STATE OF NEW YORK

1508--B

IN SENATE

January 18, 2019

A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, in relation to clarifying the dormitory authority's authorization to finance certain health care facilities (Part A); to amend chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements, in relation to extending the effectiveness of such authorization (Part B); to amend the public authorities law, in relation to the transfer and conveyance of certain real property (Part C); to amend chapter 60 of the laws of 2015, constituting the infrastructure investment act, in relation to project delivery and extending the effectiveness thereof; and to amend chapter 59 of the laws of 2018, constituting the New York city BQE Design-Build act, in relation to public work authorization and extending the effectiveness thereof and repealing certain provisions of such chapter relating thereto (Part D); to amend the environmental conservation law, in relation to waste tire management and recycling fees (Part E); intentionally omitted (Part F); intentionally omitted (Part G); to amend the environmental conservation law, the alcoholic beverage control law and the state finance law, in relation to establishing guidelines for carryout bag waste reduction (Part H); intentionally omitted (Part I); to amend the environmental conservation law, in relation to freshwater wetlands maps and tidal wetlands boundary maps (Part J); to amend the environmental conservation law and the public health law, in relation to the disclosure of cleansing products, labeling of consumer products, and requiring manufacturer disclosure of the ingredients in personal care products (Part K); to amend the banking law, in relation to student loan servicers (Part L); 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; to authorize the commissioner of motor vehicles to approve demonstrations and tests consisting of the

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

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operation of motor vehicles equipped with autonomous vehicle technology; and to amend the vehicle and traffic law, in relation to permitting a driver to not have a hand on the steering mechanism of a vehicle while a driving automation system is engaged (Part M); to amend chapter 713 of the laws of 1988, amending the vehicle and traffic law relating to the ignition interlock device program, in relation to extending the provisions thereof (Part N); to amend chapter 166 of the laws of 1991, amending the tax law and other laws relating to taxes, in relation to extending the expiration of certain provisions of such chapter and to amend the vehicle and traffic law, in relation to extending the expiration of the mandatory surcharge and victim assistance fee (Part O); intentionally omitted (Part P); intentionally omitted (Part Q); 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 effectiveness thereof (Part R); intentionally omitted (Part S); to amend the transportation law, in relation to authorizing the commissioner of transportation to charge and collect a fee for the inspection or reinspection of certain for-hire motor vehicles; and to amend the vehicle and traffic law, in relation to passengers in front seat of a motor vehicle (Part T); 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 providing for the repeal of certain provisions upon expiration thereof (Part U); to amend the public service law and the state finance law, in relation to requiring state agencies and authorities to enter contracts only with service providers that adhere to net neutrality principles (Part V); to authorize 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 W); intentionally omitted (Part X); to amend 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 Y); 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 Z); to amend the executive law, the public buildings law, the state finance law, and the public authorities law, in relation to the reauthorization of the minority and women-owned business enterprise program and to amend chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure trust fund, in relation to the effectiveness thereof; and providing for the repeal of certain provisions upon expiration thereof (Part AA); intentionally omitted (Part BB); intentionally omitted (Part CC); establishing the "Gateway Development Commission Act"; and to amend the transportation law, in relation to creating the gateway development commission (Part DD); to amend the public authorities law, in relation to directing the metropolitan transportation authority to contract for the provision of an independent forensic audit of such authority; and providing for the

repeal of such provisions upon expiration thereof (Subpart A); to amend the public authorities law, in relation to the submission of a twenty-year capital needs assessment (Subpart B); to amend the public authorities law, in relation to exempting certain public authorities from bond issuance charges (Subpart C); to amend the public authorities law, in relation to membership on the board of the metropolitan transportation authority (Subpart D); to amend the public authorities law, in relation to local bid preference for competitive requests for proposals (Subpart E); and to amend the public authorities law, in relation to metropolitan transportation authority transit performance metrics (Subpart F) (Part EE); to amend the vehicle and traffic law, the public authorities law, the tax law and the state finance law, in relation to providing certain metropolitan transportation commuter district supplemental taxes, surcharges and fees to the metropolitan transportation authority without appropriation (Part FF); to amend the vehicle and traffic law, in relation to removing caps on automated enforcement cameras for bus lanes, authorizing automated enforcement cameras for stopping, standing, parking and turning limitations within the congestion toll zone and along designated bus corridors, and increasing penalties and creating a graduated schedule of fines for repeat offenders; and to amend part II of chapter 59 of the laws of 2010, amending the vehicle and traffic law and the public officers law relating to establishing a bus rapid transit demonstration program to restrict the use of bus lanes by means of bus lane photo devices, in relation to the effectiveness thereof (Part GG); to amend chapter 929 of the laws of 1986 amending the tax law and other laws relating to the metropolitan transportation authority, in relation to extending certain provisions thereof applicable to the resolution of labor disputes (Part HH); to amend the penal law and the vehicle and traffic law, in relation to classifying the assault of airport workers, metropolitan transportation authority bus operators and department of transportation inspectors, investigators and examiners as second degree assault (Part II); to amend the public authorities law, in relation to enacting the "toll payer protection act"; to repeal certain provisions of such law relating thereto; and providing for the repeal of such provisions upon expiration thereof (Part JJ); intentionally omitted (Part KK); intentionally omitted (Part LL); to amend the state finance law, in relation to establishing the parks retail stores fund, and the golf fund, as enterprise funds (Part MM); to amend the public authorities law, in relation to allowing the New York state olympic regional development authority to enter into contracts or agreements containing indemnity provisions in order to host olympic or other national or international games or events (Part NN); intentionally omitted (Part OO); intentionally omitted (Part PP); intentionally omitted (Part QQ); to amend the public authorities law, in relation to procurements by the New York city transit authority and metropolitan transportation authority (Part RR); 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 SS); to amend the state finance law and the education law, in relation to procurement to repeal section 6283 of the education law relating to procurements of the fund and to amend the state finance law, in relation to authorizing the state comptroller to oversee certain contracts of the research foundation of the state university of New York (Part TT); to amend the environmental conservation law, in relation to the donation of excess food and recycling of food scraps

(Part UU); and to amend the transportation law, in relation to requiring the department of transportation to maintain a website or webpage where users may report defects on state highways and bridges (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 2019-2020 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. Paragraph (b) of subdivision 6 of section 1699-f of the public authorities law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

(b) The financing of any project initiated on or after the effective date of this section**, the entirety of** which the agency would be authorized to undertake by the provisions of the medical care facilities finance agency act prior to such effective date**,** shall be governed by such act.

§ 2. This act shall take effect immediately.

PART B

Section 1. Section 2 of part BB of chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements, as amended by section 1 of part W of chapter 58 of the laws of 2017, is amended to read as follows:

§ 2. This act shall take effect immediately and shall expire and be deemed repealed April 1, [~~2019~~] **2021**.

§ 2. Within 90 days of the effective date of this act, the dormitory authority of the state of New York shall provide a report providing information regarding any project undertaken pursuant to a design and construction management agreement, as authorized by part BB of chapter 58 of the laws of 2012, between the dormitory authority of the state of New York and the department of environmental conservation and/or the office of parks, recreation and historic preservation to the governor, the temporary president of the senate and speaker of the assembly. Such report shall include but not be limited to a description of each such project, the project identification number of each such project, if applicable, the projected date of completion, the status of the project, the total cost or projected cost of each such project, and the location, including the names of any county, town, village or city, where each such project is located or proposed. In addition, such a report shall be provided to the aforementioned parties by the first day of March of each

year that the authority to enter into such agreements pursuant to part BB to chapter 58 of the laws of 2012 is in effect.

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

PART C

Section 1. Subdivision 25 of section 1678 of the public authorities law is amended by adding four new paragraphs (e), (f), (g) and (h) to read as follows:

(e) Notwithstanding any other provision of law to the contrary, including but not limited to title five-A of article nine of this chapter, the Atlantic Avenue Healthcare Property Holding Corporation is hereby authorized and empowered to sell, exchange, lease, transfer and convey certain real property located at 483-503 Herkimer Street, 1028-1038 Broadway, 528 Prospect Place and/or 1366 East New York Avenue, all in Brooklyn, New York as directed by the commissioner of New York state division of homes and community renewal, upon such terms and conditions as such commissioner may fix and determine.

Such sale, exchange, lease, transfer and conveyance shall be consistent with and made pursuant to a plan to increase access and quality of health care services and preventative care and create affordable housing approved by the commissioner of New York state division of homes and community renewal, the commissioner of health and the director of the division of the budget to transform the Central Brooklyn region. Such plan may include, but shall not be limited to, initiatives intended to increase access to open spaces and healthy food, transform health care by increasing access and quality of health care services and preventative care, create affordable housing, create jobs, improve youth development, and prevent community violence.

Notwithstanding the foregoing, no such sale, exchange, transfer, lease or conveyance shall be permitted pursuant to this section, unless in the opinion of bond counsel to the authority, such sale, exchange, transfer, lease or conveyance does not impair the tax-exempt status of any outstanding bonds or other obligations, if any, issued by the authority to finance or refinance the subject property. For the purposes of such opinion, the valuation of such property being sold, exchanged, transferred, leased or conveyed may reflect the terms and conditions set forth in the plan.

(f) The description in paragraph (e) of this subdivision of the lands to be transferred and conveyed is not intended to be a legal description, but is intended only to identify the premises to be conveyed. As a condition of transfer and conveyance, the Atlantic Avenue Healthcare Property Holding Corporation shall receive an accurate survey and description of the lands generally described in paragraph (e) of this subdivision, which may be used in the conveyance thereof.

(g) Notwithstanding any other provision of law to the contrary, a project built pursuant to the provisions of this section shall be deemed to be a public works project for the purposes of article eight of the labor law, and all the provisions of article eight of the labor law shall be applicable to all the work involved in the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration, or improvement on lands described in paragraph (e) of this subdivision.

(h) Notwithstanding any other provision of law in this subdivision, no such sale, exchange, transfer, lease or conveyance shall be permitted

pursuant to paragraph (e) of this subdivision without the approval of the senate.

§ 2. This act shall take effect immediately; provided, however, that the amendments to subdivision 25 of section 1678 of the public authorities law made by section one of this act shall survive the expiration and reversion of such subdivision as provided by section 2 of chapter 584 of the laws of 2011, as amended.

PART D

Section 1. The opening paragraph of paragraph (ii) of subdivision (a) of section 2 of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, as amended by section 1 of part RRR of chapter 59 of the laws of 2017, is amended to read as follows:

Notwithstanding the provisions of subdivision 26 of section 1678 of the public authorities law, section 8 of the public buildings law, sections 8 and 9 of section 1 of chapter 359 of the laws of 1968 as amended, section 103 of the general municipal law, and the provisions of any other law to the contrary, **and only when a project labor agreement is utilized,** the term "authorized state entity" shall also refer to only those agencies or authorities identified below solely in connection with the following authorized projects, provided that such an authorized state entity may utilize the alternative delivery method referred to as design-build contracts solely in connection with the following authorized projects should the total cost of each such project not be less than five million dollars ($5,000,000):

§ 2. Intentionally omitted.

§ 3. Intentionally omitted.

§ 4. Section 3 of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, as amended by section 3 of part RRR of chapter 59 of the laws of 2017, is amended to read as follows:

§ 3. Notwithstanding the provisions of section 38 of the highway law, section 136-a of the state finance law, section 359 of the public authorities law, section 7210 of the education law, and the provisions of any other law to the contrary, and in conformity with the requirements of this act, an authorized state entity may utilize the alternative delivery method referred to as design-build contracts, in consultation with relevant local labor organizations and construction industry **and only when a project labor agreement is utilized**, for capital projects related to the state's physical infrastructure, including, but not limited to, the state's highways, bridges, dams, flood control projects, canals, and parks, including, but not limited to, to repair damage caused by natural disaster, to correct health and safety defects, to comply with federal and state laws, standards, and regulations, to extend the useful life of or replace the state's highways, bridges, dams, flood control projects, canals, and parks or to improve or add to the state's highways, bridges, dams, flood control projects, canals, and parks; provided that for the contracts executed by the department of transportation, the office of parks, recreation and historic preservation, or the department of environmental conservation, the total cost of each such project shall not be less than ten million dollars ($10,000,000). **In all cases, the authorized state entity shall ensure that its procurement record reflects the design-build contract process authorized by this act. For purposes of this act, each capital project shall be let as an individual, functionally interdependent contract for the construction, reconstruction, renovation, rehabilitation, improve-**

ment, or expansion activity associated with a single structure, or other improvement, including all directly related infrastructure and site work in contemplation thereof.

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 state entities solely in connection with the authorized projects listed above, shall be preserved and protected.

Nothing in this section 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 state entities to a contracting entity. Nothing contained herein shall be construed to affect (A) the existing rights of employees pursuant to an existing collective bargaining agreement, and (B) the existing representational relationships among employee organizations or the bargaining relationships between the employer and an employee organization.

§ 5. Intentionally omitted.

§ 6. Section 7 of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, is amended to read as follows:

§ 7. If otherwise applicable, capital projects undertaken by the authorized state entity pursuant to this act shall be subject to section 135 of the state finance law and section 222 of the labor law. A project labor agreement, as defined in section 222 of the labor law, shall be included in the request for proposals for the project, provided that, based upon a study done by or for the authorized state entity, the authorized state entity 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 entity shall contract for an independent study to determine the feasibility of a project labor agreement. If a project agreement is not utilized on the project, then the authorized state entity shall not utilize a design-build contract for the project.

§ 6-a. Section 6 of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, is amended to read as follows:

§ 6. Construction for each capital project undertaken by the authorized state 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 the labor law and compliance with all such provisions shall be required of any lessee, sublessee, contractor, or subcontractor on the project including enforcement of prevailing wage requirements by the New York state department of labor.

§ 7. Section 8 of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, is amended to read as follows:

§ 8. Each contract entered into by the authorized state entity pursuant to this section shall comply with the objectives and goals of minority and women-owned business enterprises pursuant to article 15-A of the executive law and of service-disabled veteran-owned business enterprises pursuant to article 17-B of the executive law or, for projects receiving

federal aid, shall comply with applicable federal requirements for disadvantaged business enterprises.

§ 8. Intentionally omitted.

§ 9. Intentionally omitted.

§ 10. Intentionally omitted.

§ 10-a. Section 16 of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, is amended to read as follows:

§ 16. A report shall be submitted on or no later than June 30, 2016**, and on June 30 of every year thereafter,** to the governor, the temporary president of the senate and the speaker of the assembly by the New York state urban development corporation containing information on each authorized state entity that has entered into a design-build contract pursuant to this act, which shall include, but not be limited to, a description of each project, procurement information including the short list of qualified bidders, the total cost of each project, the estimated cost and schedule savings of each project, an explanation of how the savings were determined, and whether a project labor agreement was used, and if applicable, the justification for using a project labor agreement.

§ 11. Section 17 of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, as amended by section 14 of part RRR of chapter 59 of the laws of 2017, is amended to read as follows:

§ 17. This act shall take effect immediately and shall expire and be deemed repealed [**4**] **6** years after such date, provided that, projects with requests for qualifications issued prior to such repeal shall be permitted to continue under this act notwithstanding such repeal.

§ 11-a. Section 1 of part QQQ of chapter 59 of the laws of 2018, constituting the New York city BQE Design-Build act, is amended to read as follows:

Section 1. This act shall be known and may be cited as the "New York city [**~~BQE~~**] Design-Build act".

§ 11-b. Section 2 of part QQQ of chapter 59 of the laws of 2018, constituting the New York city BQE Design-Build act, is amended to read as follows:

§ 2. For the purposes of this act:

(a) "Authorized entity" shall mean the New York city department of design and construction, [**~~and~~**] the New York city department of transportation**, the New York city department of environmental protection, the New York city school construction authority, the New York city department of housing preservation, the New York city department of parks and recreation, the New York city health and hospitals corporation, and New York city housing authority**.

(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 pursuant to article 15-A of the executive law, and certified pursuant to local law as minority- or women-owned business enterprises. Where an agency identifies a quantitative factor pursuant to this paragraph, the agency must specify that businesses certified as minority- or women-owned business enterprises pursuant to article 15-A of the executive law as well as those certified as minority- or women-owned business enterprises or pursuant to section 1304 of the New York City charter are eligible to qualify for such factor. Nothing in this paragraph shall be construed as a requirement that such businesses be concurrently certified as minority- or women-owned business enterprises under both article 15-A of the executive law and section 1304 of the New York City charter to qualify for such quantitative factors. **In addition, where the New York city school construction authority acts as the authorized entity, businesses certified as minority- or women-owned business enterprises pursuant to section 1743 of the public authorities law shall be eligible to qualify for such factor.** 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 in the city of New York related to the following, and shall refer to this public work; Brooklyn Queens Expressway, from the vicinity of Atlantic avenue to the vicinity of Sands street in Kings county.**~~]
§ 11-c. Section 4 of part QQQ of chapter 59 of the laws of 2018, constituting the New York city BQE Design-Build act, is amended to read as follows:

§ 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 **and sections 1734 and 1735 of the public authorities law and article 8 of the public housing law, section 7210 of the education law, and 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 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 pursuant to article 15-A 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 a responding entity consists of a team of separate entities, the entities that comprise 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 pursuant to article 15-A of the executive law **or section 1743 of the public authorities 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.

§ 11-d. Section 7 of part QQQ of chapter 59 of the laws of 2018, constituting the New York city BQE Design-Build act, is amended to read as follows:

§ 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, section 1743 of the public authorities law** or, for projects or public works receiving federal aid, applicable federal requirements for disadvantaged business enterprises or minority- and women-owned business enterprises.

§ 11-e. Section 12 of part QQQ of chapter 59 of the laws of 2018, constituting the New York city BQE Design-Build act, is REPEALED and a new section 12 is added to read as follows:

§ 12. The authority conferred by this act shall not impact or impair the authorization granted to any public work covered by the New York city BQE Design-Build Act, the New York city housing authority modernization investment act or the New York city Rikers Island jail complex replacement act shall continue to be governed by the provisions of such act while such provisions are in effect.

§ 11-f. Section 13 of part QQQ of chapter 59 of the laws of 2018, constituting the New York city BQE Design-Build act, is amended to read as follows:

§ 13. This act shall take effect immediately and shall expire and be deemed repealed [~~2~~] **3** years after such date, provided that, public works with requests for qualifications issued prior to such repeal shall be permitted to continue under this act notwithstanding such repeal.

§ 12. This act shall take effect immediately; provided, however that the amendments to the infrastructure investment act made by sections one, four, six, six-a, seven, and ten-a of this act shall not affect the repeal of such act and shall be deemed repealed therewith; and provided further that the amendments to the "New York city BQE Design-Build act" made by section eleven-a, eleven-b, eleven-c, eleven-d, eleven-e, and eleven-f of this act shall not affect the repeal of such act and shall be deemed therewith.

PART E

Section 1. Subdivision 1 and the opening paragraph of subdivision 2 of section 27-1905 of the environmental conservation law, as amended by section 1 of part T of chapter 58 of the laws of 2016, are amended to read as follows:

1. [~~Until December thirty-first, two thousand nineteen, accept~~] **Accept** from a customer, waste tires of approximately the same size and in a quantity equal to the number of new tires purchased or installed by the customer; and

[~~Until December thirty-first, two thousand nineteen, post~~] **Post** written notice in a prominent location, which must be at least eight and one-half inches by fourteen inches in size and contain the following language:

§ 2. Subdivisions 1, 2, 3, and paragraph (a) of subdivision 6 of section 27-1913 of the environmental conservation law, as amended by section 2 of part T of chapter 58 of the laws of 2016, are amended to read as follows:

1. [~~Until December thirty-first, two thousand nineteen, a~~] **A** waste tire management and recycling fee of two dollars and fifty cents shall be charged on each new tire sold. The fee shall be paid by the purchaser to the tire service at the time the new tire or new motor vehicle is purchased.

The waste tire management and recycling fee does not apply to:

(a) recapped or resold tires;

(b) mail-order sales; or

(c) the sale of new motor vehicle tires to a person solely for the purpose of resale provided the subsequent retail sale in this state is subject to such fee.

2. [~~Until December thirty-first, two thousand nineteen, the~~] **The** tire service shall collect the waste tire management and recycling fee from

the purchaser at the time of the sale and shall remit such fee to the department of taxation and finance with the quarterly report filed pursuant to subdivision three of this section.

(a) The fee imposed shall be stated as an invoice item separate and distinct from the selling price of the tire.

(b) The tire service shall be entitled to retain an allowance of twenty-five cents per tire from fees collected.

3. [~~Until March thirty-first, two thousand twenty, each~~] **Each** tire service maintaining a place of business in this state shall make a return to the department of taxation and finance on a quarterly basis, with the return for December, January, and February being due on or before the immediately following March thirty-first; the return for March, April, and May being due on or before the immediately following June thirtieth; the return for June, July, and August being due on or before the immediately following September thirtieth; and the return for September, October, and November being due on or before the immediately following December thirty-first.

(a) Each return shall include:

(i) the name of the tire service;

(ii) the address of the tire service's principal place of business and the address of the principal place of business (if that is a different address) from which the tire service engages in the business of making retail sales of tires;

(iii) the name and signature of the person preparing the return;

(iv) the total number of new tires sold at retail for the preceding quarter and the total number of new tires placed on motor vehicles prior to original retail sale;

(v) the amount of waste tire management and recycling fees due; and

(vi) such other reasonable information as the department of taxation and finance may require.

(b) Copies of each report shall be retained by the tire service for three years.

If a tire service ceases business, it shall file a final return and remit all fees due under this title with the department of taxation and finance not more than one month after discontinuing that business.

(a) [~~Until December thirty-first, two thousand nineteen, any~~] **Any** additional waste tire management and recycling costs of the tire service in excess of the amount authorized to be retained pursuant to paragraph (b) of subdivision two of this section may be included in the published selling price of the new tire, or charged as a separate per-tire charge on each new tire sold. When such costs are charged as a separate per-tire charge: (i) such charge shall be stated as an invoice item separate and distinct from the selling price of the tire; (ii) the invoice shall state that the charge is imposed at the sole discretion of the tire service; and (iii) the amount of such charge shall reflect the actual cost to the tire service for the management and recycling of waste tires accepted by the tire service pursuant to section 27-1905 of this title, provided however, that in no event shall such charge exceed two dollars and fifty cents on each new tire sold.

§ 3. Paragraphs (b) and (c) of subdivision 1 of section 27-1915 of the environmental conservation law, as amended by section 5 of part DD of chapter 59 of the laws of 2010, are amended and a new paragraph (d) is added to read as follows:

(b) abatement of noncompliant waste tire stockpiles; [~~and~~]

(c) administration and enforcement of the requirements of this article, exclusive of titles thirteen and fourteen[~~.~~]**; and**

(d) conducting an updated market analysis of outlets for waste tire utilization including recycling and energy recovery opportunities.

§ 4. Section 27-1915 of the environmental conservation law is amended by adding a new subdivision 7 to read as follows:

7. costs of the department of agriculture and markets for the following:

(a) funding of demonstration and other projects;

(b) establishment of a program to provide funds to assist farms with beneficial use waste tires, including but not limited to waste tires commonly used to secure tarpaulins for weather protection practices; and

(c) administration of requirements of this section.

§ 5. Subdivision 5 of section 27-1907 of the environmental conservation law, as amended by section 2 of part DD of chapter 59 of the laws of 2010, is amended to read as follows:

5. The department shall make all reasonable efforts to recover the full amount of any funds expended from the waste management and cleanup fund for abatement or remediation through litigation or cooperative agreements, but excluding any costs associated with the removal, abatement, and processing of waste tires used in the course of agricultural production. Any and all moneys recovered, repaid or reimbursed pursuant to this section shall be deposited with the comptroller and credited to such fund.

§ 6. This act shall take effect immediately.

PART F

Intentionally Omitted

PART G

Intentionally Omitted

PART H

Section 1. This act shall be known and may be cited as the "New York state bring your own bag act".

§ 2. Article 27 of the environmental conservation law is amended by adding a new title 28 to read as follows:

TITLE 28

CARRYOUT BAG WASTE REDUCTION

Section 27-2801. Definitions.

27-2802. Charges.

27-2803. Additional obligations for stores.

27-2804. Deposit and disposition of fees.

27-2805. Violations.

27-2806. Preemption of local law.

§ 27-2801. Definitions.

As used in this article:

1. "Carryout bag" means a bag made of plastic, paper, or other material that is intended for the purpose of carrying purchased items and is provided by a store to a customer at the point of sale and that is not a reusable grocery bag;

2. "Exempt bag" means a bag intended to directly contain food, including, but not limited to sandwich bags, handleless produce bags and bags provided by a pharmacy to carry prescription drugs;

3. "Store" means a general vendor, or a retail or wholesale establishment engaged in the sale of personal, consumer or household items including but not limited to drug stores, pharmacies, grocery stores, supermarkets, convenience food stores or foodmarts that provide carryout bags to consumers in which to place items purchased or obtained at such establishments. Such term shall not include food service establishments, mobile food service establishments, or emergency food providers or 501(c)(3) organizations;

4. "Reusable grocery bag" means a bag with handles that is specifically designed and manufactured for multiple reuse that is provided by a store to a customer at the point of sale and capable of carrying twenty-two pounds over a distance of one hundred and seventy-five feet for a minimum of one hundred and twenty-five uses and is either (a) made of cloth or other machine washable fabric, or (b) made of durable plastic that is at least 2.25 mils thick, measured according to the ASTM standard D6988-13;

5. "Mobile food vendor" means a self-contained food service operation, located in a readily movable pushcart, motorized wheeled or towed vehicle, used to store, prepare, display or serve food intended for individual portion service.

§ 27-2802. Charges.

1. (a) Stores shall charge a fee of no less than ten cents for each carryout bag or reusable grocery bag provided to any person. No store shall charge more than twenty-five cents for each carryout bag. This charge shall be incurred by the customer at the point of sale, and will appear as a separate charge on the receipt received by the customer for the purchased items.

(b) The store collecting fees pursuant to paragraph (a) of this subdivision shall retain twenty percent of all such fees and shall remit the remaining eighty percent of all such fees to the commissioner of taxation and finance in accordance with the provisions of section 27-2804 of this title for deposit to the credit of the environmental protection fund established pursuant to section ninety-two-s of the state finance law. All such funds shall be made available to localities for the purpose of pollution reduction, cleanup, and education, and purchasing and distributing reusable bags, with priority given to low and fixed-income communities.

2. (a) No store shall charge a carryout bag fee for bags of any kind provided by the customer in lieu of a carryout bag of any kind provided by any such store.

(b) No store shall be required to charge such fee for an exempt bag.

3. No store shall prevent a person from using a bag of any kind that they have brought to any such store for purposes of carrying goods from such store.

4. All stores that provide carryout bags to customers shall provide carryout bags free of charge for items purchased at such stores by any person using the New York state supplemental nutritional assistance program or the New York state special supplemental nutrition program for women, infants and children as a full or partial payment.

5. The department shall promulgate all necessary or desirable rules and regulations to effect the purposes set forth in this title and educate the general public about such purposes. The department shall conduct outreach programs to educate the general public about such purposes and shall publicize such rules and regulations on its website.

§ 27-2803. Additional obligations for stores.

1. All stores subject to the provisions of this title shall post signs provided or approved by the department at or near points of sale located in such covered stores to notify customers of the provisions of this section.

2. No store subject to the provisions of this title shall provide a credit to any person specifically for the purpose of offsetting or avoiding the carryout bag charge required by section 27-2802 of this title.

3. A store may not charge a fee pursuant to subdivision one of section 27-2802 of this title, for a reusable grocery bag that meets the requirements of subdivision four of section 27-2801 of this title and which is distributed to a customer without charge during a limited duration promotional event, not to exceed fourteen days per year.

4. Paper carryout bags subject to provisions of this title shall contain a minimum of forty percent post-consumer recycled content.

5. No store shall distribute any plastic carryout bags to its customers unless such bags are exempt bags as defined in subdivision two of section 27-2801 of this title.

§ 27-2804. Deposit and disposition of fees.

1. Each store collecting fees as provided in section 27-2802 of this title shall deposit all such fees collected into a designated carryout bag account. Such store shall hold the amounts in the carryout bag account in trust for the state. A carryout bag account shall be an interest-bearing account established in a banking institution located in this state, the deposits in which are insured by an agency of the federal government. Deposits of such amounts into the carryout bag account shall be made not less frequently than every five business days. All interest, dividends and returns earned on monies in the carryout bag account shall be paid directly into said account. The monies in such account shall be kept separate and apart from all other monies in the possession of the store. The commissioner of taxation and finance may specify a system of account and records to be maintained with respect to accounts established under this subdivision.

2. Each store shall file quarterly reports with the commissioner of taxation and finance on a form and in the manner prescribed by such commissioner. The commissioner of taxation and finance may require such reports to be filed electronically. The quarterly reports required by this subdivision shall be filed for the quarterly periods ending on the last day of May, August, November and February of each year, and each such report shall be filed within twenty days after the end of the quarterly period covered thereby. Each such report shall include all information such commissioner shall determine appropriate including but not limited to the following information:

a. the balance in the carryout bag account at the beginning of the quarter for which the report is prepared;

b. all such deposits credited to the carryout bag account and all interest, dividends or returns received on such account, during such quarter;

c. all service charges on the account, and all payments made pursuant to subdivision three of this section; and

d. the balance in the carryout bag account at the close of such quarter.

3. a. An amount equal to eighty percent of the balance outstanding in the carryout bag account at the close of each quarter shall be paid to the commissioner of taxation and finance at the time the report provided for in subdivision two of this section is required to be filed. The

commissioner of taxation and finance may require that the payments be made electronically. The remaining twenty percent of the balance outstanding at the close of each quarter shall be the monies of the store and may be withdrawn from such account by the store. If the provisions of this section with respect to such account have not been fully complied with, each store shall pay to such commissioner at such time, in lieu of the amount described in the preceding sentence, an amount equal to the balance which would have been outstanding on such date had such provisions been fully complied with. The commissioner of taxation and finance may require that the payments be made electronically.

b. A store who ceases to do business in this state as a store shall file a final report and remit payment of eighty percent of all amounts remaining in the carryout bag account as of the close of the store's last day of business. The commissioner of taxation and finance may require that the payments be made electronically. The store shall indicate on the report that it is a "final report". The final report is due to be filed with payment twenty days after the close of the quarterly period in which the store ceases to do business.

4. All monies collected or received by the department of taxation and finance pursuant to this title shall be deposited to the credit of the comptroller with such responsible banks, banking houses or trust companies as may be designated by the comptroller. Such deposits shall be kept separate and apart from all other monies in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. The comptroller must, by the tenth day of each month, pay into the state treasury to the credit of the environmental protection fund established pursuant to section ninety-two-s of the state finance law the revenue deposited under this subdivision during the preceding calendar month and remaining to the comptroller's credit on the last day of that preceding month.

5. The commissioner and the commissioner of taxation and finance shall promulgate, and shall consult each other in promulgating, such rules and regulations as may be necessary to effectuate the purposes of this title. The commissioner and the commissioner of taxation and finance shall provide all necessary aid and assistance to each other, including the sharing of any information that is necessary to their respective administration and enforcement responsibilities pursuant to the provisions of this title.

6. a. Any store in operation prior to the effective date of this title, must apply within three months of the effective date of this title to the commissioner of taxation and finance for registration to collect fees as provided in section 27-2802 of this title. Any store commencing operations on or after three months from the effective date of this title shall apply for registration prior to collecting any fees. Such application shall be in a form prescribed by the commissioner of taxation and finance and shall require such information deemed to be necessary for proper administration of this title. The commissioner of taxation and finance may require that applications for registration must be submitted electronically. The commissioner of taxation and finance shall electronically issue a store registration certificate in a form prescribed by the commissioner of taxation and finance within fifteen days of receipt of such application or may take an additional ten days if the commissioner of taxation and finance deems it necessary to consult with the commissioner before issuing such registration certificate. A registration certificate issued pursuant to this subdivision

may be issued for a specified term of not less than three years and shall be subject to renewal in accordance with procedures specified by the commissioner of taxation and finance. The commissioner of taxation and finance shall furnish to the commissioner a complete list of registered stores and shall continually update such list as warranted. The commissioner shall share any information with the commissioner of taxation and finance that is necessary for the administration of this subdivision.

b. The commissioner of taxation and finance shall have the authority to revoke or refuse to renew any registration issued pursuant to this subdivision when he or she has determined or has been informed by the commissioner that any of the provisions of this title or rules and regulations promulgated thereunder have been violated. Such violations shall include, but not be limited to, the failure to file quarterly reports, the failure to make payments pursuant to this subdivision, the providing of false or fraudulent information to either the department of taxation and finance or the department, or knowingly aiding or abetting another person in violating any of the provisions of this title. A notice of proposed revocation or non-renewal shall be given to the store in the manner prescribed for a notice of deficiency of tax and all the provisions applicable to a notice of deficiency under article twenty-seven of the tax law shall apply to a notice issued pursuant to this paragraph, insofar as such provisions can be made applicable to a notice authorized by this paragraph, with such modifications as may be necessary in order to adapt the language of such provisions to the notice authorized by this paragraph. All such notices issued by the commissioner of taxation and finance pursuant to this paragraph shall contain a statement advising the store that the revocation or non-renewal of registration may be challenged through a hearing process and the petition for such a challenge must be filed with the commissioner of taxation and finance within ninety days after such notice is issued. A store whose registration has been so revoked or not renewed shall cease to do business in this state, until this title has been complied with and a new registration has been issued.

7. The commissioner of taxation and finance may require the maintenance of such accounts, records or documents relating to the collection of fees for carryout bags, by any store as such commissioner may deem appropriate for the administration of this section. Such commissioner may make examinations, including the conduct of store inspections during regular business hours, with respect to the accounts, records or documents required to be maintained under this subdivision. Such accounts, records and documents shall be preserved for a period of three years, except that such commissioner may consent to their destruction within that period or may require that they be kept longer. Such accounts, records and documents may be kept within the meaning of this subdivision when reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic or other process which actually reproduces the original accounts, records or documents.

8. If any store fails or refuses to file a report or furnish any information requested in writing by the department of taxation and finance or the department, the department of taxation and finance with the assistance of the department may, from any information in its possession, make an estimate of the deficiency and collect such deficiency from such store.

§ 27-2805. Violations.

1. Any retailer who shall violate any provision of this title shall receive a warning notice for the first such violation. A retailer shall be liable to the state of New York for a civil penalty of two hundred fifty dollars for the first violation after receiving a warning and five hundred dollars for any subsequent violation in the same calendar year. For purposes of this section, each commercial transaction shall constitute no more than one violation. A hearing or opportunity to be heard shall be provided prior to the assessment of any civil penalty.

2. It shall not be a violation of this title for a general vendor or green cart to fail to provide a receipt to a customer with an itemized charge for a carryout bag fee.

3. (a) The department, the department of agriculture and markets, the department of health, and the attorney general are hereby authorized to enforce the provisions of this title, and all monies collected shall be deposited to the credit of the environmental protection fund established pursuant to section ninety-two-s of the state finance law.

(b) The provisions of this section may also be enforced by a county, city, town or village and the local legislative body thereof may adopt local laws, ordinances or regulations consistent with this title providing for the enforcement of such provisions.

4. Any fines that are collected by the state during proceedings by the state to enforce the provisions of this title shall be retained by the state. Any fines that are collected by a municipality during proceedings by the municipality to enforce the provisions of this title against a retailer located in the municipality shall be retained by the municipality.

§ 27-2806. Preemption of local law.

Jurisdiction in all matters pertaining to carryout bags is vested exclusively in the state. Any provision of any local law or ordinance, or any rule or regulation promulgated thereto, governing charges or bans related to carryout bags shall, upon the effective date of this title, be preempted. Provided, however, nothing in this section shall preclude a local law or ordinance, or any rule or regulation from implementing a higher fee for carryout bags or reusable grocery bags, or a ban on additional types of carryout bags.

§ 3. Subdivision 4 of section 63 of the alcoholic beverage control law, as amended by chapter 360 of the laws of 2017, is amended to read as follows:

4. No licensee under this section shall be engaged in any other business on the licensed premises. The sale of lottery tickets, when duly authorized and lawfully conducted, the sale of carryout bags as defined in subdivision one of section 27-2801 of the environmental conservation law and reusable grocery bags as defined in subdivision four of section 27-2801 of the environmental conservation law, the sale of corkscrews or the sale of ice or the sale of publications, including prerecorded video and/or audio cassette tapes, or educational seminars, designed to help educate consumers in their knowledge and appreciation of alcoholic beverages, as defined in section three of this chapter and allowed pursuant to their license, or the sale of non-carbonated, non-flavored mineral waters, spring waters and drinking waters or the sale of glasses designed for the consumption of wine, racks designed for the storage of wine, and devices designed to minimize oxidation in bottles of wine which have been uncorked, or the sale of gift bags, gift boxes, or wrapping, for alcoholic beverages purchased at the licensed premises shall not constitute engaging in another business within the meaning of this subdivision. Any fee obtained from the sale of an educational seminar

shall not be considered as a fee for any tasting that may be offered during an educational seminar, provided that such tastings are available to persons who have not paid to attend the seminar and all tastings are conducted in accordance with section sixty-three-a of this article.

§ 4. Subdivision 3 and paragraph (b) of subdivision 6 of section 92-s of the state finance law, subdivision 3 as amended by section 1 of part AA of chapter 58 of the laws of 2018 and paragraph (b) of subdivision 6 as amended by section 3 of part U of chapter 58 of the laws of 2016, are amended to read as follows:

3. Such fund shall consist of the amount of revenue collected within the state from the amount of revenue, interest and penalties deposited pursuant to section fourteen hundred twenty-one of the tax law, the amount of fees and penalties received from easements or leases pursuant to subdivision fourteen of section seventy-five of the public lands law and the money received as annual service charges pursuant to section four hundred four-n of the vehicle and traffic law, all moneys required to be deposited therein from the contingency reserve fund pursuant to section two hundred ninety-four of chapter fifty-seven of the laws of nineteen hundred ninety-three, all moneys required to be deposited pursuant to section thirteen of chapter six hundred ten of the laws of nineteen hundred ninety-three, repayments of loans made pursuant to section 54-0511 of the environmental conservation law, all moneys to be deposited from the Northville settlement pursuant to section one hundred twenty-four of chapter three hundred nine of the laws of nineteen hundred ninety-six, provided however, that such moneys shall only be used for the cost of the purchase of private lands in the core area of the central Suffolk pine barrens pursuant to a consent order with the Northville industries signed on October thirteenth, nineteen hundred ninety-four and the related resource restoration and replacement plan, the amount of penalties required to be deposited therein by section 71-2724 of the environmental conservation law, all moneys required to be deposited pursuant to article thirty-three of the environmental conservation law, all fees collected pursuant to subdivision eight of section 70-0117 of the environmental conservation law, all moneys collected pursuant to title thirty-three of article fifteen of the environmental conservation law, beginning with the fiscal year commencing on April first, two thousand thirteen, nineteen million dollars, and all fiscal years thereafter, twenty-three million dollars plus all funds received by the state each fiscal year in excess of the greater of the amount received from April first, two thousand twelve through March thirty-first, two thousand thirteen or one hundred twenty-two million two hundred thousand dollars, from the payments collected pursuant to subdivision four of section 27-1012 of the environmental conservation law and all funds collected pursuant to section 27-1015 of the environmental conservation law**, all moneys required to be deposited pursuant to section 27-2804 of the environmental conservation law**, and all other moneys credited or transferred thereto from any other fund or source pursuant to law. All such revenue shall be initially deposited into the environmental protection fund, for application as provided in subdivision five of this section.

(b) Moneys from the solid waste account shall be available, pursuant to appropriation and upon certificate of approval of availability by the director of the budget, for any non-hazardous municipal landfill closure project; municipal waste reduction or recycling project, as defined in article fifty-four of the environmental conservation law; for the purposes of section two hundred sixty-one and section two hundred

sixty-four of the economic development law; any project for the development, updating or revision of local solid waste management plans pursuant to sections 27-0107 and 27-0109 of the environmental conservation law; environmental justice projects and grants and for the development of the pesticide sales and use data base pursuant to title twelve of article thirty-three of the environmental conservation law**; provided that all funds collected pursuant to title twenty-eight of article twenty-seven of the environmental conservation law shall be made available to localities for the purpose of pollution reduction, cleanup, and education, and purchasing and distributing reusable bags, with priority given to low and fixed-income communities**.

§ 5. This act shall take effect on the two hundred seventieth day after it shall have become a law. 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 on or before such date.

PART I

Intentionally Omitted

PART J

Section 1. Subdivisions 4 and 5 of section 24-0301 of the environmental conservation law, as amended by chapter 16 of the laws of 2010, are amended to read as follows:

4. Upon completion of the tentative freshwater wetlands map for a particular area, the commissioner or his **or her** designated hearing officer shall hold a public hearing in that area in order to afford an opportunity for any person to propose additions or deletions from such map. The commissioner shall give notice of such hearing to each owner of record as shown on the latest completed tax assessment rolls, of lands designated as such wetlands as shown on said map and also to the chief administrative officer and clerk of each local government within the boundaries of which any such wetland or a portion thereof is located and, in the case of a tentative freshwater wetlands map for any area within the Adirondack park, to the Adirondack park agency, [**~~by certified mail~~**] not less than thirty days prior to the date set for such hearing and shall assure that a copy of the relevant map is available for public inspection at a convenient location in such local government. The map filed with a local government may, at the local government's request, be either a physical copy of the tentative freshwater wetlands map, or, if available, a digital file that represents it. The commissioner shall also cause notice of such hearing to be published at least once, not more than thirty days nor fewer than ten days before the date set for such hearing, in at least two newspapers having general circulation in the area where such wetlands are located. The commissioner may post on the department's website a digital image that represents the tentative freshwater wetlands map.

5. After considering the testimony given at such hearing and any other facts which may be deemed pertinent, after considering the rights of affected property owners and the ecological balance in accordance with the policy and purposes of this article, and, in the case of wetlands or portions thereof within the Adirondack park, after consulting with the Adirondack park agency, the commissioner shall promulgate by order the final freshwater wetlands map. Such order shall not be promulgated less

than sixty days from the date of the hearing required by subdivision four of this section. A copy of the order, together with a copy of such map or relevant portion thereof shall be filed in the office of the clerk of each local government in which each such wetland or a portion thereof is located and, in the case of a map for any area within the Adirondack park, with the Adirondack park agency. The map filed with a local government may, at the local government's request, be either a physical copy of the final freshwater wetlands map, or, if available, a digital file that represents it. The commissioner shall simultaneously give notice of such order to each owner of lands, as shown on the latest completed tax assessment rolls, designated as such wetlands by mailing a copy of such order to such owner [~~by certified mail in any case where a notice by certified mail was not sent pursuant to subdivision four of this section, and in all other cases by first class mail~~]. The commissioner shall also give notice of such order at such time to the chief administrative officer of each local government within the boundaries of which any such wetland or a portion thereof is located. At the time of filing with such clerk or clerks, the commissioner shall also cause a copy of such order to be published in at least two newspapers having general circulation in the area where such wetlands are located. The commissioner may post on the department's website a digital image that represents the final freshwater wetlands map.

§ 2. Subdivisions 3 and 4 of section 25-0201 of the environmental conservation law, as amended by chapter 598 of the laws of 1976, are amended to read as follows:

3. Upon completion of a tentative tidal wetlands boundary map for a particular area, the commissioner or his **or her** designated hearing officer shall hold a public hearing in order to afford an opportunity for any person to propose additions or deletions from such map. The commissioner shall give notice of such hearing to each owner of record of all lands designated as such wetland as shown on such maps, and also to the chief administrative officer of each municipality within whose boundary any such wetland or portion thereof is located[~~, by certified mail, return receipt requested,~~] not less than thirty days prior to the date set for such hearing. The commissioner shall also cause notice of such hearing to be published [~~at least once~~], not [~~more than thirty days nor~~] fewer than [~~ten~~] **thirty** days before the date set for such hearing, in at least two newspapers having a general circulation in the area where such wetlands are located.

4. After considering the testimony given at such hearing and any other facts which may be deemed pertinent and after considering the rights of affected property owners and the policy and purposes of this act, the commissioner shall establish by order the final bounds of each such wetland. A copy of the order, together with a copy of the map depicting such final boundary lines, shall be filed in the office of the clerk of the county in which each such wetland is located. The commissioner shall simultaneously give notice of such order to each owner of all lands designated as such wetlands by mailing a copy of such order to such owner. The commissioner shall also simultaneously give notice of such order [~~by certified mail~~] to the chief administrative officer of each municipality within whose boundary any such wetland or portion thereof is located. The commissioner shall also cause a copy of such order to be published in at least two newspapers having a general circulation in the area where such wetlands are located.

§ 3. This act shall take effect immediately.

PART K

Section 1. Legislative intent. The legislature hereby finds that consumers in the state do not have ready access to information about the products they may use and the product ingredients they may be exposed to every day. While the state has taken steps to ban certain product ingredients known to be harmful to human health and the environment, more must be done to give consumers real time access to product ingredient information so consumers can make informed decisions about which products to buy and use. Specifically, consumers should have the right to know if a product contains a carcinogen, mutagen or endocrine disruptors and other chemicals of concern, the state, as trustee of its natural resources should have the means to identify substances which may be discharged to the environment.

§ 2. Subdivision 1 of section 35-0103 of the environmental conservation law is amended to read as follows:

1. "[~~Household cleansing~~] **Cleansing** product" means any product, including but not limited to soaps and detergents, containing a surfactant as a wetting or dirt emulsifying agent and used primarily for domestic [~~or~~]**,** commercial**, or industrial** cleaning purposes, including but not limited to, the cleansing of fabrics, dishes, food utensils and household and commercial premises. [~~Household cleansing~~] **Cleansing** product shall not mean foods, drugs, cosmetics, insecticides, fungicides and rodenticides or cleansing products used primarily in industrial manufacturing, production and assembling processes as provided by the commissioner by rule and regulation.

§ 3. Section 35-0107 of the environmental conservation law is amended to read as follows:

§ 35-0107. Powers and duties of commissioner.

1. The commissioner is hereby authorized to promulgate regulations requiring manufacturers of [~~household~~] cleansing products distributed, sold or offered for sale in this state, to furnish to the commissioner for the public record as herein provided information regarding such products in a form prescribed by the commissioner including the nature and extent of investigations and research performed by the manufacturer concerning the effects of such products on human health and the environment. These reports shall be available to the public at the department of environmental conservation, except those portions the manufacturer determines, subject to the approval of the commissioner, would be, if disclosed, seriously prejudicial to the manufacturer's legitimate interest in trade secrets and economics of operation.

2. [~~No later than February 1, 1973 the commissioner shall prepare and submit a comprehensive report to the governor and legislature on the status of progress made in research and development to provide a safe and effective substitute for phosphates in household cleansing products.~~

~~3.~~] Whenever the commissioner finds, after investigation, that any ingredient of [~~household~~] cleansing products distributed, sold, offered or exposed for sale in this state, other than an ingredient for which limitations are set forth in subdivision 2 of section 35-0105, will or is likely to materially affect adversely human health or the environment, he may, after public hearing, restrict or limit by regulation the use of such ingredient in such products.

§ 4. Article 37 of the environmental conservation law is amended by adding a new title 9 to read as follows:

TITLE IX

CONSUMER PRODUCT DISCLOSURE

Section 37-0901. Short title.
37-0903. Definitions.
37-0905. Product labeling.
37-0907. Chemical disclosure.
37-0909. Initial chemical exposure list.
37-0911. Public education.
37-0913. Rules and regulations.
37-0915. Enforcement.
37-0917. Severability.

§ 37-0901. Short title.

This title shall be known and may be cited as the "consumer chemical awareness act".

§ 37-0903. Definitions.

As used in this title, the following terms shall mean:

1. "Consumer product" means any product sold or offered in the state, including but not limited to (a) cleansing products as defined by section 35-0103 of this chapter; (b) any product intended for use, or that may be reasonably expected to be used, by children; (c) any other such product that could, through normal use, expose the user to any carcinogen, mutagen, endocrine disruptor or other chemicals of concern identified by the department.

2. "Manufacturer" means any person, firm, association, partnership, limited liability company, corporation, governmental entity, organization, combination or joint venture which is the last entity to produce or assemble a consumer product or, in the case of an imported consumer product, the importer or domestic distributor of such product.

3. "Retailer" means any person, firm, association, partnership, limited liability company, corporation, governmental entity, organization, combination or joint venture which sells or otherwise distributes consumer products to consumers or to any other person for any other purpose other than resale.

§ 37-0905. Product labeling.

Except where prohibited by federal law, the department, in consultation with the department of health and department of state, is hereby authorized to establish standards governing the labeling of consumer products identified by the department in regulations which informs consumers of the ingredients of such products including any carcinogen, mutagen, endocrine disrupter or other chemicals of concern identified by the department.

§ 37-0907. Chemical disclosure.

The commissioner is hereby authorized to require manufacturers of consumer products distributed, sold or offered for sale in this state, to furnish to the commissioner for the public record as herein provided information regarding such products in a form prescribed by the commissioner including the nature and extent of investigations and research performed by the manufacturer concerning the effects of such products on human health and the environment. These reports shall be available to the public at the department, except those portions the manufacturer determines, subject to the approval of the commissioner, would be, if disclosed, seriously prejudicial to the manufacturer's legitimate interest in trade secrets and economics of operation.

§ 37-0909. Initial chemical disclosure list.

The commissioner shall require that such lists of chemicals as required pursuant to section 37-0905 of this title include, at a minimum, all the substances:

(a) on the list of "extremely hazardous substances" promulgated pursuant to the federal Emergency Planning and Community Right-to-Know Act, 42 USC §11002(a)(2);

(b) on the list of "toxic chemicals" promulgated pursuant to the federal Toxics Release Inventory Act, 42 USC §11023;

(c) defined as a "hazardous substance" pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act, 42 USC §9601;

(d) for which the United States Environmental Protection Agency has issued a chemical of concern action plan pursuant to the federal Toxic Substances Control Act, 15 USC §26;

(e) for which a health effect has been listed by the Agency for Toxic Substances and Disease Registry;

(f) for which the United States Environmental Protection Agency has published an emerging contaminants fact sheet; and

(g) on the lists of substances hazardous or acutely hazardous to public health established by the department pursuant to this article.

§ 37-0911. Public education.

The commissioner shall establish a public education program to disseminate information regarding implementation of this title. Such information may include, but not be limited to, publication of the website maintained by the state where information required to be disclosed pursuant to this title is maintained; publication of a manufacturer's website where disclosure pursuant to this title is effectuated; and, requirements for retailers to post information in a conspicuous location for the benefit of consumers.

§ 37-0913. Rules and regulations.

1. The department is authorized to promulgate such rules and regulations as it shall deem necessary to implement provisions of this title, and shall designate in such rules specific consumer products and chemicals of concern that trigger the labeling and disclosure requirements of this title taking into account factors such as levels of exposure and the feasibility of requiring labeling for such products.

2. Any regulations promulgated pursuant to section 37-0905 of this title shall specify the content of such label and shall at a minimum, direct consumers to where they can find additional information about the product and its ingredients.

§ 37-0915. Enforcement.

1. Any person who violates any of the provisions of or who fails to perform any duty imposed by this title or any rule or regulation promulgated pursuant hereto, shall be liable for a civil penalty not to exceed two thousand five hundred dollars for each such violation and an additional penalty of not more than five hundred dollars for each day during which such violation continues.

§ 37-0917. Severability.

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

§ 5. The public health law is amended by adding a new article 48-A to read as follows:

ARTICLE 48-A

REGULATION OF PERSONAL CARE PRODUCTS

Section 4850. Declaration of legislative intent and findings.
4851. Definitions.
4852. Disclosure.

4853. Penalties.
4854. Severability.

§ 4850. Declaration of legislative intent and findings. There are tens of thousands of chemicals used commercially in the United States, and each year approximately one thousand chemicals are added for commercial use. The majority of chemicals in commercial use in the United States, including those used as ingredients in personal care products, have never been fully tested for potential impacts on human health or the environment.

Some chemicals used in personal care products have been identified through scientific studies as being potential carcinogens, reproductive or developmental toxicants, or endocrine disruptors. Some have also been found through biomonitoring studies to be present in human blood, breast milk, or urine. These findings have led national and international agencies to develop lists of chemicals of concern based on the chemicals' potential to impact human health, and their presence in products that consumers use everyday.

Federal law requires personal care product labels to list ingredients. However, information concerning the potential health effects of exposure to these chemical ingredients is not widely available, chemicals used as fragrances or flavoring are exempt from labelling requirements, and personal care products sold for commercial use are not required to carry any ingredient labelling. At present, the only way to identify a product as containing a chemical of concern is to compare labeled product ingredients with chemical lists developed by many different agencies.

Furthermore, independent testing and laboratory analyses by other states have identified products that contain substances that could potentially cause harmful health effects but that are not identified as an ingredient on the product's label. Nevertheless, under the federal Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), many personal care products and their ingredients are not subject to premarket safety testing, review, or approval before they are sold to the public.

Therefore, the legislature hereby finds and declares that the disclosures required under federal law of ingredients contained in personal care products fail to adequately educate and protect consumers. In order to empower consumers with the information needed to make well-informed decisions regarding products that their families are exposed to daily, it shall be the policy of the state to require the personal care product industry to more fully disclose the ingredients they use and, where applicable, identify ingredients that have been published as a chemical of concern on one or more lists identified by the commissioner. This will benefit consumers, encourage manufacturers to remove potentially harmful chemicals from their products, and encourage development of innovative methods including green chemistry to replace these ingredients with more environmentally-preferable alternatives.

§ 4851. Definitions. As used in this article, unless the context requires otherwise:

1. "Ingredient" shall mean all of the following:

(a) An intentionally added ingredient present in any quantity in the personal care product;

(b) A nonfunctional byproduct or nonfunctional contaminant, present in a personal care product in any quantity exceeding one-half of one percent (0.5%) of the content of the product by weight or other amount determined by the commissioner;

(c) A nonfunctional byproduct present in a personal care product in any quantity not exceeding one-half of one percent (0.5%) of the content

of the product by weight, provided such element or compound has been published as a chemical of concern on one or more lists identified by the commissioner;

(d) A nonfunctional contaminant present in a personal care product in a quantity determined by the commissioner and not exceeding one-half of one percent (0.5%) of the content of the product by weight, provided such element or compound has been published as a chemical of concern on one or more lists identified by the commissioner.

2. "Intentionally added ingredient" shall mean any element or compound that a manufacturer has intentionally added to a personal care product, and which has a functional or technical effect in the finished product, including, but not limited to, the components of intentionally added fragrance, flavoring and colorants, and the intentional breakdown products of an added element or compound that also have a functional or technical effect on the finished product.

3. "nonfunctional byproduct" shall mean any element or compound which has no functional or technical effect in the finished product which (a) was intentionally added during the manufacturing process for a personal care product at any point in a product's, a raw material's or ingredient's supply chain or (b) was created for formed during the manufacturing process as an intentional or unintentional consequence of the manufacturing process at any point in a product's, a raw material's, or an ingredient's supply chain. This shall include, but is not limited to, an unreacted raw material, a breakdown product of an intentionally added ingredient, or a byproduct of the manufacturing process.

4. "Nonfunctional contaminant" shall mean any element or compound present in a personal care product as an unintentional consequence of manufacturing which has no functional or technical effect in the finished product. Nonfunctional contaminants include, but are not limited to, elements or compounds present in the environment as contaminants which were introduced into a product, a raw material, or a product ingredient as a result of the use of an environmental medium, such as a naturally occurring mineral, air, soil or water, in the manufacturing process at any point in a product's, a raw material's, or an ingredient's supply chain.

5. "Manufacturer" shall mean any person, firm, association, partnership, limited liability company, or corporation which produces, prepares, formulates, or compounds a personal care product, or whose brand name is affixed to such product. In the case of a personal care product imported into the United States, "manufacturer" shall mean the importer or first domestic distributor of the product if the entity that manufactures the product or whose brand name is affixed to the product does not have a presence in the United States.

6. "Personal care product" shall mean articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and articles intended for use as a component of any such articles; except that such term shall not include soap.

7. "Soap" shall mean articles comprised entirely of an alkali salt of fatty acids where the detergent properties of the article are due to the alkali-fatty acid compounds, and the article shall be labeled, sold, and represented only as a soap.

§ 4852. Disclosure. 1. Manufacturers of personal care products distributed, sold or offered for sale in this state, whether at retail or wholesale, for personal or commercial use, or distributed for promo-

tional purposes, shall furnish to the commissioner for public record and post on the manufacturer's website, in a manner prescribed by the commissioner that is readily accessible to the public and machine readable, such information regarding such products pursuant to rules and regulations promulgated by the commissioner. For each personal care product, such information shall include, but shall not be limited to:

(a) A list naming each ingredient, as defined in subdivision one of section forty-eight hundred fifty-one of this article, of the product in descending order of predominance by weight in the product, except that ingredients present at a weight below one percent (1%) may be listed following other ingredients without respect to the order of predominance by weight;

(b) The nature and extent of investigations and research performed by or for the manufacturer concerning the effects on human health and the environment of such product or such ingredients; and

(c) Where applicable, a statement disclosing that an ingredient is published as a chemical of concern on one or more lists identified by the commissioner. Such chemicals of concern identified by the commissioner and subject to the disclosure requirements of this section shall include, at a minimum, those substances identified in section 37-0909 of the environmental conservation law.

2. Such manufacturers shall furnish information on or before July first, two thousand twenty and every two years thereafter. In addition, such manufacturers shall furnish such information prior to the sale of any new personal care product, when the formulation of a currently disclosed product is changed such that the predominance of the ingredients in such product is changed, when any list of chemicals of concern identified by the commissioner pursuant to this article is changed to include an ingredient present in a personal care product subject to this article, or at such other times as may be required by the commissioner.

3. Such information shall be made available to the public by the commissioner and manufacturer, in accordance with this section, with the exception of those portions which the manufacturer determines, subject to the approval of the commissioner, is related to a proprietary process the disclosure of which would compromise the manufacturer's competitive position. The commissioner shall not approve any exceptions under this subdivision with respect to any ingredient published as a chemical of concern on one or more lists identified by the commissioner.

§ 4853. Penalties. A manufacturer in violation of this article is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense.

§ 4854. Severability. The provisions of this article shall be severable and if any phrase, clause, sentence or provision of this article, or the applicability thereof to any person or circumstance shall be held invalid, the remainder of this article and the application thereof shall not be affected thereby.

§ 6. This act shall take effect on the sixtieth day after it shall have become a law, provided, however, that any rule or regulation promulgated pursuant to this act shall not take effect prior to April 1, 2021; provided, however, that section five of this act shall take effect on January 1, 2020, provided that, effective immediately, the commissioner of health shall be authorized to promulgate any and all rules and regulations necessary to implement the provisions of section five on its effective date.

PART L

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

ARTICLE 14-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 violations of this article.
724. Severability of provisions.
725. Compliance with other laws.

§ 710. Definitions. 1. "Applicant" shall mean any person applying for a license under this article.

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, or any person licensed or supervised by the department and exempted by the superintendent pursuant to regulations promulgated in accordance with this article.

5. "Person" shall mean any individual, association, corporation, limited liability company, partnership, trust, unincorporated organization, government, and 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 student loans owed by one or more borrowers residing in this state.

7. "Servicing" shall mean:

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

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

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

(d) during a period where 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 article shall not apply to any exempt organization that is a student loan servicer; provided that such exempt organization notifies the superintendent that it is servicing student loans in this state and complies with sections seven hundred seventeen, seven hundred nineteen, seven hundred twenty-one, and seven hundred twenty-five of this article and any regulation applicable to student loan servicers promulgated by the superintendent.

§ 712. Application for a student loan servicer license; fees. 1. The application for a license to engage in the business of servicing student loans 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;

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

2. An application to become a licensed student loan servicer or any application with respect to a student loan servicer shall be accomplished 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 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) has been convicted of a crime involving an activity which is a felony under this chapter or under article one hundred fifty-five, one hundred seventy, one hundred seventy-five, one hundred seventy-six, one hundred eighty, one hundred eighty-five, one hundred eighty-seven, one hundred ninety, two hundred, two hundred ten or four hundred seventy of the penal law or any comparable felony under the laws of any other state of the United States, provided that such crime would be a felony if committed and prosecuted under the laws of this state;

(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;

(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; or

(e) 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.

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 required to be licensed under section seven hundred eleven of this article, 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 servi-

cer required to be licensed under section seven hundred eleven of this article. 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. This 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 required to be licensed under section seven hundred eleven of this article 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 such section by a legal representative. The term "legal representative", for the purposes of this subdivision, shall mean one duly appointed by a court of competent jurisdiction to act as executor, administrator, trustee, committee, conservator or receiver, including one who succeeds a legal representative and one 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 or her 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. After notice and hearing, the superintendent may revoke or suspend any license to engage in the business of a student loan servicer issued pursuant to this article if he or she shall find 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) any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the superintendent refusing originally to issue such license;

(c) a servicer does not cooperate with an examination or investigation by the superintendent;

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

(e) 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;

(f) the servicer engages in an unsafe or unsound practice;

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

(h) a servicer has violated the laws of this state, any other state or any federal law involving fraudulent or dishonest dealing, or a final judgement 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 or is likely to default 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. Except as provided in subdivision two of this section, no license shall be revoked or suspended except after notice and 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 it thereby surrenders such license, but such surrender shall not affect such servicer's civil or criminal liability for acts committed prior to such 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 such 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 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 such order in the office of the department 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 such servicer or exempt organization 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, other than an exempt organization, 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 law, the superintendent is hereby authorized and empowered to promulgate such rules and regulations as may in the judgement 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.

(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.

(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. Employ any scheme, device or artifice to defraud or mislead a borrower;

2. 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. Misapply payments to the outstanding balance of any student loan or to any related interest or fees;

4. Provide inaccurate 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. 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;

7. Fail to respond within fifteen calendar days to communications from the department, or within such shorter, reasonable time as the department may request in his or her communication; or

8. Fail to provide a response within fifteen calendar days to a consumer complaint submitted to the servicer by the department. If necessary, a student loan servicer may request additional time up to a maximum of forty-five calendar days, provided that such request is accompanied by an explanation why such additional time is reasonable and necessary.

§ 720. Servicing student loans without a license. 1. 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.

2. This section does not apply to exempt organizations.

§ 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 such student loan or the sale, assignment or other transfer of the servicing of such 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 such servicers. The superintendent and any person duly designated by him or her shall have 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 travelling 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 said department employee, after being duly authenticated by said employee, may be admitted as competent evidence upon the oath of said employee that said 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 it is an exempt organization, affiliates of a student loan servicer are 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, including but not limited to the penalties available under section forty-four of this chapter, 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 the article or any regulation or policy promulgated hereunder a sum not to exceed the greater of (i) ten thousand dollars for each offense; (ii) a multiple of two times the aggregate damages attributable to the violation; or (iii) a multiple of two times the aggregate economic gain attributable to the 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 the financial services law, 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. Section 39 of the banking law, as amended by section 1 of part FF of chapter 59 of the laws of 2004, subdivisions 1, 2 and 5 as amended by chapter 123 of the laws of 2009, subdivision 3 as amended by chapter 155 of the laws of 2012 and subdivision 6 as amended by chapter 217 of the laws of 2010, is amended to read as follows:

§ 39. Orders of superintendent. 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 load 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.

4. To make good encroachments on reserves. Whenever it shall appear to the superintendent that either the total reserves or reserves on hand of any banking organization, branch or agency of a foreign banking corporation are below the amount required by or pursuant to this chapter or any other applicable provision of law or regulation to be maintained, or that such banking organization, branch or agency of a foreign banking corporation is not keeping its reserves on hand as required by this chapter or any other applicable provision of law or regulation, he or she may, in his or her discretion, issue an order directing that such banking organization, branch or agency of a foreign banking corporation

make good such reserves forthwith or within a time specified in such order, or that it keep its reserves on hand as required by this chapter.

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.

6. As used in this section, "bank holding company" shall have the same meaning as that term is defined in section one hundred forty-one of this chapter.

§ 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,** registered 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.

PART M

Section 1. Section 2 of part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, as amended by section 2 of part H of chapter 58 of the laws of 2018, 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~~] **June first of each year this section remains in effect**.

§ 2. Section 3 of part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, as amended by section 3 of part H of chapter 58 of the laws of 2018, 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, [~~2019~~] **2021**.

§ 3. a. The New York state commissioner of motor vehicles may approve demonstrations and tests consisting of the operation of a motor vehicle equipped with autonomous vehicle technology while such motor vehicle is engaged in the use of such technology on public highways within this state for the purposes of demonstrating and assessing the current development of autonomous vehicle technology and to begin identifying potential impacts of such technology on safety, traffic control, traffic enforcement, emergency services, and such other areas as may be identified by such commissioner. Such demonstrations and tests shall take place in a manner and form prescribed by the commissioner of motor vehicles including, but not limited to: a requirement that the motor vehicle utilized in such demonstrations and tests bears the required manufacturer's certification label indicating that, at the time of its manufacture, it has been certified in compliance with all applicable federal motor vehicle safety standards and New York state motor vehicle inspection standards; and a requirement that the motor vehicle utilized in such demonstrations and tests has in place, at a minimum, financial security in the amount of five million dollars. Nothing in this act shall authorize the motor vehicle utilized in such demonstrations and tests to operate in violation of article 22 or title 7 of the vehicle and traffic law, excluding section 1226 of such law.

b. For the purposes of this section, the term "autonomous vehicle technology" shall mean the hardware and software that are collectively capable of performing part or all of the dynamic driving task on a sustained basis, and the term "dynamic driving task" shall mean all of the real-time operational and tactical functions required to operate a vehicle in on-road traffic, excluding the strategic functions such as trip scheduling and selection of destinations and waypoints.

§ 4. 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 three 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, the commissioner's plan for ensuring enforcement of driving regulations on motor vehicles when engaged in the use of autonomous vehicle technology, a record of all private sector

investments made in the state of New York relating to research and development of autonomous vehicle technology within one year preceding the date of the report, a record of investments made by the state of New York relating to research and development of autonomous vehicle technology within one year preceding the date of the report, and such other areas as may be identified by such commissioner. The commissioner shall submit such report on or before June first of each year.

§ 5. Section 1226 of the vehicle and traffic law, as amended by chapter 506 of the laws of 1971, is amended to read as follows:

§ 1226. Control of steering mechanism. No person shall operate a motor vehicle without having at least one hand or, in the case of a physically handicapped person, at least one prosthetic device or aid on the steering mechanism at all times when the motor vehicle is in motion **unless a driving automation system, as defined in SAE J3016 as periodically revised, is engaged to perform steering function**.

§ 6. The commissioner of motor vehicles and the superintendent of financial services shall establish regulations consistent with this act.

§ 7. This act shall take effect immediately; provided, however, that section three of this act shall take effect April 1, 2021; provided, further, that section five of this act shall take effect on the first of November next succeeding the date on which it shall have become a law and shall apply to violations committed on and after such date.

PART N

Section 1. Section 6 of chapter 713 of the laws of 1988, amending the vehicle and traffic law relating to the ignition interlock device program, as amended by section 14 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 6. This act shall take effect on the first day of April next succeeding the date on which it shall have become a law; provided, however, that effective immediately, the addition, amendment or repeal of any rule or regulation necessary for the implementation of the foregoing sections of this act on their effective date is authorized and directed to be made and completed on or before such effective date and shall remain in full force and effect until the first day of September, [~~2019~~] **2021** when upon such date the provisions of this act shall be deemed repealed.

§ 2. This act shall take effect immediately.

PART O

Section 1. Subdivision (p) of section 406 of chapter 166 of the laws of 1991, amending the tax law and other laws relating to taxes, as amended by section 12 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

(p) The amendments to section 1809 of the vehicle and traffic law made by sections three hundred thirty-seven and three hundred thirty-eight of this act shall not apply to any offense committed prior to such effective date; provided, further, that section three hundred forty-one of this act shall take effect immediately and shall expire November 1, 1993 at which time it shall be deemed repealed; sections three hundred forty-five and three hundred forty-six of this act shall take effect July 1, 1991; sections three hundred fifty-five, three hundred fifty-six, three hundred fifty-seven and three hundred fifty-nine of this act shall take effect immediately and shall expire June 30, 1995 and shall

revert to and be read as if this act had not been enacted; section three hundred fifty-eight of this act shall take effect immediately and shall expire June 30, 1998 and shall revert to and be read as if this act had not been enacted; section three hundred sixty-four through three hundred sixty-seven of this act shall apply to claims filed on or after such effective date; sections three hundred sixty-nine, three hundred seventy-two, three hundred seventy-three, three hundred seventy-four, three hundred seventy-five and three hundred seventy-six of this act shall remain in effect until September 1, [~~2010~~] **2021**, at which time they shall be deemed repealed; provided, however, that the mandatory surcharge provided in section three hundred seventy-four of this act shall apply to parking violations occurring on or after said effective date; and provided further that the amendments made to section 235 of the vehicle and traffic law by section three hundred seventy-two of this act, the amendments made to section 1809 of the vehicle and traffic law by sections three hundred thirty-seven and three hundred thirty-eight of this act and the amendments made to section 215-a of the labor law by section three hundred seventy-five of this act shall expire on September 1, [~~2010~~] **2021** and upon such date the provisions of such subdivisions and sections shall revert to and be read as if the provisions of this act had not been enacted; the amendments to subdivisions 2 and 3 of section 400.05 of the penal law made by sections three hundred seventy-seven and three hundred seventy-eight of this act shall expire on July 1, 1992 and upon such date the provisions of such subdivisions shall revert and shall be read as if the provisions of this act had not been enacted; the state board of law examiners shall take such action as is necessary to assure that all applicants for examination for admission to practice as an attorney and counsellor at law shall pay the increased examination fee provided for by the amendment made to section 465 of the judiciary law by section three hundred eighty of this act for any examination given on or after the effective date of this act notwithstanding that an applicant for such examination may have prepaid a lesser fee for such examination as required by the provisions of such section 465 as of the date prior to the effective date of this act; the provisions of section 306-a of the civil practice law and rules as added by section three hundred eighty-one of this act shall apply to all actions pending on or commenced on or after September 1, 1991, provided, however, that for the purposes of this section service of such summons made prior to such date shall be deemed to have been completed on September 1, 1991; the provisions of section three hundred eighty-three of this act shall apply to all money deposited in connection with a cash bail or a partially secured bail bond on or after such effective date; and the provisions of sections three hundred eighty-four and three hundred eighty-five of this act shall apply only to jury service commenced during a judicial term beginning on or after the effective date of this act; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law;

§ 2. Subdivision 8 of section 1809 of the vehicle and traffic law, as amended by section 13 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

8. The provisions of this section shall only apply to offenses committed on or before September first, two thousand [~~nineteen~~] **twenty-one**.

§ 3. This act shall take effect immediately.

PART P

Intentionally Omitted

PART Q

Intentionally Omitted

PART R

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 S of chapter 58 of the laws of 2018, 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, [~~2019~~] **2020**.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 31, 2019.

PART S

Intentionally Omitted

PART T

Section 1. Intentionally omitted.

§ 2. Intentionally omitted.

§ 3. Intentionally omitted.

§ 4. Intentionally omitted.

§ 5. 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 reinspection of all for-hire 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; vehicles operated under contract with a municipality or school district to provide school-related transportation services; or motor vehicles authorized by the commissioner of health to provide non-emergency medical transportation services. 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.

§ 6. Intentionally omitted.

§ 7. Intentionally omitted.

§ 8. Intentionally omitted.

§ 9. Intentionally omitted.

§ 10. Intentionally omitted.

§ 11. Intentionally omitted.
§ 12. Intentionally omitted.
§ 13. Intentionally omitted.
§ 14. Intentionally omitted.
§ 15. Intentionally omitted.
§ 16. Subdivision 3 of section 1229-c of the vehicle and traffic law, as added by chapter 365 of the laws of 1984, is amended to read as follows:
3. No person shall operate a motor vehicle unless such person is restrained by a safety belt approved by the commissioner. No person sixteen years of age or over shall be a passenger in [~~the front seat of~~] a motor vehicle unless such person is restrained by a safety belt approved by the commissioner.
§ 17. Intentionally omitted.
§ 18. This act shall take effect immediately; provided, however, section five of this act shall take effect October 1, 2019.

PART U

Section 1. Expenditures of moneys appropriated in a chapter of the laws of 2019 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, 2020, the commissioner of the department of agriculture and markets shall submit an accounting of such expenses, including, but not limited to, expenses in the 2019--2020 state 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. No later than August 15, 2021, the commissioner of the department of agriculture and markets shall submit an accounting of such expenses, including, but not limited to, expenses in the 2020--2021 state 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 2019 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, 2020, the secretary of state shall submit an accounting of such expenses, including, but not limited to, expenses

in the 2019--2020 state 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. No later than August 15, 2021, the secretary of state shall submit an accounting of such expenses, including, but not limited to, expenses in the 2020--2021 state 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 2019 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, 2020, 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 2019--2020 state 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. No later than August 15, 2021, 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 2020--2021 state 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 2019 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, 2020, the commissioner of the department of environmental conservation shall submit an accounting of such expenses, including, but not limited to, expenses in the 2019--2020 state 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. No later than August 15, 2021, the commissioner of the department of environmental conservation shall submit an accounting of such expenses, including, but not limited to, expenses in the 2020--2021 state 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. Intentionally omitted.

§ 6. 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, 2020, the commissioner of the department of health shall submit an accounting of expenses in the 2019--2020 state 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. No later than August 15, 2021, the commissioner of the department of health shall submit an accounting of such expenses, including, but not limited to, expenses in the 2020--2021 state 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.

§ 7. 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.

§ 8. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2019 and sections one, two, three, four and six shall be deemed repealed April 1, 2021.

PART V

Section 1. The article heading of article 11 of the public service law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

PROVISIONS RELATING TO CABLE TELEVISION COMPANIES **AND BROADBAND INTERNET SERVICE PROVIDERS**

§ 2. Subdivision 1 of section 5 of the public service law is amended by adding a new paragraph i to read as follows:

i. To every broadband internet line which lies wholly within the state and that part within the state of New York of every broadband internet line which lies partly within and partly without the state and to the persons or corporations owning, leasing or operating any such broadband internet line.

§ 3. Section 212 of the public service law is amended by adding two new subdivisions 15 and 16 to read as follows:

15. "Broadband internet access service" shall mean a mass-market retail service that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but shall not include dial-up internet access service.

16. "Broadband internet service provider" shall mean any person, business or organization qualified to do business in this state, including municipal broadband providers, that provides individuals, corporations, or other entities with broadband internet access service.

§ 4. The section heading of section 215 of the public service law, as added by chapter 83 of the laws of 1995, is amended and a new subdivision 14 is added to read as follows:

Duties of the commission in respect to cable television companies **and broadband internet service providers**.

14. Develop and maintain a statewide plan for the monitoring of broadband internet service providers, including the annual certification that broadband internet service providers comply with the internet service neutrality requirements established in section two hundred thirty-one of this article.

§ 5. The state finance law is amended by adding a new section 148 to read as follows:

§ 148. Internet service neutrality requirements in certain procurement contracts. 1. Notwithstanding any other provision of law to the contrary, where a contract that includes broadband internet access services is to be awarded by a state agency as defined in section one hundred sixty of this chapter or any state or local authority as such terms are defined in section two of the public authorities law, municipal corporation as defined in section two of the general municipal law, public library or association library, as such terms are defined in section two hundred fifty-three of the education law, the legislature, judiciary, state university of New York, or city university of New York pursuant to a competitive bidding process or a request for proposal process, such competitive bidding process or request for proposal and the subsequent awarded contract shall require that such broadbrand internet access services are compliant with the internet service neutrality requirements established in section two hundred thirty-one of the public service law. Provided, however, the entity awarding such contract may award such contract to any broadband internet service provider that is not certified by the public service commission pursuant to subdivision two of section two hundred thirty-one of the public service law only if such entity demonstrates to the public service commission that either (i) there are no other broadband internet service providers available to contract with, or (ii) awarding such contract to a certified broadband internet service provider would result in a significant financial hardship when compared to awarding the contract to a broadband internet service provider not certified by the public service commission.

2. In addition to the authority granted to the commission pursuant to this chapter, the attorney general may enforce the provisions of this section to the extent permitted under section sixty-three of the executive law.

3. Nothing in this section supersedes or limits any obligation, authorization, or ability of an Internet service provider to address the needs of emergency communications or law enforcement, public safety, or national security authorities.

§ 6. Section 165 of the state finance law is amended by adding a new subdivision 9 to read as follows:

9. Broadband Internet access service. If, after execution of a contract for broadband Internet access service the state determines that the Internet service provider has violated the provisions of section two hundred thirty-one of the public service law in providing service to the state, the state may declare the contract void from the time it was entered into and require repayment of any payments made to the Internet service provider pursuant to the contract. The remedies available pursuant to this section are in addition to any remedy available pursuant to article twenty-two-A of the general business law.

§ 7. The public service law is amended by adding three new sections 231, 232 and 233 to read as follows:

§ 231. Internet service neutrality. 1. For purposes of this section, "network management practice" shall mean a practice that has a primarily technical network management justification, but does not include other

business practices. A "reasonable network management practice" shall mean a network management practice that is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband internet access service.

2. The commission shall certify annually that any broadband internet service provider qualified to do business in this state, does not:

(a) block lawful content, applications, services, or non-harmful devices, subject to reasonable network management.

(b) impair or degrade lawful internet traffic on the basis of internet content, application, or service, or use of a non-harmful device, subject to reasonable network management.

(c) engage in paid prioritization, including, but not limited to, traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either (i) in exchange for any form of consideration from a third party, or (ii) to benefit an affiliated entity, unless the broadband internet service provider demonstrates that the practice would provide a significant public interest benefit and would not harm the open nature of the internet.

3. The commission shall annually prepare a report that lists the certification status for every broadband internet service provider qualified to do business in this state. Such report shall be published on the commission's website and updated at least annually. The commission shall notify the governor, the temporary president of the senate, and the speaker of the assembly of the publication of such report and any updates.

§ 232. Infrastructure awards. 1. An award of moneys by the NYS Broadband Program Office for the building of infrastructure for broadband communications shall require the awardee to prevent any Internet service provider that provides broadband Internet access service utilizing that infrastructure from violating the provisions of section two hundred thirty-one of this article.

2. An award of moneys by the NYS Broadband Program Office for access to the Internet shall prohibit any Internet service provider that receives those moneys from violating the provisions of section two hundred thirty-one of this article.

§ 233. Broadband Internet access evaluation. The commission, in consultation with the power authority of the state of New York, the NYS Broadband Program Office and electrical corporations, shall evaluate the role broadband Internet access and tools, especially as they relate to private consumers, will play in the future operation of the state's power grid. The evaluation should consider at least the following:

1. the reliance of electrical corporations on consumer broadband services to manage energy resources;

2. the impact that paid prioritization, throttling, and blocking in consumer broadband Internet service would have on resource management and grid reliability; and

3. the future cost to the state and agencies if state agencies need to enter into long-term paid prioritization contracts if net neutrality principles are no longer in place.

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

PART W

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 2017. 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, 2019 and such amounts shall be paid to the New York state energy research and development authority on or before September 10, 2019. 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, 2019.

PART X

Intentionally Omitted

PART Y

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 P of chapter 58 of the laws of 2018, 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, [~~2019~~] 2020, 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, 2019.

PART Z

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 O of chapter 58 of the laws of 2018, 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, [~~2019~~] 2020.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2019.

PART AA

Section 1. Paragraph (b) of subdivision 8, subdivisions 16, 19, 21 and 22 of section 310 of the executive law, as added by chapter 261 of the laws of 1988, subdivision 16 as added by section 3 of part BB of chapter 59 of the laws of 2006, and subdivisions 19, 21 and 22 as added by chapter 175 of the laws of 2010, are amended to read as follows:

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

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 and procurement ombudsman.

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**, ownership interest in a holding company that leases real property, machinery, equipment, or vehicles exclusively to the certified minority or women-owned business enterprise that is majority owned by the minority group members or women relied upon for certification**, or up to [~~five hundred~~] **seven hundred fifty** 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.

21. "The [~~2010~~] **2016** disparity study" shall refer to the 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~~] **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.

§ 1-a. Paragraphs (e) and (f) of subdivision 3 of section 311 of the executive law, paragraph (e) as amended by chapter 55 of the laws of 1992 and paragraph (f) as added by chapter 261 of the laws of 1988, are amended to read as follows:

(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. **Such report shall itemize the total value of design-build contracts used by each contracting agency when applicable, and each contracting agency authorized to enter into design-build contracts shall itemize the rate of minority and women-owned business enterprises participation on design-build contracts, design-bid-build contracts, as well as the agency's overall participation rate.** 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~~] **quarterly** 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;

§ 1-b. Paragraphs (h) and (i) of subdivision 3 of section 311 of the executive law, paragraph (h) as amended and paragraph (i) as added by section 1 of part BB of chapter 59 of the laws of 2006, are amended and a new paragraph (j) is added to read as follows:

(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[~~.~~]**; and**

(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 as a searchable list. The record shall provide, at a minimum: (A) information identifying the contract, including the value of the contract; (B) information identifying the contracting agency; (C) the name of the contractor receiving the waiver; and (D) the date of the waiver.

§ 2. The opening paragraph of 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:

The director [~~may~~] **shall** provide assistance to, and facilitate access to programs serving certified businesses as well as applicants 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 and an interactive online presence 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:

§ 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 development~~] **division of minority and women's business** an office of the minority and women-owned business enterprise 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** by 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 **shall have the resources necessary to**

perform its functions, and, as such, 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, such 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 agencies' contracting.

4. The statewide advocate shall investigate complaints by minority-owned business enterprises or women-owned business enterprises, certified as such by the division of minority and women's business development, concerning a procuring governmental entity's failure to comply with the requirements of section three hundred fifteen of this article.

5. 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, including but not limited to (a) the number of complaints investigated; (b) the resolution of said complaints; and (c) details about audits conducted pursuant to subdivision three of this section. 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 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~~] twenty-three. 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. 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 business development is directed to transmit the disparity study to the governor and the legislature not later than August fifteenth, two thousand [~~sixteen~~] **twenty-three**, 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~~] **sixteen** disparity study, consistent with the purposes of this article, to attempt to achieve the [~~following~~] **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~~] **sixteen** disparity study.

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

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

2. The director shall promulgate rules and regulations pursuant to the goals established in subdivision one of this section **and findings of the two thousand sixteen disparity study** 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**;**

(iii) the findings of the two thousand sixteen 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;

(e) **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;**

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

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

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

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

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;

(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 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 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 searchable list of (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 a pre-bid conference; 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 written notification 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~~] **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 2-b as added by chapter 409 of the laws of 2018, 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 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~~] **quarterly** 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;

(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. The director shall establish a procedure enabling an applicant who was a military service member to prove his or her race or ethnicity, date of birth, place of birth and verification of address for purposes of certification of the applicant's business as a minority-owned business by submission of the DD Form 214 issued to the applicant by the United States department of defense upon such applicant's retirement, separation, or discharge from active duty in the armed forces of the United States, provided the DD Form 214 contains such information, in lieu of requiring the applicant to otherwise prove his or her race or ethnicity. The director shall promulgate rules and regulations to set forth criteria for the acceptance of the DD Form 214 by the office.

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 subdivisions 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~~] **five** years.

§ 7. Section 315 of the executive law, as added by chapter 261 of the laws of 1988, subdivision 3 as amended and subdivisions 4, 5, 6, and 7 as added by chapter 175 of the laws of 2010, is amended to read as follows:

§ 315. Responsibilities of contracting agencies. 1. Each contracting agency shall be responsible for monitoring state contracts under its jurisdiction, and recommending matters to the office respecting non-compliance with the provisions of this article so that the office may take such action as is appropriate to [~~insure~~] **ensure** compliance with the provisions of this article, the rules and regulations of the director issued hereunder and the contractual provisions required pursuant to this article. All contracting agencies shall comply with the rules and regulations of the office and are directed to cooperate with the office and to furnish to the office such information and assistance as may be required in the performance of its functions under this article.

2. Each contracting agency shall provide to prospective bidders a current copy of the directory of certified businesses, and a copy of the regulations required pursuant to sections three hundred twelve and three hundred thirteen of this article at the time bids or proposals are solicited.

2-a. Each contracting agency when notifying a contractor of a winning bid award shall also notify any minority or women-owned business enterprises affiliated with such contractor, per the contractor's submitted utilization plan, of such contractor's receipt of the winning bid award.

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,~~] **no later than January fifteenth of every year**

and shall include such information as is necessary for the director to determine whether the contracting agency and **any** contractor **to the contracting agency** 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 **and any instances in which the contracting agency has deemed a contractor to have committed a violation pursuant to section three hundred sixteen 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 **and a listing of annual goals compared to actual participation for each agency, the total number of certified minority and women-owned businesses for that reporting year as well as the total number reported in each of the previous five years, and the total dollar value of state expenditures on certified minority and women-owned business contracts and subcontract for the previous five years**, 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**; (f) provides a written rationale for instances where an agency's participation goals or remedial plans do not meet the goals supported by the two thousand sixteen disparity study; and (g) provides a written explanation of the reason that agency expenditures are exempt from complying with participation goals**. 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: (a)** its annual goals for contracts with minority-owned and women-owned business enterprises[~~,~~]**; (b)** the number of actual contracts issued to minority-owned and women-owned business enterprises; [~~and~~] **(c)** 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~~]**; (d)** 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**; and (e) which expenditures are exempt from participation goals and the rationale for such exemption. Such report shall also itemize the total value of design-build contracts used by each contracting agency when applicable, and each contracting agency authorized to enter into design-build contracts shall itemize the rate of minority and women-owned business enterprises participation on design-build contracts, design-bid-build contracts, as well as the agency's overall participation rate**.

6. Each contracting agency that substantially fails to meet the goals supported by the disparity study, as defined by regulation of the director, 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.

§ 8. Intentionally Omitted.

§ 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 execu-

tive 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 recycled 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, **except for certain contracts awarded to minority or women-owned business enterprises as provided herein,** the lowest bid shall be deemed to be that which specifically states the lowest gross sum for which the entire work will be performed, 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 enter-**

prise 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 twenty, the bid of the minority or women-owned business enterprise shall be deemed the lowest bid unless it exceeds the bid of any other bidder by more than ten percent.

§ 13. Intentionally Omitted.

§ 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 OOO of chapter 59 of the laws of 2018, is amended to read as follows:

The provisions of sections sixty-two through sixty-six of this act shall expire April fifteenth, two thousand twenty-four, 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 1 of section 312-a of the executive law is completed and delivered to the governor and the legislature on or before August fifteenth two thousand twenty-three, 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 [~~nineteen~~] twenty-four, 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 fifty 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 any trade, profession, occupation, or categories thereof.

(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 trade, profession, and occupation, or categories thereof 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 or categories thereof.

(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 trade, profession, and occupation of categories thereof.

(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 biannually.

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 or categories thereof:

(i) Black men;

(ii) Black women;

(iii) Hispanic men;

(iv) Hispanic 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 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 that deviates from the aspirational goal for work or service in the county or municipality in which the work or service 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 five 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 the 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 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.

§ 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, or 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 goal 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 shall 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 shall 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. 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 October first of each year the aspirational goals for the utilization of minority group members and women in certain trades, professions and/or occupations as 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. This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after April 1, 2019; provided, however, that:

(a) the amendments to article 15-A of the executive law, made by sections one, one-a, one-b, two, three, four, five, six and seven of this act, shall not affect the expiration of such article and shall expire and be deemed expired 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) subdivision 2-b of section 314 of the executive law, as amended by section six of this act, shall take effect on the same date and in the same manner as section 1 of chapter 409 of the laws of 2018 takes effect;

(e) section fifteen of this act shall expire and be deemed repealed December 31, 2024; and

(f) provided that the division of minority and women's business development shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in section fourteen of this act 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 BB

Intentionally Omitted

PART CC

Intentionally Omitted

PART DD

Section 1. Short title. This act shall be known and may be cited as the "Gateway Development Commission Act".

§ 2. Gateway Development Commission. 1. (a) Legislative findings and intent. The Legislature finds and declares that: the State of New Jersey and the State of New York and their respective citizens share a common concern to preserve the functionality and strengthen the resiliency of long-distance and commuter rail infrastructure between New Jersey and New York, including passenger rail infrastructure owned, controlled, or utilized by the National Railroad Passenger Corporation, also known as "Amtrak"; the two states and their respective citizens share the benefits of existing interstate passenger rail infrastructure between the two states, including the existing North River Tunnel; interstate passenger rail service and infrastructure is vital to the economies of New Jersey and New York;, because of the passage of time and damage caused by natural disasters, both states recognize the existing interstate passenger rail infrastructure, including the existing North River Tunnel, is at risk of system failures that could result in prolonged service disruptions that would severely damage the economies of the two states and many other participants in the economy of the Northeast Corridor both states recognize the urgent need to undertake projects necessary to create passenger rail capacity under the Hudson River, rehabilitate passenger rail infrastructure, maintain current levels of long-distance and commuter rail service between the two states and provide additional reliability, safety and security; the citizens of both states will share the benefits of expanded capacity and rehabilitated passenger rail infrastructure between the two states; and there has been a long history of cooperation among state and local governmental entities, Amtrak, and various private organizations and individ-

uals in the two states to ensure the preservation of a variety of passenger rail service options.

(b) The legislature therefore determines that there is a need to endorse and formalize that bi-state cooperative effort to help ensure that the functionality of long-distance and commuter rail infrastructure between New Jersey and New York and thence throughout the Northeast Corridor, is preserved and maintained for the benefit of the economy of New Jersey and New York and for the well-being of present and future generations of citizens in both states; and that the creation of a bi-state commission that shall be a body corporate and politic established by the State of New Jersey and the State of New York, acting in the public interest and exercising essential governmental functions, is an appropriate means to accomplish these very important goals and is not intended to impair, limit, diminish, or otherwise affect any right, power, or jurisdiction of the United States of America or any department, branch, agency, court, bureau, or other instrumentality thereof with respect to any matter, or grant or confer any right or power on such bi-state commission, or any officer or trustee thereof, to regulate commerce between the states.

(c) It is the intention of the legislature that the commission so created constitute an institution which has been established by the states to effectuate a public purpose and is therefore eligible to apply for financial assistance from the United States government, including the agencies thereof.

2. Definitions. Except where different meanings are expressly specified in subsequent provisions of this section, the following terms shall have the following meanings:

(a) "Act" means the Gateway Development Commission act.

(b) "Amtrak" means the National Railroad Passenger Corporation, a corporation organized under 49 U.S.C. § 24101 et. seq. and the laws of the District of Columbia.

(c) "Board" means the board of commissioners of the commission.

(d) "Commission" shall mean the gateway development commission which is established pursuant to this act.

(e) "Facilitate" means the planning, designing, financing, acquisition, development, redevelopment, expansion, construction, reconstruction, replacement, approval of works, lease, leaseback, licensing, cosigning, asset management, optimization, rehabilitation, repair, alteration, improvement, extension, management, ownership, use and effectuation of the matters described in this act. "Facilitation" shall have a concomitant meaning.

(f) "Full Funding" means the sum of commitments to fund, from sources deemed by the Commission to be creditworthy, plus Commission cash-on-hand, plus any institution of a tariff or an agreement to impose user fees not subject to further approvals (if any), plus such other sources of funding deemed certain to be available as and when required, found by the Commission to be sufficient to facilitate the project or a discrete component thereof which is beneficial to the public.

(g) "Meeting" means any gathering, whether corporeal or by means of communication equipment, which is attended by, or open to, the Board, held with the intent, on the part of the commissioners present, to act as a unit upon the specific public business of the Commission. "Meeting" does not mean a gathering (i) attended by less than a quorum of commissioners; (ii) in which the board is engaged in ordinary course supervision of Commission staff; (iii) in which consideration of Commission business matters are informally discussed without the intent or effect

of effectuating any action of the Commission; or (iv) attended by or open to all the members of three or more similar public bodies at a convention or similar gathering.

(h) "Project" means a passenger rail transportation project between Penn Station, Newark, New Jersey and Penn Station, New York, New York currently referred to as the "Gateway Program".

(i) "Public business" means matters which relate in any way, directly or indirectly, to the performance of the functions of the commission or the conduct of its business.

3. Creation of the Commission; purposes. There is hereby created the Gateway Development Commission, a body corporate and politic established by the State of New Jersey and the State of New York, which shall be deemed to be acting in the public interest and exercising essential government functions in taking action hereunder and which shall be a public authority and a government sponsored authority. The purposes of the Commission shall include the following:

(a) Facilitate the project;

(b) Coordinate activities of governmental entities, Amtrak, and private entities providing assistance to the project or otherwise regulating the Project, with a view to achieving Full funding, and encourage and enable such parties to participate in the effectuation of the Project;

(c) act as a coordinating agency to arrange for cooperation among the federal government, the State of New Jersey, any local government thereof, the state of New York, any local government thereof, any agency, instrumentality, department, commission, or authority of any one or more of the foregoing, any bi-state agency, Amtrak, any individual or private firm, entity or corporation, or with any one or more of them (including by contract among the parties), for and in connection with the Facilitation of the Project for any of the purposes of this act, and to enter into an agreement or agreements (and from time to time to enter into agreements amending or supplementing the same) with the federal government, the State of New Jersey, any local government thereof, the state of New York, any local government thereof, any agency, instrumentality, department, commission, or authority of any one or more of the foregoing, any bi-state agency, Amtrak, any individual or private firm, entity or corporation, or with any one or more of them, for or relating to such purposes, including but not limited to agreements with respect to financial assistance, loans, grants or any other funding as may be available for the Project. The Commission is hereby intended to qualify for, authorized, and empowered to apply for and accept, financial assistance, loans, grants, or any other funding for such purposes under federal, state, or local laws, and to make application directly to the appropriate officials or agencies for the application for and receipt of federal, state or local assistance, loans, grants or any other funding in aid of any of the purposes of this act;

(d) pursue efforts to assist federal or state agencies and other entities to fulfill their goals set forth in federal law or the laws of New York or New Jersey to further passenger rail transportation between states including 49 U.S.C. §24901, et seq.;

(e) take any and all actions authorized by this act which are or may be necessary or appropriate to constitute and maintain itself as an applicant eligible to qualify to apply for and be awarded financial assistance, loans, grants or other funding as may be available for the Project, including that awarded by federal, state, and local governments and the agencies thereof; and

(f) facilitate the Project by making and enforcing such rules and regulations and establishing, levying and collecting such tolls, fees, rates, charges and rentals in connection with the Project or any portion thereof, as it may deem necessary or appropriate, which said tolls, fees, rates, charges and rentals shall not be established at rates intended to be greater than necessary to meet the expenses of the financing, construction, asset management and optimization thereof, and to provide for the payment of, with interest upon, and the amortization and retirement of bonds or other securities or obligations issued or incurred for Project purposes, including establishment of prudent reserves, and provided that such tolls, fees, rates, charges and rentals do not conflict with applicable federal law and the laws of the State of New Jersey and the State of New York.

4. Board of commissioners. (a) The Commission shall act through a vote of its three commissioners: one of which will be directly appointed by the Commissioner of the New York State Department of Transportation; one of which will be directly appointed by the Board of Directors of the New Jersey Transit Corporation; and one of which will be directly appointed by Amtrak. The commissioner appointed by Amtrak will serve to represent Amtrak's interest, as owner-operator or user of the Northeast Corridor, in the work to be undertaken by the Commission. The commissioner appointed by the Department of Transportation shall be subject to the advice and consent of the senate.

(b) The Commission's initial commissioners shall be the individuals serving as trustees of the Gateway Program Development Corporation, a New Jersey non-profit corporation, at the time of the effective date of this act. The Gateway Program Development Corporation trustees shall each serve an initial term as commissioners of the Commission following this initial term the commissioners appointed in accordance with this section shall serve for a term of three years.

(c) At the conclusion of a commissioner's term (including an initial commissioner's term), the commissioner may be reappointed for a successive three year term at the pleasure of the party who originally appointed that commissioner (or in the case of the initial commissioners, the party who originally appointed that individual as a trustee of the Gateway Program Development Corporation). A commissioner shall automatically continue to serve following the expiration of the Commissioner's term until a successor is appointed in accordance with paragraph (a) of this subdivision and seated.

(d) In the event that a commissioner ceases to serve before the stated expiration of the Commissioner's term, the party that originally appointed the commissioner may appoint a replacement to serve out the remainder of the replaced commissioner's term and thereafter, the vacancy shall be filled as provided for in paragraph (a) of this subdivision.

(e) Commissioners shall serve without compensation, but the Commission may, within the limits of funds appropriated or otherwise made available to it, reimburse commissioners for actual expenses necessarily incurred in the discharge of their official duties.

(f) The commissioner from the State of New Jersey and the commissioner from the State of New York shall be indemnified by the State of New Jersey and the State of New York, respectively, to the same extent as such state indemnifies a public officer for any claim or judgment arising out of such public officer's official duties.

5. Organization of the Commission; meetings. (a) The commissioners shall select a chairperson. The chairperson shall be elected from the representatives of New Jersey and New York. The initial chairperson

shall be the commissioner who was serving as chairperson of the board of trustees of the Gateway Program Development Corporation whose term as chairperson shall continue until the earlier to occur of (i) the date on which such commissioner's term as the Gateway Program Development Corporation chairperson would have expired; or (ii) the date on which that commissioner is otherwise terminated as a commissioner. Thereafter, the commissioner appointed by the state which did not appoint the initial chairperson shall succeed as chairperson. The chairpersonship shall be alternated between the two states and each chairperson following the initial chairperson shall serve as chairperson for a term of one year. The commissioner appointed by Amtrak shall serve as vice-chairperson.

(b) The Commission shall meet regularly as it may determine. Meetings of the Commission shall be held at such times and places as the chairperson of the Commission deems appropriate, but to the maximum extent practicable and feasible, meetings shall be held on an alternating basis in New Jersey and New York.

(c) The powers of the Commission may be exercised by the commissioners at a meeting duly called and held where a quorum of all three commissioners are present; provided, however, that in the event a vacancy remains for ninety days, the powers of the Commission may be exercised by the commissioners at a meeting duly called and held where all remaining commissioners are present. Action may be taken and motions and resolutions adopted by the Commission at any meeting thereof by unanimous affirmative vote of the commissioners. The commissioners shall adopt bylaws providing for attendance protocols, voting procedures, and other matters related to the conduct of the business of the Commission.

(d) The commission may request the assistance and services of such employees and agents as it may require and as may be made available to it for the purpose of carrying out its duties under this act, which agents may include private consultants and persons employed by or acting as a consultant for the federal government, the state of New Jersey, any local government thereof, the state of New York, any local government thereof, any agency, instrumentality, department, commission or authority of any one or more of the foregoing, any bi-state agency, or of Amtrak, and each such government and enumerated party is authorized to provide any such assistance and services to the Commission.

(e) The Commission may, within the limits of funds appropriated or otherwise made available to it for those purposes, employ such professional, technical, clerical staff and consultants and incur such expenses as it may deem necessary or appropriate in order to perform its duties.

(f) The legislature finds and declares that the right of the public to be present at meetings of the Commission, and to witness the deliberation, policy formulation, and decision making of the Commission, is vital to the enhancement and proper functioning of the democratic process, and that secrecy in public affairs undermines the faith of the public in government and the public's effectiveness in fulfilling its role in a democratic society; and declares it to be the public policy of the state of New Jersey and the state of New York to ensure the right of its citizens to have adequate advance notice of and the right to attend all meetings of the Commission at which any public business is acted upon in any way, except only in those circumstances where the public interest would be clearly endangered, the relevant matters are made confidential by federal or state law, or the personal privacy of individuals would be clearly in danger of unwarranted invasion.

(g) The Commission shall adopt and promulgate appropriate bylaws, rules and regulations concerning the right of the public to be present at Meetings of the Commission and to obtain records of the Commission's activities or public business. Any rules or regulations adopted hereunder shall become a part of the minutes of the Commission and be posted on its website.

6. Duties of the Commission. The duties of the Commission shall be to use its efforts to accomplish, at such times as it is appropriate to do so, the following actions, provided that the Commission shall not be in dereliction of its duties so long as it acts in good faith to accomplish such:

(a) Make appropriate application for, and act as a coordinating, distributing, or recipient agency for, federal, state, or private funding and authorizations necessary or appropriate to Facilitate the project;

(b) Cooperate with other agencies or authorities or departments (federal, state, local, and bi-state), Amtrak, and private parties to Facilitate the Project, including entering into agreements specifying a party's rights and obligations with respect to the Project, to create a Project capable of achieving long-term stability and Full Funding, without obligating the full faith and credit of the federal government, either state or any local government thereof, or any other party, except as explicitly authorized by any party empowered by law to do so;

(c) Adopt bylaws to govern the conduct of its affairs, and adopt rules and regulations, including a conflict of interest policy and code of ethics for commissioners and officers of the Commission, and make appropriate orders to carry out and discharge its powers, duties, and functions;

(d) Expend such funds as are required to effectuate the purposes set forth in this section and, until expenditure is required, to hold and prudently invest funds;

(e) Recommend appropriate federal, state, and local government legislation and agency administrative action pertaining to the Project;

(f) Within 18 months of the date the commission organizes and not less than annually thereafter, prepare a progress report on its activities, and submit it, together with any recommendations for state or local government legislation or agency administrative action to the governor of the state of New Jersey, the president of the senate of the state of New Jersey, the speaker of the general assembly of the state of New Jersey, the governor of the state of New York, the temporary president of the senate of the state of New York, and the speaker of the assembly of the state of New York; and

(g) Take such other action as may be necessary or appropriate to further the purposes of this act.

7. Powers of the commission. The commission shall have the power to undertake the following:

(a) Facilitate the project, including, but not limited to, through contracts and agreements and other documents and instruments which the Commission is otherwise authorized to make, enter into, execute, and deliver; provided, however, that the Commission shall not have the authority to operate or directly engage in transportation services such that the Commission would be subject to the jurisdiction of the federal Surface Transportation Board;

(b) Sue and be sued in its own name in federal and state courts in Mercer county, New Jersey and New York county, New York, it being under-

stood that the commissioners shall have no obligation or liability for the acts or omissions of the commission;

(c) Accept, receive, disburse, encumber and expend funds from whatever source derived, including, without limitation, federal assistance, grants and loans; state and local government assistance, grants and loans; single state or bi-state agency assistance, grants and loans; and revenues received from the deposition of property; private sources, grants and loans; and Amtrak grants and loans, in each case as may be necessary to accomplish any lawful purpose which the commissioners determine will Facilitate the Project and achieve long-term stability and Full Funding;

(d) Acquire (including, without limitation, by gift, purchase, exchange or condemnation in accordance with the requirements of this act), subdivide, lease, license, take, and hold property of every description and to manage such property and develop any undeveloped property owned, leased, or controlled by it in a manner necessary or appropriate to Facilitate the Project;

(e) Make, procure, enter into, execute and deliver contracts and agreements and other documents and instruments as may be necessary or appropriate to carry out any power of the Commission under this act and to otherwise accomplish any lawful purpose which the commissioners determine will Facilitate the Project, including, without limitation, with the federal government, the State of New Jersey, any local government thereof, the state of New York, with any local government thereof, with any agency, instrumentality, department, commission or authority of any one or more of the foregoing, any bi-state agency, Amtrak, any individual or private firm, entity or corporation, or with any one or more of them;

(f) Make applications for and accept funding, permits, authorizations and approvals as may be necessary or appropriate to accomplish any lawful purpose which the commissioners determine will Facilitate the Project, including, without limitation, with the federal government, the State of New Jersey, any local government thereof, the State of New York, any local government thereof, with any agency, instrumentality, department, commission or authority of any one or more of the foregoing, any bi-state agency, Amtrak, any individual or private firm, entity or corporation, or with any one or more of them;

(g) Grant public and private entities the use of the Project or a portion thereof by way of franchise, concession, license, lease, or otherwise, provide for payments to and accept payments from such entities in exchange for value received from such use, work, or services performed or otherwise and to establish or agree with Project users on tolls, fees, rates, charges, revenue sharing, and rentals for the use thereof, provided that such tolls, fees, rates, charges, revenue sharing, and rentals do not conflict with applicable federal law and the laws of the State of New Jersey and the State of New York, and provided further that the Commission shall not have the authority to set passenger fares for Amtrak or any publicly owned and operated passenger service utilizing the Project;

(h) Adopt its own public procurement rules and guidelines that the Commission deems necessary or appropriate to Facilitate the Project through any combination of means and methods generally available to the State of New Jersey, any local government thereof, the State of New York, any local government thereof, any agency, instrumentality, department, commission or authority of any one or more of the foregoing, or

any bi-state agency, and engage and contract with third parties in accordance with such procurement rules and guidelines;

(i) Dispose of, convey or transfer all or any portion of the Project for value as may be expeditious for the Facilitation of the Project, so long as it has determined that the transferee has or is provided with a sufficient source of financing to acquire, operate, maintain and own the Project;

(j) Issue and guarantee bonds, notes, or other evidence of indebtedness, enter into loan agreements and otherwise borrow funds, or incur indebtedness or other future payment obligations for any corporate purpose, including to effectuate Full Funding, and to assign, pledge, mortgage, secure, encumber and use its funds, assets, properties, and revenues for repayment thereof, to be payable out of the funds, assets, properties, and revenues of the Commission without recourse to taxation, provided that the Commission shall have no power to pledge the full faith and credit of the federal government, the state of New Jersey, any local government thereof, the state of New York, any local government thereof or of Amtrak or the Port Authority of New York and New Jersey in connection with the project, or to impose any obligation for payment of the bonds upon the federal government, the state of New Jersey, any local government thereof, the state of New York, any local government thereof or of Amtrak or the Port Authority of New York and New Jersey, in each case except as set forth in a binding agreement, or to otherwise commit any party to incur any liability in excess of its contractual obligations in connection with the Project, and provided further that neither the commissioners nor any person executing any bonds issued or guaranteed by the Commission shall be liable personally on such bonds or be subject to any personal liability or accountability by reason of the issuance thereof;

(k) Acquire and hold securities for investment purposes or in connection with the Facilitation of the Project;

(l) Appoint, employ, contract with, and compensate such officers, employees and agents, including engineers, attorneys, consultants, financial advisors, and such other persons or entities as the business of the Commission may require and to engage and dismiss such officers, employees, and agents at will, and fix and provide for the qualification, appointment, removal, term, tenure, compensation, pension, and retirement rights of its officers and employees;

(m) Obtain insurance as the Commission may deem advisable and to create a captive insurer to self-insure risk as deemed appropriate by the Commission;

(n) Cooperate with the federal government, the state of New Jersey, any local government thereof, the state of New York, any local government thereof with any local government thereof, with any agency, instrumentality, department, commission or authority of any one or more of the foregoing, any bi-state agency, Amtrak, any individual or private firm, entity or corporation, or with any one or more of them, in connection with the Project, and to enter into an agreement or agreements, notwithstanding any other provision of law of the states, general, special, charter or local, with the federal government, with the state of New Jersey, any local government thereof, the state of New York, any local government thereof any agency, instrumentality, department, commission, or authority of any one or more of the foregoing, any bi-state agency, Amtrak, any individual or private firm, entity, or corporation, or with any one or more of the same for or relating to the Project;

(o) Indemnify individuals and entities to the extent required to facilitate the project;

(p) Establish or acquire subsidiaries as required to Facilitate the Project;

(q) Utilize the existing labor force in the states and foster labor harmony in allowing for adoption of efficient labor work rules and practices during construction of the Project; and

(r) Exercise all other powers as may be necessary or appropriate in furtherance of, and consistent with, the purposes of this act.

8. Exemption from taxes, local laws. (a) The Commission shall be performing essential governmental functions in exercising its powers and functions and in carrying out the provisions of this act and of any law relating thereto, and shall not be required to pay any taxes or assessments of any character, levied by either state or any local government thereof, upon any of the property used by it or its agents or contractors for the Facilitation of the Project, or any income or revenue therefrom, including any profit from a sale, lease or exchange, or in connection with the transfer thereof or of any real property interest therein. Any bonds or other securities or obligations issued by the Commission, their transfer and the interest paid thereon or income therefrom, including any profit from a sale or exchange, shall at all times be free from taxation by either state or any subdivision thereof.

(b) The Commission shall, as a matter of policy, conform to the enactments, ordinances, resolutions, and regulations of the respective states and local governments where the Project is located in regard to the construction and maintenance of the Project and in regard to health and fire protection which would be applicable if the Commission were a private corporation, to the extent that the Commission finds it practicable so to do, without interfering with, impairing, or affecting the efficiency of its purposes under this act, or its ability to effectuate the Project upon a self-supporting basis, or its obligations, duties, and responsibilities to the two states, its bondholders, if any, and the general public, but the decision of the Commission as to whether it is practicable so to do shall be controlling. To that end, the Commission shall submit copies of plans and specifications for buildings and structures to the appropriate state and local government officials and shall consult with them with respect thereto, and shall receive their comments and suggestions thereon, but the Commission shall make the final determination as to which comments and suggestions to accept in effectuating the project.

(c) Notwithstanding the provisions of paragraph a of this subdivision, the Commission is hereby authorized and empowered, in its discretion, to enter into a voluntary agreement or agreements with any local government whereby the Commission may undertake to pay in lieu of taxes a fair and reasonable sum, if any, annually in connection with any real property acquired and owned by the Commission for any of the purposes of this act, and to provide for the payment as a rental or additional rental charge by any person occupying any portion of such real property as lessee, vendee or otherwise of such fair and reasonable sum, provided that in no event shall any voluntary agreement entered into by the commission provide for the payment of an amount in lieu of taxes in excess of the amount last paid as taxes upon such real property prior to the time of its acquisition by the Commission.

(d) Notwithstanding any other provision of law, general, special, charter, or local, each local government is hereby authorized and empowered to enter into such agreement or agreements with the Commis-

sion, and to accept the payment or payments which the Commission is hereby authorized and empowered to make, and the sums so received by such local government shall be devoted to purposes to which taxes may be applied in all affected taxing jurisdictions unless and until otherwise directed by law of the state in which such local government is located.

§ 3. Subdivisions 1, 2 and 3 of section 14-c of the transportation law, as added by chapter 639 of the laws of 1971, are amended to read as follows:

1. The department of transportation may cooperate and contract with the national railroad passenger corporation **or if deemed necessary, desirable or convenient by the commissioner to facilitate the purposes of this section with the gateway development commission to the extent that commission is so authorized to act under its authorizing statute,** for any intercity rail passenger services deemed necessary, convenient or desirable by the commissioner, within the amounts available by appropriation therefor, as such services are made available pursuant to the provisions of the rail passenger service act of nineteen hundred seventy and any acts amendatory or supplemental thereto, subject to the approval of the director of the budget **or pursuant to reimbursement available from the gateway development commission, any railroad company, any other state or agency, the federal government, any public authority of this state or any other state or two or more states, or any political subdivision or municipality of the state**. Notwithstanding any inconsistent law, general, special or local, the commissioner, as funds are made available for the purposes hereof, is hereby empowered to contract with such corporation or Commission and to do all other things necessary, convenient or desirable on behalf of the state to secure the full benefits available under and pursuant to such act **and any other federal act which provides funding for intercity rail passenger services**, and to contract and do all other things necessary as hereinafter provided on behalf of the state to effect [~~the~~] **and facilitate** intercity rail passenger [~~service program~~] **services** which he determines is necessary, convenient or desirable **and the department of transportation may cooperate and contract with the gateway development commission for passenger rail activities, to the extent that the gateway development commission is so authorized to act under its authorizing statute, provided, however, that the department of transportation shall only contract with the gateway development commission if such contract is approved by that commission's board of commissioners in accordance with its authorizing statute**.

2. The commissioner shall coordinate the intercity rail passenger activities of the state and other interested public and private organizations and persons to effectuate the purposes of this section and shall have the responsibility for negotiating with the federal government with respect to intercity rail passenger service programs. The commissioner is authorized to enter into joint service agreements **and other agreements** between the state and any railroad company, any other state department or agency, the federal government, the Canadian government, any other state, or agency or instrumentality thereof, any public authority of this state or any other state **or two or more states**, or any political subdivision or municipality of the state, relating to property, buildings, structures, facilities, services, rates, fares, classifications, dividends, allowances or charges (including charges between intercity rail passenger service facilities), or rules or regulations pertaining thereto, for or in connection with or incidental to transportation in part upon intercity rail passenger service facilities. Inter-

city rail passenger service facilities include the right of way and related trackage, rails, cars, locomotives, or other rolling stock, signal, power, fuel, communication and ventilation systems, power plants, stations, terminals, **tunnels,** storage yards, repair and maintenance shops, yards, equipment and parts, offices and other real estate or personnel used or held for or incidental to the operation, rehabilitation or improvement of any railroad operating intercity rail passenger service or to operate such service, including but not limited to buildings, structures, and rail property.

3. The commissioner may on such terms and conditions as he may determine necessary, convenient or desirable, establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any such intercity rail passenger service facility or any related services and activities, or may provide for such by contract, lease or other arrangement on such terms as the commissioner may deem necessary, convenient or desirable with any agency, corporation or person, including but not limited to any railroad company, any state agency, the federal government, the Canadian government, any other state or agency or instrumentality thereof, any public authority of this or any other state **or two or more states**, or any political subdivision or municipality of the state.

§ 4. Notwithstanding any other provision of law of New York or New Jersey, general, special, charter or local, each state and local government, any agency, instrumentality, department, commission or authority thereof, and any bi-state agency are hereby authorized and empowered to cooperate with, aid and assist the Commission in effectuating the provisions of this act, as it may be amended or supplemented hereafter.

§ 5. Upon the concurrence of the State of New Jersey, the State of New Jersey and the State of New York consent to suits, actions or proceedings of any form or nature at law, in equity, or otherwise (including proceedings to enforce arbitration agreements), against the Commission, and to appeals therefrom and reviews thereof, except as hereinafter provided. The foregoing consent does not extend to: (a) suits, actions, or proceedings upon any causes of action whatsoever accruing before the effective date of this act; (b) suits, actions or proceedings upon any causes of action whatsoever, upon, in connection with, or arising out of any contract, express or implied, entered into or assumed by or assigned to the Commission before the effective date of this act (including any supplement to, or amendment, extension or renewal of any such contract, even if such supplement, amendment, extension or renewal is made on or after the effective date of this act), regardless of whether such cause of action accrued before or after that date; (c) civil suits, actions or proceedings for the recovery of statutory penalties; and (d) suits, actions or proceedings for judgments, orders or decrees restraining, enjoining or preventing the Commission from committing or continuing to commit any act or acts, other than suits, actions or proceedings by the Attorney General of New Jersey or by the Attorney General of New York, each of whom is hereby authorized to bring such suits, actions or proceedings in his or her discretion on behalf of any person or persons whatsoever who requests the Attorney General to do so, except in the cases otherwise excluded by this act; provided, that in any such suit, action or proceeding, no judgment, order or decree shall be entered except upon at least two days' prior written notice to the [~~Gateway Development~~] Commission of the proposed entry thereof.

The Commission shall be immune from liability as though it were the State of New York, except to the extent that such immunity is waived by the State of New York under section 8 of the New York Court of Claims Act.

§ 6. Severability. (a) If any provision of this act or the application thereof to any person or circumstance is held invalid, including as not in accordance with federal law or federal constitutional requirements, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

(b) The provisions of this act, and the powers vested in the Gateway Development Commission, shall be liberally construed to give effect to the purposes of this act.

§ 7. (a) This act shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect with this act, but if the state of New Jersey shall have already enacted such legislation, this act shall take effect immediately; provided that the state of New Jersey shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in this act 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; and

(b) the Commission shall dissolve following a joint determination by the Governor of New Jersey and the Governor of New York that the Project has been completed or should be transferred to another agency, instrumentality or entity and: (i) any bonds or other securities issued and any other debt incurred for such Project purposes have been repaid or arrangements have been made to ensure such repayment in full, without impairment of credit worthiness and; (ii) Amtrak is not unduly prejudiced by such dissolution; provided that the Gateway Development Commission shall notify the legislative bill drafting commission upon the occurrence of the intended dissolution 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 EE

Section 1. This Part, which shall be known and may be cited as the "MTA Revitalization, Accountability, Improvement and Legitimization Act" or the "MTA RAIL Act", enacts into law major components of legislation which are necessary to improve the metropolitan transportation authority. Each component is wholly contained within a Subpart identified as Subparts A through F. 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 public authorities law is amended by adding a new section 1265-c to read as follows:

§ 1265-c. Independent forensic audit. 1. The authority shall, within sixty days of the effective date of this section, contract with a certified public accounting firm for the provision of an independent, comprehensive, forensic audit of the authority. Such audit shall be performed in accordance with generally accepted government auditing standards. Such audit shall be independent of and in addition to the independent audit of the authority conducted pursuant to section twenty-eight hundred two of this chapter.

2. The certified independent public accounting firm providing the authority's independent, comprehensive, forensic audit shall be prohibited from providing audit services if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for the authority within any of the ten previous fiscal years of the authority.

3. The certified independent accounting firm performing the audit pursuant to this section shall be prohibited from performing any non-audit services for the authority contemporaneously with the audit.

4. It shall be prohibited for the certified independent public accounting firm to perform for the authority any audit service if the chief executive officer, comptroller, chief financial officer, chief accounting officer or any other person serving in an equivalent position in the authority was employed by that certified independent public accounting firm and participated in any capacity in the audit of the authority at any time in the past.

5. The authority shall include, without limitation, the following questions and any others it deems necessary to improve its operations in procuring the independent, comprehensive, forensic audit:

(i) Is any individual committing fraud within the authority with respect to capital project procurement, management, or forecasting;

(ii) Does the authority have any active or ongoing projects in which the number of employees or contractors being paid exceeds the number of employees or contractors budgeted by project managers or otherwise contractually agreed upon;

(iii) Does the authority have sufficient internal controls in place to prevent nepotism, self-dealing, or bid-rigging;

(iv) What internal controls or reforms are recommended to bring the authority's capital construction costs to comparable levels with other large transit systems; and

(v) Is fraud, negligence, or anti-competitive conduct causing disproportionately high design and project management costs at the authority.

6. The certified independent public accounting firm contracted to perform the independent comprehensive, forensic audit of the authority shall, on or before January first, two thousand twenty-one, report its findings, conclusions and recommendations to the governor, the state comptroller, the temporary president of the senate, the speaker of the assembly, the chair and ranking minority member of the senate finance committee, the chair and ranking minority member of the assembly ways and means committee, the chairs and ranking minority members of the senate and the assembly corporations, authorities and commissions committees, and the chairs and ranking minority members of the senate and the assembly transportation committees.

§ 2. This act shall take effect immediately, and shall expire and be deemed repealed January 2, 2021.

SUBPART B

Section 1. Section 1269-c of the public authorities law is amended by adding a new subdivision c to read as follows:

c. On or before October first, two thousand twenty-three, and on or before October first of every fifth year thereafter, the authority shall submit to the metropolitan transportation authority capital program review board a twenty-year capital needs assessment. Such assessment shall begin with the period commencing January first, two thousand twenty-five, and begin each assessment with every fifth year thereafter, and describe capital investments over the succeeding twenty years. Such assessment shall: (1) set forth broad long-term capital investments to be made throughout the district; and (2) establish a non-binding basis to be used by the authority in the planning of strategic investments involving capital elements in its five-year capital plans. Such assessment shall not require a vote of the metropolitan transportation authority capital program review board and shall be for informational purposes only. For purposes of this section, "broad long-term capital investments" shall include but not be limited to: system rebuilding, enhancement, and expansion needs; agency needs broken down by capital element or investment category; and projected future trends and network implications. Such assessment shall be certified by the chairman of the authority and shall be entered into the permanent record of the minutes of the review board.

§ 2. This act shall take effect immediately.

SUBPART C

Section 1. Subdivision 4 of section 2976 of the public authorities law, as added by section 12 of part E of chapter 494 of the laws of 2009, is amended to read as follows:

4. The provisions of subdivisions one and two of this section shall not apply **to bonds, notes or other obligations issued by the metropolitan transportation authority, and the New York city transit authority, the Triborough bridge and tunnel authority, or** to recovery act bonds issued by the state of New York municipal bond bank agency in connection with local American Recovery and Reinvestment Act pursuant to section two thousand four hundred thirty-six-b of this chapter.

§ 2. This act shall take effect immediately.

SUBPART D

Section 1. Paragraph (a) of subdivision 1 of section 1263 of the public authorities law, as amended by chapter 549 of the laws of 1994 and subparagraph 1 as amended by section 3 of part H of chapter 25 of the laws of 2009, is amended to read as follows:

(a) (1) There is hereby created the "metropolitan transportation authority." The authority shall be a body corporate and politic constituting a public benefit corporation. The authority shall consist of a [~~chairman~~] **chairperson**, [~~sixteen~~] **twenty** other voting members, and [~~two~~] **three** non-voting [~~and four alternate non-voting members~~], as described in subparagraph two of this paragraph appointed by the governor by and with the advice and consent of the senate. Any member appointed to a term commencing on or after June thirtieth, two thousand nine shall have experience in one or more of the following areas: transportation, public administration, business management, finance, accounting, law, engineer-

ing, land use, urban and regional planning, management of large capital projects, labor relations, or have experience in some other area of activity central to the mission of the authority. Four of the [~~sixteen~~] twenty voting members other than the [~~chairman~~] chairperson shall be appointed on the written recommendation of the mayor of the city of New York; one of the twenty voting members other than the chairperson shall be appointed on the written recommendation of the New York city transit authority advisory council; one of the twenty voting members other than the chairperson shall be appointed on the written recommendation of the Metro-North rail commuter council; one of the twenty voting members other than the chairperson shall be appointed on the written recommendation of the Long Island rail road commuter's council; one of the twenty voting members other than the chairperson shall be appointed on the written recommendation of the MTA New York city transit's paratransit advisory committee selection committee; and each of seven other voting members other than the [~~chairman~~] chairperson shall be appointed after selection from a written list of three recommendations from the chief executive officer of the county in which the particular member is required to reside pursuant to the provisions of this subdivision. Of the members appointed on recommendation of the chief executive officer of a county, one such member shall be, at the time of appointment, a resident of the county of Nassau, one a resident of the county of Suffolk, one a resident of the county of Westchester, one a resident of the county of Dutchess, one a resident of the county of Orange, one a resident of the county of Putnam and one a resident of the county of Rockland, provided that the term of any member who is a resident of a county that has withdrawn from the metropolitan commuter transportation district pursuant to section twelve hundred seventy-nine-b of this article shall terminate upon the effective date of such county's withdrawal from such district. Of the five voting members, other than the [~~chairman~~] chairperson, appointed by the governor without recommendation from any other person, three shall be, at the time of appointment, residents of the city of New York and two shall be, at the time of appointment, residents of such city or of any of the aforementioned counties in the metropolitan commuter transportation district. The [~~chairman~~] chairperson and each of the members shall be appointed for a term of six years, provided however, that the [~~chairman~~] chairperson first appointed shall serve for a term ending June thirtieth, nineteen hundred eighty-one, provided that thirty days after the effective date of the chapter of the laws of two thousand nine which amended this subparagraph, the term of the [~~chairman~~] chairperson shall expire; provided, further, that such [~~chairman~~] chairperson may continue to discharge the duties of his or her office until the position of [~~chairman~~] chairperson is filled by appointment by the governor upon the advice and consent of the senate and the term of such new [~~chairman~~] chairperson shall terminate June thirtieth, two thousand fifteen. The [~~sixteen~~] twenty other members first appointed shall serve for the following terms: The members from the counties of Nassau and Westchester shall each serve for a term ending June thirtieth, nineteen hundred eighty-five; the members from the county of Suffolk and from the counties of Dutchess, Orange, Putnam and Rockland shall each serve for a term ending June thirtieth, nineteen hundred ninety-two; two of the members appointed on recommendation of the mayor of the city of New York shall each serve for a term ending June thirtieth, nineteen hundred eighty-four and, two shall each serve for a term ending June thirtieth, nineteen hundred eighty-one; two of the members appointed by the governor without the recommendation of any

other person shall each serve for a term ending June thirtieth, nineteen hundred eighty-two, two shall each serve for a term ending June thirtieth, nineteen hundred eighty and one shall serve for a term ending June thirtieth, nineteen hundred eighty-five; the member appointed by the governor on recommendation of the New York city transit authority advisory council shall serve for a term ending June thirtieth, two thousand twenty-three; the member appointed by the governor on recommendation of the Metro-North rail commuter council shall serve for a term ending June thirtieth, two thousand twenty-three; the member appointed by the governor on recommendation of the Long Island rail road commuter's council shall serve for a term ending June thirtieth, two thousand twenty-three; and the member appointed by the governor on recommendation of the MTA New York city transit's paratransit advisory committee selection committee shall serve for a term ending June thirtieth, two thousand twenty-three. [~~The two non-voting and four alternate non-voting members shall serve until January first, two thousand one.~~] The members from the counties of Dutchess, Orange, Putnam and Rockland shall cast one collective vote.

(2) There shall be [~~two~~] three non-voting members [~~and four alternate non-voting members~~] of the authority, as referred to in subparagraph one of this paragraph.

The first non-voting member shall be [~~a regular mass transit user of the facilities of the authority and be recommended to the governor by the New York city transit authority advisory council. The first alternate non-voting member shall be a regular mass transit user of the facilities of the authority and be recommended to the governor by the Metro-North commuter council. The second alternate non-voting member shall be a regular mass transit user of the facilities of the authority and be recommended to the governor by the Long Island Rail Road commuter's council.~~

~~The second non-voting member shall be~~] recommended to the governor by the labor organization representing the majority of employees of the Long Island Rail Road. The [~~third alternate~~] second non-voting member shall be recommended to the governor by the labor organization representing the majority of employees of the New York city transit authority. The [~~fourth alternate~~] third non-voting member shall be recommended to the governor by the labor organization representing the majority of employees of the Metro-North Commuter Railroad Company. The [~~chairman~~] chairperson of the authority, at his or her direction, may exclude [~~such~~] any non-voting member [~~or alternate non-voting member~~] from attending any portion of a meeting of the authority or of any committee established pursuant to paragraph (b) of subdivision four of this section held for the purpose of discussing negotiations with labor organizations.

[~~The non-voting member and the two alternate non-voting members representing the New York York city transit authority advisory council, the Metro-North commuter council, and the Long Island Rail Road commuter's council shall serve eighteen month rotating terms, after which time an alternate non-voting member shall become the non-voting member and the rotation shall continue until each alternate member has served at least one eighteen month term as a non-voting member. The other non-voting member and alternate non-voting members representing the New York city transit authority, Metro-North Commuter Railroad Company, and the Long Island Rail Road labor organizations shall serve eighteen month rotating terms, after which time an alternate non-voting member shall become the non-voting member and the rotation shall contin-~~

~~ue until each alternate member has served at least one eighteen month term as a non-voting member. The transit authority and the commuter railroads shall not be represented concurrently by the two non-voting members during any such eighteen month period.~~]

§ 2. Paragraph (a) of subdivision 1 of section 1263 of the public authorities law, as amended by section 4 of part H of chapter 25 of the laws of 2009, is amended to read as follows:

(a) There is hereby created the "metropolitan transportation authority." The authority shall be a body corporate and politic constituting a public benefit corporation. The authority shall consist of a [~~chairman~~] chairperson and [~~sixteen~~] twenty other members appointed by the governor by and with the advice and consent of the senate. Any member appointed to a term commencing on or after June thirtieth, two thousand nine shall have experience in one or more of the following areas of expertise: transportation, public administration, business management, finance, accounting, law, engineering, land use, urban and regional planning, management of large capital projects, labor relations, or have experience in some other area of activity central to the mission of the authority. Four of the [~~sixteen~~] twenty members other than the [~~chairman~~] chairperson shall be appointed on the written recommendation of the mayor of the city of New York; one of the twenty voting members other than the chairperson shall be appointed on the written recommendation of the New York city transit authority advisory council; one of the twenty voting members other than the chairperson shall be appointed on the written recommendation of the Metro-North rail commuter council; one of the twenty voting members other than the chairperson shall be appointed on the written recommendation of the Long Island rail road commuter's council; one of the twenty voting members other than the chairperson shall be appointed on the written recommendation of the MTA New York city transit's paratransit advisory committee selection committee; and each of seven other members other than the [~~chairman~~] chairperson shall be appointed after selection from a written list of three recommendations from the chief executive officer of the county in which the particular member is required to reside pursuant to the provisions of this subdivision. Of the members appointed on recommendation of the chief executive officer of a county, one such member shall be, at the time of appointment, a resident of the county of Nassau; one a resident of the county of Suffolk; one a resident of the county of Westchester; and one a resident of the county of Dutchess, one a resident of the county of Orange, one a resident of the county of Putnam and one a resident of the county of Rockland, provided that the term of any member who is a resident of a county that has withdrawn from the metropolitan commuter transportation district pursuant to section twelve hundred seventy-nine-b of this article shall terminate upon the effective date of such county's withdrawal from such district. Of the five members, other than the [~~chairman~~] chairperson, appointed by the governor without recommendation from any other person, three shall be, at the time of appointment, residents of the city of New York and two shall be, at the time of appointment, residents of such city or of any of the aforementioned counties in the metropolitan commuter transportation district. The [~~chairman~~] chairperson and each of the members shall be appointed for a term of six years, provided however, that the [~~chairman~~] chairperson first appointed shall serve for a term ending June thirtieth, nineteen hundred eighty-one, provided that thirty days after the effective date of the chapter of the laws of two thousand nine which amended this paragraph, the term of the [~~chairman~~] chairperson shall expire;

provided, further, that such [~~chairman~~] chairperson may continue to discharge the duties of his or her office until the position of [~~chairman~~] chairperson is filled by appointment by the governor upon the advice and consent of the senate and the term of such new [~~chairman~~] chairperson shall terminate June thirtieth, two thousand fifteen. The [~~sixteen~~] twenty other members first appointed shall serve for the following terms: The members from the counties of Nassau and Westchester shall each serve for a term ending June thirtieth, nineteen hundred eighty-five; the members from the county of Suffolk and from the counties of Dutchess, Orange, Putnam and Rockland shall each serve for a term ending June thirtieth, nineteen hundred ninety-two; two of the members appointed on recommendation of the mayor of the city of New York shall each serve for a term ending June thirtieth, nineteen hundred eighty-four and, two shall each serve for a term ending June thirtieth, nineteen hundred eighty-one; two of the members appointed by the governor without the recommendation of any other person shall each serve for a term ending June thirtieth, nineteen hundred eighty-two, two shall each serve for a term ending June thirtieth, nineteen hundred eighty and one shall serve for a term ending June thirtieth, nineteen hundred eighty-five the member appointed by the governor on recommendation of the New York city transit authority advisory council shall serve for a term ending June thirtieth, two thousand twenty-three; the member appointed by the governor on recommendation of the Metro-North rail commuter council shall serve for a term ending June thirtieth, two thousand twenty-three; the member appointed by the governor on recommendation of the Long Island rail road commuter's council shall serve for a term ending June thirtieth, two thousand twenty-three; and the member appointed by the governor on recommendation of the MTA New York city transit's paratransit advisory committee selection committee shall serve for a term ending June thirtieth, two thousand twenty-three. The members from the counties of Dutchess, Orange, Putnam and Rockland shall cast one collective vote.

§ 3. Subdivision 2 of section 1263 of the public authorities law, as amended by chapter 55 of the laws of 1992, is amended to read as follows:

2. The [~~chairman~~] chairperson and the first vice [~~chairman~~] chairperson shall be paid a salary in the amount determined by the authority; the other members shall not receive a salary or other compensation. Each member, including the [~~chairman~~] chairperson and the first vice [~~chairman~~] chairperson, shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties.

§ 4. Paragraph (a) of subdivision 4 of section 1263 of the public authorities law, as amended by chapter 506 of the laws of 2009, is amended to read as follows:

(a) Notwithstanding any provision of law to the contrary, the [~~chairman~~] chairperson shall be the chief executive officer of the authority and shall be responsible for the discharge of the executive and administrative functions and powers of the authority. The [~~chairman~~] chairperson may appoint an executive director and such other officials and employees as shall in his or her judgment be needed to discharge the executive and administrative functions and powers of the authority.

§ 5. Paragraph (b) of subdivision 4 of section 1263 of the public authorities law, as amended by section 1 of chapter 425 of the laws of 2018, is amended to read as follows:

(b) The [~~chairman~~] **chairperson** shall establish committees to assist him **or her** in the performance of his **or her** duties and shall appoint members of the authority to such committees. Among such committees, there shall be a committee on operations of the New York city transit authority, the Manhattan and Bronx surface transit operating authority and the Staten Island rapid transit operating authority; a committee on operations of the Long Island Rail Road and the metropolitan suburban bus authority; a committee on operations of the Metro-North commuter railroad; a committee on operations of the Triborough bridge and tunnel authority; a committee on finance; a committee on capital program oversight; and a committee on safety. In addition to such appointed members, each of the non-voting members referred to in subparagraph two of paragraph (a) of subdivision one of this section shall serve on the committee on capital program oversight, the committee on finance, the committee on safety, the committee on operations of the Triborough bridge and tunnel authority, and the operations committee relevant to the commuter council that recommended such member. [~~The alternate non-voting members shall each serve on the respective operations committee relevant to the commuter council that recommended each member.~~] The committee on capital program oversight and the committee on safety shall include not less than three members, and shall include the chairpersons of the committee on operations of the New York city transit authority, the Manhattan and Bronx surface transit operating authority and the Staten Island rapid transit operating authority, the committee on operations of the Long Island Rail Road and the metropolitan suburban bus authority, and the committee on operations of the Metro-North commuter railroad. The committee on safety shall convene at least once annually and each committee chairperson, that is a member of the committee on safety, shall report to the committee on safety any and all initiatives, concerns, improvements, or failures involving the safety of: (1) customers; (2) employees; and (3) the public at large, in relation to authority facilities and services. The capital program committee shall, with respect to any approved or proposed capital program plans, (i) monitor the current and future availability of funds to be utilized for such plans approved or proposed to be submitted to the metropolitan transportation capital program review board as provided in section twelve hundred sixty-nine-b of this title; (ii) monitor the contract awards of the metropolitan transportation authority and the New York city transit authority to insure that such awards are consistent with (A) provisions of law authorizing United States content and New York state content; (B) collective bargaining agreements; (C) provisions of law providing for participation by minority and women-owned businesses; (D) New York state labor laws; (E) competitive bidding requirements including those regarding sole source contracts; and (F) any other relevant requirements established by law; (iii) monitor the award of contracts to determine if such awards are consistent with the manner in which the work was traditionally performed in the past provided, however, that any such determination shall not be admissible as evidence in any arbitration or judicial proceeding; (iv) review the relationship between capital expenditures pursuant to each such capital program plan and current and future operating budget requirements; (v) monitor the progress of capital elements described in each capital program plan approved as provided in section twelve hundred sixty-nine-b of this title; (vi) monitor the expenditures incurred and to be incurred for each such element; and (vii) identify capital elements not progressing on schedule, ascertain responsibility therefor and recommend those actions required or appro-

priate to accelerate their implementation. The capital program committee shall issue a quarterly report on its activities and findings, and shall in connection with the preparation of such quarterly report, consult with the state division of the budget, the state department of transportation, the members of the metropolitan transportation authority capital program review board and any other group the committee deems relevant, including public employee organizations, and, at least annually, with a nationally recognized independent transit engineering firm. Such report shall be made available to the members of the authority, to the members of the metropolitan transportation authority capital program review board, and the directors of the municipal assistance corporation for the city of New York.

§ 6. Paragraph (b) of subdivision 4 of section 1263 of the public authorities law, as amended by section 2 of chapter 425 of the laws of 2018, is amended to read as follows:

(b) The [~~chairman~~] **chairperson** shall establish committees to assist him **or her** in the performance of his **or her** duties and shall appoint members of the authority to such committees. Among such committees, there shall be a committee on operations of the New York city transit authority, the Manhattan and Bronx surface transit operating authority and the Staten Island rapid transit operating authority; a committee on operations of the Long Island Rail Road and the metropolitan suburban bus authority; a committee on operations of the Metro-North commuter railroad; a committee on operations of the Triborough bridge and tunnel authority; a committee on finance; a committee on capital program oversight; and a committee on safety. The committee on capital program oversight shall include not less than four members, and shall include the chairpersons of the committee on operations of the New York city transit authority, the Manhattan and Bronx surface transit operating authority and the Staten Island rapid transit operating authority, the committee on operations of the Long Island Rail Road and the metropolitan suburban bus authority, the committee on operations of the Metro-North commuter railroad, and the committee on safety. The committee on safety shall convene at least once annually and each committee chairperson, that is a member of the committee on safety, shall report to the committee on safety any and all initiatives, concerns, improvements, or failures involving the safety of: (1) customers; (2) employees; and (3) the public at large, in relation to authority facilities and services. The capital program committee shall, with respect to any approved or proposed capital program plans, (i) monitor the current and future availability of funds to be utilized for such plans approved or proposed to be submitted to the metropolitan transportation capital program review board as provided in section twelve hundred sixty-nine-b of this title; (ii) monitor the contract awards of the metropolitan transportation authority and the New York city transit authority to insure that such awards are consistent with (A) provisions of law authorizing United States content and New York state content; (B) collective bargaining agreements; (C) provisions of law providing for participation by minority and women-owned businesses; (D) New York state labor laws; (E) competitive bidding requirements including those regarding sole source contracts; and (F) any other relevant requirements established by law; (iii) monitor the award of contracts to determine if such awards are consistent with the manner in which the work was traditionally performed in the past provided, however, that any such determination shall not be admissible as evidence in any arbitration or judicial proceeding; (iv) review the relationship between capital expenditures pursuant to each

such capital program plan and current and future operating budget requirements; (v) monitor the progress of capital elements described in each capital program plan approved as provided in section twelve hundred sixty-nine-b of this title; (vi) monitor the expenditures incurred and to be incurred for each such element; and (vii) identify capital elements not progressing on schedule, ascertain responsibility therefor and recommend those actions required or appropriate to accelerate their implementation. The capital program committee shall issue a quarterly report on its activities and findings, and shall in connection with the preparation of such quarterly report, consult with the state division of the budget, the state department of transportation, the members of the metropolitan transportation authority capital program review board and any other group the committee deems relevant, including public employee organizations, and, at least annually, with a nationally recognized independent transit engineering firm. Such report shall be made available to the members of the authority, to the members of the metropolitan transportation authority capital program review board, and the directors of the municipal assistance corporation for the city of New York.

§ 7. Paragraphs (c) and (d) of subdivision 4 of section 1263 of the public authorities law, paragraph (c) as added by chapter 247 of the laws of 1990, paragraph (d) as added by section 5 of part H of chapter 25 of the laws of 2009, are amended to read as follows:

(c) The [~~chairman~~] **chairperson** shall ensure that at every meeting of the board and at every meeting of each committee the public shall be allotted a period of time, not less than thirty minutes, to speak on any topic on the agenda.

(d) Notwithstanding paragraph (c) of subdivision one of section twenty-eight hundred twenty-four of this chapter or any other provision of law to the contrary, the [~~chairman~~] **chairperson** shall not participate in establishing authority policies regarding the payment of salary, compensation and reimbursement to, nor establish rules for the time and attendance of, the chief executive officer. The salary of the [~~chairman~~] **chairperson**, as determined pursuant to subdivision two of this section, shall also be compensation for all services performed as chief executive officer.

§ 8. This act shall take effect immediately; provided that the amendments to paragraph (a) of subdivision 1 of section 1263 of the public authorities law made by section one of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 3 of chapter 549 of the laws of 1994, as amended, when upon such date the provisions of section two of this act shall take effect; and provided further that the amendments to paragraph (b) of subdivision 4 of section 1263 of the public authorities law made by section five of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 3 of chapter 549 of the laws of 1994, as amended, when upon such date the provisions of section six of this act shall take effect.

SUBPART E

Section 1. The opening paragraph of paragraph (g) of subdivision 9 of section 1209 of the public authorities law, as added by chapter 929 of the laws of 1986, is amended to read as follows:

the authority issues a competitive request for proposals pursuant to the procedures of paragraph (f) of this subdivision for the purchase or rehabilitation of rapid transit cars and omnibuses. Any such request may

include among the stated selection criteria the performance of all or a portion of the contract at sites within the state of New York **by businesses located within the state at the time the competitive request for proposals is issued** or the use of goods produced or services provided within the state of New York, provided however that in no event shall the authority award a contract to a manufacturer whose final offer, as expressed in unit cost is more than ten percent higher than the unit cost of any qualified competing final offer, if the sole basis for such award is that the higher priced offer includes more favorable provision for the performance of the contract within the state of New York **by businesses located within the state at the time the competitive request for proposals is issued** or the use of goods produced or services provided within the state of New York, and further provided that the authority's discretion to award a contract to any manufacturer shall not be so limited if a basis for such award, as determined by the authority, is superior financing, delivery schedule, life cycle, reliability, or any other factor the authority deems relevant to its operations. **Provided, however, that this authorization shall apply to any capital element proposed to be initiated using state funds or authority-issued bonds in the two thousand twenty--two thousand twenty-four capital program required pursuant to section twelve hundred sixty-nine-b of this article or for any expenditure related to implementation of a congestion tolling collection system, and that the unit cost for any capital element cannot exceed the unit cost of any qualified competing final offer by twenty-five percent.**

§ 2. The opening paragraph of paragraph (g) of subdivision 4 of section 1265-a of the public authorities law, as added by chapter 929 of the laws of 1986, is amended to read as follows:

the authority issues a competitive request for proposals pursuant to the procedures of paragraph (f) of this subdivision for the purchase or rehabilitation of rail cars and omnibuses. Any such request may include among the stated selection criteria the performance of all or a portion of the contract at sites within the state of New York **by businesses located within the state at the time the competitive request for proposals is issued** or the use of goods produced or services provided within the state of New York, provided however that in no event shall the authority award a contract to a manufacturer whose final offer, as expressed in unit cost is more than ten percent higher than the unit cost of any qualified competing final offer, if the sole basis for such award is that the higher priced offer includes more favorable provision for the performance of the contract within the state of New York **by businesses located within the state at the time the competitive request for proposals is issued** or the use of goods produced or services provided within the state of New York, and further provided that the authority's discretion to award a contract to any manufacturer shall not be so limited if a basis for such award, as determined by the authority, is superior financing, delivery schedule, life cycle, reliability, or any other factor the authority deems relevant to its operations. **Provided, however, that this authorization shall apply to any capital element proposed to be initiated using state funds or authority-issued bonds in the two thousand twenty--two thousand twenty-four capital program required pursuant to section twelve hundred sixty-nine-b of this article or for any expenditure related to implementation of a congestion tolling collection system, and that the unit cost for any capital element cannot exceed the unit cost of any qualified competing final offer by twenty-five percent.**

§ 3. Section 559 of the public authorities law, as amended by chapter 6 of the laws of 1940, is amended to read as follows:

§ 559. [~~Construction contracts~~] Contracts. 1. The authority shall do all construction pursuant to a contract or contracts in the manner, so far as practicable, provided in the charter of the city for contracts of such city except that where the estimated expense of a contract does not exceed ten thousand dollars such contract may be entered into without public letting, but failure to comply with this section shall not invalidate such contracts.

2. When issuing a competitive request for proposals for purposes of establishing and implementing a congestion tolling program, the authority shall include among the stated selection criteria the performance of all or a portion of the contract at sites within the state of New York by businesses located within the state at the time the competitive request for proposals is issued or the use of goods produced or services provided within the state of New York, provided however that in no event shall the authority award a contract to a manufacturer whose final offer, as expressed in unit cost is more than twenty-five percent higher than the unit cost of any qualified competing final offer, if the sole basis for such award is that the higher priced offer includes more favorable provision for the performance of the contract within the state of New York by businesses located within the state at the time the competitive request for proposals is issued, or the use of goods produced or services provided within the state of New York, and further provided that the authority's discretion to award a contract to any manufacturer shall not be so limited if a basis for such award, as determined by the authority, is superior financing, delivery schedule, life cycle, reliability, or any other factor the authority deems relevant to its operations.

§ 4. This act shall take effect immediately; provided, however, that sections one and two of this act shall take effect October 1, 2019.

SUBPART F

Section 1. Legislative intent. The legislature finds and declares that performance metrics used by the Metropolitan Transportation Authority do not provide adequate information about the actual performance and delivery of the Authority's services, and that improved data collection and sharing on system performance and service delivery could yield significant improvements at the Authority.

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

§ 1276-f. Metropolitan transportation authority transit performance metrics. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "additional platform time" means the average added time that customers spend waiting on the platform for a train, compared with their scheduled wait time.

(b) "additional train time" means the average additional time customers spend onboard the train due to various service issues.

(c) "customer journey time performance" means the percentage of customer trips with an estimated total travel time within two minutes of the scheduled total travel time.

(d) "elevator availability" means percentage of facilities that require the use of stairs and have an operational elevator.

(e) "escalator availability" means percentage of facilities that require the use of stairs and have an operational escalator.

(f) "excess journey time" means comparison of measured journey time compared to scheduled and standard journey times.

(g) "journey time metric" means the times of each component of a trip including access, egress, interchange, time in queue for tickets, time on platform and time on train. Journey time and its components may be based on a manual or an automatically generated sample.

(h) "major incidents" mean incidents that delay twenty or more trains.

(i) "staff hours lost to accidents" means staff hours lost due to accidents or illegal activity per billion passenger journeys.

(j) "standard journey time" means the ideal journey time calculated by the metropolitan transportation authority for a particular journey.

(k) "terminal on-time performance" means the percentage of trains arriving at their destination terminals as scheduled. A train may be counted as on-time if it arrives at its destination early, on time, or no more than two minutes late, and has not skipped any planned stops.

2. Reporting. The metropolitan transportation authority shall take all practicable measures to collect, compile and publish performance metrics of all services provided by New York city transit subways, long island railroad and metro-north railroad on a weekly basis. These metrics shall include but not be limited to:

(a) additional platform time;

(b) additional train time;

(c) customer journey time performance;

(d) elevator availability;

(e) escalator availability;

(f) excess journey time;

(g) journey time metric;

(h) major incidents metric;

(i) staff hours lost to accidents; and

(j) terminal on-time performance.

3. International benchmarking. (a) The authority shall publish an annual report presenting the authority's performance in comparison with other metros who are members of the community of metros known as CoMET. This report shall include, but not be limited to, the following metrics:

(i) total operating cost per car per mile;

(ii) maintenance cost per car per km;

(iii) passenger journeys per total staff and contractor hours; and

(iv) staff hours lost to accidents.

(b) The authority shall also provide an annual implementation report to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the assembly and senate, and the chairs and ranking members of the transportation and corporations, authorities and commissions committees on or before December thirty-first every year, and publish such report on its website.

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

§ 2. 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 F of this act shall be as specifically set forth in the last section of such Subparts.

PART FF

Section 1. Paragraphs (b-1) and (c-3) of subdivision 2 of section 503 of the vehicle and traffic law, paragraph (b-1) as added by section 1 and paragraph (c-3) as added by section 2 of part A of chapter 25 of the laws of 2009, are amended to read as follows:

(b-1) Supplemental learner permit/license fee in the metropolitan commuter transportation district. (i) Upon passage of the knowledge test required to obtain a learner's permit, an applicant for a driver's license who resides in the metropolitan commuter transportation district established by section one thousand two hundred sixty-two of the public authorities law shall be required to pay a supplemental fee of one dollar for each six months or portion thereof of the period of validity of a learner's permit or license which is or may be issued pursuant to the provisions of subparagraph (i) or (ii) of paragraph (b) of this subdivision.

(ii) The commissioner shall deposit daily all funds collected pursuant to subparagraph (i) of this paragraph with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, [~~to the credit of the comptroller~~] **in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller**. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to subparagraph (i) of this paragraph during the prior month as a result of the supplemental fee imposed, including any interest and penalties thereon. The revenues so certified **over the prior three months in total** shall be [~~deposited by the state comptroller in the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established pursuant to section ninety-two-ff of the state finance law for deposit, subject to~~] **paid over by the fifteenth day of the last month of each calendar quarter from such account, without** appropriation, [~~in~~] **into** the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to this section that is deposited by the comptroller in the [~~metropolitan transportation authority aid trust account~~] **corporate transportation account** of the metropolitan transportation authority [~~financial~~] **special** assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

(c-3) (i) Supplemental renewal fee in the metropolitan commuter transportation district. In addition to the fees required to be paid pursuant to paragraph (c) of this subdivision, a supplemental fee of one dollar

for each six months or portion thereof of the validity of the license shall be paid for renewal of a license of a person who resides in the metropolitan commuter transportation district established by section one thousand two hundred sixty-two of the public authorities law issued by the commissioner.

(ii) The commissioner shall deposit daily all funds collected pursuant to this paragraph with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, [~~to the credit of the comptroller~~] in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to this paragraph during the prior month as a result of the supplemental fees imposed, including any interest and penalties thereon. The revenues so certified over the prior three months in total shall be [~~deposited by the state comptroller in the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established pursuant to section ninety-two-ff of the state finance law for deposit, subject to~~] paid over by the fifteenth day of the last month of each calendar quarter from such account, without appropriation, [~~in~~] into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to this section that is deposited by the comptroller in the [~~metropolitan transportation authority aid trust account~~] corporate transportation account of the metropolitan transportation authority [~~financial~~] special assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

§ 2. Section 499-d of the vehicle and traffic law, as added by section 1 of part B of chapter 25 of the laws of 2009, is amended to read as follows:

§ 499-d. Deposit and disposition of revenue from supplemental fee. The commissioner shall deposit daily all funds derived from the collection of the supplemental fee established pursuant to this article with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, [~~to the credit of the comptroller~~] in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to this article during the prior month as a result of the supplemental fee imposed, including any interest and penalties thereon. The revenues so certified over the prior three months in total shall be [~~deposited by the state comptroller in the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established pursuant to section ninety-two-ff of the state finance law for deposit, subject to~~] paid over by the fifteenth day of the last month of each calendar

quarter from such account, without appropriation, [~~in~~] into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to this section that is deposited by the comptroller in the [~~metropolitan transportation authority aid trust account~~] corporate transportation account of the metropolitan transportation authority [~~financial~~] special assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

§ 3. Section 1288 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

§ 1288. Deposit and disposition of revenue. Notwithstanding any provision of law to the contrary: (a) All taxes, interest and penalties collected or received by the commissioner pursuant to this article shall be deposited daily with such responsible banks, banking houses or trust companies, as may be designated by the comptroller, [~~to the credit of the comptroller~~] in trust for the credit of the metropolitan transportation authority. [~~Such an~~] An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under this section, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds under this article. The commissioner is authorized and directed to deduct from such amounts collected or received under this article, before deposit into the accounts specified by the comptroller, a reasonable amount necessary to effectuate refunds of appropriations of the department to reimburse the department for the costs to administer, collect and distribute the taxes imposed by this article.

(b) On or before the twelfth day following the end of each month, after reserving such amount for such refunds and such costs, the commissioner shall certify to the comptroller the amount of all revenues so received pursuant to this article during the prior month as a result of the taxes, interest and penalties so imposed.

(c) [~~The~~] By the fifteenth day of the last month of each calendar quarter the comptroller shall pay over the amount of revenues from the prior three months in total so certified by the commissioner [~~to the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established by section ninety-two-ff of the state finance law for deposit, subject to~~], without appropriation, [~~in~~] into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law to be applied as provided in paragraph (e) of subdivision four of such section twelve hundred seventy-a. Any money collected pursuant to this article that is deposited by the comptroller in the [~~metropolitan transportation authority aid trust account~~] corporate transportation account of the metropolitan transportation authority [~~financial~~] special assistance fund shall be held in such fund free and clear of any claim by any person or entity paying the tax pursuant to this article, including,

without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

§ 4. Section 1167 of the tax law, as amended by section 3 of part F of chapter 25 of the laws of 2009, is amended to read as follows:

§ 1167. Deposit and disposition of revenue. **1.** All taxes, interest and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter, except that after reserving amounts in accordance with such section one hundred seventy-one-a of this chapter, the remainder shall be paid by the comptroller to the credit of the highway and bridge trust fund established by section eighty-nine-b of the state finance law, provided, however, taxes, interest and penalties collected or received pursuant to section eleven hundred sixty-six-a of this article shall be [~~paid to the credit of the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established by section ninety-two-ff of the state finance law~~] **deposited and disposed of pursuant to subdivision two of this section**.

2. All taxes, interest, and penalties collected or received by the commissioner pursuant to section eleven hundred sixty-six-a of this article shall be deposited daily with such responsible banks, banking houses or trust companies, as may be designated by the comptroller, in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits will be kept separate and apart from all other money in the possession of the comptroller. Of the total revenue collected or received under this article, the comptroller shall retain such amount as the commissioner may determine to be necessary for refunds under this article. On or before the twelfth day of each month, after reserving such amount for such refunds and deducting such amounts for such costs, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to this article during the prior month as a result of the tax imposed, including any interest and penalties thereon. The amount of revenues so certified over the prior three months in total shall be paid over by the fifteenth day of the last month of each calendar quarter from such account, without appropriation, into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section.

§ 5. Subdivision 3 and paragraph (a) of subdivision 6 of section 92-ff of the state finance law, subdivision 3 as amended by section 14 of part UU of chapter 59 of the laws of 2018 and paragraph (a) of subdivision 6 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 therefor or credited or transferred thereto from any other fund, account or source[~~, including, without limitation, the 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.

(a) The "metropolitan transportation authority aid trust account" shall consist of [~~revenues required to be deposited therein pursuant to the provisions of section eleven hundred sixty-six-a of the tax law; article twenty-nine-A of the tax law; article seventeen-C of the vehicle and traffic law; and section five hundred three of the vehicle and traffic law, and all other~~] moneys credited or transferred thereto from any other [~~fund or~~] source pursuant to law.

§ 6. Section 4 of the state finance law is amended by adding a new subdivision 13 to read as follows:

13. Notwithstanding subdivision one of this section and any other law to the contrary, the revenue (including fees, taxes, interest and penalties) from the metropolitan commuter transportation district supplemental fees and taxes imposed pursuant to paragraph (b-1) of subdivision two of section five hundred three of the vehicle and traffic law, paragraph (c-3) of subdivision two of section five hundred three of the vehicle and traffic law, article seventeen-C of the vehicle and traffic law, article twenty-nine-A of the tax law and section eleven hundred sixty-six-a of the tax law which are paid in accordance with subparagraph (ii) of paragraph (b-1) of subdivision two of section five hundred three of the vehicle and traffic law, subparagraph (ii) of paragraph (c-3) of subdivision two of section five hundred three of the vehicle and traffic law, section twelve hundred eighty-eight of the tax law and section eleven hundred sixty-seven of the tax law into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law shall be made pursuant to statute but without an appropriation.

§ 7. Subdivision 1 and paragraph (e) of subdivision 4 of section 1270-a of the public authorities law, subdivision 1 as amended by section 14 and paragraph (e) of subdivision 4 as added by section 15 of part H of chapter 25 of the laws of 2009, are amended to read as follows:

1. The authority shall create and establish a fund to be known as the "metropolitan transportation authority special assistance fund" which shall be kept separate from and shall not be commingled with any other moneys of the authority. The special assistance fund shall consist of three separate accounts: (i) the "transit account", (ii) the "commuter railroad account" and (iii) the "corporate transportation account".

The authority shall make deposits in the transit account and the commuter railroad account of the moneys received by it pursuant to the provisions of subdivision one of section two hundred sixty-one of the tax law in accordance with the provisions thereof, and shall make deposits in the corporate transportation account of the moneys received by it pursuant to the provisions of subdivision two of section two hundred sixty-one of the tax law and section ninety-two-ff of the state finance law. **The comptroller shall deposit, without appropriation, into the corporate transportation account the revenue fees, taxes, interest and penalties collected in accordance with paragraph (b-1) of subdivision two of section five hundred three of the vehicle and traffic law, paragraph (c-3) of subdivision two of section five hundred three of the vehicle and traffic law, article seventeen-C of the vehicle and traffic**

law, article twenty-nine-A of the tax law and section eleven hundred sixty-six-a of the tax law.

(e) Notwithstanding the foregoing provisions of this subdivision, any moneys in the corporate transportation account that are received by the authority: (i) without appropriation pursuant to subdivision one of this section, or (ii) pursuant to the provisions of section ninety-two-ff of the state finance law may be pledged by the authority, or pledged to the Triborough bridge and tunnel authority, to secure bonds, notes or other obligations of the authority or the Triborough bridge and tunnel authority, as the case may be, and, if so pledged to the Triborough bridge and tunnel authority, shall be paid to the Triborough bridge and tunnel authority in such amounts and at such times as necessary to pay or to reimburse that authority for its payment of debt service and reserve requirements, if any, on that portion of special Triborough bridge and tunnel authority bonds and notes issued by that authority pursuant to section five hundred fifty-three-d of this chapter. Subject to the provisions of any such pledge, or in the event there is no such pledge, any moneys in the corporate transportation account received by the authority: (i) without appropriation pursuant to subdivision one of this section, or (ii) pursuant to the provisions of section ninety-two-ff of the state finance law may be used by the authority for payment of operating costs of, and capital costs, including debt service and reserve requirements, if any, of or for the authority, the New York city transit authority and their subsidiaries as the authority shall determine. No moneys in the corporate transportation account that are reserved by the authority: (i) without appropriation pursuant to subdivision one of this section; or (ii) pursuant to the provisions of section ninety-two-ff of the state finance law may be used for making any payment to the Dutchess, Orange and Rockland fund created by section twelve hundred seventy-b of this title or considered in calculating the amounts required to be paid into such fund.

§ 8. This act shall take effect immediately.

PART GG

Section 1. Paragraph 5 of subdivision (c) and subdivision (e) of section 1111-c of the vehicle and traffic law, as amended by section 6 of part NNN of chapter 59 of the laws of 2018, are amended and a new subdivision (n) is added to read as follows:

5. "bus rapid transit program" shall mean [~~up to ten routes~~] any route designated by the New York city department of transportation in consultation with the applicable mass transit agency, in addition to the Bus Rapid Transit Phase I plan routes, that operate on designated bus lanes and that may include upgraded signage, enhanced road markings, minimum bus stop spacing, off-board fare payment, traffic signal priority for buses, and any other enhancement that increases bus speed or reliability.

(e) An owner liable for a violation of a bus lane restriction imposed on any route within a bus rapid transit program shall be liable for monetary penalties in accordance with a schedule of fines and penalties promulgated by the parking violations bureau of the city of New York; provided, however, that the monetary penalty for violating a bus lane restriction shall not exceed one hundred [~~fifteen~~] twenty-five dollars, one hundred fifty dollars for a second offense within a twelve-month period, two hundred dollars for a third offense within a twelve-month period, two hundred fifty dollars for a fourth offense within a twelve-

month period, and three hundred fifty dollars for each subsequent offense within a twelve-month period; provided, further, that an owner shall be liable for an additional penalty not to exceed twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

(n) 1. Notwithstanding any other provision of law, in accordance with the provisions of this subdivision, the city of New York is hereby authorized and empowered to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with the applicable local laws and regulations of the city of New York relating to stopping, standing, parking and turning movements as defined herein, while operating a vehicle within the congestion toll zone or along designated bus corridors. The department of transportation of the city of New York and/or an applicable mass transit agency, shall operate photo devices that may be stationary or mobile and shall be activated at locations determined by such department of transportation and/or on buses selected by such department of transportation in consultation with the applicable mass transit agency. Locations of such photo devices shall be within the congestion toll zone in the borough of Manhattan or along designated bus corridors to be determined jointly by the department of transportation and the applicable mass transit agency.

2. Any image or images captured by photo devices shall be inadmissible in any disciplinary proceeding convened by the applicable mass transit agency or any subsidiary thereof and any proceeding initiated by the department involving licensure privileges of bus operators. Any mobile bus lane photo device mounted on a bus shall be directed outwardly from such bus to capture images of vehicles operated in violation of the local laws relating to stopping, standing, parking and turning, or in violation of bus lane restrictions, and images produced by such device shall not be used for any other purpose in the absence of a court order requiring such images to be produced.

3. The city of New York shall adopt and enforce measures to protect the privacy of drivers, passengers, pedestrians and cyclists whose identity and identifying information may be captured by a photo device. Such measures shall include:

(i) utilization of necessary technologies to ensure, to the extent practicable, that images produced by such photo devices shall not include images that identify the driver, the passengers, or the contents of the vehicle, provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because an image allows for the identification of the driver, the passengers or other contents of a vehicle;

(ii) a prohibition on the use or dissemination of vehicles' license plate information and other information and images captured by photo devices except: (A) as required to establish liability under this section or collect payment of penalties; (B) as required by court order; (C) as required pursuant to a search warrant issued in accordance with the criminal procedure law or a subpoena; or (D) as otherwise required by law;

(iii) the installation of signage at regular intervals in the congestion toll zone and along the designated bus corridors stating that photo devices are used to enforce restrictions on stopping, standing, parking and turning movements; and

(iv) oversight procedures to ensure compliance with the aforementioned privacy protection measures.

4. Photo devices authorized by this subdivision shall only be operated from 6:00 a.m. to 10:00 p.m. Warning notices of violation will be issued during the first sixty days that photo device enforcement is active in the congestion toll zone or along a designated bus corridor.

5. The owner of a vehicle shall be liable for a penalty imposed pursuant to this subdivision if such vehicle was used or operated with the permission of the owner, express or implied, in violation of any applicable local law or regulation defined herein, while operated within the congestion toll zone or along a designated bus corridor, and such violation is evidenced by information obtained from a photo device; provided however that no owner of a vehicle shall be liable for a penalty imposed pursuant to this subdivision where the operator of such vehicle has been convicted of the underlying violation of such applicable local law or regulation.

6. For purposes of this subdivision the following terms shall have the following meanings:

(i) "owner" shall have the meaning provided in article two-B of this chapter.

(ii) "photo device" shall mean a device that is capable of operating independently of an enforcement officer and produces one or more images of each vehicle at the time it is in violation of an applicable local law or regulation.

(iii) "applicable local law or regulation" shall mean Chapter 4 of Title 34 of the Rules of the City of New York relating to stopping, standing, parking, and turning movements, including but not limited to the following:

§ 4-08(f)(4) and § 4-12(m): General no standing zones, Bus lanes

§ 4-08(c)(3): Violation of posted no standing rules prohibited, Bus stop

§ 4-08(f)(1): General no standing zones, Double parking

§ 4-08(k)(2): Special rules for commercial vehicles, No standing except trucks loading and unloading

§ 4-08(a)(3): Standing prohibited

§ 4-07(b)(1) and § 4-08(e)(11): Stopping prohibited

§ 4-07(e)(4): General no stopping zones, Intersections

§ 4-08 (e)(5): General no stopping zones, Crosswalks

§ 4-08(e)(12: General no stopping zones, Obstructing traffic at intersection.

§ 4-05, § 4-07(h)(2): Turns

(iv) "congestion toll zone" shall include any roadways, bridges, tunnels or ramps that are located within, or enter into, the geographic area in the borough of Manhattan established pursuant to article forty-four-C of this chapter.

7. A certificate, sworn to or affirmed by a technician employed by the city in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a photo device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to this subdivision.

8. An owner liable for a violation shall be liable for monetary penalties in accordance with a schedule of fines and penalties promulgated by the parking violations bureau of the city of New York; provided, however, that the monetary penalty for a first offense of a provision of local law or regulation of the city of New York relating to stopping,

standing, parking and turning movement violations pursuant to this subdivision shall not exceed one hundred twenty-five dollars, one hundred fifty dollars for a second offense within a twelve-month period, two hundred dollars for a third offense within a twelve-month period, two hundred fifty dollars for a fourth offense within a twelve-month period, and three hundred fifty dollars for each subsequent offense within a twelve-month period; and provided, further, that an owner shall be liable for an additional penalty not to exceed twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period set forth in the notice of violation.

9. An imposition of liability pursuant to this subdivision shall not be deemed a conviction of an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

10. (i) A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation under this section. Personal delivery to the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein.

(ii) A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation, the registration number of the vehicle involved in such violation, the location where such violation took place including the street address or cross streets, one or more images identifying the violation, the date and time of such violation and the identification number of the photo device which recorded the violation or other document locator number.

(iii) The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

(iv) The notice of liability shall be prepared and mailed by the agency or agencies designated by the city of New York, or any other entity authorized by such city to prepare and mail such notification of violation.

11. Adjudication of the liability imposed upon owners by this section shall be by the New York city parking violations bureau.

12. If an owner of a vehicle receives a notice of liability pursuant to this subdivision for any time period during which such vehicle was reported to the police department as having been stolen, it shall be a valid defense to an allegation of liability that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the parking violations bureau of such city.

13. (i) An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to this subdivision shall not be liable for the violation of a local law or regulation defined herein, provided that:

(A) prior to the violation, the lessor has filed with such parking violations bureau in accordance with the provisions of section two hundred thirty-nine of this chapter; and

(B) within thirty-seven days after receiving notice from such bureau of the date and time of a liability, together with the other information contained in the original notice of liability, the lessor submits to such bureau the correct name and address of the lessee of the vehicle identified in the notice of liability at the time of such violation, together with such other additional information contained in the rental, lease or other contract document, as may be reasonably required by such bureau pursuant to regulations that may be promulgated for such purpose. Failure to timely submit such information shall render the lessor liable for the penalty prescribed in this subdivision.

(ii) Where the lessor complies with the provisions of clause (A) of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this subdivision, shall be subject to liability for such violation pursuant to this subdivision and shall be sent a notice of liability pursuant to paragraph ten of this subdivision.

14. If the owner liable for a violation was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

15. Nothing in this subdivision shall be construed to limit the liability of an operator of a vehicle for any violation of an applicable local law or regulation.

16. The city of New York and the applicable mass transit agency shall submit a report on the results of the use of photo devices to the governor, the temporary president of the senate and the speaker of the assembly by April first, within twelve months of operation of such photo devices and every two years thereafter. Such report shall include, but not be limited to:

(i) a description of the locations and/or buses where photo devices were used;

(ii) the total number of violations recorded on a monthly and annual basis;

(iii) the total number of notices of liability issued;

(iv) the number of fines and total amount of fines paid after the first notice of liability;

(v) the number of violations adjudicated and results of such adjudications including breakdowns of dispositions made;

(vi) the total amount of revenue realized by such city and any participating mass transit agency;

(vii) the quality of the adjudication process and its results;

(viii) the total number of cameras by type of camera; and

(ix) the total cost to the city and the total cost to any participating mass transit agency.

17. Any revenue from fines and penalties collected pursuant to this subdivision from mobile bus photo devices shall be remitted by the city of New York to the applicable mass transit agency on a quarterly basis to be deposited in the outer borough transportation account of the New York city transportation assistance fund established pursuant to section twelve hundred seventy-i of the public authorities law, as well as state of good repair needs and accessibility capital projects of the New York city transit authority, in addition to any otherwise programmed fund uses.

§ 2. The opening paragraph of section 14 of part II of chapter 59 of the laws of 2010, amending the vehicle and traffic law and the public officers law relating to establishing a bus rapid transit demonstration program to restrict the use of bus lanes by means of bus lane photo

devices, as amended by chapter 239 of the laws of 2015, is amended to read as follows:

This act shall take effect on the ninetieth day after it shall have become a law and shall expire [~~10~~] 15 years after such effective date when upon such date the provisions of this act shall be deemed repealed; and provided that any rules and regulations related to this act shall be promulgated on or before such effective date, provided that:

§ 3. This act shall take effect immediately; provided that the amendments to section 1111-c of the vehicle and traffic law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith. 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 HH

Section 1. Section 45 of chapter 929 of the laws of 1986 amending the tax law and other laws relating to the metropolitan transportation authority, as amended by chapter 63 of the laws of 2017, is amended to read as follows:

§ 45. This act shall take effect immediately; except that: (a) paragraph (d) of subdivision 3 of section 1263 of the public authorities law, as added by section twenty-six of this act, shall be deemed to have been in full force and effect on and after August 5, 1986; (b) sections thirty-three and thirty-four of this act shall not apply to a certified or recognized public employee organization which represents any public employees described in subdivision 16 of section 1204 of the public authorities law and such sections shall expire on July 1, [~~2019~~] 2021 and nothing contained within these sections shall be construed to divest the public employment relations board or any court of competent jurisdiction of the full power or authority to enforce any order made by the board or such court prior to the effective date of this act; (c) the provisions of section thirty-five of this act shall expire on March 31, 1987; and (d) provided, however, the commissioner of taxation and finance shall have the power to enforce the provisions of sections two through nine of this act beyond December 31, 1990 to enable such commissioner to collect any liabilities incurred prior to January 1, 1991.

§ 2. This act shall take effect immediately.

PART II

Section 1. Subdivisions 3 and 11 of section 120.05 of the penal law, subdivision 3 as amended by chapter 267 of the laws of 2016 and subdivision 11 as separately amended by chapters 268 and 281 of the laws of 2016, are amended to read as follows:

3. With intent to prevent a peace officer, a police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, a firefighter, including a firefighter acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such firefighter, an emergency medical service paramedic or emergency medical service technician, or medical or related personnel in a hospital emergency department, a city marshal, a school crossing guard appointed

pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer, traffic enforcement agent**, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, motor vehicle license examiner as defined in section one hundred eighteen-c of the vehicle and traffic law, highway inspector as referenced by section 19-152 of the administrative code of the city of New York,** or employee of any entity governed by the public service law in the course of performing an essential service, from performing a lawful duty, by means including releasing or failing to control an animal under circumstances evincing the actor's intent that the animal obstruct the lawful activity of such peace officer, police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, firefighter, paramedic, technician, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement agent**, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, motor vehicle license examiner as defined in section one hundred eighteen-c of the vehicle and traffic law, highway inspector as referenced by section 19-152 of the administrative code of the city of New York,** or employee of an entity governed by the public service law, he or she causes physical injury to such peace officer, police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, firefighter, paramedic, technician or medical or related personnel in a hospital emergency department, city marshal, school crossing guard, traffic enforcement officer, traffic enforcement agent**, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, motor vehicle license examiner as defined in section one hundred eighteen-c of the vehicle and traffic law, highway inspector as referenced by section 19-152 of the administrative code of the city of New York,** or employee of an entity governed by the public service law; or

11. With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner [~~or~~], terminal cleaner**, station customer assistant, person whose official duties include the sale or collection of tickets, passes, vouchers or other fare payment media for use on a train or bus, person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of a transit signal system, elevated or underground subway tracks, transit station structure, train yard, revenue train in passenger service, or a train or bus station or terminal, or a supervisor of such personnel** employed by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer, traffic enforce-

ment agent, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, motor vehicle license examiner as defined in section one hundred eighteen-c of the vehicle and traffic law, highway inspector as referenced by section 19-152 of the administrative code of the city of New York, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, sanitation enforcement agent, New York city sanitation worker, public health sanitarian, New York city public health sanitarian, registered nurse, licensed practical nurse, emergency medical service paramedic, or emergency medical service technician, he or she causes physical injury to such train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner [~~or~~], terminal cleaner, station customer assistant, person whose official duties include the sale or collection of tickets, passes, vouchers or other fare payment media for use on a train or bus, person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of a transit signal system, elevated or underground subway tracks, transit station structure, train yard, revenue train in passenger service, or a train or bus station or terminal, or a supervisor of such personnel, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement agent, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, motor vehicle license examiner as defined in section one hundred eighteen-c of the vehicle and traffic law, highway inspector as referenced by section 19-152 of the administrative code of the city of New York, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, or emergency medical service technician, while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus, [~~including the cleaning of a train or bus station or terminal~~] cleaning of a train or bus station or terminal or maintenance of a train or bus station or terminal, signal system, elevated or underground subway tracks, transit station structure, train yard or revenue train in passenger service, or such city marshal, school crossing guard, traffic enforcement officer, traffic enforcement agent, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, motor vehicle license examiner as defined in section one hundred eighteen-c of the vehicle and traffic law, highway inspector as referenced by section 19-152 of the administrative code of the city of New York, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, or emergency medical service technician is performing an assigned duty; or

§ 2. The vehicle and traffic law is amended by adding three new sections 118-a, 118-b and 118-c to read as follows:

§ 118-a. Highway worker. Any person employed by or on behalf of the state, a county, city, town or village, a public authority, a local authority, or a public utility company, or the agent or contractor of any such entity, who has been assigned to perform work on a highway, including maintenance, repair, flagging, utility work, construction, reconstruction or operation of equipment on public highway infrastructure and associated rights-of-way in highway work areas, and shall also include any flagperson as defined in section one hundred fifteen-b of this article.

§ 118-b. Motor vehicle inspector and motor carrier investigator. Any person employed by the New York State department of transportation who has been assigned to perform inspections of any motor vehicles or investigation of any carriers regulated by the commissioner of transportation.

§ 118-c. Motor vehicle license examiner. Any person employed by the department who conducts road tests to ensure that only qualified persons are licensed to operate motor vehicles or performs field inspections of the licensing aspect of driving schools, private service bureaus, and motor carriers, or any employee of the department who directly supervises such employees.

§ 3. The vehicle and traffic law is amended by adding a new section 1221-a to read as follows:

§ 1221-a. Intrusion into an active work zone. 1. No driver of a vehicle shall enter or intrude into an active work zone except upon direction from a flagperson, police officer or other visibly designated person in charge of traffic control or direction from a traffic control device regulating entry therein. For purposes of this section, the term "active work zone" shall mean the physical area of a highway, street or private road on which construction, maintenance or utility work is being conducted, which area is marked by any signs, channeling devices, barriers, pavement markings, or work vehicles, and where workers are physically present.

2. A violation of subdivision one of this section shall constitute a class B misdemeanor punishable by a fine of not less than two hundred fifty dollars nor more than five hundred dollars, or by a period of imprisonment not to exceed three months, or by both such fine and imprisonment.

§ 4. The vehicle and traffic law is amended by adding a new section 1221-b to read as follows:

§ 1221-b. Work zone safety and outreach. The governor's traffic safety committee, upon consultation with the commissioner of transportation, the superintendent of state police, the commissioner, the chairman of the New York state thruway authority, local law enforcement agencies, and representatives for contractors and laborers, shall design and implement a public education and outreach program to increase motorist awareness of the importance of highway work zone safety, to reduce the number of work zone incidents, including speeding, unauthorized intrusions into work zones, and any conduct resulting in threats or injuries to highway workers, and to increase and promote work zone safety.

§ 5. Section 120.05 of the penal law is amended by adding a new subdivision 11-d to read as follows:

11-d. With intent to cause physical injury to a terminal cleaner, cabin cleaner, facilities cleaner, wheelchair assist employee, baggage handler, skycap, ticket agent, customer services employee, security guard, queue management employee, shuttle bus driver, or any employee whose duties require him or her to work on the tarmac, employed by any

airport, airport authority or company, public or private, that performs such services at an airport, he or she causes physical injury to such terminal cleaner, cabin cleaner, facilities cleaner, wheelchair assist employee, baggage handler, skycap, ticket agent, customer services employee, security guard, queue management employee, shuttle bus driver, or any employee whose duties require him or her to work on the tarmac, while such employee is performing an assigned duty of, or directly related to, such services at an airport in the state of New York; or

§ 6. This act shall take effect immediately.

PART JJ

Section 1. This act shall be known and may be cited as the "Toll Payer Protection Act".

§ 2. Section 2985 of the public authorities law is REPEALED.

§ 3. Article 9 of the public authorities law is amended by adding a new title 11-A to read as follows:

TITLE 11-A

TOLL COLLECTIONS

Section 2985. Owner liability for failure of operator to comply with toll collection regulations.

2985-a. Cashless tolling and tolls by mail.

§ 2985. Owner liability for failure of operator to comply with toll collection regulations. 1. Notwithstanding any other provision of law, every public authority which operates a toll highway bridge and/or tunnel facility is hereby authorized and empowered to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with the toll collection regulations of such public authority in accordance with the provisions of this section.

2. The owner of a vehicle shall be liable for a civil penalty imposed pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, in violation of toll collection regulations, and such violation is evidenced by information obtained from a photo-monitoring system, provided, however, that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of a violation of toll collection regulations for the same incident.

3. For purposes of this section, the term "owner" shall mean any person, corporation, partnership, firm, agency, association, lessor or organization who, at the time of the violation and with respect to the vehicle identified in the notice of liability: (a) is the beneficial or equitable owner of such vehicle; or (b) has title to such vehicle; or (c) 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 (d) subject to the limitations set forth in subdivision ten of this section, uses such vehicle in its vehicle renting and/or leasing business; and includes (e) a person entitled to the use and possession of a vehicle subject to a security interest in another person. For purposes of this section, the term "photo-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a toll collection facility which automatically produces one or more photographs, one or more micro-photographs, a videotape or other recorded images of each vehicle at the time it is used or operated in violation of toll collection regulations. For purposes of this section, the term "toll collection regulations" shall mean those rules and regulations of a public authority providing

for and requiring the payment of tolls and/or charges prescribed by such public authority for the use of bridges, tunnels or highways under its jurisdiction or those rules and regulations of a public authority making it unlawful to refuse to pay or to evade or to attempt to evade the payment of all or part of any toll and/or charge for the use of bridges, tunnels or highways under the jurisdiction of such public authority. For purposes of this section, the term "vehicle" shall mean every device in, upon or by which a person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.

4. A certificate, sworn to or affirmed by an agent of the public authority which charged that the violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a photo-monitoring system shall be prima facie evidence of the facts contained therein and shall be admissible in any proceeding charging a violation of toll collection regulations, provided that any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection and admission into evidence in any proceeding to adjudicate the liability for such violation.

5. An owner found liable for a violation of toll collection regulations pursuant to this section shall for a first violation thereof be liable for a monetary penalty not to exceed fifty dollars or two times the toll evaded whichever is greater; for a second violation thereof both within eighteen months be liable for a monetary penalty not to exceed one hundred dollars or five times the toll evaded whichever is greater; for a third or subsequent violation thereof all within eighteen months be liable for a monetary penalty not to exceed one hundred fifty dollars or ten times the toll evaded whichever is greater.

6. An imposition of liability pursuant to this section shall be based upon a preponderance of evidence as submitted. An imposition of liability pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the motor vehicle operating record, furnished pursuant to section three hundred fifty-four of the vehicle and traffic law, of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

7. (a) A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation of toll collection regulations. Such notice shall be mailed no later than thirty days after the alleged violation. Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the mailing of the notice.

(b) A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of toll collection regulations pursuant to this section, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation and the identification number of the photo-monitoring system which recorded the violation or other document locator number.

(c) The notice of liability shall contain information advising the person charged of the manner and the time in which he may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons charged that failure to contest

in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

(d) The notice of liability shall be prepared and mailed by the public authority having jurisdiction over the toll facility where the violation of toll collection regulations occurred.

8. Adjudication of the liability imposed upon owners by this section shall be by the entity having jurisdiction over violations of the rules and regulations of the public authority serving the notice of liability or where authorized by an administrative tribunal and all violations shall be heard and determined in the county in which the violation is alleged to have occurred, or in New York city and upon the consent of both parties, in any county within New York city in which the public authority operates or maintains a facility, and in the same manner as charges of other regulatory violations of such public authority or pursuant to the rules and regulations of such administrative tribunal as the case may be.

9. If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was reported to the police department as having been stolen, it shall be a valid defense to an allegation of liability for a violation of toll collection regulations that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was stolen, but not as yet reported to the police as having been stolen, it shall be a valid defense to an allegation of liability for a violation of toll collection regulations pursuant to this section that the vehicle was reported as stolen within two hours after the discovery of the theft by the owner. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the court or other entity having jurisdiction.

10. An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision seven of this section shall not be liable for the violation of the toll collection regulation provided that he or she sends to the public authority serving the notice of liability and to the court or other entity having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty days after receiving the original notice of liability. Failure to send such information within such thirty day time period shall render the lessor liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this subdivision, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section and shall be subject to liability for the violation of toll collection regulations, provided that the public authority mails a notice of liability to the lessee within ten days after the court, or other entity having jurisdiction, deems the lessee to be the owner. For purposes of this subdivision the term "lessor" shall mean any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or otherwise wherein the said lessee has the exclusive use of said vehicle for any period of time. For purposes of this subdivision, the term "lessee" shall mean any person, corporation, firm, partnership, agency, association or organization that

rents, leases or contracts for the use of one or more vehicles and has exclusive use thereof for any period of time.

11. Except as provided in subdivision ten of this section, if a person receives a notice of liability pursuant to this section it shall be a valid defense to an allegation of liability for a violation of toll collection regulations that the individual who received the notice of liability pursuant to this section was not the owner of the vehicle at the time the violation occurred. If the owner liable for a violation of toll collection regulations pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

12. "Electronic toll collection system" shall mean a system of collecting tolls or charges which is capable of charging an account holder the appropriate toll or charge by transmission of information from an electronic device on a motor vehicle to the toll lane, which information is used to charge the account the appropriate toll or charge. In adopting procedures for the preparation and mailing of a notice of liability, the public authority having jurisdiction over the toll facility shall adopt guidelines to ensure adequate and timely notice to all electronic toll collection system account holders to inform them when their accounts are delinquent. An owner who is an account holder under the electronic toll collection system shall not be found liable for a violation of this section unless such authority has first sent a notice of delinquency to such account holder and the account holder was in fact delinquent at the time of the violation.

13. Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of toll collection regulations.

14. Notwithstanding any other provision of law, all photographs, microphotographs, videotape or other recorded images prepared pursuant to this section shall be for the exclusive use of a public authority in the discharge of its duties under this section and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless such action or proceeding relates to the imposition of or indemnification for liability pursuant to this section. The public authority and any contractor or consultant with which it, or any of its subsidiaries, contracts shall be prohibited from selling, distributing or making available in any way, the names and addresses of electronic toll collection system account holders or any user-specific data with respect to travel patterns to any entity that will use such information for any commercial purpose provided that the foregoing restriction shall not be deemed to preclude the exchange of such information between any entities with jurisdiction over and/or operating a toll highway bridge and/or tunnel facility.

§ 2985-a. Cashless tolling and tolls by mail. 1. Definitions. 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 vehi-

cle 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.

(c) "Tolls by mail program" shall mean a program operated by or on behalf of a public authority to send a toll bill to an owner whose vehicle crosses a cashless tolling facility without an "operable electronic device".

(d) "Electronic toll collection system" shall mean a system of collecting tolls or charges which is capable of charging an account holder the appropriate toll or charge by transmission of information from an electronic device on a motor vehicle to the toll lane, which information is used to charge the account the appropriate toll or charge.

(e) "Operable electronic device" shall mean an electronic device that successfully transmits information through an electronic toll collection system as defined in subdivision twelve of section twenty-nine hundred eighty-five of this title.

(f) "Toll bill" shall mean a notice sent to an owner notifying such owner that the owner's vehicle has been used or operated at a cashless tolling facility, crossed a vehicle sensor without an operable electronic device and has incurred an obligation to pay a toll.

(g) "Notice of violation" shall mean a notice sent to an owner notifying such owner that a toll incurred at a cashless tolling facility by the owner has not been paid at the place and time and in the manner established for collection of such toll in the notice of toll due.

(h) "Cashless tolling program" shall mean any program operated by or on behalf of a public authority to identify vehicles that cross through a cashless tolling facility without an operable electronic device and to send a toll bill or notice of violation to the owner of the vehicle.

(i) "Cashless tolling monitoring system" shall mean a vehicle sensor which automatically produces a recorded image of a vehicle and license plate at the time it is used or operated at a cashless tolling facility and whose owner has incurred an obligation to pay a toll through the cashless tolling program.

(j) "Penalty" shall mean any late payment fees, charges, or monetary penalties imposed by a public authority, exclusive of any toll or tolls incurred at the cashless tolling facility, for failure to timely pay an obligation to pay a toll.

(k) "Violation" shall mean the failure of the owner to timely respond to a toll bill.

2. Authorization for cashless tolling. Notwithstanding any other provision of the law, every public authority which operates a toll highway, bridge and/or tunnel facility and is authorized pursuant to section two thousand nine hundred eighty-five of this title to promulgate toll collection regulations and to impose monetary liability for failure to comply with such regulations is hereby authorized and empowered to operate a demonstration program for utilization of cashless tolling facilities and a tolls by mail program and to impose monetary liability on the owner of a vehicle for failure to comply with the toll collection regulations of such public authority in accordance with the provisions of this section. Such public authority shall promulgate regulations establishing a demonstration program for the utilization of cashless tolling

facilities and a tolls by mail program that comply with the provisions of this section. Such regulations may impose monetary liability on the owner of a vehicle for failure to comply with such regulations. No public authority shall own, operate or otherwise facilitate a cashless tolling facility or cashless tolling program without first promulgating regulations pursuant to and in compliance with this section.

3. Owner liability for toll. The owner of a vehicle shall incur an obligation to pay a toll when such vehicle crosses a cashless tolling facility without an operable electronic device and is identified by a cashless tolling monitoring system.

4. Owner liability for failure to comply. The owner of a vehicle shall be liable for a civil penalty imposed pursuant to this section if such owner incurred an obligation to pay a toll and fails to timely pay or respond to such toll in the manner set forth in the notice of toll due and shall be liable for penalties in accordance with the penalties set forth herein. Provided, however, that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of a violation of toll collection regulations for the same incident.

5. Use of technology. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that recorded images produced by such cashless tolling monitoring systems shall not include images that identify the driver, the passengers, or the contents of a vehicle. However, no notice of toll or notice of violation issued pursuant to this section shall be invalid solely because a recorded image allows for the identification of the contents of a vehicle, provided that such public authority has made a reasonable effort to comply with the provisions of this subdivision.

6. Notice of toll and violation. (a) First notice. The public authority shall send a toll bill by first class mail to any owner who incurs an obligation to pay a toll within thirty days of the owner's incurring the obligation to pay the toll. Within thirty days of the mailing of the notice of toll due the owner shall (i) (1) pay the toll, without liability for any penalty; or (2) contest the notice. The toll bill due shall include: (ii) (1) the date, time, location, license plate number and vehicle registration for each assessed toll; (2) the total amount of the assessed toll due; (3) the date by which the toll must be paid; (4) the authority, and address and methods of payment for the toll due; (5) the procedure for contesting any toll; and (6) any other information required by law or by the authority. If an authority fails to send a toll bill as set forth in this section, the owner shall not be liable for payment of the tolls, or any penalty.

(b) Second notice. If an owner fails to timely respond to a toll bill due within thirty days of the mailing of the toll bill, the public authority shall send a second notice by first class mail. Such second notice of toll due may include a penalty for late payment, which shall not exceed five dollars and shall include all of the information required for a toll bill as set forth in this paragraph. Within thirty days of the mailing of the second notice of toll due the owner shall (i) pay the toll and penalty or (ii) contest the notice.

(c) Notice of violation. If an owner fails to timely respond to a second notice of toll due, the public authority shall send by first class mail a notice of violation within thirty days of the date the owner was required to respond to the second notice of toll due. The notice of violation may include (i) (1) the assessed toll; and (2) a monetary penalty which shall be no greater than twenty-five dollars. The

notice of violation shall include: (ii) (1) the date, time, location, license plate number and vehicle registration for each toll due; (2) the total amount of all outstanding tolls and penalties as authorized by this section; (3) the date by which payment of such sums are due; (4) the authority, and address and methods of payment for the sums due; (5) the procedure for contesting any of the aforesaid sums; and (6) any other information required by law or by the authority. If the authority fails to send a timely notice of violation as set forth in this section, the owner shall not be liable for payment of the alleged tolls or any penalty. The owner shall have thirty days from the date such notice of violation was sent to (iii) (1) pay the assessed toll and penalties; or (2) contest the notice. If an owner fails to respond to the notice of violation, the owner shall be liable for (iv) (1) the assessed toll; and (2) a monetary penalty which shall be no greater than twenty-five dollars.

(d) Electronic notice. Any notice of toll due required by this section to be sent by first class mail may instead be sent by electronic means of communication upon the affirmative consent of the owner in a form prescribed by the authority. Any notice of violation required by this section to be sent by first class mail may in addition to first class mail be sent by electronic means of communication upon the affirmative consent of the owner in a form prescribed by the authority. A manual or automatic record of electronic communications prepared in the ordinary course of business shall be sufficient record of electronic notice. Any affirmative consent to receive a notice of toll due by electronic means shall be revocable by the owner at any time with notice to the public authority or its agent and shall automatically be deemed revoked if the authority or its agent is unable to deliver two consecutive notices by electronic means of communication.

(e) Definitions. (i) The term "lessor" shall mean any person, corporation, firm, partnership, agency, association, or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or otherwise wherein the said lessee has the exclusive use of said vehicle for any period of time.

(ii) The term "lessee" shall mean any person, corporation, firm, partnership, agency, association, or organization that rents, leases or contracts for the use of one or more vehicles and has exclusive use thereof for any period of time.

7. Evidence. An agent of any public authority which has assessed a toll, may swear to or affirm a certificate or a facsimile thereof, based upon inspection of recorded images produced by a cashless tolling monitoring system, which shall be prima facie evidence of the facts contained therein and shall be admissible in any proceeding charging a liability for an obligation to pay a toll or a violation pursuant to this section, provided that any recorded images evidencing such liability shall be available for inspection and admission into evidence in any proceeding to adjudicate such liability.

8. Imposing liability. Any liability imposed pursuant to this section shall be based upon a preponderance of evidence as submitted. Any liability imposed pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the motor vehicle operating record, furnished pursuant to section three hundred fifty-four of the vehicle and traffic law, of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

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

10. Procedure to contest. Every public authority which operates a cashless tolling facility and a tolls by mail program shall promulgate regulations establishing a procedure by which a person alleged to be liable for the payment of a toll or a violation may: (a) contest such alleged liability; (b) submit the contest to a hearing; and (c) have the right to appeal. Every toll bill, notice of toll due and notice of violation shall on its face advise the owner of the manner and the time in which to contest the assessed toll and/or any violation and that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

11. Adjudication of liability. Adjudication of an owner's liability shall be by the municipal entity having jurisdiction over the cashless tolling facility or, where authorized, by an administrative tribunal and all such liability determinations shall be heard and determined either: (a) in the county in which the obligation to pay a toll through the cashless tolling program was alleged to occur; or (b) where the toll is alleged to have been incurred in New York city and upon the consent of both parties, in any county within New York city in which the public authority operates or maintains a cashless tolling facility. Such adjudications shall be heard and determined in the same manner as charges of other regulatory violations of such public authority or pursuant to the rules and regulations of such administrative tribunal, as the case may be.

12. Defenses. It shall be a valid defense to an allegation of liability for a toll and/or violation that:

(a) the vehicle was not used or operated in violation of this title or the regulations promulgated hereunder;

(b) the vehicle was used or operated without the permission of the owner, express or implied;

(c) the vehicle had been reported to the police as stolen prior to the time the obligation was incurred and had not been recovered by such time or the vehicle was reported as stolen within two hours after the discovery of the theft by the owner. For the purposes of asserting this defense, it shall be sufficient that a certified copy of the police report on the stolen vehicle is submitted by first class mail to the court or other entity having jurisdiction;

(d) the owner who is a lessor of the vehicle who submits to the public authority a copy of the rental lease or other such contract document covering the vehicle on the date and time the toll was incurred, and the name and address of the lessee clearly legible, within thirty days after receiving the original toll bill or notice of violation and to the court or other entity having jurisdiction. Failure to send such information within the thirty day time period shall render the lessor liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this section, the lessee of such vehicle on the date such obligation to pay the toll was incurred shall be deemed to be the owner

of the vehicle for purposes of this section and shall be subject to liability pursuant to this section, provided that the authority mails a notice of toll due to the lessee within ten days after the court or other entity having jurisdiction, deems the lessee to be the owner;

(e) except as provided in subdivision thirteen of this section, the person was not the owner of the vehicle at the time the obligation to pay the toll occurred. If the owner liable pursuant to this section was not the operator of the vehicle at the time of the obligation to pay the toll was incurred, the owner may maintain an action for indemnification against the operator.

13. This section shall not apply to the payment of tolls by means of an electronic toll device that transmits information through an electronic toll collection system as defined in subdivision twelve of section twenty-nine hundred eighty-five of this title.

14. Notwithstanding any other provision of law, all images, videos and other recorded images collected by the authority pursuant to this section shall be for the exclusive use of such authority in the discharge of its duties under this section and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless such action or proceeding relates to the imposition of or indemnification for liability pursuant to this section.

15. The public authority, and any contractor or consultant with which it, or any of its subsidiaries, contracts shall be prohibited from selling, distributing or making available in any way, the names and addresses of electronic toll collection system account holders or any user-specific data with respect to travel patterns to any entity that will use such information for any commercial purpose provided that the foregoing restriction shall not be deemed to preclude the exchange of such information between any entities with jurisdiction over and/or operating a toll highway bridge and/or tunnel facility.

16. Any toll that will be charged for the usage of any bridge, tunnel, road, or any other entity by a passenger motor vehicle shall be displayed conspicuously and prominently on signage of a reasonable size in a manner reasonably calculated to provide ample and adequate notice. The violation fees for failure to pay toll bills shall be similarly provided.

17. (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. Any entity or subsidiary which maintains a contract with the authority for administering a cashless tolling program shall be prohibited from serving as a debt collection agency for purposes of this section.

18. Notwithstanding the provisions of any other law, order, rule or regulation to the contrary, no registration of any 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.

19. 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 for owners to obtain an electronic device for the electronic toll collection system, including making such devices available at all rest areas 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 obtain current information on any outstanding tolls and shall implement a system to notify those owners who so request by electronic mail and/or text message about tolls as they are incurred. Such website and phone number shall be printed on any toll bill or notice of violation. Such website shall additionally maintain photos or video of each instance in which an owner has incurred an obligation to pay a toll when such vehicle crosses a cashless tolling facility without an operable electronic device for purposes of viewing by the owner.

20. Any public authority which adopts a demonstration program pursuant to subdivision two of this section shall submit an annual report on the cashless tolling program to the governor, the temporary president of the senate and the speaker of the assembly on or before the first day of June next succeeding the effective date of this section and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

(a) the locations where vehicle sensors for cashless tolling monitoring systems were used;

(b) the aggregate number of tolls paid at the locations where cashless tolling facilities were used, including both through the use of an electronic device that successfully transmits information through an electronic toll collection system as defined in subdivision twelve of section twenty-nine hundred eighty-five of this title and through the cashless tolling program;

(c) the number of owners that paid their toll through the cashless tolling program;

(d) the number of owners that paid their toll upon receipt of the first notice of toll due;

(e) the number of owners that paid their toll upon receipt the second notice of toll due;

(f) the number of owners that were charged a five dollar fee for late payment and the aggregate amount of fees for late payment collected by the authority;

(g) the number of owners that were charged a penalty, the amount of the penalty charged to owners and the aggregate amount of monetary penalties collected by the authority;

(h) the number of owners that disputed the notice of toll due and the number of owners that successfully disputed the notice of toll due and an itemized breakdown of the reasons for successfully disputed tolls;

(i) the number of owners that disputed the notice of violation and the number of owners that successfully disputed the notice of violation;

(j) the number of owners that paid their toll upon receipt of the notice of violation;

(k) the aggregate amount of penalties charged owners;

(l) a copy of all regulations the reporting authority promulgated pursuant to this title;

(m) the number of tolls adjudicated and results of such adjudications including breakdowns of dispositions made for tolls recorded by such systems;

(n) the total amount of revenue realized by such authority from such adjudications;

(o) expenses incurred by such authority in connection with the cashless tolling program; and

(p) the quality of the adjudication process and its results.

§ 4. 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, shall implement an amnesty program for any and all persons who, with respect to any toll obligation incurred on or after November 1, 2016 at a cashless tolling facility operated by the authority, (1) (i) owes tolls, fines, fees, or penalties; (ii) have been referred to a debt collection agency; or (iii) have had their vehicle registration suspended. Such amnesty program shall be at least eight weeks in duration, and shall provide that upon an owner's payment or contesting the outstanding toll balance during the amnesty program period (2) (i) the authority shall waive all fees, fines, and penalties associated with the outstanding toll balance; and (ii) 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 any registration suspension shall be rescinded.

b. The authority shall undertake a public awareness campaign for such amnesty program, maintain a public website for any person to obtain information on any outstanding tolls and no later than thirty days preceding the commencement of the amnesty period, notify by first class mail all persons with outstanding toll balances of their eligibility for the amnesty program. 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.

§ 5. Toll advisory task force. 1. The commissioner of transportation and the chairman of the New York state thruway authority shall convene a toll advisory task force to review the New York state thruway authority's current toll rates, commuter discount options, resident discount programs and commercial vehicle rates in order to ensure affordable travel on the toll roads and bridges within the state.

2. Such task force shall consist of eight members. Such members shall be as follows: two members appointed by the governor; two members appointed by the temporary president of the senate; two members appointed by the speaker of the assembly; the commissioner of transportation, or his or her designee; and the chairman of the New York state thruway authority, or his or her designee.

3. The task force shall be co-chaired by the commissioner of transportation and the chairman of the New York state thruway authority, or their designees.

4. The goals of the task force shall include, but are not limited to, the study and evaluation of the New York state thruway authority's:
(a) current toll rates;
(b) commuter discount programs;
(c) resident discount programs;
(d) rates issued for commercial vehicles;
(e) any other special toll discount plans; and
(f) potential toll increases as related to funding for the Governor Mario M. Cuomo bridge.
5. The task force shall hold a minimum of two public hearings, the first of which shall be held no later than June 1, 2019. At least one public hearing shall be held in the county of Rockland and one public hearing shall be held in the county of Westchester. During the public hearings, the task force shall hear the testimony of voluntary witnesses, shall provide an opportunity for public comment, and may request the production of any documents the task force deems reasonably necessary to carry out its responsibilities.
6. The task force shall make a report to the governor and the legislature of its findings, conclusions and recommendations on or before December 31, 2020.
§ 6. This act shall take effect on the one hundred twentieth 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 be deemed repealed. 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 effective date.

PART KK

Intentionally Omitted

PART LL

Intentionally Omitted

PART MM

Section 1. The state finance law is amended by adding a new section 99-ff to read as follows:
§ 99-ff. Parks retail stores fund. 1. Notwithstanding sections eight, eight-a and seventy of this chapter and any other provision of law, rule, regulation or practice to the contrary, there is hereby established in the joint custody of the state comptroller and the commissioner of tax and finance a parks retail stores fund, which shall be classified by the state comptroller as an enterprise fund, and which shall consist of all moneys received from private entities and individuals from retail operations at state parks, recreational facilities and historic sites operated by the office of parks, recreation and historic preservation.
2. Moneys within the parks retail stores fund shall be made available to the commissioner of parks, recreation and historic preservation for services and expenses relating to the operation of retail stores and in support of the sale of retail goods at state parks, recreational facilities and historic sites.
§ 2. The state finance law is amended by adding a new section 99-gg to read as follows:

§ 99-gg. Golf fund. 1. Notwithstanding sections eight, eight-a and seventy of this chapter and any other provision of law, rule, regulation or practice to the contrary, there is hereby established in the joint custody of the state comptroller and the commissioner of tax and finance a golf fund, which shall be classified by the state comptroller as an enterprise fund, and which shall consist of all moneys collected from private entities and individuals for the use of state-owned golf courses, any other miscellaneous fees associated with the use of such golf courses, and sale of retail goods and services at state owned golf courses.

2. Moneys within the golf fund shall be made available to the commissioner of parks, recreation and historic preservation for services and expenses of the office of parks, recreation and historic preservation relating to the direct maintenance and operation of state owned golf courses, and in support of the sale of retail goods and services at state owned golf courses.

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

PART NN

Section 1. Subdivision 7 of section 2611 of the public authorities law, as amended by section 3 of part C of chapter 60 of the laws of 2012, is amended to read as follows:

7. To enter into contracts, leases and subleases and to execute all instruments necessary or convenient for the conduct of authority business, including agreements with the park district and any state agency which administers, owns or supervises any olympic facility or Belleayre Mountain ski center, as provided in sections twenty-six hundred twelve and twenty-six hundred fourteen of this title, and including contracts or other agreements to plan, prepare for and host olympic or other national or international games or events where such contracts or agreements would obligate the authority to defend, indemnify and/or insure third parties in connection with, arising out of, or relating to such games or events, such authority to be limited by the amount of any lawful appropriation or other funding such as a performance bond surety, or other collateral instrument for that purpose. With respect to the two thousand twenty-three world university games, the amount of such appropriation shall be no more than sixteen million dollars;

§ 2. This act shall take effect immediately.

PART OO

Intentionally Omitted

PART PP

Intentionally Omitted

PART QQ

Intentionally Omitted

PART RR

Section 1. Subdivision 6 of section 1209 of the public authorities law, as amended by chapter 30 of the laws of 2015, is amended to read as follows:

6. The provisions of subdivisions one, two, three and four of this section shall not be applicable to any procurement by the authority commenced during the period from the effective date of this subdivision until December thirty-first, nineteen hundred ninety-one or during the period from December sixteenth, nineteen hundred ninety-three until June thirtieth, two thousand [~~nineteen~~] twenty-three; and the provisions of subdivisions seven, eight, nine, ten, eleven, twelve and thirteen of this section shall only apply to procurements by the authority commenced during such periods. The provisions of such subdivisions one, two, three and four shall apply to procurements by the authority commenced during the period from December thirty-first, nineteen hundred ninety-one until December sixteenth, nineteen hundred ninety-three, and to procurements by the authority commenced on and after July first, two thousand [~~nine-teen~~] twenty-three. Notwithstanding the foregoing, the provisions of such subdivisions one, two, three and four shall apply to (i) the award of any contract of the authority if the bid documents for such contract so provide and such bid documents are issued within sixty days of the effective date of this subdivision or within sixty days of December sixteenth, nineteen hundred ninety-three, or (ii) for a period of one hundred eighty days after the effective date of this subdivision, or for a period of one hundred eighty days after December sixteenth, nineteen hundred ninety-three, the award of any contract for which an invitation to bid, solicitation, request for proposal, or any similar document has been issued by the authority prior to the effective date of this subdivision or during the period from January first, nineteen hundred ninety-two until December fifteenth, nineteen hundred ninety-three.

§ 2. Subdivision 1 of section 1265-a of the public authorities law, as amended by chapter 30 of the laws of 2015, is amended to read as follows:

1. The provisions of this section shall only apply to procurements by the authority commenced during the period from April first, nineteen hundred eighty-seven until December thirty-first, nineteen hundred ninety-one, and during the period from December sixteenth, nineteen hundred ninety-three until June thirtieth, two thousand [~~nineteen~~] twenty-three; provided, however, that the provisions of this section shall not apply to (i) the award of any contract of the authority if the bid documents for such contract so provide and such bid documents are issued within sixty days of the effective date of this section or within sixty days of December sixteenth, nineteen hundred ninety-three, or (ii) for a period of one hundred eighty days after the effective date of this section or for a period of one hundred eighty days after December sixteenth, nineteen hundred ninety-three, the award of any contract for which an invitation to bid, solicitation, request for proposal, or any similar document has been issued by the authority prior to the effective date of this section or during the period from January first, nineteen hundred ninety-two until December sixteenth, nineteen hundred ninety-three.

§ 3. Intentionally omitted.

§ 4. This act shall take effect immediately.

PART SS

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 53 to read as follows:

§ 53. Reporting. (1) Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Economic development benefits" shall mean:

(i) the available state resources including, but not limited to, state grants, loans, loan guarantees, loan interest subsidies, and/or subsidies allocated through the corporation; and

(ii) tax credits, tax exemptions or reduced tax rates and/or benefits which are applied for and preapproved or certified by a state agency;

(b) "Qualified participant" shall mean an individual, business, or any other entity that has applied for and received approval for and/or is the beneficiary of, any economic development benefits of ten thousand dollars or more under any individual economic development program or project overseen by the New York state urban development corporation or economic development benefits that were originally allocated to the corporation or that flow through the corporation;

(c) "State agency" shall mean any New York 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 economic development benefits database. Notwithstanding any laws to the contrary, the corporation, in cooperation with the department of economic development, shall create or modify an existing searchable database, which includes 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 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 location;

(ii) the time span over which a qualified participant is to or has received economic development benefits;

(iii) the type of such economic development benefits provided to a qualified participant, including the name of the program or programs through which economic development benefits are provided;

(iv) for any economic development benefits provided for job retention and creation, the total number of employees at all sites covered by the project utilizing such 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 jobs;

(v) the number of jobs that a qualified participant receiving economic development benefits is contractually obligated to retain and create over the life of the project utilizing such 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 economic development benefits agrees to retain over the life of the project utilizing such economic development benefits, any job creation scheduled to take place as a result of the project utilizing such economic development benefits and where applicable, any job creation targets for the current reporting year;

(vi) the amount of economic development benefits received by a qualified participant during the year covered by the report, the amount of economic development benefits received by a qualified participant since the beginning of the project period, and the present value of the further economic development benefits committed to by the state but not yet received by a qualified participant for the duration of the project;

(vii) for any economic development benefits provided for job retention and creation, the total actual number of employees at all sites covered by the project utilizing such economic development benefits for the current reporting year, 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 jobs;

(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 economic development benefits from such 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 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 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 the specific 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 twenty, 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-three of the urban development corporation act.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law. 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 TT

Section 1. Paragraph (a) of subdivision 2 of section 112 of the state finance law, as amended by section 18 of part L of chapter 55 of the laws of 2012, is amended to read as follows:

(a) Before any contract made for or by any state agency, department, board, officer, commission, or institution, except the office of general services, shall be executed or become effective, whenever such contract exceeds fifty thousand dollars in amount and before any contract made for or by the office of general services shall be executed or become effective, whenever such contract exceeds eighty-five thousand dollars in amount, it shall first be approved by the comptroller and filed in his or her office, [~~with the exception of contracts established as a centralized contract through the office of general services and purchase orders or other procurement transactions issued under such centralized contracts. The~~] provided, however, that the comptroller shall make a final written determination with respect to approval of such contract within ninety days of the submission of such contract to his or her office unless the comptroller shall notify, in writing, the state agency, department, board, officer, commission, or institution, prior to the expiration of the ninety day period, and for good cause, of the need for an extension of not more than fifteen days, or a reasonable period of time agreed to by such state agency, department, board, officer, commission, or institution and provided, further, that such written determination or extension shall be made part of the procurement record pursuant to paragraph f of subdivision one of section one hundred sixty-three of this chapter.

§ 2. Subdivisions 5 and 6 of section 355 of the education law, as amended by section 1 of subpart B of part D of chapter 58 of the laws of 2011, paragraph a of subdivision 5 as amended by section 31 of part L of chapter 55 of the laws of 2012, are amended to read as follows:

5. Notwithstanding the provisions of subdivision two of section one hundred twelve and sections one hundred fifteen, one hundred sixty-one, and one hundred sixty-three of the state finance law and sections three and six of the New York state printing and public documents law or any

other law to the contrary, the state university trustees are authorized and empowered to:

a. (i) purchase materials, proprietary electronic information resources including but not limited to academic, professional, and industry journals, reference handbooks and manuals, research tracking tools, indexes and abstracts, equipment and supplies, including computer equipment and motor vehicles**, where the amount for a single purchase does not exceed two hundred fifty thousand dollars**, (ii) execute contracts for **services and** construction [~~and construction-related services~~] contracts **to an amount not exceeding two hundred fifty thousand dollars**, and (iii) contract for printing **to an amount not exceeding two hundred fifty thousand dollars**, without prior approval by any other state officer or agency, but subject to rules and regulations **or guidelines** of the state comptroller not otherwise inconsistent with the provisions of this section and in accordance with guidelines promulgated by the state university board of trustees after consultation with the state comptroller**. Provided, however, that the dollar limits set forth in this paragraph shall be one hundred twenty-five thousand dollars for single or sole source procurements or where there is a formal protest of the contract award. In addition, where the state comptroller determines adequate internal controls are either not in place or are not being utilized effectively, and such failure has resulted in procurement practices that are inconsistent with the purposes underlying the competitive bidding statutes of the state, including those set forth in subdivision two of section one hundred sixty-three of the state finance law, the comptroller may reduce the dollar limits set forth in this paragraph to an amount not less than fifty thousand dollars or, for state university health care facilities, seventy-five thousand dollars.**

(a-1) The trustees, after consultation with the commissioner of general services, are authorized to annually negotiate with the state comptroller increases in the dollar limits set forth in paragraph a of this subdivision and the exemption of any articles, categories of articles or commodities from these limits.

(a-2) Guidelines promulgated by the state university board of trustees shall, to the extent practicable, require that competitive proposals be solicited for purchases, and shall include requirements that purchases and contracts authorized under this section be at the lowest available price, including consideration of prices available through other state agencies, consistent with quality requirements, and as will best promote the public interest. Such purchases may be made directly from any contractor pursuant to any contract for commodities let by the office of general services or any other state agency;

[~~a-1. execute contracts for services to an amount not exceeding twenty thousand dollars without prior approval by any other state officer or agency, but subject to rules and regulations of the state comptroller not otherwise inconsistent with the provisions of this section and in accordance with the guidelines promulgated by the state university board of trustees after consultation with the state comptroller. In addition, the trustees, after consultation with the commissioner of general services, are authorized to annually negotiate with the state comptroller increases in the aforementioned dollar limits and the exemption of any services or categories of services from these limits;~~]

b. to establish cash advance accounts for the purpose of purchasing materials, supplies, or services, for cash advances for travel expenses and per diem allowances, or for advance payment of wages and salary. The account may be used to purchase such materials, supplies, or services

where the amount of a single purchase does not exceed [~~one thousand~~] **two hundred fifty** dollars, in accordance with such guidelines as shall be prescribed by the state university trustees after consultation with the state comptroller;

c. establish guidelines in consultation with the commissioner of general services authorizing participation by the state university in programs administered by the office of general services for the purchase of available New York state food products. The commissioner of general services shall provide assistance to the state university necessary to enable the university to participate in these programs;

d. award contract extensions for campus transportation without competitive bidding where such contracts were secured either through competitive bidding or through evaluation of proposals **in response to a request for proposals**, however such extensions may be rejected if the amount to be paid to the contractor in any year of such proposed extension fails to reflect any decrease in the regional consumer price index for the New York, New York-Northeastern, New Jersey area, based upon the index for all urban consumers (CPI-U) during the preceding twelve-month period. At the time of any contract extension, consideration shall be given to any competitive proposal offered by a public transportation agency. Such contract may be increased for each year of the contract extension by an amount not to exceed the regional consumer price index increase for the New York, New York-Northeastern, New Jersey area, based upon the index for all urban consumers (CPI-U), during the preceding twelve-month period, provided it has been satisfactorily established by the contractor that there has been at least an equivalent increase in the amount of his cost of operation, during the period of the contract.

[~~e. guidelines promulgated by the state university board of trustees shall, to the extent practicable, require that competitive proposals be solicited for purchases, and shall include requirements that purchases and contracts authorized under this section be at the lowest available price, including consideration of prices available through other state agencies, consistent with quality requirements, and as will best promote the public interest. Such purchases may be made directly from any contractor pursuant to any contract for commodities let by the office of general services or any other state agency.~~]

6. To enter into any contract or agreement deemed necessary or advisable after consultation with appropriate state agencies for carrying out the objects and purposes of state university without prior review or approval by any state officer or agency other than the state comptroller and the attorney general including contracts with non-profit corporations organized by officers, employees, alumni or students of state university for the furtherance of its **academic** objects and purposes. Contracts or agreements entered into with the federal government to enable participation in federal student loan programs, including any and all instruments required thereunder, shall not be subject to the requirements of section forty-one of the state finance law; provided, however, that the state shall not be liable for any portion of any defaults which it has agreed to assume pursuant to any such agreement in an amount in excess of money appropriated or otherwise lawfully available therefor at the time the liability for payment arises. [~~The foregoing notwithstanding, any contract made for or by the state university for the purchase of: (i) materials, equipment and supplies, including computer equipment; (ii) motor vehicles; (iii) construction and construction-related services contracts; and (iv) printing shall not be subject to prior approval by any other state officer or agency.~~]

§ 3. Paragraph b of subdivision 16 of section 355 of the education law, as amended by section 1 of subpart C of part D of chapter 58 of the laws of 2011, is amended to read as follows:

b. Notwithstanding the provisions of subdivision two of section one hundred twelve of the state finance law[~~,~~] **relating to the dollar threshold requiring the comptroller's approval of contracts,** subdivision six of section one hundred sixty-three of the state finance law [~~and section sixty-three of the executive law (i)~~] authorize contracts for the purchase of goods for state university health care facilities [~~without prior approval by any other state officer or agency,~~] including contracts for joint or group purchasing arrangements of goods, in accordance with procedures and requirements found in paragraph a of subdivision five of this section[~~, and (ii) authorize contracts for services~~] which do not exceed [~~seventy-five~~] **two hundred fifty** thousand dollars [~~without prior approval by any other state officer or agency in accordance with procedures and requirements found in paragraph a of subdivision five of this section~~]. Contracts authorized pursuant to this paragraph shall be subject to article fourteen of the civil service law and the applicable provisions of agreements between the state and employee organizations pursuant to article fourteen of the civil service law.

The trustees are authorized to negotiate annually with the state comptroller increases in the aforementioned dollar limits.

§ 4. Subdivision 12 of section 373 of the education law, as amended by section 2 of subpart A of part D of chapter 58 of the laws of 2011, is amended to read as follows:

12. To procure and execute contracts, lease agreements, and all other instruments necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes under this article. [~~Notwithstanding subdivision two of section one hundred twelve of the state finance law or any other law to the contrary, fund procurements shall not be subject to the prior approval of any state officer or agency;~~]

§ 5. Subdivisions a and a-1 of section 6218 of the education law, subdivision a as amended and subdivision a-1 as added by section 2 of subpart B of part D of chapter 58 of the laws of 2011, subparagraph (i) of paragraph 1 of subdivision a as amended by section 33 of part L of chapter 55 of the laws of 2012, are amended to read as follows:

a. Notwithstanding the provisions of subdivision two of section one hundred twelve and sections one hundred fifteen, one hundred sixty-one and one hundred sixty-three of the state finance law and sections three and six of the New York state printing and public documents law or any other law to the contrary, the city university is authorized and empowered to:

[~~(1)~~] (i) purchase materials; proprietary electronic information resources, including, but not limited to, academic, professional and industry journals, reference handbooks and manuals, research tracking tools, indexes and abstracts; and equipment and supplies, including computer equipment and motor vehicles, **where the amount for a single purchase does not exceed two hundred fifty thousand dollars,** (ii) execute contracts for [~~construction and construction-related services contracts~~] **services to an amount not exceeding two hundred fifty thousand dollars**, and (iii) contract for printing **to an amount not exceeding two hundred fifty thousand dollars**, without prior approval by any other state officer or agency, but subject to rules and regulations **or guidelines** of the state comptroller not otherwise inconsistent with the

provisions of this section and in accordance with the guidelines promulgated by the city university board of trustees after consultation with the state comptroller. Provided, however, that the dollar limits set forth in this subdivision shall be one hundred twenty-five thousand dollars for single or sole source procurements or where there is a formal protest of the contract award. In addition, where the state comptroller determines adequate internal controls are either not in place or are not being utilized effectively, and such failure has resulted in procurement practices that are inconsistent with the purposes underlying the competitive bidding statutes of the state, including those set forth in subdivision two of section one hundred sixty-three of the state finance law, the comptroller may reduce the dollar limits set forth in this subdivision to an amount not less than fifty thousand dollars.

(a-1) The trustees are authorized to annually negotiate with the state comptroller increases in the dollar limits set forth in this subdivision and the exemption of any articles, categories of articles or commodities from these limits.

(a-2) Guidelines promulgated by the city university board of trustees shall, to the extent practicable, require that competitive proposals be solicited for purchases, and shall include requirements that purchases and contracts authorized under this section be at the lowest possible price.

[~~(2) execute contracts for services to an amount not exceeding twenty thousand dollars without prior approval by any other state officer or agency, but subject to rules and regulations of the state comptroller not otherwise inconsistent with the provisions of this section and in accordance with the guidelines promulgated by the city university board of trustees after consultation with the state comptroller. In addition, the trustees, after consultation with the commissioner of general services, are authorized to annually negotiate with the state comptroller increases in the aforementioned dollar limits and the exemption of any services or categories of services from these limits.~~

~~a-1. Guidelines promulgated by the city university board of trustees shall, to the extent practicable, require that competitive proposals be solicited for purchases, and shall include requirements that purchases and contracts authorized under this section be at the lowest available price.~~]

§ 6. Section 6283 of the education law is REPEALED.

§ 7. The state finance law is amended by adding a new section 148 to read as follows:

§ 148. Comptroller approval of the research foundation of the state university of New York contracts. Notwithstanding any other provision of law, before any contract made for or by the research foundation of the state university of New York which is to be paid in whole or in part from monies appropriated or assigned by the state shall be executed or become effective, whenever such contract exceeds one million dollars in amount, it shall first be approved by the state comptroller and filed in his or her office. The comptroller shall make a final written determination with respect to approval of such contract within ninety days of the submission of such contract to his or her office unless the comptroller shall notify, in writing, the research foundation of the state university of New York prior to the expiration of the ninety day period, and for good cause, of the need for an extension of not more than fifteen days, or a reasonable period of time agreed to by the research foundation of the state university of New York and provided, further,

that such written determination or extension shall be made part of the procurement record.

§ 8. This act shall take effect immediately; provided, however, that:

(a) the amendments to subdivisions 5 and 6 of section 355 and subdivisions a and a-1 of section 6218 of the education law made by sections two and five of this act shall not affect the expiration of such provisions pursuant to section 4 of subpart B of part D of chapter 58 of the laws of 2011, as amended, and shall be deemed to expire therewith;

(b) the amendments to paragraph b of subdivision 16 of section 355 of the education law made by section three of this act shall not affect the expiration of such paragraph pursuant to section 3 of subpart C of part D of chapter 58 of the laws of 2011, as amended, and shall expire therewith;

(c) the amendments to subdivision 12 of section 373 of the education law made by section four of this act shall not affect the expiration of such subdivision pursuant to section 4 of subpart A of part D of chapter 58 of the laws of 2011, as amended, and shall expire therewith; and

(d) section 148 of the state finance law added by section seven of this act shall apply to contracts entered into on and after such date.

PART UU

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-two:

(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 twenty-five 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-three, 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-two, 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-one 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-three, 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 VV

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

36. (a) The department shall maintain a toll-free twenty-four hour defect-reporting hotline and shall develop and make available a website, or develop and make available a page on its website:

(i) providing an opportunity for website users to report defects on state highways and bridges, as well as any other arteries within the department's jurisdiction; and

(ii) providing a web mapping service application displaying the locations of the reported defects and any departmental actions responding to and remedying the reported defects. Mapping service applications shall include any additional information the department deems necessary.

(b) The website shall (i) make provision for each defect reporter to provide his or her name, as well as an electronic mail address or telephone number at which the reporter can be contacted by the department with updates on the defect reported, though anonymous reporting shall also be permitted;

(ii) track and preserve defects reported in list and map format; and

(iii) provide an option for reporting of region- and highway-wide defects as well as specific defects along more particularized locations, including, without limitation, mile markers.

(c) The listing and map shall be updated no less than once every five days to reflect any defects reported and repairs made. Defects and repairs reported shall be preserved for a minimum of three hundred sixty-five days from the time of reporting or repair.

(d) The department may collect and report such additional information and issues with respect to highway and bridge conditions and defects as it deems necessary.

(e) The department shall also enable persons to report defects located on the state thruway system on this interactive website and application, and is authorized and directed to coordinate with the thruway authority in creating or modifying the interactive website and application to share, or enable the thruway authority to receive, reports of defects in locations for which it is responsible no more than twenty-four hours after the defect is reported. The department is authorized to provide the thruway authority with joint access to maintain and monitor the

interactive website and application, and may enter into a cost-sharing arrangement with the authority.

(f) To the extent practicable, the department shall communicate defects reported to its interactive website and application on county roads and town highways to the local official responsible for such road or highway. The commissioner shall discuss any difficulties she or he encounters in implementing this paragraph during the joint legislative budget hearing convened pursuant to article VII of the state constitution and section thirty-one of the legislative law, beginning no later than the hearing to be scheduled in calendar year two thousand twenty.

(g) Nothing in this authorization shall preclude the department from permitting defects unrelated to the road and highway network from being reported to this website or application.

(h) Identifying information for the defect reporter shall be exempt from the provisions of section eighty-seven of the public officers law, and shall not be shared by the department or thruway authority or any entity with whom the department or authority contracts in implementing this legislation.

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

§ 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.