Dam Road; thence eastward along the northerly side of Beaver Dam Road to the lands owned by the United States known as Wertheim National Wildlife Refuge (the "Refuge"), including the Carmans River; thence generally westerly and southerly to the waters of Bellport Bay; thence generally easterly across the Bay and northerly along the easterly boundary of the Refuge, including all lands currently part of the Refuge and any lands which may become part of the Refuge in the future to the east side of the southern terminus of Smith Road; thence northward along the easterly side of Smith Road to the southwesterly corner of the property identified as District 200, Section 974.50, Block 1, Lot 11; thence eastward, northward and westward in a counter-clockwise direction along the southern, eastern and northern boundaries of that property to the easterly side of Smith Road; thence northward along the easterly side of Smith Road to the northerly side of Montauk Highway County Road 80; thence northeasterly to the southwesterly corner of the property identified as District 200, Section 849, Block 2, Lot 2; thence eastward along the northerly boundary of Montauk Highway to the southeasterly corner of the property identified as District 200, Section 850, Block 3, Lot 8; thence northward to the northeasterly corner of that parcel, including all lands owned by the United States known as Wertheim National Wildlife Refuge (the "Refuge") at any time between June 1, 1993 and the present, and any lands which may become part of the Refuge in the future; thence northwestward across Sunrise Highway (NYS Route 27) to the southwesterly corner of the property identified as District 200, Section 850, Block 2, Lot 1; thence northward along the westerly boundary of that parcel across to the northerly boundary of Victory Avenue; thence westward along the northerly boundary of Victory Avenue to the westerly boundary of River Road; thence northward along the westerly boundary of River Road to the north side of the Long Island Rail Road right-of-way; thence easterly along the northerly side of the Long Island Rail Road right-of-way to the north side of Moriches-Middle Island Road; thence generally northward and westward along the northerly side of Moriches-Middle Island Road to the northerly side of the Long Island Expressway; thence westward along the northerly boundary

of the Long Island Expressway to the southeasterly corner of the Longwood Greenbelt property (the property identified as District 200, Section 583, Block 2, Lot 1.1); thence northward along the easterly boundary of the Longwood Greenbelt property to its northeast corner; thence eastward to the southwesterly corner of the property known as District 200, Section 552, Block 1, Lot 8; thence generally northeastward along the easterly boundary of the property identified as District 200, Section 552, Block 1, Lot 1.7 to the northeasterly corner of that parcel; thence eastward along the southerly boundaries of the parcels identified as District 200, Section 504, Block 1, Lot 8, and District 200, Section 504, Block 1, Lot 11, to the westerly boundary of the William Floyd Parkway (County Route 46); thence northward along the westerly side of County Route 46 to a point 2000 (two thousand) feet south of the southern bank of the Peconic River crossing of County Route 46; thence generally southeastward along a line parallel to, and 2000 (two thousand) feet generally south or southwest of, and parallel to, the southernmost bank of the Peconic River to a point where the Peconic River crosses the unpaved, unnamed, north-south firebreak and patrol road on the eastern half of the Brookhaven National Laboratory property; thence southward and southwestward along the easterly and southeasterly boundaries of the unpaved, unnamed, north-south firebreak and patrol road starting on the eastern half of the Brookhaven National Laboratory property to the Brookhaven National Laboratory road known as Brookhaven Avenue; thence due westward along a straight line to the Brookhaven National Laboratory road known as Princeton Avenue; thence westward along the southerly boundary of Princeton Avenue to the unnamed Laboratory road which diverts southwest in the vicinity of the Laboratory gate house; thence southwestward along the southerly side of the unnamed Laboratory road just described to County Route 46; thence southward along the easterly side of County Route 46 to NYS Route 495; thence eastward along the northerly boundary of NYS Route 495 to County Route 111; thence southeastward along the northerly boundary of County Route 111 to NYS Route 27 (Sunrise Highway); thence generally southward across NYS Route 27 to the westernmost extent along NYS Route 27 of the undeveloped portion (as of June 1, 1993) of the parcel assemblage comprised of those parcels identified as District 200, Section 594, Block 2, Lot 4 and District 900, Section 325, Block 1, Lot 41.2; thence southward along the westerly boundary of the undeveloped portion (as of June 1, 1993) of that parcel assemblage to County Route 71 (Old Country Road); thence eastward along the northerly boundary of County Route 71 to the southeastern corner of the Suffolk County Nature Preserve lands which run from NYS Route 27 south to County Route 111 and which adjoin the easterly side of the preceding assemblage; thence northward along the easterly boundary of that Suffolk County Nature Preserve assemblage (crossing the County Route 111 right of way) to NYS Route 27; thence eastward along the southerly boundary of NYS Route 27 to the westerly end of 19th Street as shown in the old filed map contained within the tax map identified as District 900, Section 276, Block 2; thence southward along the westerly boundary of that old filed map (shown in District 900, Sections 276, 302, 303, 327, and 328), and coterminous with the westerly side of those parcels along the westerly side of Oishei Road, to County Route 71; thence eastward along the northerly boundary of County Route 71 to the southeasterly corner of the parcel identified as District 900, Section 328, Block 2, Lot 19; thence northward along the easterly boundary of that old filed map surrounding Oishei Road, and coterminous with the easterly side of those parcels along the easterly side of Oishei

Road, to a point along that line due west of the northwesterly corner of the parcel containing the Suffolk County facilities identified as District 900, Section 331, Block 1, Lot 1; thence due eastward along a straight line to the northwesterly corner of that parcel; thence eastward along the northerly boundary of that parcel to its northeasterly corner shown in District 900, Section 307; thence due eastward along a straight line to Summit Boulevard; thence southward along the westerly side of Summit Boulevard to County Route 71; thence eastward along the northerly side of County Route 71, excluding all parcels abutting that road which are developed as of June 1, 1993, to the Long Island Rail Road tracks; thence eastward along the northerly boundary of the Long Island Rail Road tracks to County Route 31 (Old Riverhead Road); thence northward along the westerly boundary of County Route 31 to that point opposite the point along the easterly side of County Route 31 (north of the Stewart Avenue intersection) at which the undeveloped portion (as of June 1, 1993) of the Suffolk County Airport (Gabreski Airport) occurs; thence generally northward, eastward and southward around the westerly, northerly and easterly boundaries of the undeveloped portion (as of June 1, 1993) of the airport property (excluding from the Core Preservation Area those portions of the airport property which are occupied by the runways, their associated maintenance areas, and those areas identified for future use in the Suffolk County Airport Master Plan approved by the County Legislature) to the Long Island Rail Road tracks (including in the Core Preservation Area those portions of the airport property which are adjacent to the Quogue Wildlife Refuge's westerly boundary and which are in their natural state); thence eastward along the northerly boundary of the Long Island Rail Road tracks to the southeasterly corner of the Town of Southampton parcel identified as District 902, Section 1, Block 1, Lot 22.1; thence generally northward and eastward along the easterly border of that parcel and the Town of Southampton parcels to the immediate north identified as District 900, Section 313, Block 1, Lot 42.1 and District 900, Section 287, Block 1, Lot 1.55 to County Route 104; thence northward along the westerly boundary of County Route 104 to a point 1000 (one thousand) feet southward of NYS Route 27; thence eastward along a line parallel to, and 1000 (one thousand) feet south of, NYS Route 27, to the westerly boundary of the parcel identified as District 900, Section 252, Block 1, Lot 1; thence southward along the westerly boundary of that parcel to the Long Island Rail Road tracks; thence eastward along the northerly boundary of the Long Island Rail Road tracks to Montauk Highway; thence eastward along the northerly boundary of Montauk Highway to that point where the boundary of Sears-Bellows County Park heads northward along the eastern side of the Munns Pond portion; thence northward along the easterly boundary of Sears-Bellows County Park, to NYS Route 27; thence eastward along the northerly boundary of NYS Route 27 to NYS Route 24 (Riverhead - Hampton Bays Road); thence generally northwestward and westward along the southwesterly boundary of NYS Route 24 to the easternmost extent along NYS Route 24 of the Suffolk County Parkland known as Flanders or Hubbard County Park; thence generally northward, westward, and southward along the easterly, northerly, and westerly boundaries of Flanders or Hubbard County Park, including all adjacent or contiguous undeveloped Town of Southampton parks, preserves, open space areas, or reserved areas, to NYS Route 24; thence westward along the southerly boundary of NYS Route 24 to Pleasure Drive; thence southward along the easterly boundary of Pleasure Drive a distance of 2000 (two thousand) feet, excluding all parcels abutting that road which are developed as of June 1, 1993;

thence generally westward along a straight line to the southernmost extent of the NYS David Sarnoff Preserve along the westerly boundaries of the parcels on the westerly side of Brookhaven Avenue; thence generally northward and westward along the easterly and northerly boundary of the NYS David Sarnoff Pine Barrens Preserve, crossing County Routes 105 and 104, to County Route 63 (Riverhead-Moriches Road); thence generally westward and northward along the northerly boundary of the Suffolk County Cranberry Bog County Nature Preserve to County Route 51; thence southwesterly along the westerly side of County Route 51 to the boundary of the Cranberry Bog County Nature Preserve; thence westward and northward along the northeasterly boundary of Cranberry Bog County Nature Preserve to County Route 94 (also known as NYS Route 24, or Nugent Drive); thence eastward along the northerly side of County Route 94 to the County Route 94A bridge; thence northward along the westerly side of the County Route 94A bridge to the Riverhead-Southampton border; thence westward along the Riverhead-Southampton border, and the Riverhead-Brookhaven Border, to the Forge Road Bridge; thence northward along the westerly boundary of the Forge Road Bridge to Forge Road; thence northwestward along the westerly boundary of Forge Road to the Long Island Rail Road tracks; thence northward along the westerly boundary of Forge Road (unpaved) to the intersection of NYS Route 25 and River Road; thence westward along the southerly boundary of River Road to Edwards Avenue; thence westward along the southerly boundary of River Road (Grumman Boulevard or Swan Pond Road) to the southeast corner of that parcel containing Conoe (or Canoe) Lake and identified as District 600, Section 137, Block 1, Lot 1; thence northward, westward, and southward along the borders of that parcel containing Conoe (or Canoe) Lake to River Road (Grumman Boulevard); thence westward along the northerly boundary of Grumman Boulevard to the southeasternmost corner of the undeveloped portion (as of June 1, 1993) of the United States Navy/Grumman Corporation property located on the north side of Grumman Boulevard and adjacent to the Grumman entrance known as the South Gate; thence due north along the easternmost edge of that undeveloped portion (as of June 1, 1993) of the United States Navy/Grumman Corporation property to NYS Route 25; thence along a straight line to the northerly side of NYS Route 25 to a point occupied by the southeasternmost corner of the parcel assemblage comprised of District 600, Section 75, Block 3, Lot 10.1, and District 600, Section 96, Block 1, Lot 14, and otherwise known as Camp Wauwepex; thence northward, westward, and generally southward along the easterly, northerly, and generally westerly boundaries of the Camp Wauwepex assemblage to NYS Route 25; thence westward along the northerly side of NYS Route 25 to Montauk Trail; thence northeastward along the northwesterly side of Montauk Trail to Panamoka Trail; thence northward along the westerly side of Panamoka Trail, excluding all parcels abutting that road which are developed as of June 1, 1993, to Matinecock Trail; thence westward along the southerly side of Matinecock Trail to the easterly boundary of Brookhaven State Park; thence generally northward along the easterly boundary of Brookhaven State Park, including all adjacent or contiguous undeveloped Town of Brookhaven parks, preserves, open space areas, or reserved areas, to its intersection with NYS Route 25A; [~~thence westward along the southerly side of NYS Route 25A to the northeast corner of the Shoreham-Wading River school district property;~~] thence eastward along the southerly boundary of Route 25A to a point due south of the southeast corner of the parcel identified as District 200, Section 128, Block 1, Lot 3.1; thence northeastward, northward and westward along the southerly, easterly and

northerly sides of the parcel identified as District 200, Section 128, Block 1, Lot 1 to the southeast corner of the parcel identified as District 200, Section 82, Block 1, Lot 5.2; thence northward along the east side of this parcel to its intersection with the south side of North Country Road; thence northward crossing North Country road to its northerly side; thence eastward along the northerly side of North Country Road to the Brookhaven Town-Riverhead Town line; thence in a generally northwestward direction along said town line to a point in Wading River Creek With the coordinates 40.96225 latitude and -72.863633 longitude; thence westward a distance of approximately 90 feet to the easterly side of LILCO Road; thence southward along LILCO Road to its intersection with the north side of North Country Road; thence westward along the north side of North Country Road to the southeast corner of the parcel identified as District 200, Section 39, Block 1, Lot 2; thence in a northward and westward direction along the easterly and northerly sides of said parcel to its northwest corner; thence northward along the westerly boundary of the parcel identified as District 200, Section 83, Block 1, Lot 1.4 to its northwest corner and the shoreline of Long Island Sound; thence westward /along the northerly side of the parcel identified as District 200, Section 83, Block 1, Lot 1.4 and continuing in a westward direction along the northerly side of the parcel identified as district 200, section 39, Block 1, lot 1.2 and the southerly extent of the Long Island Sound to the northwest corner of the property identified as District 200, Section 39, Block 1, Lot 1.2; thence southward along the westerly boundary of said property to North Country Road; thence west along the southerly boundary of North Country Road to the northwestern corner of the property identified as District 200, Section 82, Block 1, Lot 1.1; thence south along the westerly boundary of said property and the westerly boundary of the property identified as District 200, Section 39, Block 1, Lot 1.2 to the northwest corner of property identified as District 200, Section 82, Block 1, Lot 5.1; thence southward along the westerly boundary of said property in a line to the northeast corner of property identified as District 200, Section 105, Block 3, Lot 5; thence southward along the easterly boundary of said property to the north side of Route 25A; thence eastward along the north side of Route 25A to a point directly north of the northeast corner of the Shoreham-Wading River school district property; thence southward, crossing Route 25A to its southerly boundary and the northeast corner of the Shoreham-Wading river school district property; thence southward, westward, and northward along the easterly, southerly, and westerly boundaries of the Shoreham-Wading River school district property to NYS Route 25A; thence westward along the southerly side of NYS Route 25A to County Route 46; thence southward along the easterly side of County Route 46 to its intersection with the Suffolk County Pine Trail Nature Preserve; thence westward along the northerly boundary of the Suffolk County Pine Trail Nature Preserve where the Preserve is adjacent to developed parcels or parcels in agricultural or horticultural use, or along a line parallel to, and 100 (one hundred) feet north of, the Preserve where the Preserve is adjacent to parcels which are undeveloped as of June 1, 1993, to the southeastern corner of the parcel west of Woodlots Road and identified as District 200, Section 291, Block 1, Lot 14.1; thence northward and westward along the easterly and northerly boundaries of that parcel to Whiskey Road; thence westward along the southerly side of Whiskey Road to Wading River Hollow Road; thence northward along the westerly side of Wading River Hollow Road to the boundary of the NYS Rocky Point Land; thence generally northward along

the easterly boundary of the NYS Rocky Point Land, including all adjacent or contiguous undeveloped Town of Brookhaven parks, preserves, open space areas, or reserved areas, to NYS Route 25A; thence westward along the southerly side of NYS Route 25A, excluding those parcels abutting that road which are developed as of June 1, 1993, and those lands identified for the reroute of Route 25A by the NYS Department of Transportation, to the northeastern corner of the parcel identified as District 200, Section 102, Block 3, Lot 1.4; thence southward along the westerly boundary of that parcel to the parcel identified as District 200, Section 102, Block 3, Lot 1.6; thence generally westward and southward along the westerly boundaries of that parcel and the adjoining southerly parcel identified as District 200, Section 102, Block 3, Lot 1.5 to the boundary of the NYS Rocky Point Land; thence westward along the northerly boundary of the NYS Rocky Point Land to County Route 21; thence generally westward along a straight line across County Route 21 to the northernmost extent along County Route 21 of the NYS Rocky Point Land; thence generally westward along the generally northerly boundary of the NYS Rocky Point Land to the point or place of beginning, and excluding the area defined as beginning at a point where the southerly boundary of NYS Route 25 meets the easterly side of the Suffolk County Pine Trail Nature Preserve; thence southeastward along the easterly side of the Suffolk County Pine Trail Nature Preserve where the Preserve is adjacent to developed parcels, or along a line parallel to, and 100 (one hundred) feet east of, the Preserve where the Preserve is adjacent to parcels which are undeveloped as of June 1, 1993, to the Long Island Lighting Company high voltage transmission lines; thence northward along the westerly side of the Long Island Lighting Company high voltage transmission lines to NYS Route 25; thence westward along the southerly side of NYS Route 25 to the point or place of beginning;

and excluding [~~two~~] three distinct areas described as follows: Area One is the area defined as beginning at a point where the southerly boundary of NYS Route 25 meets the easterly side of the Suffolk County Pine Trail Nature Preserve; thence southeastward along the easterly side of the Suffolk County Pine Trail Nature Preserve where the Preserve is adjacent to developed parcels, or along a line parallel to, and 100 (one hundred) feet east of, the Preserve where the Preserve is adjacent to parcels which are undeveloped as of June 1, 1993, to the Long Island Lighting Company high voltage transmission lines; thence northward along the westerly side of the Long Island Lighting Company high voltage transmission lines to NYS Route 25; thence westward along the southerly side of NYS Route 25 to the point or place of beginning; Area Two is the area defined as beginning at the northwest corner of the parcel identified as District 200, Section 552, Block 1, Lot 3; thence eastward, southwestward and generally northward along the northerly, southeasterly and westerly boundaries of that parcel, containing the sewage treatment facility known as the Dorade facility, to the point of beginning; Area three is defined as the parcel identified as district 200, section 82, block 1, lot 3.

Beginning at a point on the southeasterly corner of the intersection of Moriches-Middle Island Road and Cranford Boulevard and thence southward along the easterly boundary of Cranford Boulevard to the southwestern corner of property identified as District 200, Section 645, Block 3, Lot 29.1; thence southeastward along the southerly boundary of said property to its intersection with property identified as District 200, Section 712, Block 9, Lot 1; thence generally southward along the westerly boundary of said property to its intersection with the norther-

ly side of the eastward extension of Grove Drive; thence southward crossing Grove Drive to its south side; thence westward along the southerly boundary of the Grove Drive road extension to the northwestern corner of the property identified as District 200, Section 749, Block 3, Lot 41.1 and comprised of parcels owned by the county of Suffolk and the town of Brookhaven; thence southward to the southwestern corner of property identified as District 200, Section 749, Block 3, Lot 43; thence eastward along the southerly boundary of said property to the west side of Lambert Avenue; thence crossing Lambert Avenue to its easterly side; thence southward along the easterly boundary of Lambert Avenue to the northerly boundary of the Sunrise Highway Service Road; thence northeastward along the northerly boundary of the Sunrise Highway Service Road to Barnes Road; thence northward along the westerly boundary of Barnes Road to the northeastern corner of the property identified as District 200, Section 750, Block 3, Lot 40.2; thence westward along the northerly boundary of property identified as District 200, Section 713, Block 1, Lot 2; thence westward along the northerly boundary of property identified as District 200, Section 713, Block 1, Lot 1; thence northward along the westerly side of Weeks Avenue to the northeastern corner of property identified as District 200, Section 713, Block 3, Lot 1; thence westward along the northerly boundary of said property to Michigan Avenue; thence northward along the easterly boundary of Michigan Avenue to Moriches-Middle Island Road; thence westward along the southerly boundary of Moriches-Middle Island Road to the point of beginning.

§ 2. The county of Suffolk planning department and the state office of general services shall compile a report providing an inventory of industrial and business zoned properties in the town of Brookhaven, of at least five acres, which would be suitable for solar projects. Such inventory shall exclude areas of potential sensitivity such as one-hundred-year flood hazard zones, historic and/or culturally significant resources and properties within 100 feet landward of tidal or freshwater wetlands, and shall only include lands previously cleared and/or disturbed on or before January 1, 2016. Such report shall be submitted to the governor and the legislature no later than January 1, 2020.

§ 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law provided that if the provisions of this act establishing a new description and boundaries of the Central Pine Barrens Area or the core preservation area removed or excludes any of the lands of the Central Pine Barrens Area or the core preservation area as such lands are described and bounded in chapter 267 of the laws of 2015, and/or protections established and/or provided by such act, this act shall be deemed repealed and of no force and effect and chapter 267 of the laws of 2015 shall remain in full force and effect. The state legislature shall notify the legislative bill drafting commission of any such decrease and resulting repeal in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART DD

Section 1. Expenditures of moneys appropriated in a chapter of the laws of 2018 to the department of agriculture and markets from the special revenue funds-other/state operations, miscellaneous special

revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the department of agriculture and markets' participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2019, the commissioner of the department of agriculture and markets shall submit an accounting of such expenses, including, but not limited to, expenses in the 2018 -- 2019 fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 2. Expenditures of moneys appropriated in a chapter of the laws of 2018 to the department of state from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the activities of the department of state's utility intervention unit pursuant to subdivision 4 of section 94-a of the executive law, including, but not limited to participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2019, the secretary of state shall submit an accounting of such expenses, including, but not limited to, expenses in the 2018 -- 2019 fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 3. Expenditures of moneys appropriated in a chapter of the laws of 2018 to the office of parks, recreation and historic preservation from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the office of parks, recreation and historic preservation's participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2019, the commissioner of the office of parks, recreation and historic preservation shall submit an accounting of such expenses, including, but not limited to, expenses in the 2018 -- 2019 fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 4. Expenditures of moneys appropriated in a chapter of the laws of 2018 to the department of environmental conservation from the special revenue funds-other/state operations, environmental conservation special revenue fund-301, utility environmental regulation account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the department of environmental conservation's participation in state

energy policy proceedings, or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2019, the commissioner of the department of environmental conservation shall submit an accounting of such expenses, including, but not limited to, expenses in the 2018 -- 2019 fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 5. Notwithstanding any other law, rule or regulation to the contrary, expenses of the department of health public service education program incurred pursuant to appropriations from the cable television account of the state miscellaneous special revenue funds shall be deemed expenses of the department of public service. No later than August 15, 2019, the commissioner of the department of health shall submit an accounting of expenses in the 2018 -- 2019 fiscal year to the chair of the public service commission for the chair's review pursuant to the provisions of section 217 of the public service law.

§ 6. Any expense deemed to be expenses of the department of public service pursuant to sections one through four of this act shall not be recovered through assessments imposed upon telephone corporations as defined in subdivision 17 of section 2 of the public service law.

§ 7. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2018 and shall be deemed repealed April 1, 2019.

PART EE

Section 1. Expenditures of moneys by the New York state energy research and development authority for services and expenses of the energy research, development and demonstration program, including grants, the energy policy and planning program, the zero emissions vehicle and electric vehicle rebate program, and the Fuel NY program shall be subject to the provisions of this section. Notwithstanding the provisions of subdivision 4-a of section 18-a of the public service law, all moneys committed or expended in an amount not to exceed $19,700,000 shall be reimbursed by assessment against gas corporations, as defined in subdivision 11 of section 2 of the public service law and electric corporations as defined in subdivision 13 of section 2 of the public service law, where such gas corporations and electric corporations have gross revenues from intrastate utility operations in excess of $500,000 in the preceding calendar year, and the total amount which may be charged to any gas corporation and any electric corporation shall not exceed one cent per one thousand cubic feet of gas sold and .010 cent per kilowatt-hour of electricity sold by such corporations in their intrastate utility operations in calendar year 2016. Such amounts shall be excluded from the general assessment provisions of subdivision 2 of section 18-a of the public service law. The chair of the public service commission shall bill such gas and/or electric corporations for such amounts on or before August 10, 2018 and such amounts shall be paid to the New York state energy research and development authority on or before September 10, 2018. Upon receipt, the New York state energy research and development authority shall deposit such funds in the energy research and development operating fund established pursuant to section 1859 of the public authorities law. The New York state energy

research and development authority is authorized and directed to: (1) transfer $1 million to the state general fund for services and expenses of the department of environmental conservation, $150,000 to the state general fund for services and expenses of the department of agriculture and markets, and $825,000 to the University of Rochester laboratory for laser energetics from the funds received; and (2) commencing in 2016, provide to the chair of the public service commission and the director of the budget and the chairs and secretaries of the legislative fiscal committees, on or before August first of each year, an itemized record, certified by the president and chief executive officer of the authority, or his or her designee, detailing any and all expenditures and commitments ascribable to moneys received as a result of this assessment by the chair of the department of public service pursuant to section 18-a of the public service law. This itemized record shall include an itemized breakdown of the programs being funded by this section and the amount committed to each program. The authority shall not commit for any expenditure, any moneys derived from the assessment provided for in this section, until the chair of such authority shall have submitted, and the director of the budget shall have approved, a comprehensive financial plan encompassing all moneys available to and all anticipated commitments and expenditures by such authority from any source for the operations of such authority. Copies of the approved comprehensive financial plan shall be immediately submitted by the chair to the chairs and secretaries of the legislative fiscal committees. Any such amount not committed by such authority to contracts or contracts to be awarded or otherwise expended by the authority during the fiscal year shall be refunded by such authority on a pro-rata basis to such gas and/or electric corporations, in a manner to be determined by the department of public service, and any refund amounts must be explicitly lined out in the itemized record described above.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2018.

PART FF

Section 1. Paragraph (a) of subdivision 17 of section 1005 of the public authorities law, as amended by chapter 494 of the laws of 2011, is amended to read as follows:

(a) As deemed feasible and advisable by the trustees, to finance [~~and~~], design, develop, construct, implement, provide and administer energy-related projects, programs and services for any public entity, any independent not-for-profit institution of higher education within the state, [~~and~~] any recipient of [~~the~~] economic development power, expansion power, replacement power, preservation power, high load factor power, municipal distribution agency power, [~~power for jobs, and~~] or recharge New York power [~~programs administered~~] allocated by the authority, and any party located within the state under contract with the authority to purchase power from the authority pursuant to this title or any other law. In establishing and providing high performance and sustainable building programs and services authorized by this subdivision, the authority is authorized to consult standards, guidelines, rating systems, and/or criteria established or adopted by other organizations, including but not limited to the United States green building council under its leadership in energy and environmental design (LEED) programs, the green building initiative's green globes rating system, and the American National Standards Institute. The source of any financing and/or loans provided by the authority for the purposes of this

subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

§ 2. Subparagraph 2 of paragraph (b) of subdivision 17 of section 1005 of the public authorities law, as added by chapter 477 of the laws of 2009 and such subdivision as renumbered by section 16 of part CC of chapter 60 of the laws of 2011, is amended to read as follows:

(2) "Energy-related projects, programs and services" means **energy management, distribution, or control projects and services, energy supply security, resiliency or reliability projects and services, energy procurement programs and services for public entities,** energy efficiency projects and services, clean energy technology projects and services, and high performance and sustainable building programs and services, and the construction, installation and/or operation of facilities or equipment done in connection with any such **energy-related** projects, programs or services.

§ 3. Intentionally omitted.

§ 4. This act shall take effect immediately.

PART GG

Section 1. Section 1005 of the public authorities law is amended by adding a new subdivision 26 to read as follows:

26. (a) Notwithstanding any inconsistent provision of this title, as deemed feasible and advisable by the trustees, the authority is authorized to finance, plan, design, engineer, acquire, construct, operate or manage (collectively, "develop") throughout its area of service such renewable power and energy generating projects, and procure such renewable power, energy, or related attributes, which are necessary to meet the demonstrable supply needs of any public entity or authority customer within the state, provided, however, the authority shall not develop more than nine renewable power and energy generating projects. Each renewable power and energy generating project the authority develops or causes to be developed pursuant to this subdivision shall be a major electric generating facility as defined by section one hundred sixty of the public service law and shall be subject to all provisions of article ten of the public service law. No renewable power and energy generating project authorized pursuant to this subdivision shall have a nameplate generating capacity of more than three hundred thousand kilowatts.

The authority is further authorized to allocate and sell renewable power, energy, or related attributes that are produced by renewable power and energy generating projects it develops, or that it procures, to any public entity or authority customer. The authority shall be entitled to fully recover its costs, including its acquisition, finance, planning, contracting, capital, operating and maintenance costs, from the entities that purchase renewable power, energy and related attributes from the authority.

(b) The source of any financing and/or loans provided by the authority for the purposes of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

(c) Any authorization for the construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement of a renewable power and energy generating project pursuant to this subdivision, including, but not limited to, each contract and

subcontract entered into by the authority and any third party, shall be deemed a public work to be performed in accordance with the provisions of article eight of the labor law and shall be subject to all provisions of such article, including prevailing wage requirements.

(d) For purposes of this subdivision, the following terms shall have the meanings indicated in this paragraph unless the context indicates another meaning or intent:

(1) "Authority customer" means an entity located in the state that purchases or is under contract to purchase power or energy from the authority.

(2) "Public entity" has the meaning ascribed to that term by subparagraph five of paragraph (b) of subdivision seventeen of this section.

(3) "Renewable energy resources" means solar power, wind power, hydroelectric, and any other generation resource that has the meaning ascribed to such term by the public service commission and consistent with the most recent state energy plan pursuant to article six of the energy law.

(4) "Renewable power and energy generating projects" means projects that generate power and energy by means of renewable energy resources, or that store and supply power and energy generated by means of renewable energy resources, and include the construction, installation and/or operation of ancillary facilities or equipment done in connection with any such projects, provided, however, that such term shall not include the authority's Saint Lawrence and Niagara hydroelectric.

(5) "State" means the state of New York.

(e) The authority shall complete and submit a report, on or before January thirty-first, two thousand nineteen, and annually thereafter on those activities undertaken pursuant to this subdivision to the governor, the speaker of the assembly, the temporary president of the senate, the chair of the assembly ways and means committee, the chair of the senate finance committee, the chair of the assembly energy committee and the chair of the senate energy and telecommunications committee. Such report, at a minimum, shall include: (i) the total number of renewable power and energy generating projects developed pursuant to the authorization provided in this subdivision, (ii) the nameplate generating capacity of each renewable power and energy generating project developed pursuant to the authorization provided in this subdivision, (iii) the total number of each type of renewable energy resource developed pursuant to the authorization in this subdivision, (iv) identification of all public entities for which each renewable power or energy generating project was developed to meet the supply needs for, (v) identification of all authority customers for which each renewable power or energy generating project was developed to meet the supply needs for, and (vi) the aggregate amount of increased renewable power and energy generation developed pursuant to the authorization in this subdivision.

(f) Nothing in this subdivision is intended to limit, impair or affect the authority's legal authority under any other provision of this title.

§ 2. This act shall take effect immediately and shall expire and be deemed repealed six years after such date, provided, however, that projects developed prior to such repeal shall be permitted to continue under this act notwithstanding such repeal.

PART HH

Section 1. Paragraph (a) of subdivision 6 of section 1304 of the real property actions and proceedings law, as amended by section 6 of part Q of chapter 73 of the laws of 2016, is amended to read as follows:

(a) **(1)** "Home loan" means a loan, including an open-end credit plan, [~~other than a reverse mortgage transaction,~~] in which:

(i) The borrower is a natural person;

(ii) The debt is incurred by the borrower primarily for personal, family, or household purposes;

(iii) The loan is secured by a mortgage or deed of trust on real estate improved by a one to four family dwelling, or a condominium unit, in either case, used or occupied, or intended to be used or occupied wholly or partly, as the home or residence of one or more persons and which is or will be occupied by the borrower as the borrower's principal dwelling; and

(iv) The property is located in this state.

(2) A home loan shall include a loan secured by a reverse mortgage that meets the requirements of clauses (i) through (iv) of subparagraph one of this paragraph.

§ 2. Subdivision (a) of rule 3408 of the civil practice law and rules, as amended by section 3 of part Q of chapter 73 of the laws of 2016, is amended to read as follows:

(a) [~~In~~] **1. Except as provided in paragraph two of this subdivision, in** any residential foreclosure action involving a high-cost home loan consummated between January first, two thousand three and September first, two thousand eight, or a subprime or nontraditional home loan, as those terms are defined under section thirteen hundred four of the real property actions and proceedings law, in which the defendant is a resident of the property subject to foreclosure, the court shall hold a mandatory conference within sixty days after the date when proof of service is filed with the county clerk, or on such adjourned date as has been agreed to by the parties, for the purpose of holding settlement discussions pertaining to the relative rights and obligations of the parties under the mortgage loan documents, including, but not limited to: [~~1.~~] **(i)** determining whether the parties can reach a mutually agreeable resolution to help the defendant avoid losing his or her home, and evaluating the potential for a resolution in which payment schedules or amounts may be modified or other workout options may be agreed to including, but not limited to, a loan modification, short sale, deed in lieu of foreclosure, or any other loss mitigation option; or [~~2.~~] **(ii)** whatever other purposes the court deems appropriate.

2. (i) Paragraph one of this subdivision shall not apply to a home loan secured by a reverse mortgage where the default was triggered by the death of the last surviving borrower unless:

(A) the last surviving borrower's spouse, if any, is a resident of the property subject to foreclosure; or

(B) the last surviving borrower's successor in interest, who, by bequest or through intestacy, owns, or has a claim to the ownership of the property subject to foreclosure, and who was a resident of such property at the time of the death of such last surviving borrower.

(ii) The superintendent of financial services may promulgate such rules and regulations as he or she shall deem necessary to implement the provisions of this paragraph.

§ 3. Section 1304 of the real property actions and proceedings law is amended by adding a new subdivision 1-a to read as follows:

1-a. Notwithstanding any other provision of law, with regard to a reverse mortgage home loan, at least ninety days before a lender, an

assignee or a mortgage loan servicer commences legal action against the borrower or borrowers at the property address and any other addresses of record, including reverse mortgage foreclosure, such lender, assignee or mortgage loan servicer shall give notice to the borrower in at least fourteen-point type except for the heading which shall be in at least sixteen-point type which shall include the following:

YOU COULD LOSE YOUR HOME TO FORECLOSURE.
PLEASE READ THE FOLLOWING NOTICE CAREFULLY.

Date
Borrower's address
Loan Number:
Property Address:
Dear Borrower(s):

As of _____, we as your lender or servicer claim that your reverse mortgage loan is ____ days in default. Under New York State Law, we are required to send you this notice to inform you that you may be at risk of losing your home.

We, the lender or servicer of your loan, are claiming that your reverse mortgage loan is in default because you have not complied with the following conditions of your loan:

_____ You are not occupying your home as your principal residence
_____ You did not submit the required annual certificate of occupancy
_____ The named borrower on the reverse mortgage has died
_____ You did not pay property taxes
{Servicer name} paid your property taxes for the following time periods: _____
_____ {quarter/year}
_____ You did not maintain homeowner's insurance
{Servicer name} purchased homeowner's insurance for you on the following date(s) and for the following cost(s): _____
_____ You did not pay water/sewer charges
{Servicer name} paid water/sewer charges for you on the following date(s) and for the following cost(s): _____
_____ You did not make required repairs to your home

If the claim is based on your failure to pay property or water and sewer charges or maintain homeowner's insurance, you can cure this default by making the payment of $_____ for the advancements we made towards these payments on your behalf.

You have the right to dispute the claims listed above by contacting us, by calling _____ or sending a letter to _____. This may include proof of payments made for property taxes or water and sewer charges or a current declaration page from your insurance company, or any other proof to dispute the servicer's claim.

If you are in default for failure to pay property charges (property taxes, homeowner's insurance and/or water/sewer charges) you may qualify for a grant, loan, or re-payment plan to cure the default balance owed.

If you are in default due to the death of your spouse, you may be considered an eligible "Non-Borrowing Spouse" under a HUD program which allows you to remain in your home for the rest of your life.

If you are over the age of 80 and have a long term illness, you may also qualify for the "At-Risk Extension," which allows you to remain in your home for one additional year and requires an annual re-certification.

If you are in default because the named borrower on the reverse mortgage has died and you are the lawful heir to the property, you may be able to keep the property by paying either the full loan balance or 95 percent of the home's appraised value, whichever is less.

Attached to this notice is a list of government-approved housing counseling agencies and legal services in your area which provide free counseling. You can also call the NYS Office of the Attorney General's Homeowner Protection Program (HOPP) toll-free consumer hotline to be connected to free housing counseling services in your area at 1-855-HOME-456 (1-855-466-3456), or visit their website at http://www.aghomehelp.com. A statewide listing by county is also available at http://www.dfs.ny.gov/consumer/mortg nys np counseling agencies.htm. You may also call your local Department of Aging for a referral or call 311 if you live in New York City.

Qualified free help is available; watch out for companies or people who charge a fee for these services.

You may also contact us directly at _____ and ask to discuss all possible options to allow you to cure your default and prevent the foreclosure of your home. While we cannot ensure that a resolution is possible, we encourage you to take immediate steps to try to achieve a resolution. The longer you wait, the fewer options you may have.

If you have not taken any actions to resolve this matter within 90 days from the date this notice was mailed, we may commence legal action against you (or sooner if you cease to live in the dwelling as your primary residence).

If you need further information, please call the New York State Department of Financial Services' toll-free helpline at 877-226-5697 or visit the Department's website at http://www.dfs.ny.gov.

IMPORTANT: You have the right to remain in your home until you receive a court order telling you to leave the property. If a foreclosure action is filed against you in court, you still have the right to remain in the home until a court orders you to leave. You legally remain the owner of and are responsible for the property until the property is sold by you or by order of the court at the conclusion of any foreclosure proceedings. This notice is not an eviction notice, and a foreclosure action has not yet been commenced against you.

§ 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 20, 2017; provided, however that section three of this act shall take effect on the thirtieth day after it shall have become a law; provided, further, however that:

(a) the amendments to subdivision 6 of section 1304 of the real property actions and proceedings law, made by section one of this act, shall not affect the expiration and reversion of such subdivision pursuant to subdivision a of section 25 of chapter 507 of the laws of 2009, as amended, and shall be deemed repealed therewith; and

(b) the amendments to subdivision (a) of rule 3408 of the civil practice law and rules, made by section two of this act, shall take effect on the same date and in the same manner as section 3 of part Q of chapter 73 of the laws of 2016 takes effect.

PART II

Section 1. This Part enacts into law major components of legislation relating to transportation. Each component is wholly contained within a Subpart identified as Subparts A through E. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found.

SUBPART A

Section 1. 1. There is hereby established the metropolitan transportation sustainability workgroup (the "workgroup") which shall consist of fifteen members, four of whom shall be appointed by the governor, three of whom shall be appointed by the speaker of the assembly, three of whom shall be appointed by the temporary president of the senate, one of whom shall be appointed by the minority leader of the senate, one of whom shall be appointed by the minority leader of the assembly, and three of whom shall be appointed by the mayor of the city of New York. The chair of the workgroup shall be nominated by the governor.

2. The workgroup shall undertake a review of the actions and measures that are necessary to provide safe, adequate, efficient, and reliable transportation within the city of New York and the Metropolitan Commuter Transportation District and shall review and make recommendations regarding (a) the adequacy of public transportation provided by the MTA, Metro-North Commuter Railroad and the Long Island Rail Road, including but not limited to the reliability, sustainability, travel times, and transparency on project selection and performance metrics of such public transportation, (b) sustainable funding for public transportation needs, (c) motor vehicular traffic within the city of New York, (d) tolling of intra-borough bridges within the city of New York, (e) taxicab and livery vehicle trips including those originating and/or terminating within, or transiting, particular geographic areas, (f) transportation strategies to advance the furtherance of environmental goals, and (g) the feasibility of a reduced fare program for transportation on New York city transit authority systems, the Long Island Rail Road and the Metro-North Commuter Railroad for students attending a university, college, community college, or post-secondary vocational institution, which is located within the city of New York.

3. The workgroup shall, on or before December 31, 2018, by a majority vote approve and issue a final report and recommendations to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly,

the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the senate transportation committee, the chair of the assembly transportation committee, the chair of the senate corporations, authorities and commissions committee, the chair of the assembly corporations, authorities and commissions committee, and the mayor of the city of New York.

4. The personnel of the state department of transportation and any other state agency or authority deemed necessary shall provide from existing staff services to the workgroup so that the workgroup may perform its duties and responsibilities. The state departments of transportation and motor vehicles, the MTA, and the department of transportation and taxi and limousine commission of the city of New York and any other state or local agency or authority deemed necessary, shall cooperate with and assist the workgroup in compiling the information necessary to the workgroup's inquiry. Any review performed pursuant to this section may be completed in consultation with the Port Authority of New York and New Jersey and any other entities deemed appropriate by the workgroup.

5. For the purposes of this act, the following terms shall have the following meanings:

(a) "livery" shall mean every motor vehicle, other than a taxicab or a bus, used in the business of transporting passengers for compensation, including luxury limousines, black cars, and for-hire vehicles as defined by section 19-502 of the administrative code of the city of New York. However, it shall not include vehicles which are rented or leased without a driver;

(b) "Metropolitan Commuter Transportation District" shall mean the commuter transportation district as established by section twelve hundred sixty-two of the public authorities law;

(c) "Metropolitan transportation authority" or "MTA" shall mean the corporation created by section twelve hundred sixty-three of the public authorities law; and

(d) "taxicab" shall have the same meaning as such term is defined by section one hundred forty-eight-a of the vehicle and traffic law and section 19-502 of the administrative code of the city of New York.

§ 2. This act shall take effect immediately and shall expire and be deemed repealed March 1, 2019.

SUBPART B

Section 1. The public authorities law is amended by adding a new section 1276-f to read as follows:

§ 1276-f. Independent audit of capital elements. 1. On or before April first, two thousand nineteen and every fifth year thereafter, the authority shall submit an independent audit of capital elements to the metropolitan transportation authority capital program review board established by section twelve hundred sixty-nine-a of this title, the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the senate corporations, authorities and commissions committee, the chair of the assembly corporations, authorities and commissions committee, the mayor of the city of New York, and the comptroller. The independent audit of capital elements shall have been performed by a certified public accounting firm in accordance with generally accepted auditing standards as defined in

subdivision eleven of section two of the state finance law. Such audit shall include:

(a) a complete and thorough examination of the authority's capital elements, including but not limited to: (1) rolling stock and buses, (2) passenger stations, (3) track, (4) line equipment, (5) line structures, (6) signals and communications, (7) power equipment, emergency power equipment and substations, (8) shops, yards, maintenance facilities, depots and terminals, (9) service vehicles, (10) security systems, (11) electrification extensions, and (12) unspecified, miscellaneous and emergency;

(b) a detailed accounting, on an annual basis and for a period of twenty years from the effective date of this paragraph of each of the capital elements listed in paragraph (a) of this subdivision that will require normal replacement in order to maintain a state of good repair, with a detailed fiscal estimate of the amount of capital funding for each;

(c) recommendations regarding capital improvements needed to maintain and to improve the reliability of the system;

(d) the current status of capital projects included in previous capital programs; and

(e) an itemization of procurement and construction contracts that have been entered into for capital program projects.

2. The authority shall cooperate with and assist the certified public accounting firm in compiling the information necessary for the independent audit of capital elements.

3. The certified independent public accounting firm providing such independent audit of capital elements shall be prohibited in providing audit services to the authority if the audit partner having primary responsibility for the audit or the audit partner responsible for reviewing the audit has performed audit services for the authority in each of the five previous fiscal years of the authority.

4. The certified independent public accounting firm performing such independent audit of capital elements shall be prohibited from performing any non-audit services to the authority contemporaneously with the audit, unless receiving previous written approval by the authority's audit committee including: (a) bookkeeping or other services related to the accounting records or financial statements of such authority; (b) financial information systems design and implementation; (c) appraisal or valuation services, fairness opinions, or contribution-in-kind reports; (d) actuarial services; (e) internal audit outsourcing services; (f) management functions or human services; (g) broker or dealer, investment advisor, or investment banking services; and (h) legal services and expert services unrelated to the audit.

5. It shall be prohibited for any certified independent public accounting firm to perform such independent audit of capital elements if the chief executive officer, comptroller, chief financial officer, chief accounting officer of the authority, or any other person serving in an equivalent position for the authority, was employed by that certified independent public accounting firm and participated in any capacity in the audit of such authority during the one year period preceding the date of the initiation of the audit.

§ 2. This act shall take effect immediately.

SUBPART C

Section 1. The public authorities law is amended by adding a new section 1279-d to read as follows:

§ 1279-d. Supplemental revenue transparency program. 1. On or before June thirtieth, two thousand eighteen, the authority shall develop a supplemental revenue transparency program. Such program shall provide a detailed accounting of the amount spent from supplement revenues on actions, measures or projects undertaken to reduce major incidents that have been found to cause delays to the New York city subway system, including but not limited to: track incidents; signal failure; persons on the track, police and medical activity; structural and electrical problems; and broken traincar equipment. The information described in this subdivision, including the spending details and the associated category of major incident, shall be updated monthly and be prominently posted together on the authority's website.

2. Such program shall also, where practicable, provide a detailed accounting of the amount spent from supplemental revenues on: improving service capacity during peak hours; improving the on-time performance of the system; reducing the number of train car-related incidents that lead to delays; and increasing elevator and escalator availability. The information described in this section, including the spending details and the associated performance metrics shall be updated monthly and be prominently posted together on the authority's website.

3. Definitions. For purposes of this section, "supplemental revenues" shall include those revenues dedicated to the authority pursuant to (i) a chapter of the laws of two thousand eighteen providing additional revenue sources to the authority and (ii) any funds appropriated by the state or the city of New York to support the NYC subway action plan approved by the board of the authority.

§ 2. This act shall take effect immediately.

SUBPART D

Section 1. Section 182 of the executive law, as amended by section 1 of part J of chapter 56 of the laws of 2011, is amended to read as follows:

§ 182. Diversion of funds dedicated to [~~the metropolitan transportation authority or the New York city transit authority and any of their subsidiaries~~] public transportation systems to the general fund of the state or to any other purpose, is prohibited. 1. For the purposes of this section, the term "public transportation system" shall mean any public benefit corporation constituting a transportation authority which provides or contracts for the provision of, under joint support arrangements, mass transportation services, or a subsidiary thereof, or any county or city which provides or contracts for the provision of, pursuant to section one hundred nineteen-r of the general municipal law, mass transportation services.

2. The director of the budget shall be prohibited from diverting revenues derived from taxes and fees paid by the public into any fund created by law including, but not limited to sections eighty-eight-a [~~and~~], eighty-nine-c and ninety-two-ff of the state finance law and chapter twenty-five of the laws of two thousand nine for the purpose of funding [~~the metropolitan transportation authority or the New York city transit authority and any of their subsidiaries~~] public transportation systems into the general fund of the state or into any other fund maintained for the support of another governmental purpose. No diversion of funds can occur contrary to this section by an administrative act of the

director **of the budget** or any other person in the executive branch [~~unless the governor declares a fiscal emergency, and communicates such emergency to the temporary president of the senate and speaker of the assembly, and a statute is enacted into law authorizing a diversion that would otherwise be prohibited by this section~~].

3. If any diversion of funds occurs by passage of legislation during a regular or extraordinary session of the legislature, the director of the budget shall create and include with the budget or legislation diverting funds, a diversion impact statement which shall include the following information:

(a) The amount of the diversion from dedicated mass transit funds;

(b) The amount diverted from each fund;

(c) The amount diverted expressed as current monthly transit fares;

(d) The cumulative amount of diversion from dedicated mass transit funds during the preceding five years;

(e) The date or dates when the diversion is to occur; and

(f) A detailed estimate of the impact of diversion from dedicated mass transit funds will have on the level of public transportation system service, maintenance, security, and the current capital program.

§ 2. This act shall take effect immediately.

SUBPART E

Section 1. The public authorities law is amended by adding a new section 2985-a to read as follows:

§ 2985-a. Cashless tolling. 1. For purposes of this section the following terms shall have the following meanings:

(a) "cashless tolling facility" shall mean a toll highway bridge or tunnel facility that does not provide for the immediate on-site payment in cash of a toll owed for the use of such facility;

(b) "owner" shall mean any person, corporation, partnership, firm, agency, association, lessor or organization who, at the time of incurring an obligation to pay a toll at a cashless tolling facility, and with respect to the vehicle identified in the notice of toll due: (i) is the beneficial or equitable owner of such vehicle; or (ii) has title to such vehicle; or (iii) is the registrant or co-registrant of such vehicle which is registered with the department of motor vehicles of this state or any other state, territory, district, province, nation or other jurisdiction; or (iv) is subject to the limitations set forth in subdivision ten of section twenty-nine hundred eighty-five of this title, uses such vehicle in its vehicle renting and/or leasing business; or (v) is a person entitled to the use and possession of a vehicle subject to a security interest in another person; and

(c) "notice of toll due" shall mean a notice sent to an owner notifying such owner that the owner's vehicle has been used or operated in or upon a cashless tolling facility and has incurred an obligation to pay a toll.

2. (a) In the case of an owner who incurs an obligation to pay a toll at a cashless tolling facility a notice of toll due shall be sent by first class mail by the public authority which operates such cashless tolling facility to the owner within thirty days of incurring the obligation to pay the toll at such cashless tolling facility. The owner shall have thirty days from the date the notice was sent to pay the assessed toll, without liability for any other charges, fees, or monetary penalties. The notice of toll due shall include: (i) the total amount of the assessed toll due, (ii) the date by which payment of the

assessed toll is due, and (iii) any other information required by law or by the authority. If an authority fails to send a timely notice of toll due, as set forth in this section, the owner shall not be liable for payment of the alleged tolls, monetary penalties, fees or other charges.

(b) If an owner fails to respond timely to such notice of toll due within thirty days of the date the notice was sent, a second notice of toll due shall be sent. Such second notice of toll due may include a fee for late payment, but in no case shall such fee exceed five dollars. The owner shall have thirty days from the date the second notice was sent to pay the assessed toll and any fee.

(c) If an owner fails to respond timely to the second notice of toll due the authority which operates the cashless tolling facility shall be authorized to send a notice of liability. The notice of liability shall contain the information described in subdivision seven of section twenty-nine hundred eighty-five of this title. The owner shall have ninety days from the date such notice of liability was sent to (i) pay the assessed toll or (ii) contest the notice.

(d) If an owner fails to respond to the notice of liability or is found liable for the assessed toll, the owner shall pay (i) the assessed toll; (ii) any fees set by the authority, provided, however, that the total amount of fees shall not exceed an amount equal to the amount of the toll; and (iii) a monetary penalty which shall equal to twenty-five dollars or double the amount of the toll due, whichever is greater.

3. Every public authority which operates a cashless tolling facility shall promulgate rules and regulations that establish an installment payment plan for the payment of any toll incurred at a cashless tolling facility. Information related to such plan shall be included in the notice of toll due and the notice of liability and shall be displayed conspicuously on the authorities' website. Each owner, at his or her election, may participate in such plan. The authority shall not charge any additional fees or penalties for enrollment into a payment plan.

4. Every public authority which operates a cashless tolling facility shall establish a procedure with which a person alleged to be liable may contest such alleged liability or toll due including a hearing and the right to appeal. The notice of toll due and notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the assessed toll and any liability alleged in the notice.

5. (a) On or after the effective date of this section, no public authority which operates a cashless tolling facility shall sell or transfer any debt owed to the public authority by an owner for a violation of toll collection regulations to a debt collection agency unless one year has passed from the date the owner was found liable for the violation of toll collection regulations associated with such debt, or the owner has a total debt owed to the public authority of one thousand dollars or more. The authority shall obtain a default judgment in a court or administrative tribunal with jurisdiction over the assessed toll before selling or transferring any debt to a debt collection agency.

(b) A notice shall be sent by first class mail advising the owner that the above debt shall be sold or transferred by the authority to a debt collection agency on a specified date no less than thirty days prior to such sale or transfer.

(c) For purposes of this subdivision "debt collection agency" shall mean a person, firm or corporation engaged in business, the principal purpose of which is to regularly collect or attempt to collect debts

owed or due or asserted to be owed or due to another and shall also include a buyer of delinquent debt who seeks to collect such debt either directly or through the services of another by, including but not limited to, initiating or using legal processes or other means to collect or attempt to collect such debt.

6. Notwithstanding the provisions of any other law, order, rule or regulation to the contrary, no registration of a motor vehicle shall be suspended resulting from an obligation to pay a toll at a cashless tolling facility as described in this section and the commissioner of motor vehicles shall not suspend the registration of a motor vehicle resulting from an obligation to pay a toll at a cashless tolling facility as described in this section.

7. Every public authority which operates a cashless tolling facility shall undertake a public awareness campaign regarding the use of and process involved with the payment of tolls at cashless tolling facilities. Each public authority shall provide for sufficient methods to obtain an electronic device for the charging of tolls through an electronic toll collection system as defined in subdivision twelve of section twenty-nine hundred eighty-five of this title, including making such devices available at any rest area owned or operated by each authority. Any public authority that operates a cashless tolling facility shall maintain a website and toll-free phone number for any person to receive updated information on any tolls or fees which are outstanding. Such website and phone number shall be included on any notice of toll due or notice of liability sent by the authority.

§ 2. a. Within 90 days of the effective date of this act, the Triborough bridge and tunnel authority, the public authority created pursuant to chapter 870 of the laws of 1939, herein after the authority, shall implement an amnesty program for any person who owes tolls, fines, fees, or penalties for a toll incurred at any cashless tolling facility operated by the authority. Such amnesty program shall be at least five weeks in duration, and shall be available for any toll obligation incurred on or after November 1, 2016. The amnesty program shall also be made available for any toll obligation incurred at a cashless tolling facility operated by the authority that has been referred to a debt collections agency or has resulted in the suspension of a vehicle registration. The amnesty program shall provide for the waiver of all fees, fines, and penalties associated with an outstanding toll balance if such outstanding toll balance is paid in full by the end of the amnesty program. Upon payment of an outstanding toll balance in full, the authority shall advise the commissioner of motor vehicles, in such form and manner that such commissioner shall have prescribed, that such person has responded and has paid in full the outstanding balance owed through the amnesty program.

b. The authority shall undertake a public awareness campaign for such amnesty program, and shall maintain a public website for any person to receive information on any outstanding tolls such person is liable for. The authority shall provide for sufficient methods to pay the outstanding toll balances, including but not limited to, by phone, by mail, or through the internet. The authority shall, no later than thirty days preceding the commencement of the amnesty program, send by first class mail notice to all persons with outstanding toll balances of their eligibility for the amnesty program.

§ 3. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, any authority or

agency shall take any actions necessary to adopt, amend or repeal regulations in order to implement the provisions of this act by such date.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or subpart of this Part shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or subpart thereof directly involved in the controversy in which such judgement shall have been rendered. It is hereby declared to be the intent of the legislature that this Part would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Subparts A through E of this act shall be as specifically set forth in the last section of such Subparts.

PART JJ

Section 1. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 32-a to read as follows:

§ 32-a. Special provisions relating to economic development entities. (1) For the purposes of this section, an "economic development entity" shall mean any entity created by the executive branch, including the executive chamber of the governor and lieutenant governor, and any state agency whose function includes providing advice, recommendations or determinations to or on behalf of the executive branch or any state agency, as defined in paragraph (b) of subdivision one of section seventy-three-a of the public officers law, on the allocation or disbursement of state or federal monies or tax credits and/or benefits.

(2) (a) The provisions of article seven of the public officers law applicable to public bodies shall apply to an economic development entity.

(b) The provisions of article six of the public officers law applicable to agencies shall apply to an economic development entity. In addition to the requirements of subdivision three of section eighty-seven of the public officers law, an economic development entity shall maintain and make available for public inspection and copying any and all proposals submitted to it through a centralized application process, including the consolidated funding applications process, except that an economic development entity may redact or withhold portions of a proposal if such portion would be exempt from disclosure pursuant to article six of the public officers law.

(c) For the purpose of section seventy-three-a of the public officers law, any member of an economic development entity shall be deemed a state officer or employee and shall be deemed a policy maker and shall file an annual statement of financial disclosure set forth in subdivision three of section seventy-three-a of the public officers law.

(d) The provisions of section seventy-four of the public officers law applicable to an officer or employee of a state agency shall apply to any member of an economic development entity.

§ 2. This act shall take effect immediately; provided, however, that those incumbents who have not filed a disclosure form for the calendar year 2017 shall have thirty days from the effective date of this act to file such form with the joint commission on public ethics.

PART KK

Section 1. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 52 to read as follows:

§ 52. Reporting. (1) Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Economic development benefits" shall mean and include the following:

(i) available state resources and/or funds including, but not limited to, state grants, loans, loan guarantees, loan interest subsidies, and/or subsidies; and/or

(ii) tax credits, tax exemptions or reduced tax rates and/or benefits which are applied for and preapproved or certified by a state agency; and

(a-1) "Empire state economic development benefits" shall mean those economic development benefits made available to the urban development corporation and/or the department of economic development to award such benefits to qualified recipients, or those economic development benefits which are allocated to the corporation and/or such department but are subsequently allocated to another state agency or other independent entities for them to make such awards to qualified recipients;

(a-2) "Aggregate economic development benefits" shall mean those benefits provided for in paragraphs (a) and (a-1) of this subdivision and displayed separately in the database created pursuant to subdivision two of this section;

(b) "Qualified participant" shall mean an individual, business, limited liability corporation or any other entity that has applied for and received approval for and/or is the beneficiary of, any aggregate economic development benefits of ten thousand dollars or more per project;

(c) "New York state agency" shall mean any state department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other state governmental entity performing a governmental or proprietary function for the state, as well as entities created by any of the preceding or that are governed by a board of directors or similar body a majority of which is designated by one or more state officials;

(d) "Full-time job" shall mean a job in which an individual is employed by a qualified participant for at least thirty-five hours a week;

(e) "Full-time equivalent" shall mean a unit of measure which is equal to one filled, full-time, annual-salaried position;

(f) "Part-time job" shall mean a job in which an individual is employed by a qualified participant for less than thirty-five hours a week; and

(g) "Contract job" shall mean a job in which an individual is hired for a season or for a limited period of time.

(2) Searchable state subsidy and aggregate economic development benefits database. Notwithstanding any laws to the contrary, the corporation, in cooperation with the department of economic development, shall create a searchable database, or modify an existing one, displaying Empire state economic development benefits that a qualified participant has been awarded. Such database shall also display other Empire state economic development benefits such qualified participant has received from another state agency provided that it is for the same particular project which received the Empire state economic development

benefits. Such searchable database shall include, at a minimum, the following features and functionality:

(a) the ability to search the database by each of the reported information to the corporation and for the public viewer to show a qualified participant which is a recipient of an aggregate economic development benefit and view a list of all types and amounts of benefits received by a qualified participant;

(b) for the prior state fiscal year, the following information:

(i) a qualified participant's name and project, project location, project's complete address, including the postal or zip code in a separate searchable field, and the economic region of the state;

(ii) the time span over which a qualified participant is to receive or has received aggregate economic development benefits;

(iii) the type of such aggregate economic development benefits provided to a qualified participant, including the name of the program or programs through which aggregate economic development benefits are provided;

(iv) the total number of employees at all sites utilizing such aggregate economic development benefits at the time of the agreement including the number of permanent full-time jobs, the number of permanent part-time jobs, the number of full-time equivalents, and the number of contract employees;

(v) for any aggregate economic development benefit that provides for job retention and creation that a qualified participant receiving aggregate economic development benefits is contractually obligated to retain and create over the life of the project utilizing such aggregate economic development benefits, except that such information shall be reported on an annual basis for agreements containing annual job retention or creation requirements, and for each reporting year, the base employment level the entity receiving aggregate economic development benefits agrees to retain over the life of the project utilizing such aggregate economic development benefits, any job creation scheduled to take place as a result of the project utilizing such aggregate economic development benefits and where applicable, any job creation targets for the current reporting year;

(vi) the amount of aggregate economic development benefits received by a qualified participant during the year covered by the report, the amount of aggregate economic development benefits received by a qualified participant since the beginning of the project period, and the present value of the further aggregate economic development benefits committed to by the state, but not yet received by a qualified participant for the duration of the project;

(vii) for the current reporting year, the total actual number of employees at all sites covered by the project utilizing such aggregate economic development benefits, including the number of permanent full-time jobs, the number of permanent part-time jobs, the number of contract jobs, the number of jobs filled by minorities or women.

(viii) a statement of compliance indicating whether, during the current reporting year, the corporation and/or any other state agency has reduced, cancelled or recaptured aggregate economic development benefits from a qualified participant, and, if so, the total amount of the reduction, cancellation or recapture, and any penalty assessed and the reasons therefor.

(c) the ability to digitally select defined individual fields corresponding to any of the reported information from qualified participants to create unique database views;

(d) the ability to download the database in its entirety, or in part, in a common machine readable format;

(e) the ability to view and download contracts or award agreements for each aggregate economic development benefit received by the qualified participant to the extent such contracts or award agreements are available to the public pursuant to article six of the public officers law;

(f) a definition or description of terms for fields in the database; and

(g) a summary of each aggregate economic development benefit available to qualified participants.

(3) Certification regarding reporting. The corporation shall certify to the New York state authorities budget office, the corporation's board of directors and post to its website that it has fulfilled all of its reporting requirements as required by law, rules, regulations, or executive orders. The corporation shall provide a list of all reports, the due dates of such reports, and certify to the New York state authorities budget office and the corporation's board of directors, that each report has been submitted to the individual, office, or entity as prescribed by applicable laws, rules, and regulations.

(4) Database reporting. The corporation may request any data from qualified participants, which is necessary and required in developing, updating and maintaining the searchable database. Such qualified participants shall provide any such information requested by the corporation. Beginning on June first, two thousand nineteen, the corporation shall make all reported data on such database available to the public on its website. Such database shall be updated on a quarterly basis with qualified participants added to any programs and any new data provided by existing qualified participants required reporting.

(5) Reporting. The corporation's senior staff shall report on a quarterly basis, to the corporation's board of directors with a status update on the development and maintenance of the searchable database.

§ 2. Section 100 of the economic development law is amended by adding a new subdivision 18-j to read as follows:

18-j. to assist the urban development corporation to establish a searchable database pursuant to section fifty-two of the urban development corporation act.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART LL

Section 1. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 52 to read as follows:

§ 52. Small business innovation research (SBIR)/small business technology transfer (STTR) technical assistance program. 1. The small business innovation research/small business technology transfer technical assistance program, hereafter referred to as "the program", is hereby created in the corporation for the purposes of providing funds to eligible entities to provide technical assistance to small businesses of one hundred employees or less and located in New York state in competing successfully for grants made available through phase I of the federal small business innovation research program as enacted pursuant to the

small business innovation development act of 1982, and the small business technology transfer act of 1982, so as to increase the number of phase I SBIR and STTR award winners within the state.

2. Technical assistance services under this section may include, but are not limited to:

(a) outreach to small businesses to promote awareness of SBIR/STTR program solicitations;

(b) counseling to determine the ability of a business to pursue SBIR/STTR phase I funding, the technology match with the federal agency solicitation to be pursued, the qualifications of personnel involved in the proposed project, and the level of support needed from the technical assistance program to produce a competitive application; and

(c) proposal preparation assistance including grant writing, technology evaluation, and general proposal evaluation.

3. In determining whether to provide technical assistance authorized pursuant to this section to a small business, eligible entities shall consider the probability of such business commercializing any innovations resulting from research funded by an SBIR or STTR award in New York state.

4. (a) Entities that are eligible to receive funds under this section shall have demonstrable experience and success in providing technical assistance authorized pursuant to this section, and as determined by the corporation, and shall include:

(i) centers for advanced technology established pursuant to section thirty-one hundred two-b of the public authorities law;

(ii) technology development corporations established pursuant to section thirty-one hundred two-d of the public authorities law;

(iii) state university of New York engineering schools that administer the strategic partnership for industrial resurgence program; and

(iv) centers of excellence established pursuant to section 3 of part T of chapter 84 of the laws of 2002 and section four hundred ten of the economic development law.

(b) Preference for receiving funds under this section shall be given to entities that partner with other eligible entities to provide the full range of technical assistance services as specified in subdivision two of this section.

(c) Entities receiving funds under this section shall match such funds on a one-to-one basis. Such match shall consist of actual cash, salaries, staff time, or expenses directly attributable to the purposes of this section. Overhead costs may not be included in the match.

5. (a) Funds can be used for costs related to conducting outreach to small businesses to promote awareness of SBIR/STTR program solicitations, grant preparation and review, and printing costs and supplies associated with the submission of grants.

(b) From such funds as may be appropriated for this purpose by the legislature, the corporation shall make competitive awards annually in amounts of up to two hundred thousand dollars to providers of assistance pursuant to this section.

6. (a) Entities receiving funds shall annually provide to the corporation details on the following:

(i) description of small businesses served, including technology focus, business size and location;

(ii) SBIR and STTR grants applied for and received as a result of assistance provided; and

(iii) any other information deemed appropriate by the corporation.

(b) The corporation shall include the information provided pursuant to subdivision five of this section in the annual report filed pursuant to section four hundred four of the economic development law.

(c) On or before February first, two thousand nineteen, the corporation shall evaluate the effectiveness of the SBIR/STTR technical assistance program and report such findings to the governor and legislature. The corporation shall also make recommendations as to the appropriateness of expanding the program to provide assistance to SBIR/STTR phase II applicants.

§ 2. Section 3102-c of the public authorities law is REPEALED.

§ 3. This act shall take effect immediately.

PART MM

Section 1. Short title. This act shall be known and may be cited as the "New York state innovation voucher program act".

§ 2. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 16-bb to read as follows:

§ 16-bb. New York state innovation voucher program. (1) Program established. There is hereby established a New York state innovation voucher program under the purview of the empire state development corporation. Such program shall provide small businesses with access to research and development by colleges and universities, government laboratories and public research institutes in order to assist such businesses in the creation of innovative products or services that provide job retention and expansion.

(2) Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Eligible recipient" shall mean small businesses as defined in section one hundred thirty-one of the economic development law.

(b) "Eligible projects" for vouchers authorized pursuant to this section shall mean research and development projects leading to innovation of products or services. Eligible costs shall include, but not be limited to, the development of prototypes, field testing, engineering or other projects authorized by the corporation that enhance innovation of products or services that result in job growth and business expansion within the state.

(c) "Ineligible expense" shall mean reimbursement of time spent by the employees or owners of the small business; grant or voucher application costs; routine and readily-predictable business expenses; design and production of marketing or advertising materials; basic professional services such as ongoing routine accounting, tax or legal services; building or equipment construction costs; financing fees; travel and entertainment costs; hospitality costs; and any other expenses deemed ineligible by the corporation.

(d) "Research and development partner" shall mean colleges, universities, state and national government laboratories, and public research institutes in New York state.

(e) "Exceptionally innovative projects" shall mean projects that demonstrate a potential for substantial economic growth and job development in an emerging technology field, as defined by the corporation, through the promulgation of rules and regulations, as emerging technology fields from those fields listed in subparagraphs one, two, three, four and five of paragraph (b) of subdivision one of section thirty-one hundred two-e of the public authorities law.

(3) Selection of eligible recipients. (a) Eligible recipients shall be selected by the corporation based on the strength of their proposals, including evaluation of the innovative nature of the project, its technical feasibility, commercial viability and the potential impact on the retention and creation of new jobs.

(b) Small businesses may identify desired or potential research and development partners as part of their applications. Advance determinations of the business' research and development partner shall not be a requirement for receipt of an innovation voucher.

(c) Applications shall be judged by an advisory committee, or regional advisory committee, appointed by the president of the corporation consisting of members of the higher education, science and technology, and business communities.

(4) Research and development partners. The corporation shall identify a list of potential research and development partners in New York state that have appropriate facilities and resources to participate in the innovation voucher program and are willing to accept vouchers from eligible recipients for payment of their services. The list of potential research and development partners shall be displayed on the corporation's website, and shall be reviewed and revised at least quarterly.

(5) Vouchers and matching funds. (a) The corporation, upon the recommendation of the advisory committee, may award vouchers up to ten thousand dollars for each eligible project. Upon the recommendation of the advisory committee, the corporation may award a voucher in an amount up to fifty thousand dollars where a project is deemed exceptionally innovative. Criteria for determination of awards shall be established by the corporation in rules and regulations. Eligible recipients shall match the value of the voucher on a dollar-for-dollar basis and shall apply such amount to the voucher-funded project.

(b) If an applicant is approved by the corporation for a voucher based on the merits of an eligible project, such eligible recipient shall be authorized to enter into a working agreement with the appropriate research and development partner. The eligible recipient shall notify the corporation of the research and development partner collaboration to be formed to further research and development. Payment of the voucher shall be made based on a payment structure established by the corporation in rules and regulations promulgated pursuant to section four of this act to administer a collaboration.

(6) Outreach. To ensure maximum awareness of the innovation voucher program, the corporation shall develop and implement a plan to disseminate information and materials to small businesses, including but not limited to minority- and women-owned enterprises and veteran-owned businesses.

(7) Reports. The corporation shall post quarterly reports stating: the number and monetary value of vouchers issued; the amount of program funding used for the vouchers; the recipient of the the vouchers and research and development partner; and any other appropriate metrics to measure the success of the program, including but not limited to, the number of jobs created or retained, the number of patents produced as a result of the collaboration, a description of the economic development impact and such other information as the corporation may deem necessary. Such quarterly reports shall also include a list of current advisory committee members and a list of current research and development partners approved by the corporation.

(8) Funding. The corporation is authorized, within available appropriations in the empire state development fund established pursuant to

section sixteen-m of this act or from any other funds appropriated, to make innovative vouchers available to eligible recipients.

§ 3. Subdivision 1 of section 16-m of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new paragraph (o) to read as follows:

(o) Vouchers to eligible entities as set forth in section sixteen-bb of this act to support the New York state innovation voucher program to assist small business access to research and development by colleges and universities, government laboratories and public research institutes to support such businesses in the creation of innovative products or services.

§ 4. Rules and regulations. The empire state development corporation is authorized to promulgate rules and regulations in accordance with the state administrative procedure act that are necessary to fulfill the purposes of this act. Such rules and regulations shall be completed within one hundred eighty days after the effective date of this act.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the amendments to subdivision 1 of section 16-m of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, made by section three of this act shall not affect the expiration of such section and shall be deemed to expire therewith; provided, further, that any rules and regulations necessary for the timely implementation of this act on its effective date may be promulgated on or before such effective date.

PART NN

Section 1. The economic development law is amended by adding a new section 438 to read as follows:

§ 438. Disclosure authorization and reporting requirements. 1. The commissioner and the department shall disclose publicly the names and addresses of the businesses located within a tax-free NY area. In addition, the commissioner and the department shall disclose publicly and include in the annual report required under subdivision two of this section such other information contained in such businesses' applications and annual reports, including the projected number of net new jobs to be created, as they determine is relevant and necessary to evaluate the success of this program.

2. (a) The commissioner shall prepare an annual report to the governor and the legislature. Such report shall include the number of business applicants, number of businesses approved, the names and addresses of the businesses located within a tax-free NY area, total amount of benefits distributed, benefits received per business, number of net new jobs created, net new jobs created per business, new investment per business, the types of industries represented and such other information as the commissioner determines is necessary to evaluate the progress of the START-UP NY program.

(b) Any business located in a tax-free NY area must submit an annual report to the commissioner in a form and at such time and with such information as prescribed by the commissioner in consultation with the commissioner of taxation and finance. Such information shall be sufficient for the commissioner and the commissioner of taxation and finance to: (i) monitor the continued eligibility of the business and its employees to participate in the START-UP NY program and receive the tax benefits described in section thirty-nine of the tax law; (ii) evaluate

the progress of the START-UP NY program; and (iii) prepare the annual report required by paragraph (a) of this subdivision. Such annual report shall also include information regarding the wages paid during the year to its employees employed in the net new jobs created and maintained in the tax-free NY area.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 10, 2017.

PART OO

Section 1. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 52 to read as follows:

§ 52. Strategic investment in workforce development. 1. Pursuant to this section there is hereby established within the corporation, the strategic investment in workforce development program to identify and address workforce needs throughout the state. The corporation shall collaborate with the department of labor, the department of economic development, the state university of New York, the city university of New York, and the state education department to provide support to eligible applicants within amounts available for the strategic investments in workforce development program and shall identify the training needs of employers, employees and prospective employees; identify areas of the state or specific industries where a shortage of a skilled workforce is impacting the ability of those areas of the state or industries to remain competitive and innovative; identify methods and models to train and employ youth workers; and identify ways to serve prospective employees that are currently unemployed or underemployed. The strategic investment in workforce development program shall utilize the information gathered to target workforce training activities, employment credentials or certificate opportunities, and skill development programs to meet the identified needs and to provide necessary training and skill development programs to youth and individuals who are unemployed or underemployed.

2. Eligible applicants shall include an employer or consortium of employers in conjunction with a labor organization, a not-for-profit, an educational entity or a program or network that provides training and skill development for youth or individuals who are unemployed or underemployed. An entity that works directly with employers to provide training or retraining, particularly in high-skill occupations or industries, or an entity that seeks to promote and foster economic development and job growth shall also be considered an eligible applicant. Eligible applicants shall demonstrate a relationship with educational programs and entities that address the needs of employers, employees or prospective employees, particularly youth, unskilled workers, unemployed individuals or underemployed workers.

3. (a) Assistance provided by the corporation to eligible applicants, may be used for the costs associated with strategic workforce development training and skills development. Such costs may include, but is not limited to, classroom training, on the job training, curriculum development, and training materials associated with on the job training, skills upgrading, skills retraining, and basic skills training that leads to obtaining appropriate certifications or degrees from accredited institutions; and

(b) The corporation shall ensure that not less than twenty percent of the program funds are used in support of projects that assist small

businesses as defined in section one hundred thirty-one of the economic development law and minority- and women-owned business enterprises.

4. (a) The corporation shall report to the legislature by June thirtieth, two thousand nineteen and annually thereafter, identifying the entities receiving assistance, the type of assistance provided, the number of individuals trained and newly hired including those who were previously unemployed, underemployed or economically disadvantaged, and the number of certifications or degrees conferred from accredited institutions.

(b) The corporation shall also provide for an independent evaluation of the program on or before June thirtieth, two thousand twenty, and every three years thereafter.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2018.

PART PP

Section 1. Article 54 of the environmental conservation law is amended by adding a new title 17 to read as follows:

TITLE 17

NEW YORK STATE ENVIRONMENTAL JUSTICE ACT AND GRANTS

Section 54-1701. Definitions.
54-1702. Implementation of environmental justice policies.
54-1703. Environmental justice task force.
54-1705. Environmental justice grants.

§ 54-1701. Definitions.

For purposes of this title "environmental justice" means the fair treatment of people of all races, cultures and incomes in the development, adoption, implementation and enforcement of environmental laws and policies.

§ 54-1702. Implementation of environmental justice policies.

1. All state agencies, boards, commissions and other bodies involved in decisions that may affect environmental quality shall adopt and implement environmental justice policies providing meaningful opportunities for involvement to all people, regardless of race, color, ethnicity, religion, income or education level.

2. All state programs and policies designed to protect the environment shall be reviewed periodically to ensure that program implementation and dissemination of information meet the needs of low-income and minority communities, and seek to address disproportionate exposure to environmental hazards.

3. The department will use available environmental and public health data to identify existing and proposed industrial and commercial facilities and areas in communities of color and low-income communities for which compliance, enforcement, remediation, siting and permitting strategies will be targeted to address impacts from these facilities.

4. The department shall create an environmental justice advisory council to advise the department and the environmental justice task force on environmental justice issues. The council shall consist of fifteen individuals and will meet at least quarterly. The council shall annually select a chairperson from its membership and shall have a composition of one-third membership from grassroots or faith-based community organizations, with additional membership to include representatives from the following communities: academic public health, statewide environmental, civil rights and public health organizations, large and small business and industry, municipal and county officials, and organized labor.

§ 54-1703. Environmental justice task force.

1. The commissioner and the commissioner of the department of health, or their appointed designees, shall convene a multi-agency task force, to be named the environmental justice task force. This task force will include senior management designees from the governor counsel's office, the attorney general's office, the departments of health, agriculture and markets, transportation, and education. The task force shall be an advisory body, the purpose of which is to make recommendations to state agency heads regarding actions to be taken to address environmental justice issues consistent with each agency's existing statutory and regulatory authority. The task force is authorized to consult with, and expand its membership to, other state agencies as needed to address concerns raised in affected communities.

2. Any community may file a petition with the task force that asserts that residents and workers in the community are subject to disproportionate adverse exposure to environmental health risks, or disproportionate adverse effects resulting from the implementation of laws affecting public health or the environment.

3. The task force shall identify a set of communities from the petitions filed, based on selection criteria developed by the task force, including consideration of state agency resource constraints. The task force shall meet directly with the selected communities to understand their concerns.

4. The task force shall develop an action plan for each of the selected communities after consultation with the citizens, as well as local and county government as relevant, that will address environmental factors that affect community health. The action plan shall clearly delineate the steps that will be taken in each of the selected communities to reduce existing environmental burdens and avoid or reduce the imposition of additional environmental burdens through allocations of resources, exercise of regulatory discretion, and development of new standards and protections. The action plan, which shall be developed in consultation with the environmental justice advisory council, will specify community deliverables, a timeframe for implementation, and the justification and availability of financial and other resources to implement the plan. The task force shall present the action plan to the relevant departments, recommending its implementation.

5. The task force shall monitor the implementation of each action plan in the selected communities, and shall make recommendations to state agencies as necessary to facilitate implementation of the action plans. Agencies shall implement the strategy to the fullest extent practicable in light of statutory and resource constraints.

§ 54-1705. Environmental justice grants.

1. For the purpose of this section, environmental justice projects shall take place in environmental justice, inner city, and underserved areas and mean:

(a) improvements to environmental quality;

(b) projects that address exposure to multiple harms and risks, including lead exposure;

(c) environmental job training;

(d) studies, including air monitoring, to investigate the environment, or related public health issues of the community; and,

(e) research that will be used to expand the knowledge or understanding of the affected community, including ways to improve resiliency provided that the results of any such investigation shall be disseminated to the members of the affected community.

2. The commissioner, after consultation with the environmental justice advisory council, and a not-for-profit corporation may enter into a contract for the undertaking by the not-for-profit corporation of an environmental justice project. Such project shall be recommended to the commissioner by the governing body of a not-for-profit corporation which demonstrates to the satisfaction of the commissioner that such projects address the environmental and/or related public health issues of the residents of the affected community. Upon approval by the commissioner, such project shall be undertaken pursuant to the provisions of this title and any other applicable provision of law.

3. The commissioner, after consultation with the environmental justice advisory council, and a municipality may enter into a contract for the undertaking by the municipality of an environmental justice project. Such project shall be recommended to the commissioner by the governing body of a municipality which demonstrates to the satisfaction of the commissioner that such projects address the environmental and/or related public health issues of the residents of the affected community. Upon approval by the commissioner, such project shall be undertaken pursuant to the provisions of this title and any other applicable provision of law.

§ 2. This act shall take effect July 1, 2019; provided however, that the environmental justice task force and the environmental justice advisory council shall be established and operating by October 1, 2019.

PART QQ

Section 1. Legislative findings and declaration. The legislature hereby enacts the "New York state climate and community protection act" and finds and declares that:

1. Climate change is adversely affecting economic well-being, public health, natural resources, and the environment of New York. The adverse impacts of climate change include:

a. an increase in the severity and frequency of extreme weather events, such as storms, flooding, and heat waves, which can cause direct injury or death, property damage, and ecological damage (e.g., through the release of hazardous substances into the environment);

b. rising sea levels, which exacerbate damage from storm surges and flooding, contribute to coastal erosion and saltwater intrusion, and inundate low-lying areas, leading to the displacement of or damage to coastal habitat, property, and infrastructure;

c. a decline in freshwater and saltwater fish populations;

d. increased average temperatures, which increase the demand for air conditioning and refrigeration among residents and businesses;

e. exacerbation of air pollution; and

f. an increase in the incidences of infectious diseases, asthma attacks, heart attacks, and other negative health outcomes. These impacts are having a detrimental effect on some of New York's largest industries, including agriculture, commercial shipping, forestry, tourism, and recreational and commercial fishing. These impacts also place additional strain on the physical infrastructure that delivers critical services to the citizens of New York, including the state's energy, transportation, stormwater, and wastewater infrastructure.

2. a. The severity of current climate change and the threat of additional and more severe change will be affected by the actions undertaken by New York and other jurisdictions to reduce greenhouse gas emissions. According to the U.S. Global Change Research Program (USGCRP) and the

Intergovernmental Panel on Climate Change (IPCC), substantial reductions in greenhouse gas emissions will be required by mid-century in order to limit global warming to no more than 2°C and ideally 1.5°C, and thus minimize the risk of severe impacts from climate change. Specifically, industrialized countries must reduce their greenhouse gas emissions by at least 80% below 1990 levels by 2050 in order to stabilize carbon dioxide equivalent concentrations at 450 parts per million--the level required to stay within the 2°C target.

b. On December 12, 2015, one hundred ninety-five countries at the 21st Conference of the parties of the United Nations Framework Convention on Climate Change adopted an agreement addressing greenhouse gas emissions mitigation, adaptation, and finance starting in the year 2020, known as the Paris Agreement. The Paris Agreement was adopted on November 4, 2016, and is the largest concerted global effort to combat climate change to date.

3. Action undertaken by New York to reduce greenhouse emissions will have an impact on global greenhouse gas emissions and the rate of climate change. In addition, such action will encourage other jurisdictions to implement complementary greenhouse gas reduction strategies and provide an example of how such strategies can be implemented. It will also advance the development of green technologies and sustainable practices within the private sector, which can have far-reaching impacts such as a reduction in the cost of renewable energy components, and the creation of jobs and tax revenues in New York.

4. It shall therefore be a goal of the state of New York to reduce greenhouse gas emissions from all anthropogenic sources 100% over 1990 levels by the year 2050, with an incremental target of at least a 50 percent reduction in climate pollution by the year 2030, in line with USGCRP and IPCC projections of what is necessary to avoid the most severe impacts of climate change.

5. Although substantial emissions reductions are necessary to avoid the most severe impacts of climate change, complementary adaptation measures will also be needed to address those risks that cannot be avoided. Some of the impacts of climate change are already observable in New York state and the northeastern United States. Annual average temperatures are on the rise, winter snow cover is decreasing, heat waves and precipitation are intensifying, and sea levels along New York's coastline are approximately one foot higher than they were in 1900. New York has also experienced an increasing number of extreme and unusual weather events, like Hurricanes Irene and Lee and the unprecedented Superstorm Sandy in 2012, which caused at least 53 deaths and $32 billion in damage in New York state.

6. New York should therefore minimize the risks associated with climate change through a combination of measures to reduce statewide greenhouse gas emissions and improve the resiliency of the state with respect to the impacts and risks of climate change that cannot be avoided.

7. Climate change especially heightens the vulnerability of disadvantaged communities, which bear environmental and socioeconomic burdens as well as legacies of racial and ethnic discrimination. Actions undertaken by New York state to mitigate greenhouse gas emissions should prioritize the safety and health of disadvantaged communities, control potential regressive impacts of future climate change mitigation and adaptation policies on these communities, and prioritize the allocation of public investments in these areas.

8. Creating good jobs and a thriving economy is a core concern of New York state. Shaping the ongoing transition in our energy sector to ensure that it creates good jobs and protects workers and communities that may lose employment in the current transition must be key concerns of our climate policy. Setting clear standards for job quality and training standards encourages not only high-quality work but positive economic impacts.

9. Workers are at the front lines of climate change. Construction workers and building service workers were some of the first workers dedicated to cleaning up damage inflicted by recent storms. These workers were often operating in unsafe and toxic environments, cleaning up mold, and working in unstable buildings. In order to protect the health and welfare of these workers, it is in the interest of the state of New York to establish safe and healthy working conditions and proper training for workers involved in climate change related activities. In addition, much of the infrastructure work preparing our state for additional climate change events must happen quickly and efficiently. It is in the interest of the state to ensure labor harmony and promote efficient performance of work on climate change related work sites by requiring workers to be well-trained and adequately compensated.

10. Ensuring career opportunities are created and shared geographically and demographically is necessary to ensure increased access to good jobs for marginalized communities while making the same neighborhoods more resilient. Climate change has a disproportionate impact on low-income people, women, and workers. It is in the interest of the state of New York to protect and promote the interests of these groups against the impacts of climate change and severe weather events and to advance our equity goals by ensuring quality employment opportunities in safe working environments.

11. The complexity of the ongoing energy transition, the uneven distribution of economic opportunity, and the disproportionate cumulative economic and environmental burdens on communities mean that there is a strong state interest in setting a floor statewide for labor standards, but allowing and encouraging individual agencies and local governments to raise standards.

12. By exercising a global leadership role on greenhouse gas mitigation and climate change adaptation, New York will position its economy, technology centers, financial institutions, and businesses to benefit from national and international efforts to address climate change. New York state has already demonstrated leadership in this area by undertaking efforts such as:

a. executive order no. 24 (2009), establishing a goal to reduce greenhouse gas emissions 80% by the year 2050, creating a climate action council, and calling for preparation of a climate action plan;

b. chapter 433 of the laws of 2009, establishing a state energy planning board and requiring the board to adopt a state energy plan;

c. chapter 388 of the laws of 2011, directing the department of environmental conservation to promulgate rules and regulations limiting emissions of carbon dioxide by newly constructed major generating facilities;

d. the adoption of a state energy plan establishing clean energy goals for the year 2030 aimed at reducing greenhouse gas emission levels by 40% from 1990 levels, producing 50% of electricity from renewable sources, and increasing energy efficiency from 2012 levels by 23%;

e. collaboration with other states on the Regional Greenhouse Gas Initiative, and the development of a regional low carbon fuel standard;

f. creation of new offices and task forces to address climate change, including the New York state office of climate change, the renewable energy task force, and the sea level rise task force; and

g. the enactment of the Community Risk and Resiliency Act (CRRA), which requires agencies to consider sea level rise and other climate-related events when implementing certain state programs.

This legislation will build upon these past developments by creating a comprehensive regulatory program to reduce greenhouse gas emissions that corresponds with the targets established in executive order no. 24, the state energy plan, and USGCRP and IPCC projections.

§ 2. The environmental conservation law is amended by adding a new article 75 to read as follows:

ARTICLE 75
CLIMATE CHANGE

Section 75-0101. Definitions.
75-0103. New York state climate action council.
75-0105. Statewide greenhouse gas emissions report.
75-0107. Statewide greenhouse gas emissions limits.
75-0109. Scoping plan for statewide greenhouse gas emissions reductions.
75-0111. Promulgation of regulations to achieve statewide greenhouse gas emissions reductions.
75-0113. Climate justice working group.
75-0115. Implementation reporting.

§ 75-0101. Definitions.

For the purposes of this article the following terms shall have the following meanings:

1. "Allowance" means an authorization to emit, during a specified year, up to one ton of carbon dioxide equivalent.

2. "Carbon dioxide equivalent" means the amount of carbon dioxide by mass that would produce the same global warming impact as a given mass of another greenhouse gas over an integrated twenty-year time frame after emission, based on the best available science.

3. "Co-pollutants" means hazardous air pollutants produced by greenhouse gas emissions sources.

4. "Council" means the New York state climate action council established pursuant to section 75-0103 of this article.

5. "Disadvantaged communities" means communities that bear burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, as identified pursuant to section 75-0113 of this article.

6. "Emissions reduction measures" means programs, measures and standards, authorized pursuant to this chapter, applicable to sources or categories of sources, that are designed to reduce emissions of greenhouse gases.

7. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other substance emitted into the air that may be reasonably anticipated to cause or contribute to anthropogenic climate change.

8. "Greenhouse gas emission limit" means an authorization, during a specified year, to emit up to a level of greenhouse gases specified by the department, expressed in tons of carbon dioxide equivalent.

9. "Greenhouse gas emission source" or "source" means any anthropogenic source or category of anthropogenic sources of greenhouse gas emissions, with the exception of agricultural emissions from livestock, determined by the department:

a. that its participation in the program will enable the department to effectively reduce greenhouse gas emissions; and,

b. to be capable of being monitored for compliance.

10. "Leakage" means a reduction in emissions of greenhouse gases within the state that is offset by an increase in emissions of greenhouse gases outside of the state.

11. "Market-based compliance mechanism" means any of the following:

a. A price on greenhouse gas emissions from regulated sources, expressed as a fee per ton of carbon dioxide equivalent released in a given year.

b. A system of market-based declining annual aggregate emissions limitations for sources or categories of sources that emit greenhouse gases.

12. "Statewide greenhouse gas emissions" means the total annual emissions of greenhouse gases produced within the state from anthropogenic sources and greenhouse gases produced outside of the state that are associated with the generation of electricity imported into the state and the extraction and transmission of fossil fuels imported into the state. Statewide emissions shall be expressed in tons of carbon dioxide equivalents.

13. "Statewide greenhouse gas emissions limit" or "statewide emissions limit" means the maximum allowable level of statewide greenhouse gas emissions in a specified year, as determined by the department pursuant to this article.

14. "Environmental justice advisory group" shall mean the permanent environmental justice advisory group established by a chapter of the laws of two thousand eighteen amending the environmental conservation law relating to establishing a permanent environmental justice advisory group and an environmental justice interagency coordinating council, as proposed in legislative bills numbers S.3110 and A.2234.

§ 75-0103. New York state climate action council.

1. There is hereby established, within the department, the New York state climate action council ("council") which shall consist of the following twenty-five members:

a. the commissioners of transportation, health, economic development, agriculture and markets, housing and community renewal, general services, labor, environmental conservation, homeland security and emergency services, the chairperson of the public service commission, the superintendent of financial services, the presidents of the New York state energy research and development; New York power authority; Long Island power authority; secretary of state, the chairman of the metropolitan transportation authority and dormitory of the state of New York, or their designee.

b. two members appointed by the governor;

c. two members to be appointed by the temporary president of the senate;

d. two members to be appointed by the speaker of the assembly;

e. one member to be appointed by the minority leader of the senate; and

f. one member to be appointed by the minority leader of the assembly.

2. The at large members shall include at all times individuals with expertise in issues relating to climate change mitigation and/or adaptation, such as environmental justice, labor, public health and regulated industries.

3. Council members shall receive no compensation for their services but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

4. The chairperson of the council shall be the commissioner of environmental conservation or his or her designee.

5. A majority of the members of the council shall constitute a quorum.

6. Any vacancies on the council shall be filled in the manner provided for in the initial appointment.

7. The council shall be authorized to convene advisory panels to assist or advise it in areas requiring special expertise or knowledge.

8. The department shall provide the council with such facilities, assistance and data as will enable the council to carry out its powers and duties. Additionally, all other agencies of the state or subdivisions thereof may, at the request of the chairperson, provide the council with such facilities, assistance, and data as will enable the council to carry out its powers and duties.

9. The council shall consult with the climate justice working group established in section 75-0113 of this article, the department of state utility intervention unit, and the federally designated electric bulk system operator.

10. The council shall advise the department on:

a. The development of statewide greenhouse gas emissions limits rules and regulations, pursuant to section 75-0107 of this article, and regulations to achieve statewide greenhouse gas emissions reductions, pursuant to section 75-0111 of this article.

b. The preparation of a scoping plan for reducing greenhouse gas emissions, pursuant to the procedures set forth in section 75-0109 of this article.

11. The council shall identify existing climate change mitigation and adaptation efforts at the federal, state, and local levels and may make recommendations regarding how such policies may improve the state's efforts.

12. The council shall maintain a website that includes public access to the scoping plan and greenhouse gas limit information.

§ 75-0105. Statewide greenhouse gas emissions report.

1. No later than one year after the effective date of this article, and each year thereafter, the department shall issue a report on statewide greenhouse gas emissions, expressed in tons of carbon dioxide equivalents, from all greenhouse gas emission sources in the state, including the relative contribution of each type of greenhouse gas and each type of source to the statewide total.

2. The statewide greenhouse gas emissions report shall be a comprehensive evaluation, informed by a variety of data, including but not limited to:

a. information relating to the use of fossil fuels by sector, including for electricity generation, transportation, heating, and other combustion purposes;

b. information relating to fugitive and vented emissions from systems associated with the production, processing, transport, distribution, storage, and consumption of fossil fuels, including natural gas;

c. information relating to emissions from non-fossil fuel sources, including, but not limited to, garbage incinerators, biomass combustion, landfills and landfill gas generators, and anaerobic digesters;

d. information relating to emissions associated with manufacturing, chemical production, cement plants, and other processes that produce non-combustion emissions; and

e. information from sources that may be required to participate in the registration and reporting system pursuant to subdivision four of this section.

3. The statewide greenhouse gas emissions report shall also include an estimate of greenhouse gas emissions associated with the generation of imported electricity and with the extraction and transmission of fossil fuels imported into the state which shall be counted as part of the statewide total.

4. Within one year after the effective date of this article, the department shall consider establishing a mandatory registry and reporting system from individual sources to obtain data on greenhouse gas emissions exceeding a particular threshold. If established, such registry and reporting system shall apply a consistent reporting threshold to ensure the unbiased collection of data.

5. The statewide greenhouse gas emissions report shall also include an estimate of what the statewide greenhouse gas emissions level was in 1990.

6. The statewide greenhouse gas emissions report shall utilize best available science and methods of analysis, including the comparison and reconciliation of emission estimates from all sources, fuel consumption, field data, and peer-reviewed research.

7. The statewide greenhouse gas emissions report shall clearly explain the methodology and analysis used in the department's determination of greenhouse gas emissions and shall include a detailed explanation of any changes in methodology or analysis, adjustments made to prior estimates, as needed, and any other information necessary to establish a scientifically credible account of change.

8. The department shall hold at least two public hearings to seek public input regarding the methodology and analysis used in the determination of statewide greenhouse gas emissions, and periodically thereafter.

§ 75-0107. Statewide greenhouse gas emissions limits.

1. No later than one year after the effective date of this article, the department shall, pursuant to rules and regulations promulgated after at least one public hearing, establish a statewide greenhouse gas emissions limit as a percentage of 1990 emissions, as estimated pursuant to section 75-0105 of this article, as follows:

a. 2020: 85% of 1990 emissions.

b. 2025: 65% of 1990 emissions.

c. 2030: 50% of 1990 emissions.

d. 2035: 35% of 1990 emissions.

e. 2040: 20% of 1990 emissions.

f. 2045: 10% of 1990 emissions.

g. 2050: 0% of 1990 emissions.

2. Greenhouse gas emission limits shall be measured in units of carbon dioxide equivalents and identified for each individual type of greenhouse gas.

3. In order to ensure the most accurate determination feasible, the department shall utilize the best available scientific, technological, and economic information on greenhouse gas emissions and consult with the council, stakeholders, and the public in order to ensure that all emissions are accurately reflected in its determination of 1990 emissions levels.

§ 75-0109. Scoping plan for statewide greenhouse gas emissions reductions.

1. On or before two years of the effective date of this article, the department shall prepare and approve a scoping plan outlining the department's recommendations for attaining the statewide greenhouse gas

emissions limits in accordance with the schedule established in section 75-0107 of this article.

2. The draft scoping plan shall be developed in consultation with the council, environmental justice advisory group, and the climate justice working group established pursuant to section 75-0113 of this article and other stakeholders.

a. The department and the council shall hold at least six regional public comment hearings on the draft scoping plan, including three meetings in the upstate region and three meetings in the downstate region, and shall allow at least one hundred twenty days for the submission of public comment.

b. The department shall provide meaningful opportunities for public comment from all persons who will be impacted by the plan, including persons living in disadvantaged communities as identified pursuant to section 75-0113 of this article.

c. On or before thirty months of the effective date of this article, the department shall submit the final scoping plan to the governor, the speaker of the assembly and the temporary president of the senate and post such plan on its website.

3. The scoping plan shall identify and make recommendations on regulatory measures and other state actions that will ensure the attainment of the statewide greenhouse gas emissions limits established pursuant to section 75-0107 of this article. The measures and actions considered in such scoping plan shall at a minimum include:

a. Performance-based standards for sources of greenhouse gas emissions, including but not limited to sources in the transportation, building, industrial, commercial, and agricultural sectors.

b. Market-based mechanisms to reduce statewide greenhouse gas emissions or emissions from a particular source category, including an examination of: the imposition of fees per unit of carbon dioxide equivalent emitted and the imposition of emissions caps accompanied by a system of tradable emission allowances.

c. Measures to reduce emissions from the electricity sector by displacing fossil-fuel fired electricity with renewable electricity or energy efficiency.

d. Land-use and transportation planning measures aimed at reducing greenhouse gas emissions from motor vehicles.

e. Measures to achieve long-term carbon sequestration and/or promote best management practices in land use, agriculture and forestry.

f. Verifiable, enforceable and voluntary emissions reduction measures.

4. In developing such plan the department shall:

a. Consider all relevant information pertaining to greenhouse gas emissions reduction programs in other states, regions, localities, and nations.

b. Evaluate, using the best available economic models, emission estimation techniques and other scientific methods, the total potential costs and potential economic and non-economic benefits of the plan for reducing greenhouse gases, and make such evaluation publicly available. In conducting this evaluation, the department shall quantify:

i. The economic and social benefits of greenhouse gas emissions reductions, taking into account the federal social cost of carbon, any other tools that the department deems useful and pertinent for this analysis, and any environmental, economic and public health co-benefits (such as the reduction of co-pollutants and the diversification of energy sources); and

ii. The costs of implementing proposed emissions reduction measures, and the emissions reductions that the department anticipates achieving through these measures.

c. Take into account the relative contribution of each source or source category to statewide greenhouse gas emissions, and the potential for adverse effects on small businesses, and recommend a de minimis threshold of greenhouse gas emissions below which emission reduction requirements will not apply.

d. Identify measures to maximize reductions of both greenhouse gas emissions and co-pollutants in disadvantaged communities as identified pursuant to section 75-0113 of this article.

5. The department shall update its plan for achieving the statewide greenhouse gas emissions limits at least once every five years and shall make such updates available to the governor, the speaker of the assembly and the temporary president of the senate and post such updates on its website.

§ 75-0111. Promulgation of regulations to achieve statewide greenhouse gas emissions reductions.

1. No later than three years after the effective date of this article, the department, after public workshops and consultation with the council, the environmental justice advisory group, and the climate justice working group established pursuant to section 75-0113 of this article, representatives of regulated entities, community organizations, environmental groups, health professionals, labor unions, municipal corporations, trade associations and other stakeholders, shall, after no less than two public hearings, promulgate rules and regulations to ensure compliance with the statewide emissions reduction limits.

2. The regulations promulgated by the department pursuant to this section shall:

a. Ensure that the aggregate emissions of greenhouse gases from greenhouse gas emission sources will not exceed the statewide greenhouse gas emissions limits established in section 75-0107 of this article.

b. Include legally enforceable emissions limits, performance standards, or measures or other requirements to control emissions from greenhouse gas emission sources.

c. Include measures to reduce emissions from greenhouse gas emission sources that have a cumulatively significant impact on statewide greenhouse gas emissions, such as internal combustion vehicles that burn gasoline or diesel fuel and boilers or furnaces that burn oil or natural gas.

3. In promulgating these regulations, the department shall:

a. Design and implement all regulations in a manner that seeks to be equitable, to minimize costs and to maximize the total benefits to New York, and encourages early action to reduce greenhouse gas emissions.

b. Ensure that greenhouse gas emissions reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the department.

c. Ensure that activities undertaken to comply with the regulations do not result in a net increase in co-pollutant emissions or otherwise disproportionately burden disadvantaged communities as identified pursuant to section 75-0113 of this article.

d. Prioritize measures to maximize net reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities as identified pursuant to section 75-0113 of this article and encourage early action to reduce greenhouse gas emissions and co-pollutants.

e. Minimize leakage.

4. Market-based compliance mechanisms.

a. The department may consider provisions for the use of market-based compliance mechanisms to comply with the regulations.

b. Prior to the inclusion of any market-based compliance mechanism in the regulations, to the extent feasible and in the furtherance of achieving the statewide greenhouse gas emissions limit, the department shall do all of the following:

i. Consider the potential for direct, indirect, and cumulative emission impacts from these mechanisms, including localized impacts in disadvantaged communities as identified pursuant to section 75-0113 of this article;

ii. Design any market-based compliance mechanism to prevent any increase in the emissions of co-pollutants; and

iii. Maximize additional environmental, public health, and economic benefits for the state of New York and for disadvantaged communities identified pursuant to section 75-0113 of this article, as appropriate.

c. Such regulations shall include provisions governing how market-based compliance mechanisms may be used by regulated entities subject to greenhouse gas emissions limits and mandatory emission reporting requirements to achieve compliance with their greenhouse gas emissions limits.

d. The department shall ensure that, at a minimum, forty percent of any funds collected pursuant to any market-based compliance regulations promulgated under this section as a result of legislative authorization, funds authorized by the public service commission to be collected solely for and directed to the New York state energy research and development authority and proceeds collected by the New York state energy research and development authority from the auction or sale of carbon dioxide emission allowances allocated by the department are invested in a manner which will benefit disadvantaged communities, identified pursuant to section 75-0113 of this article, consistent with the purposes of this article, including, but not limited to, increased access to renewable energy, energy efficiency, weatherization, zero- and low-emission transportation, and adaptation opportunities. The department shall consult with the climate justice working group in developing and carrying out such investments.

§ 75-0113. Climate justice working group.

1. There is hereby created within the department, no later than six months after the effective date of this article, a "climate justice working group". Such working group will be comprised of representatives from: environmental justice communities, the department, the department of health, the New York state energy and research development authority, and the department of labor.

a. Environmental justice community representatives shall be members of communities of color, low-income communities, and communities bearing disproportionate pollution and climate change burdens, or shall be representatives of community-based organizations with experience and a history of advocacy on environmental justice issues, and shall include at least three representatives from New York city communities, three representatives from rural communities, and three representatives from upstate urban communities.

b. The working group, in consultation with the department, the departments of health and labor, the New York state energy and research development authority, and the environmental justice advisory group, will establish criteria to identify disadvantaged communities for the purposes of co-pollutant reductions, greenhouse gas emissions

reductions, regulatory impact statements, and the allocation of investments related to this article.

c. Disadvantaged communities shall be identified based on geographic, public health, environmental hazard, and socioeconomic criteria, which shall include but are not limited to:

(i) areas burdened by cumulative environmental pollution and other hazards that can lead to negative public health effects;

(ii) areas with concentrations of people that are of low income, high unemployment, high rent burden, low levels of home ownership, low levels of educational attainment, or members of groups that have historically experienced discrimination on the basis of race or ethnicity; and

(iii) areas vulnerable to the impacts of climate change such as flooding, storm surges, and urban heat island effects.

2. Before finalizing the criteria for identifying disadvantaged communities and identifying disadvantaged communities pursuant to subdivision one of this section, the department shall publish draft criteria and a draft list of disadvantaged communities and make such information available on its website.

a. The department shall hold at least six regional public hearings on the draft criteria and the draft list of disadvantaged communities, including three meetings in the upstate region and three meetings in the downstate region, and shall allow at least one hundred twenty days for the submission of public comment.

b. The department shall also ensure that there are meaningful opportunities for public comment for all persons who will be impacted by the criteria, including persons living in areas that may be identified as disadvantaged communities under the proposed criteria.

3. The group will meet no less than annually to review the criteria and methods used to identify disadvantaged communities and may modify such methods to incorporate new data and scientific findings. The climate justice working group shall review identities of disadvantaged communities and modify such identities as needed.

§ 75-0115. Implementation reporting.

1. The department shall, not less than every four years, publish a report which shall include recommendations regarding the implementation of greenhouse gas reduction measures.

2. The report shall, at minimum, include:

a. Whether the state is on track to meet the statewide greenhouse gas emissions limits established in section 75-0107 of this article.

b. An assessment of existing regulations and whether modifications are needed to ensure fulfillment of the statewide greenhouse gas emissions limits.

c. An overview of social benefits from the regulations or other measures, including reductions in greenhouse gas emissions and copollutants, diversification of energy sources, and other benefits to the economy, environment, and public health, including women's health.

d. An overview of compliance costs for regulated entities and for the department and other state agencies.

e. Whether regulations or other greenhouse gas reduction measures undertaken are equitable, minimize costs and maximize the total benefits to the state, and encourage early action.

f. Whether activities undertaken to comply with state regulations disproportionately burden disadvantaged communities as identified pursuant to section 75-0113 of this article.

g. An assessment of local benefits and impacts of any reductions in co-pollutants related to reductions in statewide and local greenhouse gas emissions.

h. An assessment of disadvantaged communities' access to or community ownership of the services and commodities identified in section eight of the chapter of the laws of two thousand eighteen which added this article.

i. Whether entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this article receive appropriate credit for early voluntary reductions.

j. Recommendations for future regulatory and policy action.

3. In preparing this report, the department shall, at a minimum, consult with the council, and the climate justice working group established in section 75-0113 of this article.

4. The report shall be published and posted on the department's website.

§ 3. Subdivision 1 of section 54-1523 of the environmental conservation law is amended by adding a new paragraph h to read as follows:

h. to establish and implement easily-replicated renewable energy projects, including solar arrays, heat pumps and wind turbines in public low-income housing in suburban, urban and rural areas.

§ 4. The public service law is amended by adding a new section 66-p to read as follows:

§ 66-p. Establishment of a renewable energy program. 1. As used in this section:

(a) "load serving entity" means any entity that secures energy to serve the electrical energy requirements of end-use customers in New York state;

(b) "prevailing rate of wages" shall have the same meaning as such term is defined in paragraph a of subdivision five of section two hundred twenty of the labor law; and

(c) "renewable energy systems" means systems that generate electricity or thermal energy through use of the following technologies: solar thermal, photovoltaics, wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, offshore wind and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity.

2. No later than January first, two thousand nineteen, the commission shall establish a program to require that a minimum of fifty percent of the statewide electric generation secured by load serving entities to meet the electrical energy requirements of all end-use customers in New York state in two thousand thirty shall be generated by renewable energy systems.

The commission shall set annual minimum percentage levels of electricity generated by renewable energy systems and delivered to end-use customers in New York state for each year of the program.

3. No later than July first, two thousand twenty and every two years thereafter, the commission shall, after notice and provision for the opportunity to comment, issue a comprehensive review of the program established pursuant to this section. The commission shall determine, among other matters: (a) progress in meeting the overall annual targets for deployment of renewable energy systems; (b) distribution of systems by size and load zone; and (c) annual funding commitments and expenditures. The commission shall evaluate the annual targets established pursuant to subdivision two of this section and determine whether the annual targets should be accelerated, increased or extended, taking into

consideration load modifications associated with, but not limited to, energy efficiency measures and the electrification of transportation, heating systems and industrial processes.

4. The commission may temporarily suspend or modify the obligations under such program provided that the commission, after conducting a hearing as provided in section twenty of this chapter, makes a finding that the program impedes the provision of safe and adequate electric service or that there is a significant increase in arrears or service disconnections that the commission determines is related to the program.

5. Every contractor employed pursuant to this section, not otherwise required to pay laborers, workers or mechanics the prevailing rate of wages pursuant to article eight of the labor law, shall pay employees under contract for the development of renewable energy systems rated at two hundred fifty kilowatts or more, a wage of not less than the prevailing rate of wages for such work in the locality where such installation occurs. This requirement shall be in effect for the duration of the receipt by the contractor of the incentives established pursuant to this section and in no event shall such requirement extend beyond the availability of such incentives. Every contractor subject to the provisions of this subdivision shall maintain payroll records in accordance with section two hundred twenty of the labor law.

§ 5. Section 1005 of the public authorities law is amended by adding a new subdivision 26 to read as follows:

26. Renewable energy program. As deemed feasible and advisable by the trustees, no later than January first, two thousand nineteen, the authority shall secure energy to serve the electrical energy requirements of its end-use customers in accordance with the renewable energy program as set forth and defined in section sixty-six-p of the public service law.

§ 6. Sections 1020-jj, 1020-kk, and 1020-ll of the public authorities law, as renumbered by chapter 415 of the laws of 2017, are renumbered sections 1020-kk, 1020-ll and 1020-mm and a new section 1020-jj is added to read as follows:

§ 1020-jj. Renewable energy program. The authority and all load serving entities that secure energy to serve the electrical energy requirements of end-use customers in its service territory shall comply with the renewable energy program as set forth and defined in section sixty-six-p of the public service law.

§ 6-a. Subdivision 1 of section 1020-s of the public authorities law, as amended by chapter 415 of the laws of 2017, is amended to read as follows:

1. The rates, services and practices relating to the electricity generated by facilities owned or operated by the authority shall not be subject to the provisions of the public service law or to regulation by, or the jurisdiction of, the public service commission, except to the extent (a) article seven of the public service law applies to the siting and operation of a major utility transmission facility as defined therein, (b) article ten of such law applies to the siting of a generating facility as defined therein, (c) section eighteen-a of such law provides for assessment for certain costs, property or operations, (d) to the extent that the department of public service reviews and makes recommendations with respect to the operations and provision of services of, and rates and budgets established by, the authority pursuant to section three-b of such law, [~~and~~] (e) that section seventy-four of the public service law applies to qualified energy storage systems within the authority's jurisdiction and (f) that section sixty-six-p of the public

service law applies to the authority and load serving entities that secure energy to serve the electrical energy requirements of end-use customers within the authority's jurisdiction.

§ 7. The labor law is amended by adding a new article 8-B to read as follows:

ARTICLE 8-B

LABOR AND JOB STANDARDS AND WORKER PROTECTION

Section 228. Labor and job standards and worker protection.

§ 228. Labor and job standards and worker protection. 1. All state agencies involved in implementing the New York state climate and community protection act shall assess and implement strategies to increase employment opportunities and improve job quality. Within one hundred twenty days of the effective date of this section, all state agencies, offices, authorities, and divisions shall report to the legislature on:

a. steps they will take to ensure compliance with this section; and

b. regulations necessary to ensure that they prioritize the statewide goal of creating good jobs and increasing employment opportunities.

2. In considering and issuing permits, licenses, regulations, contracts, and other administrative approvals and decisions pursuant to the New York state climate and community protection act, all state agencies, offices, authorities, and divisions shall apply the following labor, training, and job quality standards to the following project types: public work; projects in receipt of more than one hundred thousand dollars in total financial assistance; or to projects with a total value of more than ten million dollars; and privately-financed projects on public property.

a. the payment of no less than prevailing wages for all employees in construction and building, consistent with article eight of the this chapter, and building services, consistent with article nine of this chapter;

b. the inclusion of contract language requiring contractors to establish labor harmony policies; dispute resolution mechanisms; prevailing wage compliance; safety policies; workers compensation insurance (including review of contractor experience rating and other factors); and apprenticeship program appropriate for crafts employed. Procurement rules should encourage bundling of small contracts and projects to improve the efficiency of compliance;

c. apprenticeship utilization:

i. that all contractors and subcontractors, including those that participate in power purchase agreements, energy performance contracts, or other similar programs, participate in apprenticeship programs in the trades in which they are performing work;

ii. maximum use of apprentices as per department of labor approved ratios;

iii. encouragement of affiliated pre-apprentice direct entry programs, including but not limited to EJM Construction Skills; NYC Helmets to Hardhats, and Nontraditional Employment for Women (NEW) for the recruitment of local and/or disadvantaged workers;

iv. existing workforce development programs, including those at the New York state energy research and development authority, should be made to conform to these standards.

3. The commissioner, the fiscal officer and other relevant agencies shall promulgate such regulations as are necessary to implement and administer compliance with the provisions of this section. The department and the fiscal officer shall coordinate with organized labor and local and county level governments to implement a system to track

compliance, accept reports of non-compliance for enforcement action, and report annually on the adoption of these standards to the legislature starting one year from the effective date of this section.

a. For the purposes of this section, "fiscal officer" shall mean the industrial commissioner, except for construction and building service work performed by or on behalf of a city, in which case "fiscal officer" shall mean the comptroller or other analogous officer of such city.

b. The provisions of the contract by the recipient of financial assistance pertaining to prevailing wages are to be considered a contract for the benefit of construction and building service workers, upon which such workers shall have the right to maintain action for the difference between the prevailing wage rate of pay, benefits, and paid leave and the rates of pay, benefits, and paid leave actually received by them, and including attorney's fees.

c. i. Where a recipient of financial assistance contracts building service work to a building service contractor, the contractor is held to the same obligations with respect to prevailing wages as the recipient. The recipient must include terms establishing this obligation within any contract signed with a contractor.

ii. Where a recipient of financial assistance contracts for construction, excavation, demolition, rehabilitation, repair, renovation, alteration or improvement to a subcontractor, the subcontractor is held to the same obligations with respect to prevailing wages as the recipient. The recipient must include terms establishing this obligation within any contract signed with a subcontractor.

4. For the purposes of this section "financial assistance" means any provision of public funds to any person, individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, organization, or other entity that receives financial assistance, or any assignee or successor in interest of real property improved or developed with financial assistance, for economic development within the state, including but not limited to cash payments or grants, bond financing, tax abatements or exemptions, including but not limited to abatements or exemptions from real property, mortgage recording, sales, and use taxes, or the difference between any payments in lieu of taxes and the amount of real property or other taxes that would have been due if the property were not exempted from such taxes, tax increment financing, filing fee waivers, energy cost reductions, environmental remediation costs, write-downs in the market value of buildings or land, or the cost of capital improvements related to real property for which the state would not pay absent the development project, and includes both discretionary and as of right assistance. The provisions of this section shall only apply to projects receiving more than one hundred thousand dollars in total financial assistance, or to projects with a total project value of more than ten million dollars.

5. The commissioner shall evaluate whether there are additional standards that could be applied to increase wage and benefit standards or to encourage a safe, well-trained, and adequately compensated workforce.

6. Nothing set forth in this section shall be construed to impede, infringe, or diminish the rights and benefits which accrue to employees through bona fide collective bargaining agreements, or otherwise diminish the integrity of the existing collective bargaining relationship.

7. Nothing set forth in this section shall preclude a local government from setting additional standards that expand on these state-wide standards.

§ 8. Report on barriers to, and opportunities for, community ownership of services and commodities in disadvantaged communities. 1. On or before two years of the effective date of this act, the department of environmental conservation, with input from relevant state agencies, the environmental justice advisory group as defined in section 75-0101 of the environmental conservation law, the climate justice working group as defined in section 75-0113 of the environmental conservation law and Climate Action Council established in article 75 of the environmental conservation law, and following at least two public hearings, shall prepare a report on barriers to, and opportunities for, access to or community ownership of the following services and commodities in disadvantaged communities as identified in article 75 of the environmental conservation law:

a. Distributed renewable energy generation.

b. Energy efficiency and weatherization investments.

c. Zero-emission and low-emission transportation options.

d. Adaptation measures to improve the resilience of homes and local infrastructure to the impacts of climate change including but not limited to microgrids.

e. Other services and infrastructure that can reduce the risks associated with climate-related hazards, including but not limited to:

i. Shelters and cool rooms during extreme heat events;

ii. Shelters during flooding events; and

iii. Medical treatment for asthma and other conditions that could be exacerbated by climate-related events.

2. The report, which shall be submitted to the governor, the speaker of the assembly and the temporary president of the senate and posted on the department of environmental conservation website, shall include recommendations on how to increase access to the services and commodities.

3. The department of environmental conservation shall amend the scoping plan for statewide greenhouse gas emissions reductions in accordance with the recommendations included in the report.

§ 9. Climate change actions by state agencies. 1. All state agencies shall assess and implement strategies to reduce their greenhouse gas emissions.

2. In considering and issuing permits, licenses, and other administrative approvals and decisions, including but not limited to the execution of grants, loans, and contracts, all state agencies, offices, authorities, and divisions shall consider whether such decisions are inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits established in article 75 of the environmental conservation law. Where such decisions are deemed to be inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits, each agency, office, authority, or division shall provide a detailed statement of justification as to why such limits/criteria may not be met, and identify alternatives or greenhouse gas mitigation measures to be required where such project is located.

3. In considering and issuing permits, licenses, and other administrative approvals and decisions, including but not limited to the execution of grants, loans, and contracts, pursuant to article 75 of the environmental conservation law, all state agencies, offices, authorities, and divisions shall not disproportionately burden disadvantaged communities as identified pursuant to subdivision 5 of section 75-0101 of the environmental conservation law. All state agencies, offices, authorities,

and divisions shall also prioritize reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities as identified pursuant to such subdivision 5 of section 75-0101 of the environmental conservation law.

§ 10. Authorization for other state agencies to promulgate greenhouse gas emissions regulations. 1. The public service commission, the New York state energy research and development authority, the department of health, the department of transportation, the department of state, the department of economic development, the department of agriculture and markets, the department of financial services, the office of general services, the division of housing and community renewal, the public utility authorities established pursuant to titles 1, 1-A, 1-B, 11, 11-A, 11-B, 11-C and 11-D of article 5 of the public authorities law and any other state agency may promulgate regulations to contribute to achieving the statewide greenhouse gas emissions limits established in article 75 of the environmental conservation law. Provided, however, any such regulations shall not limit the department of environmental conservation's authority to regulate and control greenhouse gas emissions pursuant to article 75 of the environmental conservation law.

§ 11. Chapter 355 of the laws of 2014, constituting the "community risk and resiliency act", is amended by adding two new sections 17-a and 17-b to read as follows:

§ 17-a. The department of environmental conservation shall take actions to promote adaptation and resilience, including:

(a) actions to help state agencies and other entities assess the reasonably foreseeable risks of climate change on any proposed projects, taking into account issues such as: sea level rise, tropical and extra-tropical cyclones, storm surges, flooding, wind, changes in average and peak temperatures, changes in average and peak precipitation, public health impacts, and impacts on species and other natural resources.

(b) identifying the most significant climate-related risks, taking into account the probability of occurrence, the magnitude of the potential harm, and the uncertainty of the risk.

(c) measures that could mitigate significant climate-related risks, as well as a cost-benefit analysis and implementation of such measures.

§ 17-b. Major permits for the regulatory programs of subdivision three of section 70-0107 of the environmental conservation law shall require applicants to demonstrate that future physical climate risk has been considered. In reviewing such information the department may require the applicant to mitigate significant risks to public infrastructure and/or services, private property not owned by the applicant, adverse impacts on disadvantaged communities, and/or natural resources in the vicinity of the project.

§ 12. Nothing in this act shall limit the existing authority of a state entity to adopt and implement greenhouse gas emissions reduction measures.

§ 13. Nothing in this act shall relieve any person, entity, or public agency of compliance with other applicable federal, state, or local laws or regulations, including state air and water quality requirements, and other requirements for protecting public health or the environment.

§ 14. Review under this act may be had in a proceeding under article 78 of the civil practice law and rules at the instance of any person aggrieved.

§ 15. Severability. If any word, phrase, clause, sentence, paragraph, section, or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or

invalidate the remainder thereof, but shall be confined in its operation to the word, phrase, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgement shall have been rendered.

§ 16. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2018, amending the environmental conservation law, relating to establishing a permanent environmental justice advisory group and an environmental justice interagency coordinating council, as proposed in legislative bills numbers A.2234 and S.3110, takes effect; provided further, the provisions of section seven of this act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to any grants, loans, and contracts and financial assistance awarded or renewed on or after such effective date.

PART RR

Section 1. Declaration of legislative intent and findings. The legislature finds and declares that it is in the public interest of the state of New York for architectural paint producers to finance and manage an environmentally sound, cost-effective architectural paint stewardship program, undertaking responsibility for the development and implementation of strategies to reduce the generation of post-consumer architectural paint, promote the reuse of post-consumer architectural paint and collect, transport and process post-consumer architectural paint for end-of-product-life management, including reuse and recycling.

§ 2. Article 27 of the environmental conservation law is amended by adding a new title 20 to read as follows:

TITLE 20

PAINT STEWARDSHIP PROGRAM

Section 27-2001. Short title.
27-2003. Declaration of policy.
27-2005. Definitions.
27-2007. Producer collection.
27-2009. Producer registration and responsibilities.
27-2011. Retailer requirements.
27-2013. Department responsibilities.
27-2015. Reporting requirements.
27-2017. Collective participation.

§ 27-2001. Short title.

This title shall be known as and may be cited as the "New York state paint stewardship program".

§ 27-2003. Declaration of policy.

It is hereby declared to be the public policy of the state of New York to promote the development and implementation of strategies to reduce the generation of post-consumer architectural paint, to encourage the reuse of post-consumer architectural paint, and to maximize the collection, transport, and process of post-consumer architectural paint for end-of-product-life management.

§ 27-2005. Definitions.

When used in this title:

1. "architectural paint" means interior and exterior architectural coatings sold in containers of five gallons or less. Architectural paint does not mean industrial, original equipment or specialty coatings.

2. "consumer" means a person located in the state who owns or uses architectural paint, including but not limited to an individual, a busi-

ness, corporation, limited partnership, not-for-profit organization, or governmental entity, but does not include an entity involved in a wholesale transaction between a distributor and retailer.

3. "distributor" means a company that has a contractual relationship with one or more producers to market and sell architectural paint to retailers in this state.

4. "post-consumer architectural paint" means architectural paint not used and no longer wanted by its purchaser.

5. "producer" means a person that manufactures architectural paint that is sold or offered for sale in this state.

6. "recycling" means any process by which discarded products, components and by-products are transformed into new usable or marketable materials in a manner in which the products may lose their original composition. Recycling does not include energy recovery or energy generation by means of combusting discarded products, components and by-products with or without other waste products from post-consumer architectural paint.

7. "retailer" means any person that sells or offers for sale architectural paint at retail in this state.

8. "reuse" means the return of a product into the economic stream for use in the same kind of application intended for the use of the product, without a change in the product's original composition.

9. "sell" or "sale" means any transfer of title for consideration, including remote sales conducted through sales outlets, catalogs or the internet or through any other similar electronic means.

§ 27-2007. Producer collection.

Beginning December thirty-first, two thousand nineteen, a producer shall accept for disposal and recycling or reuse post-consumer architectural paint.

§ 27-2009. Producer registration and responsibilities.

1. A producer shall individually or cooperatively with one or more other producers, submit a registration to the department by July first, two thousand nineteen, along with a registration fee of five thousand dollars. Such registration shall include:

(a) the producer's name, address, and telephone number;

(b) the name and title of an officer, director, or other individual designated as the producer's contact for purposes of this title;

(c) a list identifying the producer's brands;

(d) a general description of the manner in which the producer will comply with section 27-2007 of this title, including specific information on the producer's architectural paint acceptance program in the state, intended treatment, storage, transportation and disposal options and a current list of locations within the state where consumers may return architectural paint;

(e) targeted annual collection rates;

(f) educational and outreach program that will be implemented to inform consumers and retailers of the program and how to participate; and

(g) any other information as the department may require.

2. A producer's registration shall be updated within thirty days of any material change to the information required by the registration.

3. Any person who becomes a producer on or after January first, two thousand twenty shall register with the department prior to selling or offering for sale in the state any architectural paint, and must comply with the requirements of this title.

4. No later than January first, two thousand twenty, a producer shall not sell or offer for sale architectural paint in the state unless the producer has registered with the department and maintains an architectural paint acceptance program through which the producer, either directly or through an agent or designee, accepts architectural paint from consumers in the state for disposal, reuse or recycling. The producer shall ensure that retailers are notified of such registration. The producer shall not impose a fee on consumers for the collection, handling and recycling or reuse of architectural paint.

5. The architectural paint acceptance program shall include, at a minimum:

(a) collection, disposal and recycling or reuse of architectural paint produced by the producer and offered for return by any consumer in this state, free of cost and in a manner convenient to consumers. The following acceptance methods shall be considered reasonably convenient: (i) collection or acceptance events conducted by the producer or the producer's agent or designee, including events conducted through local governments or private parties; (ii) fixed acceptance locations such as dedicated acceptance sites operated by the producer or its agent or designee; (iii) agreements with local governments, retail stores, sales outlets and not-for-profit organizations which have agreed to provide facilities for the collection of architectural paint; (iv) community collection events; and (v) any combination of these or other acceptance methods which effectively provide for the acceptance of architectural paint for recycling or reuse through means that are available and reasonably convenient to consumers in the state. At a minimum, the producer shall ensure that all counties of the state and all municipalities which have a population of ten thousand or greater have at least one permanent collection site and one additional permanent collection site for every thirty thousand people located in those areas, unless otherwise approved by the department, or unless the producer is a small business taxpayer as defined in paragraph (f) of subdivision one of section two hundred ten of the tax law. Such producers shall conduct no less than one collection event annually. The department may establish additional requirements to ensure convenient collection from consumers;

(b) a public education program to inform consumers about the producer's architectural paint acceptance program, including at a minimum an internet website and a toll-free telephone number and written information included in the package for, or at the time of sale of, architectural paint that provides sufficient information to allow a consumer of architectural paint to learn how to return such paint for disposal, recycling or reuse; and

(c) any other information as required by the department in accordance with regulations promulgated pursuant to this article.

6. A producer shall maintain records demonstrating compliance with the provisions of this title and make them available for audit and inspection by the department for a period of three years.

7. A producer may satisfy the architectural paint collection requirements of this section by agreeing to participate in a collective architectural paint acceptance program with other producers. Any such collective architectural paint acceptance program shall meet the same requirements as an individual producer. Any architectural acceptance program shall include a list of producers that are participating in such program along with other identifying information as may be required by

the department. Such program shall submit a registration to the department along with a registration fee of ten thousand dollars.

8. A producer shall be responsible for all costs associated with the implementation of the architectural paint acceptance program.

§ 27-2011. Retailer requirements.

1. At the location of sale of architectural paint, a retailer shall provide purchasers of architectural paint with information about opportunities for the return of architectural paint that has been provided to the retailer by a producer.

2. No later than July first, two thousand twenty no retailer shall sell or offer for sale in the state any architectural paint unless the producer and the producer's brands are registered with the department pursuant to section 27-2009 of this title.

§ 27-2013. Department responsibilities.

1. The department shall promulgate all necessary rules and regulations including, but not limited to, standards for reuse.

2. The department shall (a) maintain a list of producers who are registered pursuant to section 27-2009 of this title, (b) maintain a list of each such producer's brands, and (c) post such lists on the department's website.

§ 27-2015. Reporting requirements.

1. Beginning March first, two thousand twenty-one, for the previous calendar year and annually thereafter, a producer that offers architectural paint for sale in this state shall submit a report to the department on a form prescribed by the department that includes the following:

(a) the quantity of architectural paint collected for disposal, recycling or reuse in this state during the preceding calendar year and the methods used to accept such paint and the approximate weight and volume of architectural paint accepted by each method used to the extent known;

(b) information detailing the acceptance methods made available to consumers;

(c) a brief description of its public education program and samples of any materials, the number of visits to the internet website and calls to the toll-free telephone number provided by the producer as required by section 27-2009 of this title;

(d) any other information as required by the department; and

(e) a signature by an officer, director, or other individual affirming the accuracy of the report.

2. The report shall be accompanied by an annual reporting fee of three thousand dollars.

3. The department shall submit a report regarding the implementation of this title in this state to the governor and legislature by April first, two thousand twenty-one and every two years thereafter. The report must include, at a minimum, an evaluation of:

(a) the architectural paint stream in the state;

(b) disposal, recycling and reuse rates in the state for architectural paint;

(c) a discussion of compliance and enforcement related to the requirements of this title; and

(d) recommendations for any changes to this title.

§ 27-2017. Collective participation.

A producer may satisfy the requirements of this article by agreeing to participate in a collective acceptance program with any other producer or producers. Any such collective acceptance program must meet the same requirements as an individual producer. Any collective acceptance program must include a list of producers that are participating in such

program along with other identifying information as may be required by the department. Such program shall submit a registration to the department along with a registration fee of ten thousand dollars.

§ 3. This act shall take effect immediately.

PART SS

Section 1. Paragraph 1 of subdivision (b) of section 306 of the business corporation law, as amended by chapter 419 of the laws of 1990, is amended to read as follows:

(1) Service of process on the secretary of state as agent of a domestic or authorized foreign corporation shall be made by personally delivering to and leaving with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in either the city of Albany or New York, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such corporation shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose. If a domestic or authorized foreign corporation has no such address on file in the department of state, the secretary of state shall so mail such copy, in the case of a domestic corporation, in care of any director named in its certificate of incorporation at the director's address stated therein or, in the case of an authorized foreign corporation, to such corporation at the address of its office within this state on file in the department.

§ 2. The executive law is amended by adding a new section 92-a to read as follows:

§ 92-a. Service of process. In any case in which service of process on the secretary of state as agent or attorney of an organization, association, partnership, corporation, company, trust or other person or entity is authorized by law at the office of the department of state in the city of Albany, service of process on the secretary of state may be made by personal delivery to the secretary of state or a deputy, or any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of New York. The secretary of state shall so authorize appropriate persons at such office.

§ 3. Subdivision 2 of section 172-c of the executive law, as amended by chapter 43 of the laws of 2002, is amended to read as follows:

2. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with the secretary of state or any person authorized by the secretary of state to accept such service a copy thereof at the office of the department of state in either the city of Albany or New York, and such service shall be sufficient service provided that notice of such service and a copy of such process are forthwith sent by the attorney general or any other party to such charitable organization by certified mail with return receipt requested, at its office as set forth in the registration form required to be filed with the attorney general pursuant to section one hundred seventy-two of this article, or in default of the filing of such form, at the last address known to the attorney general or any other party. Service of such process shall be complete upon the receipt by the attorney general or any other party of a return receipt purporting to be signed by the

addressee or a person qualified to receive its certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused by the addressee or its agent, ten days after the return to the attorney general or any other party of a notation by the postal authorities that receipt thereof was refused.

§ 4. Subdivision 2 of section 173-c of the executive law, as amended by chapter 43 of the laws of 2002, is amended to read as follows:

2. Service of such process or notice upon the secretary of state shall be made by personally delivering to and leaving with the secretary of state or any person authorized by the secretary of state to accept such service a copy thereof at the office of the department of state in **either** the city of Albany **or New York**, and such service shall be sufficient service provided that notice of such service and a copy of such process are forthwith sent by the attorney general or other party as the case may be to such professional fund raiser, fund raising counsel, professional solicitor or commercial co-venturer by certified mail with return receipt requested, at the office address as set forth in the registration form required to be filed with the attorney general pursuant to sections one hundred seventy-three and one hundred seventy-three-b of this article, or in default of the filing of such form, at the last address known to the attorney general or other party. Service of such process shall be complete ten days after the receipt by the attorney general or other party of a return receipt purporting to be signed by the addressee or a person qualified to receive the addressee's certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused by the addressee or the agent, ten days after the return to the attorney general or other party of the original envelope bearing a notation by the postal authorities that receipt thereof was refused.

§ 5. Section 19 of the general associations law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

§ 19. Service of process. Service of process against an association upon the secretary of state shall be made by personally delivering to and leaving with him or a deputy secretary of state or an associate attorney, senior attorney or attorney in the corporation division of the department of state, duplicate copies of such process at the office of the department of state in **either** the city of Albany **or New York**. At the time of such service the plaintiff shall pay a fee of forty dollars to the secretary of state which shall be a taxable disbursement. If the cost of registered mail for transmitting a copy of the process shall exceed two dollars, an additional fee equal to such excess shall be paid at the time of the service of such process. The secretary of state shall forthwith send by registered mail one of such copies to the association at the address fixed for that purpose, as herein provided. If the action or proceeding is instituted in a court of limited jurisdiction, service of process may be made in the manner provided in this section if the cause of action arose within the territorial jurisdiction of the court and the office of the defendant, as set forth in its statement filed pursuant to section eighteen of this chapter, is within such territorial jurisdiction.

§ 6. Subdivision (b) of section 304 of the limited liability company law is amended to read as follows:

(b) Service of such process upon the secretary of state shall be made by personally delivering to and leaving with the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state

in either the city of Albany or New York, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement.

§ 7. Paragraph (b) of section 306 of the not-for-profit corporation law, as amended by chapter 23 of the laws of 2014, is amended to read as follows:

(b) Service of process on the secretary of state as agent of a domestic corporation formed under article four of this chapter or an authorized foreign corporation shall be made by personally delivering to and leaving with the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in either the city of Albany or New York, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such corporation shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose. If a domestic corporation formed under article four of this chapter or an authorized foreign corporation has no such address on file in the department of state, the secretary of state shall so mail such copy to such corporation at the address of its office within this state on file in the department.

§ 8. The opening paragraph of paragraph 2 of subdivision (e) of section 121-104-A of the partnership law, as added by chapter 448 of the laws of 1998, is amended to read as follows:

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in either the city of Albany or New York, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

§ 9. Paragraph 1 of subdivision (a) of section 121-109 of the partnership law, as added by chapter 950 of the laws of 1990 and relettered by chapter 341 of the laws of 1999, is amended to read as follows:

(1) By personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in either the city of Albany or New York, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement.

§ 10. Subdivision (a) of section 121-1505 of the partnership law, as added by chapter 470 of the laws of 1997, is amended to read as follows:

(a) Service of process on the secretary of state as agent of a registered limited liability partnership under this article shall be made by personally delivering to and leaving with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in either the city of Albany or New York, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such registered limited liability partnership shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such registered limited liability partnership, at the post office address on file in the department of state specified for such purpose.

§ 11. The opening paragraph of paragraph 2 of subdivision (f) of section 121-1506 of the partnership law, as added by chapter 448 of the laws of 1998, is amended to read as follows:

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

§ 12. Subdivision 2 of section 203 of the tax law, as amended by chapter 100 of the laws of 1964, is amended to read as follows:

2. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this article, except a corporation having a certificate of authority under **former** section two hundred twelve of the general corporation law or having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this article may be served within this state, and setting forth an address to which the secretary of state shall mail a copy of any such process against the corporation which may be served upon him. In case any such corporation shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed the secretary of state to mail copies of process served upon him to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation the secretary of state shall mail copies of process thereafter served upon him to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which the secretary of state is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having a certificate of authority under **former** section two hundred twelve of the general corporation law or having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this article, may be made by either (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service duplicate copies thereof at the office of the department of state in **either** the city of Albany **or New York**, in which event the secretary of state shall forthwith send by registered mail, return receipt requested, one of such copies to the corporation at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in **either** the city of Albany **or New York** and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secre-

tary, treasurer, assistant treasurer, or cashier of such corporation, or the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 13. Section 216 of the tax law, as added by chapter 415 of the laws of 1944, the opening paragraph as amended by chapter 100 of the laws of 1964 and redesignated by chapter 613 of the laws of 1976, is amended to read as follows:

§ 216. Collection of taxes. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this article, except a corporation having a certificate of authority under **former** section two hundred twelve of the general corporation law or having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this article may be served within this state, and setting forth an address to which the secretary of state shall mail a copy of any such process against the corporation which may be served upon him. In case any such corporation shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed the secretary of state to mail copies of process served upon him to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation the secretary of state shall mail copies of process thereafter served upon him to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which the secretary of state is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having a certificate of authority under **former** section two hundred twelve of the general corporation law or having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this article, may be made by either (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service duplicate copies thereof at the office of the department of state in **either** the city of Albany **or New York**, in which event the secretary of state shall forthwith send by registered mail, return receipt requested, one of such copies to the corporation at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in **either** the city of Albany **or New York** and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or

the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 14. Subdivision (b) of section 310 of the tax law, as added by chapter 400 of the laws of 1983, is amended to read as follows:

(b) Service of process.--Service of process upon any petroleum business which is a corporation (including any such petroleum business having a certificate of authority under **former** section two hundred twelve of the general corporation law or having authority to do business by virtue of section thirteen hundred five of the business corporation law), in any action commenced at any time pursuant to the provisions of this article, may be made by either (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service duplicate copies thereof at the office of the department of state in **either** the city of Albany **or New York**, in which event the secretary of state shall forthwith send by registered mail, return receipt requested, one of such copies to such petroleum business at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in **either** the city of Albany **or New York** and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such petroleum business, or the officer performing corresponding functions under another name, or a director or managing agent of such petroleum business, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 15. Subdivision 5 of section 511 of the tax law, as amended by section 7 of part E of chapter 60 of the laws of 2007, is amended to read as follows:

5. The operation by a nonresident of a vehicular unit in this state or the operation in this state of a motor vehicle, trailer, semi-trailer, dolly or other device owned by a nonresident shall be deemed equivalent to an appointment by such nonresident of the secretary of state to be his true and lawful attorney upon whom may be served the process in any action or proceeding against him growing out of any liability for fees, taxes, penalties or interest under this article and such operation shall be deemed a signification of his agreement that any such process against him which is so served shall be of the same legal force and validity as if served on him personally within the state and within the territorial jurisdiction of the court from which the process issues. Service of process shall be made by either (1) personally delivering to and leaving with the secretary of state or a deputy secretary of state duplicate copies thereof at the office of the department of state in **either** the city of Albany **or New York**, in which event the secretary of state shall forthwith send by registered mail one of such copies to the person at the address designated by him in his application for a certificate of registration under this article or in the last return filed by him under

this article or as shown on the records of the commissioner, or if no application has been filed, at his last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state or a deputy secretary of state a copy thereof at the office of the department of state in **either** the city of Albany **or New York** and by delivering a copy thereof to the person, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the process is pending within thirty days after such service and such service shall be complete ten days after proof thereof is filed.

§ 16. The opening paragraph of paragraph 2 of subdivision (e) of section 301-A of the limited liability company law, as added by chapter 448 of the laws of 1998, is amended to read as follows:

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

§ 17. Subdivision (a) of section 303 of the limited liability company law, as relettered by chapter 341 of the laws of 1999, is amended to read as follows:

(a) Service of process on the secretary of state as agent of a domestic limited liability company or authorized foreign limited liability company shall be made by personally delivering to and leaving with the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such limited liability company shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such limited liability company at the post office address on file in the department of state specified for that purpose.

§ 18. The opening paragraph of paragraph (b) of section 307 of the not-for-profit corporation law, is amended to read as follows:

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

§ 19. The opening paragraph of paragraph 2 of subdivision (e) of section 306-a of the business corporation law, as added by chapter 469 of the laws of 1997, is amended to read as follows:

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

§ 20. The opening paragraph of subdivision (b) of section 307 of the business corporation law is amended to read as follows:

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

§ 21. Section 11-609 of the administrative code of the city of New York is amended to read as follows:

§ 11-609 Collection of taxes. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this subchapter, except a corporation having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this subchapter may be served within this state, and setting forth an address to which the secretary of state shall mail a copy of any such process against the corporation which may be served upon the secretary of state. In case any such corporation shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed the secretary of state to mail copies of process served upon him or her to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation the secretary of state shall mail copies of process thereafter served upon the secretary of state to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which the secretary of state is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having a certificate of authority under **former** section two hundred twelve of the general corporation law or having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this subchapter, may be made by either: (a) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service duplicate copies thereof at the office of the department of state in **either** the city of Albany **or New York**, in which event the secretary of state shall forthwith send by registered mail, return receipt requested, one of such copies to the corporation at the address designated by it or at its last known office address within or without the state, or (b) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in **either** the city of Albany **or New York** and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or

the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 22. Section 11-659 of the administrative code of the city of New York, as added by section 1 of part D of chapter 60 of the laws of 2015, is amended to read as follows:

§ 11-659 Collection of taxes. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this subchapter, except a corporation having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this subchapter may be served within this state, and setting forth an address to which the secretary of state shall mail a copy of any such process against the corporation which may be served upon the secretary of state. In case any such corporation shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed the secretary of state to mail copies of process served upon him or her to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation the secretary of state shall mail copies of process thereafter served upon the secretary of state to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which the secretary of state is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having a certificate of authority under section eight hundred five of the limited liability company law or having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this subchapter, may be made by either: (a) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service duplicate copies thereof at the office of the department of state in **either** the city of Albany **or New York**, in which event the secretary of state shall forthwith send by registered mail, return receipt requested, one of such copies to the corporation at the address designated by it or at its last known office address within or without the state, or (b) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in **either** the city of Albany **or New York** and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the

state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 23. Subdivision 1 of section 11-665 of the administrative code of the city of New York is amended to read as follows:

1. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this subchapter, except a corporation having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this subchapter or subchapter five of this chapter may be served within this state, and setting forth an address to which the secretary of state shall mail a copy of any such process against the corporation which may be served upon the secretary of state. In case any such corporation shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed the secretary of state to mail copies of process served upon the secretary of state to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation the secretary of state shall mail copies of process thereafter served upon the secretary of state to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which the secretary of state is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this subchapter five or **former** subchapter six of this chapter may be made by either: (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service duplicate copies thereof at the office of the department of state in **either** the city of Albany **or New York**, in which event the secretary of state shall forthwith send by registered mail, return receipt requested, one of such copies to the corporation at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in **either** the city of Albany **or New York** and by delivering a copy hereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 24. Subdivision 7 of section 339-n of the real property law, as amended by chapter 346 of the laws of 1997, is amended to read as follows:

7. A designation of the secretary of state as agent of the corporation or board of managers upon whom process against it may be served. Service of process on the secretary of state as agent of such corporation or board of managers shall be made personally delivering to and leaving with him or her or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, duplicate copies of such process together with the statutory fee, which shall be a taxable disbursement. Service of process on such corporation or board of managers shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation or board of managers, at the post office address, on file in the department of state, specified for such purpose. Nothing in this subdivision shall affect the right to serve process in any other manner permitted by law. The corporation or board of managers shall also file with the secretary of state the name and post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon the secretary of state and shall update the filing as necessary.

§ 25. Subdivision 3 of section 442-g of the real property law, as amended by chapter 482 of the laws of 1963, is amended to read as follows:

3. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, duplicate copies of such process together with a fee of five dollars if the action is solely for the recovery of a sum of money not in excess of two hundred dollars and the process is so endorsed, and a fee of ten dollars in any other action or proceeding, which fee shall be a taxable disbursement. If such process is served upon behalf of a county, city, town or village, or other political subdivision of the state, the fee to be paid to the secretary of state shall be five dollars, irrespective of the amount involved or the nature of the action on account of which such service of process is made. If the cost of registered mail for transmitting a copy of the process shall exceed two dollars, an additional fee equal to such excess shall be paid at the time of the service of such process. Proof of service shall be by affidavit of compliance with this subdivision filed by or on behalf of the plaintiff together with the process, within ten days after such service, with the clerk of the court in which the action or special proceeding is pending. Service made as provided in this section shall be complete ten days after such papers are filed with the clerk of the court and shall have the same force and validity as if served on him personally within the state and within the territorial jurisdiction of the court from which the process issues.

§ 26. Subdivision 2 of section 250 of the general business law, as amended by chapter 103 of the laws of 1981, is amended to read as follows:

2. A summons in an action described in this section may issue in any court in the state having jurisdiction of the subject matter and be served as hereinafter provided. Service of such summons shall be made by

mailing a copy thereof to the **office of the** secretary of state [~~at his office~~] in **either** the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and such service shall be sufficient service upon such nonresident provided that notice of such service and a copy of the summons and complaint are forthwith sent by or on behalf of the plaintiff to the defendant by registered mail with return receipt requested. The plaintiff shall file with the clerk of the court in which the action is pending, or with the judge or justice of such court in case there be no clerk, an affidavit of compliance herewith, a copy of the summons and complaint, and either a return receipt purporting to be signed by the defendant or a person qualified to receive his registered mail, in accordance with the rules and customs of the post office department; or, if acceptance was refused by the defendant or his agent, the original envelope bearing a notation by the postal authorities that receipt was refused, and an affidavit by or on behalf of the plaintiff that notice of such mailing and refusal was forthwith sent to the defendant by ordinary mail. Where the summons is mailed to a foreign country, other official proof of the delivery of the mail may be filed in case the post office department is unable to obtain such a return receipt. The foregoing papers shall be filed within thirty days after the return receipt or other official proof of delivery or the original envelope bearing a notation of refusal, as the case may be, is received by the plaintiff. Service of process shall be complete when such papers are filed. The return receipt or other official proof of delivery shall constitute presumptive evidence that the summons mailed was received by the defendant or a person qualified to receive his registered mail; and the notation of refusal shall constitute presumptive evidence that the refusal was by the defendant or his agent. Service of such summons also may be made by mailing a copy thereof to the **office of the** secretary of state [~~at his office~~] in **either** the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and by delivering a duplicate copy thereof, with a complaint annexed thereto, to the defendant personally without the state by a resident or citizen of the state of New York or a sheriff, under-sheriff, deputy-sheriff or constable of the county or other political subdivision in which the personal service is made, or an officer authorized by the laws of this state, to take acknowledgments of deeds to be recorded in this state, or an attorney and/or counselor at law, solicitor, advocate or barrister duly qualified to practice in the state or country where such service is made, or by a United States marshal or deputy United States marshal. Proof of personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service. Personal service without the state is complete when proof thereof is filed. The court in which the action is pending may order such extensions as may be necessary to afford the defendant reasonable opportunity to defend the action.

§ 27. Subdivision 2 of section 352-b of the general business law, as amended by chapter 252 of the laws of 1983, is amended to read as follows:

2. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or a deputy secretary of state a copy thereof at the office of the department of state in **either** the city of Albany **or New York**, and such service shall be sufficient service provided that notice of such service and a copy of such

process are forthwith sent by the attorney general to such person, partnership, corporation, company, trust or association, by registered or certified mail with return receipt requested, at his or its office as set forth in the "broker-dealer's statement", "salesman's statement" or "investment advisor's statement" filed in the department of law pursuant to section three hundred fifty-nine-e or section three hundred fifty-nine-eee of this article, or in default of the filing of such statement, at the last address known to the attorney general. Service of such process shall be complete on receipt by the attorney general of a return receipt purporting to be signed by the addressee or a person qualified to receive his or its registered or certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused by the addressee or his or its agent, on return to the attorney general of the original envelope bearing a notation by the postal authorities that receipt thereof was refused.

§ 28. Subdivision 2 of section 48 of the navigation law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

2. A summons in an action described in this section may issue in any court in the state having jurisdiction of the subject matter and be served as hereinafter provided. Service of such summons shall be made by mailing a copy thereof to the **office of the** secretary of state [~~at his office~~] in **either** the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and such service shall be sufficient service upon such non-resident provided that notice of such service and a copy of the summons and complaint are forthwith sent by or on behalf of the plaintiff to the defendant by registered mail with return receipt requested. The plaintiff shall file with the clerk of the court in which the action is pending, or with the judge or justice of such court in case there be no clerk, an affidavit of compliance herewith, a copy of the summons and complaint, and either a return receipt purporting to be signed by the defendant or a person qualified to receive his registered mail, in accordance with the rules an customs of the post-office department; or, if acceptance was refused by the defendant or his agent, the original envelope bearing a notation by the postal authorities that receipt was refused, and an affidavit by or on behalf of the plaintiff that notice of such mailing and refusal was forthwith sent to the defendant by ordinary mail. Where the summons is mailed to a foreign country, other official proof of the delivery of the mail may be filed in case the post-office department is unable to obtain such a return receipt. The foregoing papers shall be filed within thirty days after the return receipt or other official proof of delivery or the original envelope bearing a notation of refusal, as the case may be, is received by the plaintiff. Service of process shall be complete ten days after such papers are filed. The return receipt or other official proof of delivery shall constitute presumptive evidence that the summons mailed was received by the defendant or a person qualified to receive his registered mail; and the notation or refusal shall constitute presumptive evidence that the refusal was by the defendant or his agent. Service of such summons also may be made by mailing a copy thereof to the **office of the** secretary of state [~~at this office~~] in **either** the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and by delivering a duplicate copy thereof, with the complaint annexed thereto, to the defendant personally without the state by a resident or citizen of the state of New York or a sheriff, under-sheriff, deputy-sheriff or

constable of the county or other political subdivision in which the personal service is made, or an officer authorized by the laws of this state, to take acknowledgements of deeds to be recorded in this state, or an attorney and/or counselor at law, solicitor, advocate or barrister duly qualified to practice in the state or country where such service is made, or by a United States marshal or deputy United States marshal. Proof of personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service. Personal service without the state is complete ten days after proof thereof is filed. The court in which the action is pending may order such extensions as may be necessary to afford the defendant reasonable opportunity to defend the action.

Nothing herein shall be construed as affecting other methods of service of process against non-residents as provided by law.

§ 29. Subdivision 2 of section 74 of the navigation law, as amended by chapter 395 of the laws of 1963, is amended to read as follows:

2. A summons and complaint in an action described in this section may issue in any court in the state having jurisdiction of the subject matter and be served as hereinafter provided. Service of such summons and complaint shall be made by mailing a copy thereof to the **office of the** secretary of state [~~at his office~~] in **either** the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of five dollars, and such service shall be sufficient service upon such non-resident provided that notice of such service and a copy of the summons and complaint are forthwith sent by or on behalf of the plaintiff to the defendant by registered mail with return receipt requested. The plaintiff shall file with the clerk of the court in which the action is pending, or with the judge or justice of such court in case there be no clerk, an affidavit of compliance herewith, a copy of the summons and complaint, and either a return receipt purporting to be signed by the defendant or a person qualified to receive his registered mail, in accordance with the rules and customs of the post office department; or, if acceptance was refused by the defendant or his agent, the original envelope bearing a notation by the postal authorities that receipt was refused, and an affidavit by or on behalf of the plaintiff that notice of such mailing and refusal was forthwith sent to the defendant by ordinary mail. Where the summons is mailed to a foreign country, other official proof of the delivery of the mail may be filed in case the post-office department is unable to obtain such a return receipt. The foregoing papers shall be filed within thirty days after the return receipt or other official proof of delivery or the original envelope bearing a notation of refusal, as the case may be, is received by the plaintiff. Service of process shall be complete when such papers are filed. The return receipt or other official proof of delivery shall constitute presumptive evidence that the summons mailed was received by the defendant or a person qualified to receive his registered mail; and the notation of refusal shall constitute presumptive evidence that the refusal was by the defendant or his agent. Service of such summons also may be made by mailing a copy thereof to the **office of the** secretary of state [~~at his office~~] in **either** the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of five dollars, and by delivering a duplicate copy thereof, with the complaint annexed thereto, to the defendant personally without the state by a resident or citizen of the state of New York or a sheriff, under-sheriff, deputy-sheriff or constable of the county or other political subdivision in which the

personal service is made, or an officer authorized by the laws of this state, to take acknowledgments of deeds to be recorded in this state, or an attorney and/or counselor at law, solicitor, advocate or barrister duly qualified to practice in the state or country where such service is made, or by a United States marshal or deputy United States marshal. Proof of personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service. Personal service without the state is complete when proof thereof is filed. The court in which the action is pending may order such extension as may be necessary to afford the defendant reasonable opportunity to defend the action.

§ 30. Subdivision 2 of section 253 of the vehicle and traffic law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

2. A summons in an action described in this section may issue in any court in the state having jurisdiction of the subject matter and be served as hereinafter provided. Service of such summons shall be made by mailing a copy thereof to the **office of the** secretary of state [~~at his office~~] **either** in the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and such service shall be sufficient service upon such non-resident provided that notice of such service and a copy of the summons and complaint are forthwith sent by or on behalf of the plaintiff to the defendant by certified mail or registered mail with return receipt requested. The plaintiff shall file with the clerk of the court in which the action is pending, or with the judge or justice of such court in case there be no clerk, an affidavit of compliance herewith, a copy of the summons and complaint, and either a return receipt purporting to be signed by the defendant or a person qualified to receive his certified mail or registered mail, in accordance with the rules and customs of the post-office department; or, if acceptance was refused by the defendant or his agent, the original envelope bearing a notation by the postal authorities that receipt was refused, and an affidavit by or on behalf of the plaintiff that notice of such mailing and refusal was forthwith sent to the defendant by ordinary mail; or, if the registered or certified letter was returned to the post office unclaimed, the original envelope bearing a notation by the postal authorities of such mailing and return, an affidavit by or on behalf of the plaintiff that the summons was posted again by ordinary mail and proof of mailing certificate of ordinary mail. Where the summons is mailed to a foreign country, other official proof of the delivery of the mail may be filed in case the post-office department is unable to obtain such a return receipt. The foregoing papers shall be filed within thirty days after the return receipt or other official proof of delivery or the original envelope bearing a notation of refusal, as the case may be, is received by the plaintiff. Service of process shall be complete when such papers are filed. The return receipt or other official proof of delivery shall constitute presumptive evidence that the summons mailed was received by the defendant or a person qualified to receive his certified mail or registered mail; and the notation of refusal shall constitute presumptive evidence that the refusal was by the defendant or his agent. Service of such summons also may be made by mailing a copy thereof to the **office of the** secretary of state [~~at his office~~] in **either** the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and by delivering a duplicate copy thereof with the

complaint annexed thereto, to the defendant personally without the state by a resident or citizen of the state of New York or a sheriff, under-sheriff, deputy-sheriff or constable of the county or other political subdivision in which the personal service is made, or an officer authorized by the laws of this state, to take acknowledgements of deeds to be recorded in this state, or an attorney and/or counselor at law, solicitor, advocate or barrister duly qualified to practice in the state or country where such service is made, or by a United States marshall or deputy United States marshall. Proof of personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service. Personal service without the state is complete when proof thereof is filed. The court in which the action is pending may order such extensions as may be necessary to afford the defendant reasonable opportunity to defend the action.

§ 31. This act shall take effect on the sixtieth day after it shall have become a law.

PART TT

Section 1. This act shall be known and may be cited as the "New York city public works investment act".

§ 2. For the purposes of this act:

(a) "Authorized entity" shall mean the New York city department of design and construction, the New York city department of environmental protection, the New York city department of transportation and the New York city health and hospitals corporation.

(b) "Best value" shall mean the basis for awarding contracts for services to a proposer that optimizes quality, cost and efficiency, price and performance criteria, which may include, but is not limited to:

(1) The quality of the proposer's performance on previous projects;

(2) The timeliness of the proposer's performance on previous projects;

(3) The level of customer satisfaction with the proposer's performance on previous projects;

(4) The proposer's record of performing previous projects on budget and ability to minimize cost overruns;

(5) The proposer's ability to limit change orders;

(6) The proposer's ability to prepare appropriate project plans;

(7) The proposer's technical capacities;

(8) The individual qualifications of the proposer's key personnel;

(9) The proposer's ability to assess and manage risk and minimize risk impact;

(10) The proposer's financial capability;

(11) The proposer's ability to comply with applicable requirements, including the provisions of articles 145, 147 and 148 of the education law;

(12) The proposer's past record of compliance with federal, state and local laws, rules, licensing requirements, where applicable, and executive orders, including but not limited to compliance with the labor law and other applicable labor and prevailing wage laws, article 15-A of the executive law, and any other applicable laws concerning minority- and women-owned business enterprise participation;

(13) The proposer's record of complying with existing labor standards, maintaining harmonious labor relations, and protecting the health and safety of workers and payment of wages above any locally-defined living wage; and

(14) A quantitative factor to be used in evaluation of bids or offers for awarding of contracts for bidders or offerers that are certified as minority- or women-owned business enterprises as defined in subdivisions 1, 7, 15 and 20 of section 310 of the executive law, or certified pursuant to local law as minority- or women-owned business enterprises.

Such basis shall reflect, wherever possible, objective and quantifiable analysis.

(c) "Cost plus" shall mean compensating a contractor for the cost to complete a contract by reimbursing actual costs for labor, equipment and materials plus an additional amount for overhead and profit.

(d) "Design-build contract" shall mean a contract for the design and construction of a public work with a single entity, which may be a team comprised of separate entities.

(e) "Project labor agreement" shall have the meaning set forth in subdivision 1 of section 222 of the labor law. A project labor agreement shall require participation in apprentice training programs in accordance with paragraph (e) of subdivision 2 of such section.

(f) "Public work" shall mean a public work related to one of the following, and shall refer to any of these public works:

(1) Brooklyn Queens Expressway, from the vicinity of Atlantic avenue to the vicinity of Sands street in Kings county,

(2) Franklin D. Roosevelt East River Drive bridge northbound from the vicinity of 42nd street to the vicinity of 49th street in New York county,

(3) Pelham parkway bridge over the Hutchinson river parkway in Bronx county,

(4) Bridges along the Belt parkway from the vicinity of Sheepshead Bay to the vicinity of Nostrand avenue in Kings county,

(5) 49th avenue bridge over the Long Island Rail Road in Queens county,

(6) 5th avenue bridge over the Long Island Rail Road in Kings county,

(7) Resiliency measures for the Staten Island Ferry, including its terminals and related facilities in New York and Richmond counties,

(8) Elmhurst Hospital emergency department renovation and expansion in Queens county,

(9) Property clerk storage and operations facility for the police department of the city of New York in Queens county,

(10) Kensico-Eastview connection water tunnel from the Kensico Reservoir to the Catskill Delaware Ultraviolet Facility at Eastview in Westchester county, or

(11) Hillview Central Distribution Facility at Hillview Reservoir in Westchester county.

§ 3. Any contract for a public work undertaken pursuant to a project labor agreement in accordance with section 222 of the labor law may be a design-build contract in accordance with this act.

§ 4. Notwithstanding any general, special or local law, rule or regulation to the contrary, including but not limited to article 5-A of the general municipal law, section 8 of the New York city health and hospitals corporation act, and in conformity with the requirements of this act, for any public work that has an estimated total cost of not less than ten million dollars and is undertaken pursuant to a project labor agreement in accordance with section 222 of the labor law, an authorized entity charged with awarding a contract for public work may use the alternative delivery method referred to as design-build contracts.

(a) A contractor selected by such authorized entity to enter into a design-build contract shall be selected through a two-step method, as follows:

(1) Step one. Generation of a list of responding entities that have demonstrated the general capability to perform the design-build contract. Such list shall consist of a specified number of responding entities, as determined by an authorized entity, and shall be generated based upon the authorized entity's review of responses to a publicly advertised request for qualifications. The authorized entity's request for qualifications shall include a general description of the public work, the maximum number of responding entities to be included on the list, the selection criteria to be used and the relative weight of each criteria in generating the list. Such selection criteria shall include the qualifications and experience of the design and construction team, organization, demonstrated responsibility, ability of the team or of a member or members of the team to comply with applicable requirements, including the provisions of articles 145, 147, and 148 of the education law, past record of compliance with the labor law, and such other qualifications the authorized entity deems appropriate, which may include but are not limited to project understanding, financial capability and record of past performance. The authorized entity shall evaluate and rate all responding entities to the request for qualifications. Based upon such ratings, the authorized entity shall list the responding entities that shall receive a request for proposals in accordance with paragraph two of this subdivision. To the extent consistent with applicable federal law, the authorized entity shall consider, when awarding any contract pursuant to this section, the participation of (i) responding entities that are certified as minority- or women-owned business enterprises as defined in subdivisions 1, 7, 15 and 20 of section 310 of the executive law, or certified pursuant to local law as minority- or women-owned business enterprises; and (ii) small business concerns identified pursuant to subdivision (b) of section 139-g of the state finance law.

(2) Step two. Selection of the proposal which is the best value to the authorized entity. The authorized entity shall issue a request for proposals to the responding entities listed pursuant to paragraph one of this subdivision. If such responding entity consists of a team of separate entities, the entities that compromise such a team must remain unchanged from the responding entity as listed pursuant to paragraph one of this subdivision unless otherwise approved by the authorized entity. The request for proposals shall set forth the public work's scope of work, and other requirements, as determined by the authorized entity, which may include separate goals for work under the contract to be performed by businesses certified as minority- or women-owned business enterprises as defined in subdivisions 1, 7, 15 and 20 of section 310 of the executive law, or certified pursuant to local law as minority- or women-owned business enterprises. The request for proposals shall also specify the criteria to be used to evaluate the responses and the relative weight of each of such criteria. Such criteria shall include the proposal's cost, the quality of the proposal's solution, the qualifications and experience of the proposer, and other factors deemed pertinent by the authorized entity, which may include, but shall not be limited to, the proposal's manner and schedule of project implementation, the proposer's ability to complete the work in a timely and satisfactory manner, maintenance costs of the completed public work, maintenance of traffic approach, and community impact. Any contract awarded pursuant to

this act shall be awarded to a responsive and responsible proposer, which, in consideration of these and other specified criteria deemed pertinent, offers the best value, as determined by the authorized entity. The request for proposals shall include a statement that proposers shall designate in writing those portions of the proposal that contain trade secrets or other proprietary information that are to remain confidential; that the material designated as confidential shall be readily separable from the proposal. Nothing in this subdivision shall be construed to prohibit the authorized entity from negotiating final contract terms and conditions including cost. All proposals submitted shall be scored according to the criteria listed in the request for proposals and such final scores shall be published on the authorized entity's website.

(b) An authorized entity awarding a design-build contract to a contractor offering the best value may but shall not be required to use the following types of contracts:

(1) A cost-plus not to exceed guaranteed maximum price form of contract in which the authorized entity shall be entitled to monitor and audit all costs. In establishing the schedule and process for determining a guaranteed maximum price, the contract between the authorized entity and the contractor shall:

(i) Describe the scope of the work and the cost of performing such work,

(ii) Include a detailed line item cost breakdown,

(iii) Include a list of all drawings, specifications and other information on which the guaranteed maximum price is based,

(iv) Include the dates of substantial and final completion on which the guaranteed maximum price is based, and

(v) Include a schedule of unit prices; or

(2) A lump sum contract in which the contractor agrees to accept a set dollar amount for a contract which comprises a single bid without providing a cost breakdown for all costs such as for equipment, labor, materials, as well as such contractor's profit for completing all items of work comprising the public work.

§ 5. Any contract entered into pursuant to this act shall include a clause requiring that any professional services regulated by articles 145, 147 and 148 of the education law shall be performed and stamped and sealed, where appropriate, by a professional licensed in accordance with such articles.

§ 6. Construction with respect to each contract entered into by an authorized entity pursuant to this act shall be deemed a "public work" to be performed in accordance with the provisions of article 8 of the labor law, as well as subject to sections 200, 240, 241 and 242 of such law and enforcement of prevailing wage requirements pursuant to applicable law or, for projects or public works receiving federal aid, applicable federal requirements for prevailing wage. Any contract entered into pursuant to this act shall include a clause requiring the selected design builder to obligate every tier of contractor working on the project to comply with the project labor agreement referenced in section three of this act, and shall include project labor agreement compliance monitoring and enforcement provisions consistent with the applicable project labor agreement.

§ 7. Each contract entered into by an authorized entity pursuant to this act shall comply with the objectives and goals with regard to minority- and women-owned business enterprises pursuant to, as applicable, section 6-129 of the administrative code of the city of New York,

subdivision 6 of section 8 of the New York city health and hospitals corporation act, or, for projects or public works receiving federal aid, applicable federal requirements for disadvantaged business enterprises or minority- and women-owned business enterprises.

§ 8. Public works undertaken by an authorized entity pursuant to this act shall be subject to the requirements of article 8 of the environmental conservation law, and, where applicable, the requirements of the national environmental policy act.

§ 9. (a) Notwithstanding any provision of law to the contrary, all rights or benefits, including terms and conditions of employment, and protection of civil service and collective bargaining status of all existing employees of authorized entities solely in connection with the public works identified in subdivision (f) of section two of this act, shall be preserved and protected.

(b) Nothing in this act shall result in the: (1) displacement of any currently employed worker or loss of position (including partial displacement such as a reduction in the hours of non-overtime work, wages or employment benefits), or result in the impairment of existing collective bargaining agreements; and (2) transfer of existing duties and functions related to maintenance and operations currently performed by existing employees of authorized entities to a contractor.

(c) Employees of authorized entities using design-build contracts serving in positions in newly created titles shall be assigned to the appropriate bargaining unit. Nothing contained in this act shall be construed to affect (1) the existing rights of employees of such entities pursuant to an existing collective bargaining agreement, (2) the existing representational relationships among employee organizations representing employees of such entities or (3) the bargaining relationships between such entities and such employee organizations.

§ 10. The submission of a proposal or responses or the execution of a design-build contract pursuant to this act shall not be construed to be a violation of section 6512 of the education law.

§ 11. Nothing contained in this act shall limit the right or obligation of any authorized entity to comply with the provisions of any existing contract or to award contracts as otherwise provided by law.

§ 12. This act shall take effect immediately and shall expire and be deemed repealed 4 years after such date, provided that, public works with requests for proposals issued prior to such repeal shall be permitted to continue under this act notwithstanding such repeal.

PART UU

Section 1. This Part enacts into law major components of legislation which are necessary to promote and protect the health and safety of New York residents relating to public housing. Each component is wholly contained within a Part identified as Subparts A through B. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this act sets forth the general effective date of this act.

SUBPART A

Section 1. This act shall be known and may be cited as the "New York City Housing Authority Facilities Modernization Act".

§ 2. Definitions. For the purposes of this act, the following terms shall have the following meanings:

1. "Project" shall mean any installation, construction, demolition, reconstruction, excavation, rehabilitation, renovation, and repair contracted out by the authorized authority pursuant to this act.

2. "Authorized authority" shall mean the New York City Housing Authority.

3. "Best value" shall mean the basis for awarding contracts for services to the bidder that optimize quality, cost and efficiency, price and performance criteria, which may include, but is not limited to:

(a) The quality of the contractor's performance on previous projects;

(b) The timeliness of the contractor's performance on previous projects;

(c) The level of customer satisfaction with the contractor's performance on previous projects;

(d) The contractor's record of performing previous projects on budget and ability to minimize cost overruns;

(e) The contractor's ability to limit change orders;

(f) The contractor's ability to prepare appropriate project plans;

(g) The contractor's technical capacities;

(h) The individual qualifications of the contractor's key personnel;

(i) The contractor's ability to assess and manage risk and minimize risk impact;

(j) The contractor's past record of encouraging minority and women-owned business enterprise participation and compliance with article 15-A of the executive law and any other applicable laws concerning minority and women-owned business enterprise participation.

(k) A quantitative factor to be used in evaluation of bids or offers for awarding of contracts for bidders or offerers that are certified as minority or women-owned business enterprises as defined in article 15-A of the executive law, or certified pursuant to local law as minority or women-owned business enterprises.

Such basis shall reflect, wherever possible, objective and quantifiable analysis.

4. "Design-build contract" shall mean, in conformity with the requirements of this act, a contract for the design and construction of the projects with a single entity, which may be a team comprised of separate entities.

5. "Procurement record" shall mean documentation of the decisions made and the approach taken in the procurement process.

6. "Project labor agreement" shall mean a pre-hire collective bargaining agreement between a contractor and a bona fide building and construction trade labor organization establishing the labor organization as the collective bargaining representative for all persons who will perform work on the project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform project work.

§ 3. Notwithstanding section 151 of the public housing law, or the provisions of any other law to the contrary, in conformity with the requirements of this act, and only when a project labor agreement is performed, the authorized authority may utilize the alternative delivery method referred to as a design-build contract for the project provided that each such project shall not be less than one million two hundred thousand dollars ($1,200,000). The authorized authority shall ensure

that its procurement record reflects the design-build contract process authorized by this act.

§ 4. An entity selected by the authorized authority to enter into a design-build contract for the project shall be selected through a two-step method, as follows:

1. Step one. Generation of a list of entities that have demonstrated the general capability to perform a design-build contract for the project. Such list shall consist of a specified number of entities, as determined by the authorized authority, and shall be generated based upon the authorized authority's review of responses to a publicly advertised request for qualifications for the project. The authorized authority's request for qualifications for the project shall include a general description of the project, the maximum number of entities to be included on the list, and the selection criteria to be used in generating the list. Such selection criteria shall include the qualifications and experience of the design and construction team, organization, demonstrated responsibility, ability of the team or of a member or members of the team to comply with applicable requirements, including the provisions of articles 145, 147 and 148 of the education law, past record of compliance with the labor law including prevailing wage requirements under state and federal law; the past record of compliance with existing labor standards and maintaining harmonious labor relations; the record of protecting the health and safety of workers on public works projects and job sites as demonstrated by the experience modification rate for each of the last three years; the prospective bidder's ability to undertake the particular type and complexity of work; the financial capability, responsibility and reliability of the prospective bidder for such type and complexity of work; the prospective bidder's compliance with equal employment opportunity requirements and anti-discrimination laws, and demonstrated commitment to working with minority and women-owned businesses through joint ventures or subcontractor relationships; whether or not the prospective bidder or a substantially owned-affiliated entity as defined by paragraph g of subdivision 5 of section 220 of the labor law, is listed by the federal government as excluded from receiving federal contracts and certain subcontracts, assistance, or benefits pursuant to 48 C.F.R. subpart 9-4; and such other qualifications the authorized authority deems appropriate which may include but are not limited to project understanding, financial capability and record of past performance. The authorized authority shall evaluate and rate all entities responding to the request for qualifications. Based upon such ratings, the authorized authority shall list the entities that shall receive a request for proposals in accordance with subdivision two of this section. To the extent consistent with applicable federal law, the authorized authority shall consider, when awarding any contract pursuant to this section, the participation of: (a) firms certified pursuant to article 15-A of the executive law as minority or women-owned businesses or certified pursuant to local law as minority or women-owned business enterprises and the ability of other businesses under consideration to work with minority and women-owned businesses so as to promote and assist participation by such businesses; and (b) small business concerns identified pursuant to subdivision (b) of section 139-g of the state finance law.

2. Step two. Selection of the proposal which is the best value to the authorized authority. The authorized authority shall issue a request for proposals for the project to the entities listed pursuant to subdivision one of this section. If such an entity consists of a team of

separate entities, the entities that comprise such a team must remain unchanged from the entity as listed pursuant to subdivision one of this section unless otherwise approved by the authorized authority. The request for proposals for the project shall set forth the project's scope of work, and other requirements, as determined by the authorized authority, which may include separate goals for work under the contract to be performed by businesses certified as minority or women-owned business enterprises as defined in article 15-A of the executive law, or certified pursuant to local law as minority or women-owned business enterprises. The request for proposals shall specify the criteria to be used to evaluate the responses and the relative weight of each such criteria. Such criteria shall include the proposal's cost, the quality of the proposal's solution, the qualifications and experience of the design-build entity, and other factors deemed pertinent by the authorized authority, which may include, but shall not be limited to, the proposal's project implementation, ability to complete the work in a timely and satisfactory manner, maintenance costs of the completed project, maintenance of traffic approach, and community impact. Any contract awarded pursuant to this act shall be awarded to a responsive and responsible entity that submits the proposal, which, in consideration of these and other specified criteria deemed pertinent to the project, offers the best value to the authorized authority, as determined by the authorized authority. Nothing in this act shall be construed to prohibit the authorized authority from negotiating final contract terms and conditions including cost.

3. Notwithstanding the foregoing provisions of this section, when any person or entity is listed by the federal government as excluded from receiving federal contracts and certain subcontracts, assistance or benefits, pursuant to 48 C.F.R. subpart 9-4, such person or entity, and any substantially owned-affiliated entity as defined by paragraph g of subdivision 5 of section 220 of the labor law, shall be ineligible to submit a bid on or be awarded any contract authorized by this act during such period of exclusion. The department of labor shall notify the person or entity immediately of such ineligibility and such person or entity must be afforded the opportunity to be heard by the department of labor. A substantially owned-affiliated entity shall be afforded an opportunity to be heard consistent with the provisions of subparagraph 3 of paragraph b of subdivision 3 of section 220-b of the labor law.

§ 5. Any contract entered into pursuant to this act shall include a clause requiring that any professional services regulated by articles 145, 147 and 148 of the education law shall be performed and stamped and sealed, where appropriate, by a professional licensed in accordance with such articles.

§ 6. The installation, construction, demolition, reconstruction, excavation, rehabilitation, repair, and renovation of the project undertaken by the authorized authority pursuant to this act shall be deemed a "public work" to be performed in accordance with the provisions of article 8 of the labor law, as well as subject to sections 200, 240, 241 and 242 of the labor law and enforcement of prevailing wage requirements by the New York state department of labor and, if the project receives federal aid, applicable federal requirements for prevailing wage.

§ 7. A project labor agreement shall be included in the request for proposals for the project, provided that, based upon a study done by or for the authorized authority, the authorized authority determines that its interest in obtaining the best work at the lowest possible price, preventing favoritism, fraud and corruption, and other considerations

such as the impact of delay, the possibility of cost savings advantages, and any local history of labor unrest, are best met by requiring a project labor agreement. The authorized authority shall conduct such a study and the project labor agreement shall be performed consistent with the provisions of section 222 of the labor law. If a project labor agreement is not performed on the project (1) the authorized authority shall not utilize a design-build contract for the project; and (2) sections 151 and 151-a of the public housing law shall apply to the project.

§ 8. Each contract entered into by the authorized authority pursuant to this act shall comply, whenever practical, with the objectives and goals of minority and women-owned business enterprises pursuant to article 15-A of the executive law or, if the project receives federal aid, shall comply with applicable federal requirements for disadvantaged business enterprises.

§ 9. The project undertaken by the authorized authority pursuant to this act shall be subject to the requirements of article 8 of the environmental conservation law, and, where applicable, the requirements of the national environmental policy act.

§ 10. (a) Notwithstanding any provision of law to the contrary, all rights and benefits, including terms and conditions of employment, and protection of civil service and collective bargaining status of all employees of the authorized authority in connection with the project shall be preserved and protected.

(b) Nothing in this act shall result in the: (1) displacement of any currently employed worker or loss of position (including partial displacement such as a reduction in the hours of non-overtime work, wages or employment benefits), or result in the impairment of existing collective bargaining agreements; and (2) transfer of existing duties and functions related to maintenance and operations currently performed by existing employees of the authorized authority to a contractor.

(c) Employees of the authorized authority that perform work in connection with the project serving in positions in newly created titles shall be assigned to the appropriate bargaining unit.

(d) Nothing contained in this act shall be construed to affect: (1) the existing rights and benefits of employees of the authorized authority pursuant to an existing collective bargaining agreement and the civil service law, including terms and conditions of employment; (2) the existing representational relationships among employee organizations representing employees of the authorized authority; or (3) the bargaining relationships between the authorized authority and such employee organizations.

§ 11. If otherwise applicable, the project undertaken by the authorized authority pursuant to this act shall be governed by the public housing law.

§ 12. The submission of a proposal or responses or the execution of a design-build contract pursuant to this act shall not be construed to be a violation of section 6512 of the education law.

§ 13. Nothing contained in this act shall limit the right or obligation of the authorized authority to comply with the provisions of any existing contract, including any existing contract with or for the benefit of the holders of the obligations of the authorized authority, or to award contracts as otherwise provided by law.

§ 14. This act shall take effect immediately and shall expire and be deemed repealed 4 years after such date, provided that, if the New York city housing authority has issued requests for qualifications for the

project prior to such repeal, such project shall be permitted to continue under this act notwithstanding such repeal.

SUBPART B

Section 1. The public housing law is amended by adding a new section 402-d to read as follows:

§ 402-d. Reporting on lead-based paint poisoning prevention and control. 1. Commencing on July first, two thousand eighteen and every July first of each year thereafter, the chair of the New York city housing authority shall submit a draft plan for review and comment to the New York city department of housing preservation and development and the New York city department of health and mental hygiene on the New York city housing authority's policies and procedures related to lead-based paint poisoning prevention and control and the manner in which the New York city housing authority proposes to implement such policies and procedures.

The final plan shall take into consideration comments offered by the New York city department of health and mental hygiene and the New York city department of housing preservation and development and shall be published by August fifteenth of each year on each department's website, including the New York city housing authority's website, alongside other reports pertaining to lead-based paint poisoning prevention and control so that such report is available for public viewing.

2. Commencing on January fifteenth, two thousand nineteen and every January fifteenth of each year thereafter, the chair of the New York city housing authority shall produce a written report outlining federal, state and local laws forming the New York city housing authority's policies and procedures related to lead-based paint poisoning prevention and control and its implementation of such policies and procedures for the prior fiscal year. Such report shall be submitted to the New York city department of health and mental hygiene and the New York city department of housing preservation and development and shall be published on each department's website alongside other reports pertaining to lead-based paint poisoning prevention and control so that such report is available for public viewing. Such report shall include an analysis of the lead-based paint poisoning prevention and control program, a detailed statement of revenue and expenditures and a statistical section designed to provide a detailed explanation of the New York city housing authority's implementation, including but not limited to, the following:

a. a list of developments constructed before January first, nineteen hundred seventy-eight and not exempted under part 35 of title 24 of the code of federal regulations; and

b. a list of developments constructed before January first, nineteen hundred seventy-eight and that have been exempted under part 35 of title 24 of the code of federal regulations; and

c. the number of complaints related to peeling paint in dwelling units and/or common areas located in buildings constructed before nineteen hundred seventy-eight and not exempted under part 35 of title 24 of the code of federal regulations; and

d. the number of work orders resulting from such complaints as identified pursuant to paragraph c of this subdivision; and

e. the results of the work orders, including, if applicable, the reason a peeling paint complaint did not result in an inspection of such complaint; and

f. the number of peeling paint complaints that did not result in remediation and the reason for such; and

g. the number of annual peeling paint visual assessments completed by the New York city housing authority as required by applicable federal, state and local laws, disaggregated by the location of peeling paint, such as a common area or dwelling unit; and

h. the number of peeling paint visual assessments identified as needing corrective action pursuant to applicable federal, state and local laws relating to lead-based paint, disaggregated by the location of peeling paint, such as a common area or dwelling unit; and

i. the number of locations identified as needing corrective action that resulted in remediation, disaggregated by the location of peeling paint, such as a common area or dwelling unit; and

j. the number of locations identified as needing corrective action that did not result in remediation and the reason the peeling paint was not remediated; and

k. the number of units where a full-unit lead-based paint investigation (testing) was conducted upon turnover to determine the presence of lead-based paint and the results of the investigation; and

l. the number of New York city housing authority employees or contracted firms, assigned to conduct the following activities and the number of those employees or contracted firms with certification required to conduct such activities, including: annual peeling paint visual assessments, lead-based paint remediation, lead-based paint abatement, and lead-based paint investigation (testing); and

m. the total number of exemptions obtained pursuant to subdivision b of section 27-2056.5 of the administrative code of the city of New York and the number of New York city public housing developments, buildings and units affected by such exemptions; and

n. the number of units for which the New York city department of health and mental hygiene has issued a commissioner's order to abate a nuisance pursuant to paragraph one of subdivision (d) of section 173.13 of the New York city health code and the actions taken in response to such order; and

o. a statistical profile of buildings with geographic indexing, such as by community district, assembly district, senate district and/or zip code, of peeling paint complaints, annual peeling paint visual assessments, lead-based paint inspections, and commissioner's orders to abate related to an elevated blood lead level; indicating the age of the building; and

p. the number of civil actions brought against the New York city housing authority alleging injury caused by lead-based paint; and

q. such other information as requested by the commissioner of the New York city department of health and mental hygiene or the commissioner of the New York city department of housing preservation and development.

3. The New York city housing authority shall maintain a central register internally of all department orders to correct peeling paint pursuant to applicable federal, state and local laws. Such register shall indicate the date of the complaint, the address of the premises, the date of each inspection and reinspection, and the scope of work undertaken as corrective actions.

§ 2. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or subpart of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in

its operation to the clause, sentence, paragraph, subdivision, section or subpart thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Subparts A through B of this act shall be as specifically set forth in the last section of such Subparts.

PART VV

Section 1. Paragraph 1 of subdivision (a) of section 1180-b of the vehicle and traffic law, as amended by chapter 43 of the laws of 2014, is amended to read as follows:

1. Notwithstanding any other provision of law, the city of New York is hereby authorized to establish a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with posted maximum speed limits in a school speed zone within [~~the~~] **such** city (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. Such demonstration program shall empower the city **of New York** to install photo speed violation monitoring systems within no more than [~~one hundred forty~~] **two hundred ninety** school speed zones within [~~the~~] **such** city at any one time and to operate such systems within such zones (iii) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (iv) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. In selecting a school speed zone in which to install and operate a photo speed violation monitoring system, the city **of New York** shall consider criteria including, but not limited to**,** the speed data, crash history, and the roadway geometry applicable to such school speed zone. **Such city shall prioritize the placement of photo speed violation monitoring systems in school speed zones based upon speed data or the crash history of a school speed zone. A photo speed violation monitoring system shall not be installed or operated on a controlled-access highway exit ramp or within three hundred feet along a highway that continues from the end of a controlled-access highway exit ramp.**

§ 2. Paragraph 2 of subdivision (a) of section 1180-b of the vehicle and traffic law, as added by chapter 189 of the laws of 2013, is amended to read as follows:

2. No photo speed violation monitoring system shall be used in a school speed zone unless (i) on the day it is to be used it has successfully passed a self-test of its functions; and (ii) it has undergone an annual calibration check performed pursuant to paragraph four of this

subdivision. [~~The city may install signs giving notice that a photo speed violation monitoring system is in use to be mounted on advance warning signs notifying motor vehicle operators of such upcoming school speed zone and/or on speed limit signs applicable within such school speed zone, in conformance with standards established in the MUTCD.~~] **The city shall install "photo enforced" signs giving notice that a photo speed violation monitoring system is in use to be mounted on advance warning signs notifying motor vehicle operators of such upcoming school speed zone and/or on speed limit signs applicable within or approaching such school speed zone, provided that such speed limit signs shall be no more than three hundred feet from such speed violation monitoring system, in conformance with standards established in the MUTCD. The city shall also install additional speed camera advance warning signs marked "speed camera ahead" within or approaching such school speed zone, provided that such "speed camera ahead" signs shall be no more than three hundred feet from such photo speed violation monitoring system.**

§ 3. Paragraph 4 of subdivision (c) of section 1180-b of the vehicle and traffic law, as added by chapter 189 of the laws of 2013, is amended to read as follows:

4. "school speed zone" shall mean a **radial** distance not to exceed one thousand three hundred twenty feet [~~on a highway passing~~] **from** a school building, entrance**,** or exit [~~of a school abutting on the highway~~].

§ 4. Subdivision (n) of section 1180-b of the vehicle and traffic law, as added by chapter 189 of the laws of 2013, is amended to read as follows:

(n) If the city [~~adopts~~] **expands** a demonstration program pursuant to subdivision one of this section it shall conduct a study and submit a report on the results of the **expanded** use of photo devices to the governor, the temporary president of the senate and the speaker of the assembly **within four years of the effective date of the chapter of the laws of two thousand eighteen which amended this subdivision**. Such report shall include:

1. the locations where and dates when photo speed violation monitoring systems were used;

2. the aggregate number, type and severity of crashes, fatalities, injuries and property damage reported within all school speed zones within the city, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of crashes, fatalities, injuries and property damage reported within school speed zones where photo speed violation monitoring systems were used, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of violations recorded within all school speed zones within the city, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each school speed zone where a photo speed violation monitoring system is used, in the aggregate on a daily, weekly and monthly basis;

6. the number of violations recorded within all school speed zones within the city that were:

(i) more than ten but not more than twenty miles per hour over the posted speed limit;

(ii) more than twenty but not more than thirty miles per hour over the posted speed limit;

(iii) more than thirty but not more than forty miles per hour over the posted speed limit; and

(iv) more than forty miles per hour over the posted speed limit;

7. the number of violations recorded within each school speed zone where a photo speed violation monitoring system is used that were:

(i) more than ten but not more than twenty miles per hour over the posted speed limit;

(ii) more than twenty but not more than thirty miles per hour over the posted speed limit;

(iii) more than thirty but not more than forty miles per hour over the posted speed limit; and

(iv) more than forty miles per hour over the posted speed limit;

8. the total number of notices of liability issued for violations recorded by such systems;

9. the number of fines and total amount of fines paid after the first notice of liability issued for violations recorded by such systems;

10. the number of violations adjudicated and the results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;

11. the total amount of revenue realized by the city in connection with the program;

12. the expenses incurred by the city in connection with the program; [~~and~~]

13. the quality of the adjudication process and its results**; and**

14. the effectiveness and adequacy of the hours of operation for such program to determine the impact on speeding violations and prevention of crashes.

§ 5. The opening paragraph of section 12 of chapter 43 of the laws of 2014, amending the vehicle and traffic law, the public officers law and the general municipal law relating to photo speed violation monitoring systems in school speed zones in the city of New York, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law [~~and~~]**; provided that sections one through ten of this act** shall expire 4 years after such effective date when upon such date the provisions of this act shall be deemed repealed; and provided further that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such effective date, provided that:

§ 6. The opening paragraph of section 15 of chapter 189 of the laws of 2013, amending the vehicle and traffic law and the public officers law relating to establishing in a city with a population of one million people or more a demonstration program implementing speed violation monitoring systems in school zones by means of photo devices, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire [~~5 years after such effective date when upon such date the provisions of this act shall~~] **and** be deemed repealed **July 1, 2022**; and provided further that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such effective date, provided that:

§ 7. The additional 150 photo speed violation monitoring systems authorized to be installed by the city of New York by paragraph 1 of subdivision (a) of section 1180-b of the vehicle and traffic law, as amended by section one of this act, shall be installed over the 3 year period following the effective date of this act as follows:

(a) no more than 50 school speed zones during the first such year;

(b) no more than 50 additional school speed zones during the second such year; and

(c) no more than 50 additional school speed zones during the third such year.

§ 8. This act shall take effect immediately; provided that the amendments to section 1180-b of the vehicle and traffic law made by sections one, two, three and four of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and provided further that the amendments to paragraph 2 of subdivision (a) of section 1180-b of the vehicle and traffic law made by section two of this act shall take effect on the ninetieth day after this act shall have become a law.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through VV of this act shall be as specifically set forth in the last section of such Parts.