

STATE OF NEW YORK

S. 1508--A

A. 2008--A

SENATE - ASSEMBLY

January 18, 2019

IN SENATE -- 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

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

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 the public authorities law, in relation to authorizing the dormitory authority to provide services to the office of parks, recreation and historic preservation and the department of environmental conservation (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 making such provisions permanent (Part D); to amend the environmental conservation law, in relation to waste tire management and recycling fees (Part E); to amend the environmental conservation law, in relation to the definition of beverage containers; and to amend section 12 of part F of chapter 58 of the laws of 2013 amending the environmental conservation law and the state finance law relating to the "Cleaner, Greener NY Act of 2013", in relation to extending the effectiveness thereof (Part F); to amend the environmental conservation law, in relation to establishing authority to solicit funds or gifts and enter into public-private partnerships (Part G); to amend the environmental conservation law, in relation to prohibiting plastic carryout bags (Part H); to amend the environmental conservation law, the transportation corporations law and the navigation law, in relation to infrastructure and vessels associated with the production of oil or natural gas in federal waters (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 disclo-

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

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sure 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 operation of motor vehicles equipped with autonomous vehicle technology; and to repeal section 1226 of the vehicle and traffic law relating thereto (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); to amend vehicle and traffic law, in relation to locally authorized scooters and locally authorized motorcycles (Part P); to amend the business corporation law, the cooperative corporations law, the executive law, the general associations law, the general business law, the limited liability company law, the not-for-profit corporation law, the partnership law, the private housing finance law, the arts and cultural affairs law, the real property law and the tax law, in relation to streamlining the process by which service of process is served against a corporate or other entity with the secretary of state; and to repeal certain provisions of the real property law relating thereto (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); to amend the highway law and the transportation corporations law, in relation to fiber optic utilities (Part S); to amend the transportation law, the vehicle and traffic law and the penal law, in relation to motor carrier safety (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 state from utility assessment revenues; and providing for the repeal of such provisions upon expiration thereof (Part U); to amend the state finance law and the public authorities 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); to amend the energy law, the public service law, the public authorities law and the environmental conservation law, in relation to establishing the "climate leadership act" (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 devel-

opment 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, the public authorities law, and the penal 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); to amend the vehicle and traffic law and the public authorities law, in relation to establishing a congestion tolling program in the city of New York; and to amend the public officers law, in relation to confidentiality of certain public records (Part BB); to amend the vehicle and traffic law, in relation to photo speed violation monitoring systems in school speed zones in the city of New York; to amend chapter 43 of the laws of 2014, amending the vehicle and traffic law, the public officers law and the general municipal law relating to photo speed violation monitoring systems in school speed zones in the city of New York, in relation to the effectiveness thereof; and to amend chapter 189 of the laws of 2013, amending the vehicle and traffic law and the public officers law relating to establishing in a city with a population of one million or more a demonstration program implementing speed violation monitoring systems in school speed zones by means of photo devices, in relation to the effectiveness thereof (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 allowing the assignment, transfer, sharing or consolidating of powers, functions or activities of the metropolitan transportation authority (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 division of transportation inspectors as second degree assault (Part II); to amend the public authorities law, in relation to the operation of cashless tolling programs (Part JJ); to amend the public authorities law, in relation to authorizing the New York power author-

ity to provide energy-related projects, programs and services to any of its power customers, and to take actions necessary to develop electric vehicle charging stations (Part KK); to amend the public authorities law, in relation to the provision of renewable power and energy by the Power Authority of the State of New York (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); to amend the highway law, in relation to making a technical correction to authorization of an airport mass transit project at LaGuardia airport (Part OO); and to amend the business corporation law and the partnership law, in relation to the elimination of the biennial filing fee and five-year statement fee; and to repeal certain provisions of the business corporation law and the limited liability company law relating thereto (Part PP); to amend the public authorities law, in relation to agreements for fiber optics (Part QQ); and to amend the public authorities law, in relation to procurements by the New York city transit authority and metropolitan transportation authority; and to amend chapter 54 of the laws of 2016 amending the public authorities law relating to procurements by the New York city transit authority and metropolitan transportation authority, in relation to the effectiveness thereof (Part RR)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2019-2020
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through RR. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part,
7 including the effective date of the Part, which makes reference to a
8 section "of this act", when used in connection with that particular
9 component, shall be deemed to mean and refer to the corresponding
10 section of the Part in which it is found. Section three of this act sets
11 forth the general effective date of this act.

12 PART A

13 Section 1. Paragraph (b) of subdivision 6 of section 1699-f of the
14 public authorities law, as added by chapter 83 of the laws of 1995, is
15 amended to read as follows:

16 (b) The financing of any project initiated on or after the effective
17 date of this section, the entirety of which the agency would be author-
18 ized to undertake by the provisions of the medical care facilities
19 finance agency act prior to such effective date, shall be governed by
20 such act.

21 § 2. This act shall take effect immediately.

22 PART B

1 Section 1. Paragraph (b) of subdivision 2 of section 1676 of the
2 public authorities law is amended by adding two new undesignated para-
3 graphs to read as follows:

4 The office of parks, recreation and historic preservation.

5 The department of environmental conservation.

6 § 2. This act shall take effect immediately.

7 PART C

8 Section 1. Subdivision 25 of section 1678 of the public authorities
9 law is amended by adding two new paragraphs (e) and (f) to read as
10 follows:

11 (e) Notwithstanding any other provision of law to the contrary,
12 including but not limited to title five-A of article nine of this chap-
13 ter, the Atlantic Avenue Healthcare Property Holding Corporation is
14 hereby authorized and empowered to sell, exchange, lease, transfer and
15 convey certain real property located at 483-503 Herkimer Street,
16 1028-1038 Broadway, 528 Prospect Place and/or 1366 East New York Avenue,
17 all in Brooklyn, New York as directed by the commissioner of New York
18 state division of homes and community renewal, upon such terms and
19 conditions as such commissioner may fix and determine.

20 Such sale, exchange, lease, transfer and conveyance shall be consist-
21 ent with and made pursuant to a plan to increase access and quality of
22 health care services and preventative care and create affordable housing
23 approved by the commissioner of New York state division of homes and
24 community renewal, the commissioner of health and the director of the
25 division of the budget to transform the Central Brooklyn region. Such
26 plan may include, but shall not be limited to, initiatives intended to
27 increase access to open spaces and healthy food, transform health care
28 by increasing access and quality of health care services and preventa-
29 tive care, create affordable housing, create jobs, improve youth devel-
30 opment, and prevent community violence.

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

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

47 § 2. This act shall take effect immediately; provided, however, that
48 the amendments to subdivision 25 of section 1678 of the public authori-
49 ties law made by section one of this act shall survive the expiration
50 and reversion of such subdivision as provided by section 2 of chapter
51 584 of the laws of 2011, as amended.

52 PART D

1 Section 1. Paragraph (i) and the opening paragraph of paragraph (ii)
2 of subdivision (a) of section 2 of part F of chapter 60 of the laws of
3 2015, constituting the infrastructure investment act, as amended by
4 section 1 of part RRR of chapter 59 of the laws of 2017, are amended to
5 read as follows:

6 (i) "authorized state entity" shall mean the New York state thruway
7 authority, the department of transportation, the office of parks, recre-
8 ation and historic preservation, the department of environmental conser-
9 vation, the dormitory authority, the urban development corporation, the
10 office of general services, the department of health, the New York state
11 olympic regional development authority, state university of New York
12 construction fund, and the New York state bridge authority.

13 Notwithstanding the provisions of subdivision 26 of section 1678 of
14 the public authorities law, section 8 of the public buildings law,
15 sections 8 and 9 of section 1 of chapter 359 of the laws of 1968 as
16 amended, section 103 of the general municipal law, and the provisions of
17 any other law to the contrary, the term "authorized state entity" shall
18 also refer to only those agencies or authorities identified below solely
19 in connection with the following authorized projects, provided that such
20 an authorized state entity may utilize the alternative delivery method
21 referred to as design-build contracts solely in connection with the
22 following authorized projects should the total cost of each such project
23 not be less than [~~five~~] one million two hundred thousand dollars
24 [~~(\$5,000,000)~~] (\$1,200,000):

25 § 2. Subdivision (e) of section 2 of part F of chapter 60 of the laws
26 of 2015, constituting the infrastructure investment act, is amended to
27 read as follows:

28 (e) "design-build [~~contract~~]" shall mean a [~~contract~~] project delivery
29 method for the design and construction of a capital project with a
30 single entity, which may be a team comprised of separate entities.

31 § 3. Section 2 of part F of chapter 60 of the laws of 2015, constitut-
32 ing the infrastructure investment act is amended by adding three new
33 subdivisions (g), (h) and (i) to read as follows:

34 (g) "alternative project delivery contract" shall mean any project
35 delivery method, including but not limited to construction manager
36 build, construction manager at risk, and design-build, pursuant to which
37 one or more contracts for the provision of design or construction
38 services are awarded pursuant to an open and competitive method of
39 procurement.

40 (h) "construction manager at risk" shall mean a project delivery meth-
41 od whereby a construction manager (i) serves as part of a team in
42 conjunction with the owner in the design phase of the project; (ii)
43 during the construction phase, acts as general contractor for agreed
44 upon compensation as set forth in the construction manager at risk
45 agreement; and (iii) assumes the risk of construction costs exceeding an
46 amount specified in the construction manager at risk agreement.

47 (i) "construction manager build" shall mean a project delivery method
48 whereby a construction manager: (i) serves as part of a team in conjunc-
49 tion with the owner in the design phase of the project; (ii) under the
50 oversight of the owner acts as the single source of responsibility to
51 bid, select and hold construction contracts on behalf of the owner
52 during the construction phase; and (iii) manages the construction
53 project on behalf of the owner.

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

1 § 3. Notwithstanding the provisions of section 38 of the highway law,
2 section 136-a of the state finance law, [~~section~~ sections 359, 1678,
3 1680, 1680-a and 2879-a of the public authorities law, [~~section~~
4 sections 376, 407-a, 6281 and 7210 of the education law, sections 8 and
5 9 of the public buildings law, section 11 of chapter 795 of the laws of
6 1967, sections 8 and 9 of section 1 of chapter 359 of the laws of 1968
7 as amended, section 11 of section 1 of chapter 174 of the laws of 1968,
8 as amended, section 29 of chapter 337 of the laws of 1972, section 21 of
9 chapter 464 of the laws of 1972, section 103 of the general municipal
10 law, and the provisions of any other law to the contrary, and in
11 conformity with the requirements of this act, an authorized state entity
12 may utilize [~~the~~ project delivery [~~method referred to as~~
13 design-build] contracts, in consultation with relevant local labor
14 organizations and construction industry, for capital projects located in
15 the state and related to [~~the state's~~] physical infrastructure, includ-
16 ing, but not limited to, [~~the state's~~] buildings and appurtenant struc-
17 tures, highways, bridges, dams, flood control projects, canals, and
18 parks, including, but not limited to, to repair damage caused by natural
19 disaster, to correct health and safety defects, to comply with federal
20 and state laws, standards, and regulations, to extend the useful life of
21 or replace [~~the state's~~] buildings and appurtenant structures, highways,
22 bridges, dams, flood control projects, canals, and parks or to improve
23 or add to [~~the state's~~] buildings and appurtenant structures, highways,
24 bridges, dams, flood control projects, canals, and parks; provided that
25 for the contracts executed by the department of transportation, the
26 office of parks, recreation and historic preservation, or the department
27 of environmental conservation, the total cost of each such project shall
28 not be less than ten million dollars (\$10,000,000).

29 § 5. Section 4 of part F of chapter 60 of the laws of 2015, constitut-
30 ing the infrastructure investment act, as amended by section 4 of part
31 RRR of chapter 59 of the laws of 2017, is amended to read as follows:

32 § 4. An entity selected by an authorized state entity to enter into [~~a~~
33 design-build contract shall] an alternative project delivery contract
34 may be selected through a two-step method, as follows:

35 (a) Step one. Generation of a list of entities that have demonstrated
36 the general capability to perform the [~~design-build~~] alternative project
37 delivery contract. Such list shall consist of a specified number of
38 entities, as determined by an authorized state entity, and shall be
39 generated based upon the authorized state entity's review of responses
40 to a publicly advertised request for qualifications. The authorized
41 state entity's request for qualifications shall include a general
42 description of the project, the maximum number of entities to be
43 included on the list, the selection criteria to be used and the relative
44 weight of each criteria in generating the list. Such selection criteria
45 shall include the qualifications and experience of the [~~design and~~
46 construction team] entity or team of entities, organization, demon-
47 strated responsibility, ability of the [~~team~~] entity or team of entities
48 or of a member or members of the [~~team~~] entity or team of entities to
49 comply with applicable requirements, including the provisions of arti-
50 cles 145, 147 and 148 of the education law, past record of compliance
51 with the labor law, and such other qualifications the authorized state
52 entity deems appropriate which may include but are not limited to
53 project understanding, financial capability and record of past perform-
54 ance. The authorized state entity shall evaluate and rate all entities
55 responding to the request for qualifications. Based upon such ratings,
56 the authorized state entity shall list the entities that shall receive a

1 request for proposals in accordance with subdivision (b) of this
2 section. To the extent consistent with applicable federal law, the
3 authorized state entity shall consider, when awarding any contract
4 pursuant to this section, the participation of: (i) firms certified
5 pursuant to article 15-A of the executive law as minority or women-owned
6 businesses and the ability of other businesses under consideration to
7 work with minority and women-owned businesses so as to promote and
8 assist participation by such businesses; [~~and~~] (ii) small business
9 concerns identified pursuant to subdivision (b) of section 139-g of the
10 state finance law[~~+~~]; and (iii) firms certified pursuant to article 17-B
11 of the executive law as service-disabled veteran-owned businesses and
12 the ability of other businesses under consideration to work with
13 service-disabled veteran-owned businesses so as to promote and assist
14 participation by such businesses.

15 (b) Step two. Selection of the proposal which is the best value to the
16 authorized state entity. The authorized state entity shall issue a
17 request for proposals to the entities listed pursuant to subdivision (a)
18 of this section. If such an entity consists of a team of separate enti-
19 ties, the entities that comprise such a team must remain unchanged from
20 the entity as listed pursuant to subdivision (a) of this section unless
21 otherwise approved by the authorized state entity. The request for
22 proposals shall set forth the project's scope of work, and other
23 requirements, as determined by the authorized state entity. The request
24 for proposals shall specify the criteria to be used to evaluate the
25 responses and the relative weight of each such criteria. Such criteria
26 shall include the proposal's cost, the quality of the proposal's
27 solution, the qualifications and experience of the [~~design-build~~] enti-
28 ty, and other factors deemed pertinent by the authorized state entity,
29 which may include, but shall not be limited to, the proposal's project
30 implementation, ability to complete the work in a timely and satisfac-
31 tory manner, maintenance costs of the completed project, maintenance of
32 traffic approach, and community impact. Any contract awarded pursuant to
33 this act shall be awarded to a responsive and responsible entity that
34 submits the proposal, which, in consideration of these and other speci-
35 fied criteria deemed pertinent to the project, offers the best value to
36 the authorized state entity, as determined by the authorized state enti-
37 ty. The request for proposals shall include a statement that entities
38 shall designate in writing those portions of the proposal that contain
39 trade secrets or other proprietary information that are to remain confi-
40 dential; that the material designated as confidential shall be readily
41 separable from the entity's proposal. Nothing herein shall be construed
42 to prohibit the authorized entity from negotiating final contract terms
43 and conditions including cost. All proposals submitted shall be scored
44 according to the criteria listed in the request for proposals and such
45 final scores shall be published on the authorized state entity's
46 website.

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

49 § 7. If otherwise applicable, capital projects undertaken by the
50 authorized state entity pursuant to this act shall be subject to section
51 135 of the state finance law, section 101 of the general municipal law
52 and section 222 of the labor law; provided, however, that an authorized
53 entity may fulfill its obligations under section 135 of the state
54 finance law or section 101 of the general municipal law by requiring the
55 contractor to prepare separate specifications in accordance with section

1 135 of the state finance law or section 101 of the general municipal law
2 as the case may be.

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

5 § 8. Each contract entered into by the authorized state entity pursu-
6 ant to this section shall comply with the objectives and goals of minor-
7 ity and women-owned business enterprises pursuant to article 15-A of the
8 executive law and of service-disabled veteran-owned business enterprises
9 pursuant to article 17-B of the executive law or, for projects receiving
10 federal aid, shall comply with applicable federal requirements for
11 disadvantaged business enterprises.

12 § 8. Section 11 of part F of chapter 60 of the laws of 2015, consti-
13 tuting the infrastructure investment act, is amended to read as follows:

14 § 11. The submission of a proposal or responses or the execution of [~~a~~
15 ~~design-build~~] an alternative project delivery contract pursuant to this
16 act shall not be construed to be a violation of section 6512 of the
17 education law.

18 § 9. Section 13 of part F of chapter 60 of the laws of 2015, consti-
19 tuting the infrastructure investment act, as amended by section 11 of
20 part RRR of chapter 59 of the laws of 2017, is amended to read as
21 follows:

22 § 13. Alternative construction awarding processes. (a) Notwithstand-
23 ing the provisions of any other law to the contrary, the authorized
24 state entity may award [~~a construction~~] an alternative project delivery
25 contract:

26 1. To the [~~contractor~~] entity offering the best value; or

27 2. Utilizing a cost-plus not to exceed guaranteed maximum price form
28 of contract in which the authorized state entity shall be entitled to
29 monitor and audit all project costs. In establishing the schedule and
30 process for determining a guaranteed maximum price, the contract between
31 the authorized state entity and the contractor shall:

32 (i) describe the scope of the work and the cost of performing such
33 work;

34 (ii) include a detailed line item cost breakdown;

35 (iii) include a list of all drawings, specifications and other infor-
36 mation on which the guaranteed maximum price is based;

37 (iv) include the dates for substantial and final completion on which
38 the guaranteed maximum price is based; and

39 (v) include a schedule of unit prices; [~~or~~]

40 3. Utilizing a lump sum contract in which the [~~contractor~~] entity
41 agrees to accept a set dollar amount for a contract which comprises a
42 single bid without providing a cost breakdown for all costs such as for
43 equipment, labor, materials, as well as such [~~contractor's~~] entity's
44 profit for completing all items of work comprising the project[~~,-~~]; or

45 4. The contract may include a combination of elements of the contract
46 types listed in this section.

47 (a) The alternative delivery project may provide for professional
48 services on a fee-for-service basis.

49 (b) Capital projects undertaken by an authorized state entity may
50 include an incentive clause in the contract for various performance
51 objectives, but the incentive clause shall not include an incentive that
52 exceeds the quantifiable value of the benefit received by the authorized
53 state entity. [~~The~~] Notwithstanding the provisions of sections 136 and
54 137 of the state finance law, the authorized state entity shall [~~estab-~~
55 ~~lish~~] require such performance and payment bonds or other form of under-
56 taking as it deems necessary.

1 § 10. Part F of chapter 60 of the laws of 2015, constituting the
2 infrastructure investment act is amended by adding a new section 15-a to
3 read as follows:

4 15-a. Any contract awarded pursuant to this act shall be deemed to be
5 awarded pursuant to a competitive procurement for purposes of section
6 2879-a of the public authorities law.

7 § 11. Section 17 of part F of chapter 60 of the laws of 2015, consti-
8 tuting the infrastructure investment act, as amended by section 14 of
9 part RRR of chapter 59 of the laws of 2017, is amended to read as
10 follows:

11 § 17. This act shall take effect immediately [~~and shall expire and be~~
12 ~~deemed repealed 4 years after such date, provided that, projects with~~
13 ~~requests for qualifications issued prior to such repeal shall be permit-~~
14 ~~ted to continue under this act notwithstanding such repeal].~~

15 § 12. This act shall take effect immediately.

16 PART E

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

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

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

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

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

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

39 (a) recapped or resold tires;

40 (b) mail-order sales; or

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

44 2. [~~Until December thirty-first, two thousand nineteen, the~~] The tire
45 service shall collect the waste tire management and recycling fee from
46 the purchaser at the time of the sale and shall remit such fee to the
47 department of taxation and finance with the quarterly report filed
48 pursuant to subdivision three of this section.

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

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

53 3. [~~Until March thirty-first, two thousand twenty, each~~] Each tire
54 service maintaining a place of business in this state shall make a

1 return to the department of taxation and finance on a quarterly basis,
2 with the return for December, January, and February being due on or
3 before the immediately following March thirty-first; the return for
4 March, April, and May being due on or before the immediately following
5 June thirtieth; the return for June, July, and August being due on or
6 before the immediately following September thirtieth; and the return for
7 September, October, and November being due on or before the immediately
8 following December thirty-first.

9 (a) Each return shall include:

10 (i) the name of the tire service;

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

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

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

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

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

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

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

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

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

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

46 (c) administration and enforcement of the requirements of this arti-
47 cle, exclusive of titles thirteen and fourteen~~+~~; and

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

50 § 4. This act shall take effect immediately.

51

PART F

52 Section 1. Subdivisions 1, 2-a and 5-a of section 27-1003 of the envi-
53 ronmental conservation law, subdivision 1 as amended by section 2 of
54 part SS of chapter 59 of the laws of 2009, subdivision 2-a as amended by

1 section 2 of part F of chapter 58 of the laws of 2013, and subdivision
2 5-a as added by section 3 of part SS of chapter 59 of the laws of 2009,
3 are amended to read as follows:

4 1. "Beverage" means [~~carbonated soft drinks, water, beer, other malt~~
5 ~~beverages and a wine product as defined in subdivision thirty-six-a of~~
6 ~~section three of the alcoholic beverage control law. "Malt beverages"~~
7 ~~means any beverage obtained by the alcoholic fermentation or infusion or~~
8 ~~decoction of barley, malt, hops, or other wholesome grain or cereal and~~
9 ~~water including, but not limited to ale, stout or malt liquor. "Water"~~
10 ~~means any beverage identified through the use of letters, words or~~
11 ~~symbols on its product label as a type of water, including any flavored~~
12 ~~water or nutritionally enhanced water, provided, however, that "water"~~
13 ~~does not include any beverage identified as a type of water to which a~~
14 ~~sugar has been added]~~ all carbonated and noncarbonated drinks in liquid
15 form and intended for internal human consumption.

16 The term "beverage" shall not include:

17 a. milk and dairy derived products. "Milk" means whole milk, skim
18 milk, low-fat milk, cream, cultured milk, yogurt or any combination of
19 those products. The term "dairy derived products" includes any product
20 of which more than fifty percent of the ingredients are milk, milk fat,
21 cultured milk or yogurt;

22 b. rice milk, soy milk, nut milk or other milk substitute;

23 c. infant formula;

24 d. a liquid that is a syrup, in a concentrated form, or typically
25 added at less than five percent as a minor flavoring ingredient in food
26 or drink, such as extracts, cooking additives, sauces or condiments;

27 e. a liquid that is a medical prescription or over-the-counter drug
28 regulated by the United States Food and Drug Administration and consumed
29 for medicinal purposes only;

30 f. a liquid that is (i) regulated as a dietary supplement by the
31 United States Food and Drug Administration except one that is designed,
32 marketed and/or intended to be consumed as a beverage such as a sports
33 or hydration drink, or (ii) designed, marketed and/or intended to be
34 consumed as a meal or meal substitute as part of a weight loss program,
35 such as a diet shake;

36 g. products that are traditionally frozen at the time of sale;

37 h. products designed to be consumed in a frozen state;

38 i. instant drink powders;

39 j. seafood, meat or vegetable broths, or soups; and

40 k. alcoholic beverages other than: beer, malt beverages, and a wine
41 product as that term is defined in section three of the alcoholic bever-
42 age control law. "Malt beverages" means any beverage obtained by the
43 alcoholic fermentation or infusion or decoction of barley, malt, hops,
44 or other wholesome grain or cereal and water including, but not limited
45 to ale, stout or malt liquor.

46 2-a. "[~~Bottler~~] Beverage manufacturer" means a person, firm or corpo-
47 ration who:

48 a. bottles, cans or otherwise packages beverages in beverage contain-
49 ers [~~except that if~~]. If such packaging is for any other person, firm or
50 corporation having the right to bottle, can or otherwise package the
51 same brand of beverage, then such other person, firm or corporation
52 shall be considered to be the [~~bottler~~] beverage manufacturer for the
53 purposes of this title; or

54 b. imports filled beverage containers into the United States.

55 5-a. A "deposit initiator" for each beverage container for which a
56 refund value is established under section 27-1005 of this title means

1 the first person to charge a deposit on a filled beverage container. For
2 the purposes of charging such deposit the deposit initiator may be:

3 a. the [~~bottler of the beverage in such container~~] beverage manufac-
4 turer;

5 b. the distributor of such container if such distributor's purchase of
6 such container was not, directly or indirectly, from a registered depos-
7 it initiator;

8 c. [~~a dealer of such container who sells or offers for sale such~~
9 ~~container in this state, whose purchase of such container was not,~~
10 ~~directly or indirectly, from a registered deposit initiator~~] the brand
11 owner of a beverage; or

12 d. [~~an agent acting on behalf of a registered deposit initiator~~] any
13 other person as determined in rules or regulations promulgated by the
14 department.

15 § 2. The environmental conservation law is amended by adding a new
16 section 27-1004 to read as follows:

17 § 27-1004. Deposit initiators.

18 1. a. For a beverage container manufactured in the United States, the
19 deposit on each filled beverage container must be initiated by the
20 beverage manufacturer, except as otherwise provided in this section.

21 b. The first distributor of a beverage may choose to initiate the
22 deposit if all of the following apply:

23 (i) the manufacturer does not sell, offer for sale, or distribute such
24 beverage to any person in the state or to any other person that distrib-
25 utes such beverage into the state;

26 (ii) the first distributor has a geographically exclusive distributor-
27 ship for the sale of such beverage; and

28 (iii) the manufacturer and the first distributor have a written agree-
29 ment detailing the specific geographic areas in the state of such exclu-
30 sive distributorship.

31 c. The person, firm or corporation who bottles, cans or otherwise
32 packages beverages in beverage containers may initiate the deposit for a
33 brand owner for whose exclusive account beverage containers bearing the
34 brand name or trademark are bottled, canned or packaged if the person,
35 firm or corporation is the exclusive bottler and there is a written
36 agreement establishing who is responsible for the pick-up and redemption
37 of empty containers.

38 2. For a beverage manufactured outside the United States, the deposit
39 on each filled beverage container must be initiated by the person, firm,
40 or corporation who imports filled beverage containers into the United
41 States.

42 3. Except as provided by this section, or as provided in rules or
43 regulations promulgated by the department, no other person may initiate
44 a deposit on a beverage container sold in New York state.

45 4. For the purposes of this title, there shall be only one deposit
46 initiator for the same type of beverage container who is responsible for
47 the proper initiation of deposits on such beverage containers; the
48 collection of empty beverage containers; and the payment of all refund
49 values and handling fees on those containers for each geographic sales
50 area in New York state.

51 5. a. A deposit initiator shall initiate deposits on filled beverage
52 containers sold to any other person outside of this state who intends to
53 sell such beverage containers for use or consumption in this state, and
54 any such sales into the state by any such other person must be accurate-
55 ly reported to the original deposit initiator in writing.

1 b. A registered deposit initiator that sells beverage containers to
2 purchasers at locations outside of the state without initiating a depos-
3 it shall inform the purchaser in writing that such filled beverage
4 containers cannot be sold in New York state without a deposit being
5 initiated by the appropriate deposit initiator.

6 6. A deposit initiator may contract in writing with an agent to act on
7 behalf of the deposit initiator to pick up, process, or administer
8 payments of deposits and handling fees on empty beverage containers
9 accepted from redemption centers and dealers on behalf of the deposit
10 initiator. As used in this title, the term "deposit initiator" shall
11 also include the agent of the deposit initiator when referring to a
12 deposit initiator's pickup and redemption requirements. An agent of a
13 deposit initiator shall comply with all of the deposit initiator's pick-
14 up and redemption requirements, unless otherwise specified in their
15 written agreement with the deposit initiator.

16 § 3. Paragraph (a) of subdivision 1, subdivisions 3, 5, 7, 8, 9, 10,
17 11 and 12 of section 27-1007 of the environmental conservation law,
18 paragraph (a) of subdivision 1, subdivisions 3, 5, 7, 8, 9, 10 and 11 as
19 added by section 4 of part SS of chapter 59 of the laws of 2009, and
20 subdivision 12 as added by section 3 of part F of chapter 58 of the laws
21 of 2013, are amended and two new subdivisions 13 and 14 are added to
22 read as follows:

23 (a) A dealer shall accept at his or her place of business from a
24 redeemer any empty beverage containers of the design, shape, size,
25 color, composition and brand sold or offered for sale by the dealer, and
26 shall pay to the redeemer the refund value of each such beverage
27 container as established in section 27-1005 of this title. Redemptions
28 of refund value must be in legal tender, or a scrip or receipt from a
29 reverse vending machine, provided that the scrip or receipt can be
30 exchanged for legal tender for a period of not less than sixty days
31 without requiring the purchase of other goods. If the scrip or receipt
32 from a reverse vending machine expires, the expiration date must be
33 indicated on such scrip or receipt, or the dealer must post a conspicu-
34 ous sign indicating how many days a redeemer has to exchange the scrip
35 or receipt for legal tender. If notification of an expiration is not
36 provided, a dealer must redeem the full refund value indicated on any
37 legible scrip or receipt. The use or presence of a reverse vending
38 machine shall not relieve a dealer of any obligations imposed pursuant
39 to this section. If a dealer utilizes a reverse vending machine to
40 redeem containers, the dealer shall provide redemption of beverage
41 containers when the reverse vending machine is full, broken, under
42 repair or does not accept a type of beverage container sold or offered
43 for sale by such dealer and may not limit the hours or days of redemp-
44 tion except as provided by subdivision three of this section.

45 3. [~~On or after June first, two thousand nine, a~~] A dealer whose
46 primary business is the sale of food or beverages for consumption off-
47 premises and whose place of business is less than ten thousand square
48 feet in size may limit the number of empty beverage containers to be
49 accepted for redemption at the dealer's place of business to no less
50 than seventy-two containers per visit, per redeemer, per day[~~, provided~~
51 ~~that:~~

52 ~~(a) The dealer has a written agreement with a redemption center, be it~~
53 ~~either at a fixed physical location within the same county and within~~
54 ~~one-half mile of the dealer's place of business, or a mobile redemption~~
55 ~~center, operated by a redemption center, that is located within one-~~
56 ~~quarter mile of the dealer's place of business. The redemption center~~

1 ~~must have a written agreement with the dealer to accept containers on~~
2 ~~behalf of the dealer, and the redemption center's hours of operation~~
3 ~~must cover at least 9:00 a.m. through 7:00 p.m. daily or in the case of~~
4 ~~a mobile redemption center, the hours of operation must cover at least~~
5 ~~four consecutive hours between 8:00 a.m. and 8:00 p.m. daily. The dealer~~
6 ~~must post a conspicuous, permanent sign, meeting the size and color~~
7 ~~specifications set forth in subdivision two of this section, open to~~
8 ~~public view, identifying the location and hours of operation of the~~
9 ~~affiliated redemption center or mobile redemption center; and~~

10 ~~(b) The dealer provides, at a minimum, a consecutive two hour period~~
11 ~~between 7:00 a.m. and 7:00 p.m. daily whereby the dealer will accept up~~
12 ~~to two hundred forty containers, per redeemer, per day, and posts a~~
13 ~~conspicuous, permanent sign, meeting the size and color specifications~~
14 ~~set forth in subdivision two of this section, open to public view, iden-~~
15 ~~tifying those hours. The dealer may not change the hours of redemption~~
16 ~~without first posting a thirty day notice; and~~

17 ~~(c) The dealer's primary business is the sale of food or beverages for~~
18 ~~consumption off-premises, and the dealer's place of business is less~~
19 ~~than ten thousand square feet in size].~~

20 5. [A] The failure of a deposit [initiator's] initiator, a deposit
21 initiator's agent, or [distributor's failure] a distributor to pick up
22 empty beverage containers[~~, including containers processed in a reverse~~
23 ~~vending machine,~~] from a redemption center, dealer or the operator of a
24 reverse vending machine, shall be a violation of this title.

25 7. A deposit initiator [~~on a brand~~] who initiates a deposit on a
26 beverage container shall accept from [a] any other deposit initiator or
27 distributor who [~~does~~] did not initiate [~~deposits~~] a deposit on that
28 [~~brand any empty~~] beverage [~~containers of that brand~~] any empty beverage
29 container accepted by the other deposit initiator or distributor from a
30 dealer or operator of a redemption center and shall reimburse the other
31 deposit initiator or distributor the refund value of each such beverage
32 container, as established by section 27-1005 of this title. In addition,
33 the deposit initiator shall reimburse such other deposit initiator or
34 distributor for each such beverage container the handling fee estab-
35 lished under subdivision six of this section that was paid by the
36 redeeming distributor or deposit initiator. Without limiting the rights
37 of the department or any person, firm or corporation under this subdivi-
38 sion or any other provision of this [~~section~~] title, a distributor shall
39 have a civil right of action to enforce this subdivision, including,
40 upon three days notice, the right to apply for temporary and preliminary
41 injunctive relief against continuing violations, and until arrangements
42 for collection and return of empty containers or reimbursement of [~~such~~]
43 the redeeming distributor for such deposits and handling fees are made.

44 8. It shall be the responsibility of the deposit initiator or distrib-
45 utor to provide to a dealer or redemption center a sufficient number of
46 bags, cartons, or other suitable containers, at no cost, for the packag-
47 ing, handling and pickup of empty beverage containers that are not
48 redeemed through a reverse vending machine. The bags, cartons, or
49 containers must be provided by the deposit initiator or distributor on a
50 schedule that allows the dealer or redemption center sufficient time to
51 sort the empty beverage containers prior to pick up by the deposit
52 initiator or distributor. In addition:

53 (a) When picking up empty beverage containers, a deposit initiator or
54 distributor shall not require a dealer or redemption center to load
55 their own bags, cartons or containers onto or into the deposit initi-
56 ator's or distributor's vehicle or vehicles or provide the staff or

1 equipment needed to do so. However, where pallets or skids, bags,
2 cartons or containers are readily movable only by means of a forklift or
3 similar equipment, a deposit initiator or distributor may require a
4 dealer or redemption center to move or load such items at no cost using
5 a forklift or similar equipment belonging to the dealer or redemption
6 center.

7 (b) For empty containers not processed through a reverse vending
8 machine, a dealer or redemption center may provide to a deposit initi-
9 ator or a distributor a signed, written statement attesting to the count
10 of the number of containers tendered for redemption. If such statement
11 is provided, the deposit initiator or distributor shall pay the redemp-
12 tion center or dealer all applicable refunds and handling fees for the
13 containers as indicated on such statement, unless discrepancies discov-
14 ered during the course of an audit are documented by the deposit initi-
15 ator or distributor and the reasons for the discrepancies are provided
16 in writing to the redemption center or dealer. A deposit initiator or
17 distributor [~~shall not~~] may require a redemption center or dealer's
18 count of empty containers to be [~~counted~~] audited at a location other
19 than the redemption center or dealer's place of business, if the redemp-
20 tion center or dealer refuses to allow an audit to be conducted at the
21 redemption center or dealer's place of business, if there is insuffi-
22 cient space to conduct an audit, or if an audit cannot be completed in a
23 safe, secure location protected from weather conditions. The dealer or
24 redemption center shall have the right to be present at [~~the count~~] an
25 audit conducted at a location other than the redemption center or deal-
26 er's place of business.

27 (c) A deposit initiator or distributor shall pick up empty beverage
28 containers from the dealer or redemption center at reasonable times and
29 intervals as determined in rules or regulations promulgated by the
30 department.

31 9. No person shall return or assist another to return to a dealer or
32 redemption center an empty beverage container for its refund value if
33 such container had previously been accepted for redemption by a dealer,
34 redemption center, [~~or~~] distributor, a deposit initiator who initiates
35 deposits on beverage containers of the same brand, or an agent of a
36 deposit initiator, or if such empty container was previously accepted by
37 a reverse vending machine.

38 10. A redeemer, dealer, distributor, deposit initiator or redemption
39 center shall not knowingly redeem an empty beverage container that was
40 not sold as a filled container in the state and on which a deposit was
41 never paid in New York state, and shall only pay deposits on the actual
42 number of empty beverage containers tendered and accepted for
43 redemption.

44 11. [~~Notwithstanding the provisions of subdivision two of section~~
45 ~~27-1009 of this title, a deposit initiator or distributor shall accept~~
46 ~~and redeem beverage containers as provided in this title, if the dealer~~
47 ~~or operator of a redemption center shall have accepted and paid the~~
48 ~~refund value of such beverage containers.] Once the refund value of an
49 empty beverage container has been paid by a deposit initiator who initi-
50 ates deposits on that type of beverage container, no person may knowingly
51 accept that empty beverage container from, or give or sell it to, any
52 person for the purpose of obtaining the refund value from any person.~~

53 12. No person shall [~~intentionally~~] program, tamper with, render inac-
54 curate, or circumvent the proper operation of a reverse vending machine
55 [~~to wrongfully elicit deposit monies when no valid, redeemable beverage~~

1 ~~container has been placed in and properly processed by the reverse vend-~~
2 ~~ing machine~~].

3 13. No person shall transport empty beverage containers from out of
4 state into New York state for the purpose of tendering such beverage
5 containers for redemption.

6 14. a. Reverse vending machines shall be designed to prevent the frau-
7 dulent redemption of containers by utilizing the best available technol-
8 ogy and provide an accurate report containing the following information:

9 (i) the number of containers placed in the reverse vending machine
10 over a predetermined time period;

11 (ii) the product name of each beverage container placed in the reverse
12 vending machine; and

13 (iii) the material type and size of each beverage container placed in
14 the reverse vending machine.

15 b. All reverse vending machines shall be audited by an independent
16 third-party auditor at least twice per year, but not within any four
17 consecutive months.

18 c. A reverse vending machine, any report provided from such machine,
19 and any audit of a reverse vending machine, are subject to inspection
20 and audit by the department. The department of taxation and finance is
21 authorized to audit any report from a reverse vending machine.

22 § 4. Section 27-1009 of the environmental conservation law, as amended
23 by section 4 of part F of chapter 58 of the laws of 2013, is amended to
24 read as follows:

25 § 27-1009. Refusal of acceptance.

26 1. A dealer or operator of a redemption center [~~may~~] shall refuse to
27 accept from a redeemer, and a deposit initiator or distributor [~~may~~]
28 shall refuse to accept from a dealer or operator of a redemption center
29 any empty beverage container which does not state thereon a refund value
30 as established by section 27-1005 and provided by section 27-1011 of
31 this title.

32 2. A dealer [~~or~~], operator of a redemption center, distributor, or
33 deposit initiator may also refuse to accept any broken bottle, any
34 corroded, crushed or dismembered container, or any beverage container
35 which [~~contains a significant amount of foreign material~~] is otherwise
36 altered so that it is rendered unredeemable, as determined in rules and
37 regulations to be promulgated by the commissioner. Such refusal must
38 occur at the time the beverage container is tendered for redemption.
39 Notwithstanding the foregoing, containers processed through a reverse
40 vending machine authorized by a distributor or deposit initiator, as
41 documented through reverse vending machine reconciliation statements or
42 other reasonable documentation, shall be accepted by a distributor or
43 deposit initiator.

44 § 5. Paragraph b of subdivision 1 of section 27-1011 of the environ-
45 mental conservation law, as amended by section 5 of part F of chapter 58
46 of the laws of 2013, is amended and a new subdivision 4 is added to read
47 as follows:

48 b. Such embossing or permanent imprinting on the beverage container
49 shall be the responsibility of the person, firm or corporation which
50 bottles, cans or otherwise fills or packages a beverage container or a
51 brand owner for whose exclusive account private label beverages are
52 bottled, canned or otherwise packaged; provided, however, that the duly
53 authorized agent of any such person, firm or corporation may indicate
54 such refund value by a label securely affixed on any beverage container
55 containing beverages imported into the United States. Private label
56 beverages shall be defined as beverages [~~purchased from a bottler~~] in

1 beverage containers bearing a brand name or trademark for sale [~~at~~
2 ~~retail~~] or distribution, directly by the owner or licensee of such brand
3 name or trademark; or through [~~retail~~] dealers affiliated with such
4 owner or licensee by a cooperative [~~or~~], franchise, or other agreement.

5 4. No person shall sell in this state a drink container that indicates
6 a New York state refund value if the container is not a "beverage
7 container," as that term is defined by section 27-1003 of this title.

8 § 6. Subdivision 1, paragraphs a and b of subdivision 4, subdivisions
9 8 and 12 of section 27-1012 of the environmental conservation law,
10 subdivision 1, paragraphs a and b of subdivision 4 and subdivision 8 as
11 added by section 8 of part SS of chapter 59 of the laws of 2009, and
12 subdivision 12 as amended by section 6 of part F of chapter 58 of the
13 laws of 2013, are amended to read as follows:

14 1. Each deposit initiator shall deposit in a refund value account an
15 amount equal to the refund value initiated under section 27-1005 of this
16 title which is received with respect to each beverage container sold by
17 such deposit initiator. Such deposit initiator shall hold the amounts in
18 the refund value account in trust for the state. A refund value account
19 shall be an interest-bearing account established in a banking institu-
20 tion located in this state, the deposits in which are insured by an
21 agency of the federal government. Deposits of such amounts into the
22 refund value account shall be made not less frequently than every [~~five~~]
23 thirty business days. All interest, dividends and returns earned on the
24 refund value account shall be paid directly into said account. The
25 monies in such accounts shall be kept separate and apart from all other
26 monies in the possession of the deposit initiator. The commissioner of
27 taxation and finance may specify a system of accounts and records to be
28 maintained with respect to accounts established under this subdivision.

29 a. Quarterly payments. An amount equal to eighty percent of the
30 balance outstanding in the refund value account at the close of each
31 quarter shall be paid to the commissioner of taxation and finance at the
32 time the report provided for in subdivision three of this section is
33 required to be filed. However, a deposit initiator who initiates depos-
34 its on beverage containers with a universal product code and label
35 design that is unique to this state, or used only in this state and any
36 other states that have a law substantially similar to this title, shall
37 be entitled to pay an amount equal to only sixty percent of the balance
38 outstanding in the refund value account attributable to such beverage
39 containers at the close of each quarter to the commissioner of taxation
40 and finance at the time the report provided for in subdivision three of
41 this section is required to be filed. The commissioner of taxation and
42 finance may require that the payments be made electronically. The
43 remaining twenty percent of the balance outstanding at the close of each
44 quarter shall be the monies of the deposit initiator and may be with-
45 drawn from such account by the deposit initiator. If the provisions of
46 this section with respect to such account have not been fully complied
47 with, each deposit initiator shall pay to such commissioner at such
48 time, in lieu of the amount described in the preceding sentence, an
49 amount equal to the balance which would have been outstanding on such
50 date had such provisions been fully complied with. The commissioner of
51 taxation and finance may require that the payments be made electron-
52 ically.

53 b. Refund value account shortfall. In the event a deposit initiator
54 pays out more in refund values than it collects in deposits of refund
55 values during the course of a quarterly period as described in subdivi-
56 sion three of this section, the deposit initiator may apply to the

1 commissioner of taxation and finance for a refund of the amount of such
2 excess payment of refund values from sources other than the refund value
3 account, in the manner as provided by the commissioner of taxation and
4 finance. A deposit initiator must apply for a refund no later than
5 twelve months after the due date for filing the quarterly report for the
6 quarterly period for which the refund claim is made. No interest shall
7 be payable for any refund paid pursuant to this paragraph. However, a
8 deposit initiator who initiates deposits on beverage containers that do
9 not have a universal product code and label design that is unique to
10 this state or used only in this state and any other states that have a
11 law substantially similar to this title shall not be entitled to a
12 refund pursuant to this subdivision.

13 8. The commissioner of taxation and finance may require the mainte-
14 nance of such accounts, records or documents relating to the sale of
15 beverage containers, by any deposit initiator, [~~bottler~~] beverage
16 manufacturer, distributor, dealer or redemption center as such commis-
17 sioner may deem appropriate for the administration of this section. Such
18 commissioner may make examinations, including the conduct of facility
19 inspections during regular business hours, with respect to the accounts,
20 records or documents required to be maintained under this subdivision.
21 Such accounts, records and documents shall be preserved for a period of
22 three years, except that such commissioner may consent to their
23 destruction within that period or may require that they be kept longer.
24 Such accounts, records and documents may be kept within the meaning of
25 this subdivision when reproduced by any photographic, photostatic,
26 microfilm, micro-card, miniature photographic or other process which
27 actually reproduces the original accounts, records or documents.

28 12. a. Each deposit initiator shall provide a report to the department
29 describing all the types of beverage containers on which it initiates
30 deposits. The report shall include the product name, type of beverage,
31 size and composition of the beverage container, universal product code,
32 the ways in which the deposit initiator attempts to prevent the fraudu-
33 lent sale and redemption of brands of beverage containers it sells, and
34 any other information the department may require. Upon request, a depos-
35 it initiator shall also provide to the department a copy of the contain-
36 er label or a picture of any beverage container sold or offered for sale
37 in this state on which it initiates a deposit. Such information shall be
38 provided in a form as prescribed by the department. The department may
39 require that such forms be filed electronically.

40 b. A [~~bottler~~] beverage manufacturer may place on a beverage container
41 a universal product code or other distinctive marking that is specific
42 to the state or used only in the state and any other states with laws
43 substantially similar to this title as a means of preventing the sale or
44 redemption of beverage containers on which no deposit was initiated.

45 c. A [~~bottler~~] beverage manufacturer or deposit initiator shall notify
46 the department, in a form prescribed by the department, whenever a
47 beverage container or beverage container label is revised by altering
48 the universal product code, or whenever the container on which a
49 universal product code appears is changed in size, composition or glass
50 color, or whenever the container or container label on which a universal
51 product code appears is changed to include a universal product code that
52 is unique to the state or used only in the state and any other states
53 with laws substantially similar to this title.

54 d. The department may require the maintenance of such accounts,
55 records or documents relating to the sale and redemption of beverage
56 containers, by any deposit initiator, beverage manufacturer, distribu-

1 tor, dealer or redemption center as the department may deem appropriate
2 for the administration of this title. The department may make examina-
3 tions, including conducting facility inspections during regular busi-
4 ness hours, with respect to the accounts, records or documents required
5 to be maintained under this subdivision. Such accounts, records and
6 documents shall be preserved for a period of three years, except that
7 the department may consent to their destruction within that period or
8 may require that they be kept longer. Such accounts, records and docu-
9 ments may be kept within the meaning of this subdivision when reproduced
10 by any photographic, photostatic, microfilm, micro-card, miniature
11 photographic or other process which actually reproduces the original
12 accounts, records or documents.

13 § 7. Section 27-1014 of the environmental conservation law, as amended
14 by section 10 of part SS of chapter 59 of the laws of 2009, is amended
15 to read as follows:

16 § 27-1014. Authority to promulgate rules and regulations.

17 In addition to the authority of the commissioner, under sections
18 27-1007, 27-1009, 27-1011, 27-1012, and 27-1013 of this title, the
19 commissioner shall have the power to promulgate rules and regulations
20 necessary and appropriate for the administration of this title and to
21 prevent the fraudulent sale, labeling and redemption of beverage
22 containers in New York state.

23 § 8. Section 27-1015 of the environmental conservation law, as amended
24 by section 8 of part F of chapter 58 of the laws of 2013 and subdivision
25 5-a as added by section 9 of part F of chapter 58 of the laws of 2013,
26 is amended to read as follows:

27 § 27-1015. Violations.

28 1. Civil and administrative sanctions. a. Except as otherwise provided
29 in this section and section 27-1012 of this title, any person who [~~shall~~
30 ~~violate~~] violates any [provision] of the provisions of, or fails to
31 perform a duty imposed by this title, or any rule or regulation promul-
32 gated pursuant thereto, or any term or condition of any registration or
33 permit issued pursuant thereto, or any final determination or order of
34 the commissioner made pursuant to this title shall be liable [~~to the~~
35 ~~state of New York~~] for a civil penalty of not more than five hundred
36 dollars for each violation, and an additional civil penalty of not more
37 than five hundred dollars for each day during which each such violation
38 continues. Any civil penalty may be assessed by the commissioner follow-
39 ing a hearing or opportunity to be heard or by the court in any action
40 or proceeding pursuant to section 71-2727 of this chapter. In addition,
41 such person may by similar process be enjoined from continuing such
42 violation and any permit or registration issued to such person may be
43 revoked or suspended or a pending renewal application denied.

44 [~~2-~~] b. [Any] In addition to any penalties imposed by the department
45 of taxation and finance as provided in section 27-1012 of this title,
46 any distributor, deposit initiator, redemption center or dealer who
47 violates any provision of this title, [~~except as provided in section~~
48 ~~27-1012 of this title,~~] or fails to perform a duty imposed by this
49 title, or any rule or regulation promulgated pursuant thereto, or any
50 term or condition of any registration or permit issued pursuant thereto,
51 or any final determination or order of the commissioner made pursuant to
52 this title shall be liable [~~to the state of New York~~] for a civil penal-
53 ty of not more than one thousand dollars for each violation, and an
54 additional civil penalty of not more than one thousand dollars for each
55 day during which each such violation continues. Any civil penalty may be
56 assessed following a hearing or opportunity to be heard, or by the court

1 in any action or proceeding pursuant to section 71-2727 of this chapter.
2 In addition, such deposit initiator or distributor may by similar proc-
3 ess be enjoined from continuing such violation and any permit or regis-
4 tration issued to such person may be revoked or suspended or a pending
5 renewal application denied.

6 2. Criminal sanctions. a. Any person who, having any of the culpable
7 mental states defined in section 15.05 of the penal law, violates any
8 provision of or who fails to perform any duty imposed by this title, or
9 any rule or regulation promulgated pursuant thereto, or any final deter-
10 mination or order of the commissioner made pursuant to this title shall
11 be guilty of a violation and, upon conviction, shall be punished by a
12 fine of not more than five hundred dollars for each violation; each day
13 on which such violation occurs shall constitute a separate violation;
14 and for each such violation the person shall be subject, upon
15 conviction, to imprisonment for not more than fifteen days or to a fine
16 of not more than five hundred dollars, or to both imprisonment and fine.

17 b. In addition to any penalties imposed by the department of taxation
18 and finance as provided in section 27-1012 of this title, any distribu-
19 tor or deposit initiator who, having any of the culpable mental states
20 defined in section 15.05 of the penal law, violates any provision of or
21 who fails to perform any duty imposed by this title, or any rule or
22 regulation promulgated pursuant thereto, or any final determination or
23 order of the commissioner made pursuant to this title shall be guilty of
24 a violation and, upon conviction, shall be punished by a fine of not
25 more than one thousand dollars for each violation; each day on which
26 such violation occurs shall constitute a separate violation; and for
27 each such violation the person shall be subject, upon conviction, to
28 imprisonment for not more than fifteen days or to a fine of not more
29 than one thousand dollars, or to both such imprisonment and such fine.

30 [3-] c. It shall be unlawful for [~~a distributor or deposit initiator~~]
31 any person, acting alone or aided by another, to return any empty bever-
32 age container to a dealer [~~or~~], redemption center, distributor or depos-
33 it initiator for its refund value if [~~the~~] a distributor or deposit
34 initiator had previously accepted such beverage container from any deal-
35 er or operator of a redemption center or if such container was previous-
36 ly accepted by a reverse vending machine. A violation of this [~~subdivi-~~
37 sion] paragraph shall be a misdemeanor punishable by a fine of not less
38 than five hundred dollars nor more than one thousand dollars and an
39 amount equal to two times the amount of money received as a result of
40 such violation, or imprisonment for not more than one year, or to both
41 such imprisonment and such fines.

42 d. In addition to any other penalty provided by this title, any person
43 who violates subdivision twelve of section 27-1007 of this title, or any
44 rule or regulation promulgated pursuant thereto, or any final determi-
45 nation or order of the commissioner made pursuant to this title shall be
46 guilty of a misdemeanor and, upon conviction, shall be punished by a
47 fine of not more than one thousand dollars per day of violation, or by
48 imprisonment for not more than one year, or by both such fine and impri-
49 sonment.

50 e. In addition to any other penalty provided by this title, any deal-
51 er, distributor or deposit initiator, who knowingly or intentionally
52 violates any provision of or who fails to perform any duty imposed by
53 section 27-1005 or 27-1012 of this title, or any rule or regulation
54 promulgated pursuant thereto, or any final determination or order of the
55 commissioner made pursuant to this title shall be guilty of a misdemea-
56 nor and, upon conviction, shall be punished by a fine of not more than

1 one thousand dollars per day of violation, or by imprisonment for not
2 more than one year, or by both such fine and imprisonment.

3 3. Any product sold or distributed in the state that is not in compli-
4 ance with the deposit initiator registration or the labeling require-
5 ments established in this title may be removed from sale by the depart-
6 ment and the attorney general.

7 4. Any person who [~~willfully~~] tenders to a dealer, distributor,
8 redemption center or deposit initiator more than forty-eight empty
9 beverage containers for which such person knows or should reasonably
10 know that no deposit was paid in New York state may be assessed [~~by the~~
11 ~~department~~] a civil penalty of up to one hundred dollars for each
12 container or up to twenty-five thousand dollars for each such tender of
13 containers. At each location where a person tenders containers for
14 redemption, dealers and redemption centers must conspicuously display a
15 sign in letters that are at least one inch in height with the following
16 information: "WARNING: Persons tendering for redemption containers on
17 which a deposit was never paid in this state may be subject to a civil
18 penalty of up to one hundred dollars per container or up to twenty-five
19 thousand dollars for each such tender of containers." Any civil penalty
20 may be assessed by the commissioner following a hearing or opportunity
21 to be heard, or by the court in any action or proceeding pursuant to
22 section 71-2727 of this chapter. In addition, such person may by similar
23 process be enjoined from continuing such violation and any permit or
24 registration issued to such person may be revoked or suspended or a
25 pending renewal application denied.

26 5. a. The department, the department of agriculture and markets, the
27 department of taxation and finance and the attorney general are hereby
28 authorized to enforce the provisions of this title and all monies
29 collected shall be deposited to the credit of the environmental
30 protection fund established pursuant to section ninety-two-s of the
31 state finance law. In addition, the provisions of section 27-1005 of
32 this title and subdivisions one, two, three, four, five, ten and eleven
33 of section 27-1007 of this title may be enforced by a county, city, town
34 or village and the local legislative body thereof may adopt local laws,
35 ordinances or regulations consistent with this title providing for the
36 enforcement of such provisions.

37 b. In addition, without limiting the rights of the department, or any
38 person, firm or corporation under this subdivision or any other
39 provision of this section, a dealer, owner or operator of a redemption
40 center, distributor, or deposit initiator shall have a civil right of
41 action to enforce the provisions of section 27-1009 of this title and
42 subdivisions four, five, six, and eight of section 27-1007 of this
43 title.

44 5-a. The [~~city of New York, Nassau county and Suffolk county~~] county
45 district attorney offices of all counties in this state are entitled to
46 retain [~~twenty-five~~] fifty percent of all monies collected as criminal,
47 civil, and administrative fines or penalties pursuant to enforcement of
48 section 27-1005 of this chapter.

49 6. (a) Any person who willfully violates or directs another to violate
50 the requirements to collect or charge the refund value imposed by
51 section 27-1005 or paragraph a of subdivision nine of section 27-1012 of
52 this title on five thousand or more beverage containers in one or more
53 separate transactions within one year shall be guilty of a class B
54 misdemeanor.

55 (b) Any person, having previously been convicted of a violation of
56 paragraph (a) of this section within the past three years, who willfully

1 violates or directs another to violate the requirements to collect or
2 charge the refund value imposed by section 27-1005 or paragraph a of
3 subdivision nine of section 27-1012 of this title on five thousand or
4 more beverage containers in one or more separate transactions within one
5 year shall be guilty of a class A misdemeanor.

6 (c) Any person who willfully violates or directs another to violate
7 the requirements to collect or charge the refund value imposed by
8 section 27-1005 or paragraph a of subdivision nine of section 27-1012 of
9 this title on twenty thousand or more beverage containers in one or more
10 separate transactions within one year shall be guilty of a class E felo-
11 ny.

12 Nothing in this subdivision shall apply to common or contract carriers
13 or warehousemen while engaged in lawfully transporting or storing such
14 containers as merchandise, nor to any employee of such carrier or ware-
15 houseman acting within the scope of his or her employment. The above
16 notwithstanding, if a person is observed selling, offering for sale, or
17 otherwise distributing for compensation containers, of which the
18 requirements to collect or charge the refund value imposed by section
19 27-1005 or paragraph a of subdivision nine of section 27-1012 have not
20 been complied with, it shall be presumptive evidence that all such
21 containers in such person's possession are considered being possessed
22 with the intent to sell in New York state. It shall be an affirmative
23 defense to the above presumptive evidence clause that containers, as
24 described above, are not being possessed with the intent to sell in New
25 York state, as long as the entity maintains with the containers,
26 invoices, purchase orders, or other verifiable business records accepta-
27 ble to the department, which clearly document that the containers are
28 intended for sale to customers outside of New York state.

29 7. A violation of this title, except as otherwise provided in this
30 section and section 27-1012 of this title, shall be a public nuisance.

31 8. All officers and employees, designated by the commissioner, and all
32 police officers shall have power to seize as evidence without warrant
33 any beverage container, whether full or empty, and any container includ-
34 ing motor vehicles containing such containers, whenever they have cause
35 to believe it is possessed or transported in violation of law, or it
36 bears evidence of illegal sale or redemption, or it is possessed or
37 transported under circumstances making the possession or transportation
38 presumptive evidence of illegal sale or redemption.

39 9. If the defendant is held liable or found guilty in any prosecution,
40 civil or criminal, for a violation involving the illegal sale or intent
41 to sell beverages requiring a deposit or the illegal redemption of
42 returnable beverage containers in violation of any provisions of this
43 title, or if the defendant shall effect a civil compromise of any action
44 or cause of action in favor of the state arising out of such violation,
45 the defendant's interest in any and all beverages, beverage containers,
46 whether full or empty, and any vehicle or other conveyance used during
47 the commission of the violation of such provisions shall be forfeited to
48 the state.

49 § 9. Section 12 of part F of chapter 58 of the laws of 2013 amending
50 the environmental conservation law and the state finance law relating to
51 the "Cleaner, Greener NY Act of 2013", as amended by section 2-b of part
52 JJ of chapter 58 of the laws of 2017, is amended to read as follows:

53 § 12. This act shall take effect immediately and shall be deemed to
54 have been in full force and effect on and after April 1, 2013; provided,
55 however, that the amendments to subdivision 5-a of section 27-1015 of

1 the environmental conservation law, as added by section nine of this
2 act, shall expire and be deemed repealed on April 1, [~~2019~~] 2021.

3 § 10. This act shall take effect on the sixtieth day after it shall
4 have become a law, provided, however, that section one of this act shall
5 take effect on April 1, 2020, and provided further that section nine of
6 this act shall take effect immediately and shall be deemed to have been
7 in full force and effect on and after April 1, 2019; and provided
8 further that the amendments to subdivision 5-a of section 27-1015 of the
9 environmental conservation law made by section eight of this act shall
10 not affect the repeal of such subdivision and shall be deemed repealed
11 therewith.

12 PART G

13 Section 1. The environmental conservation law is amended by adding a
14 new section 3-0321 to read as follows:

15 § 3-0321. Conditional gifts, donations, capital improvements.

16 1. Notwithstanding the provisions of the state finance law, or any
17 other state law to the contrary, and subject to approval of the director
18 of the budget, the commissioner is authorized to accept a conditional
19 grant, gift, devise or bequest, either absolutely or in trust, from
20 persons and entities for the maintenance of any educational or recre-
21 ational facilities or for programs that promote the use or stewardship
22 of department owned lands; establish a special fund or funds consisting
23 of monies so acquired and administer such fund or funds; and expend such
24 monies in accordance with the terms and conditions of such grants,
25 gifts, devises or bequests.

26 2. Notwithstanding the provisions of the state finance law, or any
27 other state law to the contrary, the commissioner is authorized to:

28 (a) receive, hold and administer personal property and any income
29 thereof, acquired by grant, gift, devise or bequest, either absolutely
30 or in trust, for the maintenance of any educational or recreational
31 facilities or for programs that promote the use or stewardship of
32 department owned lands; establish a special fund or funds consisting of
33 monies so acquired and administer such fund or funds; and expend such
34 monies;

35 (b) enter into contracts or other agreements with private philanthrop-
36 ic interests or not-for-profit corporations to provide, either in whole
37 or in part, maintenance of any educational or recreational facilities or
38 programs that promote the use or stewardship of department owned lands
39 and authorize the use of department owned facilities or lands for such
40 private philanthropic interests or not-for-profit corporations to
41 conduct fund-raising activities for the support of such educational or
42 recreational facilities or programs;

43 (c) enter into cooperative agreements in furtherance of the depart-
44 ment's mission with persons or entities to promote outdoor recreational
45 activities and provide use of outdoor recreational equipment and oppor-
46 tunities for the public benefit on department owned lands; and

47 (d) seek investment from private philanthropic interest or not-for-
48 profit corporations for capital improvements at department owned facili-
49 ties.

50 3. The commissioner shall not accept any grant, gift, devise or
51 bequest from or enter into any contract or agreement authorized pursuant
52 to subdivision one of this section with persons or entities:

53 (a) named in a pending lawsuit by or against the department;

54 (b) under investigation by the department;

1 (c) with a permit or license application pending before the depart-
2 ment;

3 (d) engaged in settlement negotiations with the department regarding
4 any civil, criminal or administrative matter; or

5 (e) subject to a consent order issued by the department.

6 § 2. This act shall take effect immediately.

7 PART H

8 Section 1. Subdivisions 4 and 6 of section 27-2701 of the environ-
9 mental conservation law, as added by chapter 641 of the laws of 2008,
10 are amended and a new subdivision 8 is added to read as follows:

11 4. "Plastic carryout bag" means [~~a plastic carryout~~] any film plastic
12 bag provided [by a store] to a customer [at the point of sale] to be
13 used by the customer to carry tangible personal property, regardless of
14 whether any tangible personal property or service is sold to the custom-
15 er, and regardless of whether any tangible personal property or service
16 sold is exempt from tax under article twenty-eight of the tax law.

17 6. "Store" means a retail establishment that provides plastic or paper
18 carryout bags to its customers as a result of the sale of a product and
19 (a) has over ten thousand square feet of retail space, or (b) such
20 retail establishment is part of a chain engaged in the same general
21 field of business which operates five or more units of over five thou-
22 sand square feet of retail space in this state under common ownership
23 and management.

24 8. "Paper carryout bag" means a paper bag provided to a customer to be
25 used by the customer to carry tangible personal property, regardless of
26 whether any tangible personal property or service is sold to the custom-
27 er, and regardless of whether any tangible personal property or service
28 sold is exempt from tax under article twenty-eight of the tax law.

29 § 2. Section 27-2705 of the environmental conservation law, as added
30 by chapter 641 of the laws of 2008 and subdivisions 2, 3 and 4 as
31 amended by chapter 481 of the laws of 2014, is amended to read as
32 follows:

33 § 27-2705. Recycling program requirements.

34 An at-store recycling program provided by the operator of a store
35 shall require:

36 1. [~~a plastic carryout bag provided by the store to have printed or~~
37 ~~displayed on the bag, in a manner visible to a consumer, the words~~
38 ~~"PLEASE RETURN TO A PARTICIPATING STORE FOR RECYCLING". Provided, howev-~~
39 ~~er, such store shall be allowed for one year from the effective date of~~
40 ~~this subdivision to use its existing stock of plastic carryout bags. A~~
41 ~~store may also apply to the commissioner for approval of an alternative~~
42 ~~plastic bag recycling message. The commissioner shall approve or reject~~
43 ~~the proposed message within forty five days,~~

44 2.] a collection bin that is visible, easily accessible to the consum-
45 er, and clearly marked that the collection bin is available for the
46 purpose of collecting and recycling plastic carryout bags and film plas-
47 tic. This subdivision shall apply to stores not within an enclosed shop-
48 ping mall and stores of at least fifty thousand square feet within an
49 enclosed shopping mall. In the case of an enclosed shopping mall, the
50 owner of the enclosed mall shall place bins at reasonable intervals
51 throughout the enclosed mall area;

52 [~~3~~] 2. all plastic carryout bags and film plastic collected by the
53 store to be collected, transported and recycled along with any other
54 in-store plastic recycling, except for plastic bags that are not suffi-

1 ciently free of foreign material to enter the recycling stream. Plastic
2 carryout bags and film plastic collected by the store or the manufactur-
3 er, which are free of foreign material, shall not be disposed of in any
4 solid waste disposal facility permitted or authorized pursuant to title
5 seven of this article;

6 [4] 3. the store or its agent to maintain, for a minimum of three
7 years, records describing the collection, transport and recycling of
8 plastic carryout bags and film plastic collected by weight, provided
9 however that stores or its agents may weigh such bags, film plastic and
10 any other in-store plastic recycling at a regional collection center.
11 Such records shall be made available to the department upon request, to
12 demonstrate compliance with this title; and

13 [5] 4. the operator of the store to (a) make reusable bags available
14 to customers within the store for purchase, and (b) permit a reuseable
15 bag to be used in lieu of a plastic carryout bag or paper bag.

16 § 3. The environmental conservation law is amended by adding a new
17 section 27-2708 to read as follows:

18 § 27-2708. Plastic carryout bag prohibition.

19 1. Beginning March first, two thousand twenty, providing plastic
20 carryout bags to customers is prohibited except as otherwise provided by
21 the department pursuant to regulations.

22 2. This prohibition shall not apply to (a) plastic bags used solely to
23 contain or wrap uncooked meat, fish, or poultry; (b) plastic bags used
24 by a customer solely to package bulk items, such as fruits, vegetables,
25 nuts, grains, or candy; (c) plastic bags used solely to contain food
26 sliced to order; (d) plastic bags used solely to contain a newspaper for
27 delivery to a subscriber; (e) plastic bags sold in bulk; (f) plastic
28 bags prepackaged for sale to a customer including, but not limited to, a
29 trash bag and a food storage bag; (g) plastic garment bags; (h) plastic
30 bags provided by a restaurant, tavern or similar food service establish-
31 ment, as defined in the state sanitary code, to carry out or deliver
32 food; or (i) any other bag exempted by the department in regulations.

33 § 4. Section 27-2713 of the environmental conservation law, as amended
34 by chapter 481 of the laws of 2014, is amended to read as follows:

35 § 27-2713. Preemption.

36 Jurisdiction in all matters pertaining to plastic bag [~~and~~], film
37 plastic recycling, and fees or other measures associated with reducing
38 the use of single use bags is by this article vested exclusively in the
39 state. Any provision of any local law or ordinance, or any rule or regu-
40 lation promulgated thereto, governing the recycling of plastic bags and
41 film plastic and fees or other measures associated with single use bags
42 shall, upon the effective date of this title, be preempted. Provided
43 however, nothing in this section shall preclude a person from coordinat-
44 ing for recycling or reuse the collection of plastic bags or film plas-
45 tic and provided further that nothing in this section shall preclude any
46 local law or ordinance, or any rule or regulation promulgated thereto,
47 governing the establishment of fees on paper carryout bags.

48 § 5. This act shall take effect immediately.

49 PART I

50 Section 1. Paragraphs a and b of subdivision 1 of section 23-1101 of
51 the environmental conservation law, as added by chapter 722 of the laws
52 of 1977, are amended to read as follows:

53 a. The exploration, development and production of gas in state-owned
54 lands, except state park lands, the marine and coastal district as

1 defined in section 13-0103 of this chapter, and the lands under the
2 waters of Lake Ontario or along its shoreline; and

3 b. The exploration, development and production of oil in state-owned
4 lands, except state park lands, the marine and coastal district as
5 defined in section 13-0103 of this chapter, and the lands under the
6 waters of Lake Erie and Lake Ontario or along their shorelines.

7 § 2. The environmental conservation law is amended by adding a new
8 section 23-1105 to read as follows:

9 § 23-1105. Prohibition on state authorizations related to oil and
10 natural gas production in federal waters.

11 1. Neither the department nor the office of general services shall
12 enter into any new lease or other conveyance, or lease modification,
13 that authorizes or enables the installation of pipelines or support
14 facilities or infrastructure directly or indirectly associated with
15 exploration, development or production of oil or natural gas located in
16 the north Atlantic planning area.

17 2. For the purposes of this section, the following terms shall have
18 the following meanings:

19 a. "Development" means those activities taking place following the
20 discovery of commercially producible quantities of oil or natural gas,
21 including, platform construction, pipeline construction, and operation
22 of all onshore support facilities that are performed for the purposes of
23 ultimately producing oil or natural gas.

24 b. "Exploration" means any activity associated with the search of oil
25 or natural gas, including geophysical tests or the drilling of strati-
26 graphic wells.

27 c. "Federal waters" means those waters and submerged lands lying
28 seaward to the state waters of New York that appertain to the United
29 States and are subject to federal jurisdiction and control.

30 d. "North Atlantic planning area" means an area of federal waters in
31 the outer continental shelf totaling ninety-two million three hundred
32 twenty thousand acres adjacent to the coastal waters of Maine, New Hamp-
33 shire, Massachusetts, Rhode Island, Connecticut, New York, and New
34 Jersey.

35 e. "Production" means those activities that take place following the
36 successful completion of a well or field necessary for the removal of
37 oil or natural gas including field operations, transfer of resources to
38 shore, operation, monitoring, maintenance, and workover drilling.

39 3. The department is authorized to establish such rules and regu-
40 lations as it shall deem necessary to implement this section.

41 § 3. Section 80 of the transportation corporations law is amended to
42 read as follows:

43 § 80. [~~Definition~~] Definitions. 1. A pipe line corporation is a
44 corporation organized to construct and operate for public use, wholly
45 within or partly without this state, except in the city of New York,
46 lines of pipe for conveying or transporting therein petroleum, gas,
47 liquids or any products or property, or, except in such city, to main-
48 tain and operate for public use for which such purposes lines of pipe
49 already constructed.

50 2. For the purposes of this article, the terms "exploration", "devel-
51 opment", "production", "federal waters", and "north Atlantic planning
52 area" shall be defined as in section 23-1105 of the environmental
53 conservation law.

54 § 4. Section 83 of the transportation corporations law is amended to
55 read as follows:

1 § 83. Condemnation of real property. In case such corporation is
2 unable to agree for the purchase of any real property required for the
3 purposes of its incorporation, and its route in the county in which such
4 real property is situated has been finally located, it shall have the
5 right to acquire title thereto by condemnation, but such corporation
6 shall not locate its route or construct any line of pipe through or
7 under any building, dooryard, lawn, garden or orchard, except by the
8 consent of the owner thereof in writing duly acknowledged, nor through
9 any cemetery or burial ground, nor within one hundred feet of any build-
10 ing except where such line is authorized by public officers to be laid
11 across or upon any public highway, and shall not install pipelines that
12 support facilities or infrastructure associated with exploration, devel-
13 opment, or production of oil or natural gas in federal waters located in
14 the north Atlantic planning area. No such corporation shall lay or
15 construct its line of pipe through or under a street in any city, unless
16 it shall first obtain the consent of a majority of the owners of proper-
17 ty abutting on that portion of the street in which its pipe line is to
18 be laid. Such pipe line shall be laid with reasonable care and prudence.

19 § 5. Section 89 of the transportation corporations law, as amended by
20 chapter 60 of the laws of 1962, is amended to read as follows:

21 § 89. Over state lands. The commissioner of general services shall
22 have power to grant to any pipe line corporation any lands belonging to
23 the people of this state which may be required for the purposes of its
24 incorporation on such terms as may be agreed, or such corporation may
25 acquire title thereto by condemnation, except that no corporation may
26 condemn any lands for the purposes of the installation of pipelines or
27 support facilities or infrastructure associated with exploration, devel-
28 opment, or production of oil or natural gas in the north Atlantic plan-
29 ning area, and further excepting that no pipe line corporation may
30 condemn any canal lands abandoned pursuant to the provisions of article
31 four of the public lands law [~~constituting chapter fifty of the laws of~~
32 ~~nineteen hundred nine, as amended,~~] until after they have been sold and
33 conveyed in the manner provided by the public lands law. If any lands
34 owned by any county, city or town be required by such corporation for
35 such purposes, the county, city or town officers having charge of such
36 lands may grant them to the corporation upon terms and compensation
37 agreed upon.

38 § 6. Section 70 of the navigation law is amended by adding a new
39 subdivision 3 to read as follows:

40 3. No petroleum-bearing vessel transporting crude oil produced in the
41 north Atlantic planning area may enter or move upon the navigable waters
42 of the state or any tidewaters bordering on or lying within the bounda-
43 ries of Nassau and Suffolk counties. For purposes of this subdivision,
44 "north Atlantic planning area" shall be defined as in section 23-1105 of
45 the environmental conservation law.

46 § 7. Section 174 of the navigation law is amended by adding a new
47 subdivision 12 to read as follows:

48 12. (a) The department is prohibited from issuing or renewing any
49 license for any major facility storing or transferring petroleum
50 produced in the navigable waters of the state or any tidewaters border-
51 ing on and lying within the boundaries of Nassau and Suffolk counties.

52 (b) The department is prohibited from issuing or renewing any license
53 for any major facility intended to transfer or store crude oil from any
54 vessel which holds petroleum transported directly from any pipeline,
55 support facility, or infrastructure associated with the production of
56 crude oil from the north Atlantic planning area. For purposes of this

1 subdivision, "development", "federal waters", "north Atlantic planning
2 area" and "production" shall be defined as in section 23-1105 of the
3 environmental conservation law.

4 § 8. Severability clause. If any clause, sentence, paragraph, subdi-
5 vision, section or part of this act shall be adjudged by any court of
6 competent jurisdiction to be invalid, such judgment shall not affect,
7 impair, or invalidate the remainder thereof, but shall be confined in
8 its operation to the clause, sentence, paragraph, subdivision, section
9 or part thereof directly involved in the controversy in which such
10 judgement shall have been rendered. It is hereby declared to be in the
11 intent of the legislature that this act would have been enacted even if
12 such invalid provisions had not been included herein.

13 § 9. This act shall take effect immediately.

14 PART J

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

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

41 5. After considering the testimony given at such hearing and any other
42 facts which may be deemed pertinent, after considering the rights of
43 affected property owners and the ecological balance in accordance with
44 the policy and purposes of this article, and, in the case of wetlands or
45 portions thereof within the Adirondack park, after consulting with the
46 Adirondack park agency, the commissioner shall promulgate by order the
47 final freshwater wetlands map. Such order shall not be promulgated less
48 than sixty days from the date of the hearing required by subdivision
49 four of this section. A copy of the order, together with a copy of such
50 map or relevant portion thereof shall be filed in the office of the
51 clerk of each local government in which each such wetland or a portion
52 thereof is located and, in the case of a map for any area within the
53 Adirondack park, with the Adirondack park agency. The map filed with a
54 local government may, at the local government's request, be either a

1 physical copy of the final freshwater wetlands map, or, if available, a
2 digital file that represents it. The commissioner shall simultaneously
3 give notice of such order to each owner of lands, as shown on the latest
4 completed tax assessment rolls, designated as such wetlands by mailing a
5 copy of such order to such owner [~~by certified mail in any case where a~~
6 ~~notice by certified mail was not sent pursuant to subdivision four of~~
7 ~~this section, and in all other cases by first class mail~~]. The commis-
8 sioner shall also give notice of such order at such time to the chief
9 administrative officer of each local government within the boundaries of
10 which any such wetland or a portion thereof is located. At the time of
11 filing with such clerk or clerks, the commissioner shall also cause a
12 copy of such order to be published in at least two newspapers having
13 general circulation in the area where such wetlands are located. The
14 commissioner may post on the department's website a digital image that
15 represents the final freshwater wetlands map.

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

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

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

48 § 3. This act shall take effect immediately.

49

PART K

50 Section 1. Legislative intent. The legislature hereby finds that
51 consumers in the state do not have ready access to information about the
52 products they may use and the product ingredients they may be exposed to
53 every day. While the state has taken steps to ban certain product ingre-
54 dients known to be harmful to human health and the environment, more

1 must be done to give consumers real time access to product ingredient
 2 information so consumers can make informed decisions about which
 3 products to buy and use. Specifically, consumers should have the right
 4 to know if a product contains a carcinogen, mutagen or endocrine disruptors
 5 and other chemicals of concern, the state, as trustee of its
 6 natural resources should have the means to identify substances which may
 7 be discharged to the environment.

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

10 1. "~~Household-cleansing~~ Cleansing product" means any product,
 11 including but not limited to soaps and detergents, containing a surfac-
 12 tant as a wetting or dirt emulsifying agent and used primarily for
 13 domestic [~~or~~], commercial, or industrial cleaning purposes, including
 14 but not limited to, the cleansing of fabrics, dishes, food utensils and
 15 household and commercial premises. [~~Household-cleansing~~ Cleansing prod-
 16 uct shall not mean foods, drugs, cosmetics, insecticides, fungicides and
 17 rodenticides or cleansing products used primarily in industrial manufac-
 18 turing, production and assembling processes as provided by the commis-
 19 sioner by rule and regulation.

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

22 § 35-0107. Powers and duties of commissioner.

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

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

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

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

48 TITLE 9

49 CONSUMER PRODUCT DISCLOSURE

50 Section 37-0901. Short title.

51 37-0903. Definitions.

52 37-0905. Product labeling.

53 37-0907. Chemical disclosure.

54 37-0909. Public education.

55 37-0911. Rules and regulations.

56 37-0913. Enforcement.

1 37-0915. Severability.

2 § 37-0901. Short title.

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

5 § 37-0903. Definitions.

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

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

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

19 3. "Retailer" means any person, firm, association, partnership, limit-
20 ed liability company, corporation, governmental entity, organization,
21 combination or joint venture which sells or otherwise distributes
22 consumer products to consumers or to any other person for any other
23 purpose other than resale.

24 § 37-0905. Product labeling.

25 Except where prohibited by federal law, the department, in consulta-
26 tion with the department of health and department of state, is hereby
27 authorized to establish standards governing the labeling of consumer
28 products identified by the department in regulations which informs
29 consumers of the ingredients of such products including any carcinogen,
30 mutagen, endocrine disrupter or other chemicals of concern identified by
31 the department.

32 § 37-0907. Chemical disclosure.

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

44 § 37-0909. Public education.

45 The commissioner shall establish a public education program to dissem-
46 inate information regarding implementation of this title. Such informa-
47 tion may include, but not be limited to, publication of the website
48 maintained by the state where information required to be disclosed
49 pursuant to this title is maintained; publication of a manufacturer's
50 website where disclosure pursuant to this title is effectuated; and,
51 requirements for retailers to post information in a conspicuous location
52 for the benefit of consumers.

53 § 37-0911. Rules and regulations.

54 1. The department is authorized to promulgate such rules and regu-
55 lations as it shall deem necessary to implement provisions of this
56 title, and shall designate in such rules specific consumer products and

1 chemicals of concern that trigger the labeling and disclosure require-
2 ments of this title taking into account factors such as levels of expo-
3 sure and the feasibility of requiring labeling for such products.

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

8 § 37-0913. Enforcement.

9 1. Any person who violates any of the provisions of or who fails to
10 perform any duty imposed by this title or any rule or regulation promul-
11 gated pursuant hereto, shall be liable for a civil penalty not to exceed
12 two thousand five hundred dollars for each such violation and an addi-
13 tional penalty of not more than five hundred dollars for each day during
14 which such violation continues.

15 § 37-0915. Severability.

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

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

22 ARTICLE 48-A

23 REGULATION OF PERSONAL CARE PRODUCTS

24 Section 4850. Declaration of legislative intent and findings.

25 4851. Definitions.

26 4852. Disclosure.

27 4853. Penalties.

28 4854. Severability.

29 § 4850. Declaration of legislative intent and findings. There are
30 tens of thousands of chemicals used commercially in the United States,
31 and each year approximately 1,000 chemicals are added for commercial
32 use. The majority of chemicals in commercial use in the United States,
33 including those used as ingredients in personal care products, have
34 never been fully tested for potential impacts on human health or the
35 environment.

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

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

52 Furthermore, independent testing and laboratory analyses by other
53 states have identified products that contain substances that could
54 potentially cause harmful health effects but that are not identified as
55 an ingredient on the product's label. Nevertheless, under the federal
56 Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), many personal

1 care products and their ingredients are not subject to premarket safety
2 testing, review, or approval before they are sold to the public.

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

16 § 4851. Definitions. As used in this article, unless the context
17 requires otherwise:

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

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

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

25 (c) A nonfunctional byproduct present in a personal care product in
26 any quantity not exceeding one-half of one percent (0.5%) of the content
27 of the product by weight, provided such element or compound has been
28 published as a chemical of concern on one or more lists identified by
29 the commissioner;

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

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

42 3. "nonfunctional byproduct" shall mean any element or compound which
43 has no functional or technical effect in the finished product which (a)
44 was intentionally added during the manufacturing process for a personal
45 care product at any point in a product's, a raw material's or ingredi-
46 ent's supply chain or (b) was created for formed during the manufactur-
47 ing process as an intentional or unintentional consequence of the manu-
48 facturing process at any point in a product's, a raw material's, or an
49 ingredient's supply chain. This shall include, but is not limited to, an
50 unreacted raw material, a breakdown product of an intentionally added
51 ingredient, or a byproduct of the manufacturing process.

52 4. "Nonfunctional contaminant" shall mean any element or compound
53 present in a personal care product as an unintentional consequence of
54 manufacturing which has no functional or technical effect in the
55 finished product. Nonfunctional contaminants include, but are not limit-
56 ed to, elements or compounds present in the environment as contaminants

1 which were introduced into a product, a raw material, or a product
2 ingredient as a result of the use of an environmental medium, such as a
3 naturally occurring mineral, air, soil or water, in the manufacturing
4 process at any point in a product's, a raw material's, or an ingredi-
5 ent's supply chain.

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

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

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

24 § 4852. Disclosure. 1. Manufacturers of personal care products
25 distributed, sold or offered for sale in this state, whether at retail
26 or wholesale, for personal or commercial use, or distributed for promo-
27 tional purposes, shall furnish to the commissioner for public record and
28 post on the manufacturer's website, in a manner prescribed by the
29 commissioner that is readily accessible to the public and machine read-
30 able, such information regarding such products pursuant to rules and
31 regulations promulgated by the commissioner. For each personal care
32 product, such information shall include, but shall not be limited to:

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

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

42 (c) Where applicable, a statement disclosing that an ingredient is
43 published as a chemical of concern on one or more lists identified by
44 the commissioner.

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

54 3. Such information shall be made available to the public by the
55 commissioner and manufacturer, in accordance with this section, with the
56 exception of those portions which the manufacturer determines, subject

1 to the approval of the commissioner, is related to a proprietary process
2 the disclosure of which would compromise the manufacturer's competitive
3 position. The commissioner shall not approve any exceptions under this
4 subdivision with respect to any ingredient published as a chemical of
5 concern on one or more lists identified by the commissioner.

6 § 4853. Penalties. A manufacturer in violation of this article is
7 subject to a civil penalty not to exceed five thousand dollars for each
8 violation in the case of a first offense. Manufacturers who are repeat
9 violators are subject to a civil penalty not to exceed ten thousand
10 dollars for each repeat offense.

11 § 4854. Severability. The provisions of this article shall be severa-
12 ble and if any phrase, clause, sentence or provision of this article, or
13 the applicability thereof to any person or circumstance shall be held
14 invalid, the remainder of this article and the application thereof shall
15 not be affected thereby.

16 § 6. This act shall take effect on the sixtieth day after it shall
17 have become a law, provided, however, that any rule or regulation
18 promulgated pursuant to this act shall not take effect prior to April 1,
19 2021; provided, however, that section five of this act shall take effect
20 on January 1, 2020, provided that, effective immediately, the commis-
21 sioner of health shall be authorized to promulgate any and all rules and
22 regulations necessary to implement the provisions of section five on its
23 effective date.

24 PART L

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

27 ARTICLE 14-A

28 STUDENT LOAN SERVICERS

29 Section 710. Definitions.

30 711. Licensing.

31 712. Application for a student loan servicer license; fees.

32 713. Application process to receive license to engage in the
33 business of student loan servicing.

34 714. Changes in officers and directors.

35 715. Changes in control.

36 716. Grounds for suspension or revocation of license.

37 717. Books and records; reports and electronic filing.

38 718. Rules and regulations.

39 719. Prohibited practices.

40 720. Servicing student loans without a license.

41 721. Responsibilities.

42 722. Examinations.

43 723. Penalties for violations of this article.

44 724. Severability of provisions.

45 725. Compliance with other laws.

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

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

52 3. "Borrower benefit" shall mean an incentive offered to a borrower in
53 connection with the origination of a student loan, including but not

1 limited to an interest rate reduction, principal rebate, fee waiver or
2 rebate, loan cancellation, or cosigner release.

3 4. "Exempt organization" shall mean any banking organization, foreign
4 banking corporation, national bank, federal savings association, federal
5 credit union, or any bank, trust company, savings bank, savings and loan
6 association, or credit union organized under the laws of any other
7 state, or any person licensed or supervised by the department and
8 exempted by the superintendent pursuant to regulations promulgated in
9 accordance with this article.

10 5. "Person" shall mean any individual, association, corporation,
11 limited liability company, partnership, trust, unincorporated organiza-
12 tion, government, and any other entity.

13 6. "Servicer" or "student loan servicer" shall mean a person engaged
14 in the business of servicing student loans owed by one or more borrowers
15 residing in this state.

16 7. "Servicing" shall mean:

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

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

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

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

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

31 (f) performing other administrative services with respect to a borrow-
32 er's student loan.

33 8. "Student loan" shall mean any loan to a borrower to finance postse-
34 condary education or expenses related to postsecondary education.

35 9. "Federal student loan" means (a) any student loan issued pursuant
36 to the William D. Ford Federal Direct Loan Program; (b) any student loan
37 issued pursuant to the Federal Family Education Loan Program, which was
38 purchased by the government of the United States pursuant to the federal
39 Ensuring Continued Access to Student Loans Act and is presently owned by
40 the government of the United States; and (c) any other student loan
41 issued pursuant to a federal program that is identified by the super-
42 intendent as a "federal student loan" in a regulation.

43 § 711. Licensing. 1. Except as provided in subdivisions two and three
44 of this section, no person shall engage in the business of servicing
45 student loans owed by one or more borrowers residing in this state with-
46 out first being licensed by the superintendent as a student loan servi-
47 cer in accordance with this article and such regulations as may be
48 prescribed by the superintendent.

49 2. The licensing provisions of this article shall not apply to any
50 exempt organization that is a student loan servicer; provided that such
51 exempt organization notifies the superintendent that it is servicing
52 student loans in this state and complies with sections seven hundred
53 seventeen, seven hundred nineteen, seven hundred twenty-one, and seven
54 hundred twenty-five of this article and any regulation applicable to
55 student loan servicers promulgated by the superintendent.

1 3. A license is not required to engage in the business of servicing
2 federal student loans. A person, other than an exempt organization, that
3 services federal student loans owed by one or more borrowers residing in
4 this state, which is not otherwise required to be licensed pursuant to
5 this section, shall notify the superintendent that it is servicing
6 federal student loans in this state and comply with sections seven
7 hundred seventeen, seven hundred nineteen, seven hundred twenty-one,
8 seven hundred twenty-two, seven hundred twenty-three and seven hundred
9 twenty-five of this article and any regulation applicable to student
10 loan servicers promulgated by the superintendent. The provisions of
11 section thirty-three, thirty-nine, and forty-four of this chapter shall
12 apply to a person required to notify the superintendent under this
13 subdivision, as though they were a licensed student loan servicer.

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

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

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

32 (c) an affirmation that the applicant, or its members, officers, part-
33 ners, directors and principals as may be appropriate, are at least twen-
34 ty-one years of age;

35 (d) information as to the character, fitness, financial and business
36 responsibility, background and experiences of the applicant, or its
37 members, officers, partners, directors and principals as may be appro-
38 priate;

39 (e) any additional detail or information required by the superinten-
40 dent.

41 2. An application to become a licensed student loan servicer or any
42 application with respect to a student loan servicer shall be accom-
43 plished by a fee as prescribed pursuant to section eighteen-a of this
44 chapter.

45 § 713. Application process to receive license to engage in the busi-
46 ness of student loan servicing. 1. Upon the filing of an application for
47 a license, if the superintendent shall find that the financial responsi-
48 bility, experience, character, and general fitness of the applicant and,
49 if applicable, the members, officers, partners, directors and principals
50 of the applicant are such as to command the confidence of the community
51 and to warrant belief that the business will be operated honestly, fair-
52 ly, and efficiently within the purpose of this article, the superinten-
53 dent shall thereupon issue a license in duplicate to engage in the busi-
54 ness of servicing student loans described in section seven hundred ten
55 of this article in accordance with the provisions of this article. If
56 the superintendent shall not so find, the superintendent shall not issue

1 a license, and the superintendent shall so notify the applicant. The
2 superintendent shall transmit one copy of a license to the applicant and
3 file another in the office of the department of financial services. Upon
4 receipt of such license, a student loan servicer shall be authorized to
5 engage in the business of servicing student loans in accordance with the
6 provisions of this article. Such license shall remain in full force and
7 effect until it is surrendered by the servicer or revoked or suspended
8 as hereinafter provided.

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

13 (a) has been convicted of a crime involving an activity which is a
14 felony under this chapter or under article one hundred fifty-five, one
15 hundred seventy, one hundred seventy-five, one hundred seventy-six, one
16 hundred eighty, one hundred eighty-five, one hundred eighty-seven, one
17 hundred ninety, two hundred, two hundred ten or four hundred seventy of
18 the penal law or any comparable felony under the laws of any other state
19 of the United States, provided that such crime would be a felony if
20 committed and prosecuted under the laws of this state;

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

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

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

30 3. The term "substantial stockholder", as used in this section, shall
31 be deemed to refer to a person owning or controlling directly or indi-
32 rectly ten per centum or more of the total outstanding stock of a corpo-
33 ration.

34 § 714. Changes in officers and directors. Upon any change of any of
35 the executive officers, directors, partners or members of any student
36 loan servicer required to be licensed under section seven hundred eleven
37 of this article, the student loan servicer shall submit to the super-
38 intendent the name, address, and occupation of each new officer, direc-
39 tor, partner or member, and provide such other information as the super-
40 intendent may require.

41 § 715. Changes in control. 1. It shall be unlawful except with the
42 prior approval of the superintendent for any action to be taken which
43 results in a change of control of the business of a student loan servi-
44 cer required to be licensed under section seven hundred eleven of this
45 article. Prior to any change of control, the person desirous of acquir-
46 ing control of the business of a student loan servicer shall make writ-
47 ten application to the superintendent and pay an investigation fee as
48 prescribed pursuant to section eighteen-a of this chapter to the super-
49 intendent. The application shall contain such information as the super-
50 intendent, by rule or regulation, may prescribe as necessary or appro-
51 priate for the purpose of making the determination required by
52 subdivision two of this section. This information shall include but not
53 be limited to the information and other material required for a student
54 loan servicer by subdivision one of section seven hundred twelve of this
55 article.

1 2. The superintendent shall approve or disapprove the proposed change
2 of control of a student loan servicer required to be licensed under
3 section seven hundred eleven of this article in accordance with the
4 provisions of section seven hundred thirteen of this article.

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

20 4. As used in this section the term "control" means the possession,
21 directly or indirectly, of the power to direct or cause the direction of
22 the management and policies of a student loan servicer, whether through
23 the ownership of voting stock of such student loan servicer, the owner-
24 ship of voting stock of any person which possesses such power or other-
25 wise. Control shall be presumed to exist if any person, directly or
26 indirectly, owns, controls or holds with power to vote ten per centum or
27 more of the voting stock of any student loan servicer or of any person
28 which owns, controls or holds with power to vote ten per centum or more
29 of the voting stock of any student loan servicer, but no person shall be
30 deemed to control a student loan servicer solely by reason of being an
31 officer or director of such student loan servicer. The superintendent
32 may in his or her discretion, upon the application of a student loan
33 servicer or any person who, directly or indirectly, owns, controls or
34 holds with power to vote or seeks to own, control or hold with power to
35 vote any voting stock of such student loan servicer, determine whether
36 or not the ownership, control or holding of such voting stock consti-
37 tutes or would constitute control of such student loan servicer for
38 purposes of this section.

39 § 716. Grounds for suspension or revocation of license. 1. After
40 notice and hearing, the superintendent may revoke or suspend any license
41 to engage in the business of a student loan servicer issued pursuant to
42 this article if he or she shall find that:

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

46 (b) any fact or condition exists which, if it had existed at the time
47 of the original application for such license, would have warranted the
48 superintendent refusing originally to issue such license;

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

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

53 (e) the competence, experience, character, or general fitness of the
54 servicer, an individual controlling, directly or indirectly, ten percent
55 or more of the outstanding interests, or any person responsible for
56 servicing a student loan for the servicer indicates that it is not in

1 the public interest to permit the servicer to continue servicing student
2 loans;

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

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

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

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

17 3. Except as provided in subdivision two of this section, no license
18 shall be revoked or suspended except after notice and hearing thereon.
19 Any order of suspension issued after notice and a hearing may include as
20 a condition of reinstatement that the student loan servicer make resti-
21 tution to consumers of fees or other charges which have been improperly
22 charged or collected, including but not limited to by allocating
23 payments contrary to a borrower's direction or in a manner that fails to
24 help a borrower avoid default, as determined by the superintendent. Any
25 hearing held pursuant to the provisions of this section shall be
26 noticed, conducted and administered in compliance with the state admin-
27 istrative procedure act.

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

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

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

42 7. Whenever the superintendent shall revoke or suspend a license
43 issued pursuant to this article, he or she shall forthwith execute in
44 duplicate a written order to that effect. The superintendent shall file
45 one copy of such order in the office of the department and shall forth-
46 with serve the other copy upon the student loan servicer. Any such order
47 may be reviewed in the manner provided by article seventy-eight of the
48 civil practice law and rules.

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

1 2. (a) Each student loan servicer, other than an exempt organization,
2 shall annually, on or before a date to be determined by the superinten-
3 dent, file a report with the superintendent giving such information as
4 the superintendent may require concerning the business and operations
5 during the preceding calendar year of such servicer under authority of
6 this article. Such report shall be subscribed and affirmed as true by
7 the servicer under the penalties of perjury and shall be in the form
8 prescribed by the superintendent.

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

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

20 § 718. Rules and Regulations. 1. In addition to such powers as may
21 otherwise be prescribed by law, the superintendent is hereby authorized
22 and empowered to promulgate such rules and regulations as may in the
23 judgement of the superintendent be consistent with the purposes of this
24 article, or appropriate for the effective administration of this arti-
25 cle, including, but not limited to:

26 (a) Such rules and regulations in connection with the activities of
27 student loan servicers as may be necessary and appropriate for the
28 protection of borrowers in this state.

29 (b) Such rules and regulations as may be necessary and appropriate to
30 define unfair, deceptive or abusive acts or practices in connection with
31 the activities of student loan servicers.

32 (c) Such rules and regulations as may define the terms used in this
33 article and as may be necessary and appropriate to interpret and imple-
34 ment the provisions of this article.

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

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

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

41 1. Employ any scheme, device or artifice to defraud or mislead a
42 borrower;

43 2. Engage in any unfair, deceptive or predatory act or practice toward
44 any person or misrepresent or omit any material information in
45 connection with the servicing of a student loan, including, but not
46 limited to, misrepresenting the amount, nature or terms of any fee or
47 payment due or claimed to be due on a student loan, the terms and condi-
48 tions of the loan agreement or the borrower's obligations under the
49 loan;

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

52 4. Provide inaccurate information to a consumer reporting agency;

53 5. Refuse to communicate with an authorized representative of the
54 borrower who provides a written authorization signed by the borrower,
55 provided that the servicer may adopt procedures reasonably related to

1 verifying that the representative is in fact authorized to act on behalf
2 of the borrower;

3 6. Make any false statement or make any omission of a material fact in
4 connection with any information or reports filed with a governmental
5 agency or in connection with any investigation conducted by the super-
6 intendent or another governmental agency;

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

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

16 § 720. Servicing student loans without a license. 1. Whenever, in the
17 opinion of the superintendent, a person is engaged in the business of
18 servicing student loans, other than federal loans, either actually or
19 through subterfuge, without a license from the superintendent, the
20 superintendent may order that person to desist and refrain from engaging
21 in the business of servicing student loans in the state. If, within
22 thirty days after an order is served, a request for a hearing is filed
23 in writing and the hearing is not held within sixty days of the filing,
24 the order shall be rescinded.

25 2. This section does not apply to exempt organizations.

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

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

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

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

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

1 4. If a student loan servicer sells, assigns, or otherwise transfers
2 the servicing of a student loan to a new servicer, the sale, assignment
3 or other transfer shall be completed at least seven days before the
4 borrower's next payment is due.

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

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

19 6. A student loan servicer shall respond within thirty days after
20 receipt to a written inquiry from a borrower or a borrower's represen-
21 tative.

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

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

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

42 3. The expenses incurred in making any examination pursuant to this
43 section shall be assessed against and paid by the student loan servicer
44 so examined, except that travelling and subsistence expenses so incurred
45 shall be charged against and paid by servicers in such proportions as
46 the superintendent shall deem just and reasonable, and such propor-
47 tionate charges shall be added to the assessment of the other expenses
48 incurred upon each examination. Upon written notice by the superinten-
49 dent of the total amount of such assessment, the servicer shall become
50 liable for and shall pay such assessment to the superintendent.

51 4. In any hearing in which a department employee acting under authori-
52 ty of this chapter is available for cross-examination, any official
53 written report, worksheet, other related papers, or duly certified copy
54 thereof, compiled, prepared, drafted, or otherwise made by said depart-
55 ment employee, after being duly authenticated by said employee, may be
56 admitted as competent evidence upon the oath of said employee that said

1 worksheet, investigative report, or other related documents were
2 prepared as a result of an examination of the books and records of a
3 servicer or other person, conducted pursuant to the authority of this
4 chapter.

5 5. Unless it is an exempt organization, affiliates of a student loan
6 servicer are subject to examination by the superintendent on the same
7 terms as the servicer, but only when reports from, or examination of, a
8 servicer provides evidence of unlawful activity between a servicer and
9 affiliate benefitting, affecting, or arising from the activities regu-
10 lated by this article.

11 6. This section shall not apply to exempt organizations. To the extent
12 the superintendent is authorized by any other law to make an examination
13 into the affairs of any exempt organization, this subdivision shall not
14 be construed to limit in any way the superintendent's authority, regard-
15 ing the subjects of such an examination, or otherwise.

16 § 723. Penalties for violation of this article. 1. In addition to such
17 penalties as may otherwise be applicable by law, including but not
18 limited to the penalties available under section forty-four of this
19 chapter, the superintendent may, after notice and hearing, require any
20 person found violating the provisions of this article or the rules or
21 regulations promulgated hereunder to pay to the people of this state a
22 penalty for each violation of the article or any regulation or policy
23 promulgated hereunder a sum not to exceed the greater of (i) ten thou-
24 sand dollars for each offense; (ii) a multiple of two times the aggre-
25 gate damages attributable to the violation; or (iii) a multiple of two
26 times the aggregate economic gain attributable to the violation.

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

30 § 724. Severability of provisions. If any provision of this article,
31 or the application of such provision to any person or circumstance,
32 shall be held invalid, illegal or unenforceable, the remainder of the
33 article, and the application of such provision to persons or circum-
34 stances other than those as to which it is held invalid, illegal or
35 unenforceable, shall not be affected thereby.

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

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

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

46 10. All reports of examinations and investigations, correspondence and
47 memoranda concerning or arising out of such examination and investi-
48 gations, including any duly authenticated copy or copies thereof in the
49 possession of any banking organization, bank holding company or any
50 subsidiary thereof (as such terms "bank holding company" and "subsidi-
51 ary" are defined in article three-A of this chapter), any corporation
52 or any other entity affiliated with a banking organization within the
53 meaning of subdivision six of this section and any non-banking subsidi-
54 ary of a corporation or any other entity which is an affiliate of a
55 banking organization within the meaning of subdivision six-a of this
56 section, foreign banking corporation, licensed lender, licensed cashier

1 of checks, licensed mortgage banker, registered mortgage broker,
2 licensed mortgage loan originator, licensed sales finance company,
3 registered mortgage loan servicer, licensed student loan servicer,
4 licensed insurance premium finance agency, licensed transmitter of
5 money, licensed budget planner, any other person or entity subject to
6 supervision under this chapter, or the department, shall be confidential
7 communications, shall not be subject to subpoena and shall not be made
8 public unless, in the judgment of the superintendent, the ends of
9 justice and the public advantage will be subserved by the publication
10 thereof, in which event the superintendent may publish or authorize the
11 publication of a copy of any such report or any part thereof in such
12 manner as may be deemed proper or unless such laws specifically author-
13 ize such disclosure. For the purposes of this subdivision, "reports of
14 examinations and investigations, and any correspondence and memoranda
15 concerning or arising out of such examinations and investigations",
16 includes any such materials of a bank, insurance or securities regulato-
17 ry agency or any unit of the federal government or that of this state
18 any other state or that of any foreign government which are considered
19 confidential by such agency or unit and which are in the possession of
20 the department or which are otherwise confidential materials that have
21 been shared by the department with any such agency or unit and are in
22 the possession of such agency or unit.

23 § 3. Section 39 of the banking law, as amended by section 1 of part FF
24 of chapter 59 of the laws of 2004, subdivisions 1, 2 and 5 as amended by
25 chapter 123 of the laws of 2009, subdivision 3 as amended by chapter 155
26 of the laws of 2012 and subdivision 6 as amended by chapter 217 of the
27 laws of 2010, is amended to read as follows:

28 § 39. Orders of superintendent. 1. To appear and explain an apparent
29 violation. Whenever it shall appear to the superintendent that any bank-
30 ing organization, bank holding company, registered mortgage broker,
31 licensed mortgage banker, licensed student loan servicer, registered
32 mortgage loan servicer, licensed mortgage loan originator, licensed
33 lender, licensed casher of checks, licensed sales finance company,
34 licensed insurance premium finance agency, licensed transmitter of
35 money, licensed budget planner, out-of-state state bank that maintains a
36 branch or branches or representative or other offices in this state, or
37 foreign banking corporation licensed by the superintendent to do busi-
38 ness or maintain a representative office in this state has violated any
39 law or regulation, he or she may, in his or her discretion, issue an
40 order describing such apparent violation and requiring such banking
41 organization, bank holding company, registered mortgage broker, licensed
42 mortgage banker, licensed student loan servicer, licensed mortgage loan
43 originator, licensed lender, licensed casher of checks, licensed sales
44 finance company, licensed insurance premium finance agency, licensed
45 transmitter of money, licensed budget planner, out-of-state state bank
46 that maintains a branch or branches or representative or other offices
47 in this state, or foreign banking corporation to appear before him or
48 her, at a time and place fixed in said order, to present an explanation
49 of such apparent violation.

50 2. To discontinue unauthorized or unsafe and unsound practices. When-
51 ever it shall appear to the superintendent that any banking organiza-
52 tion, bank holding company, registered mortgage broker, licensed mort-
53 gage banker, licensed student loan servicer, registered mortgage loan
54 servicer, licensed mortgage loan originator, licensed lender, licensed
55 casher of checks, licensed sales finance company, licensed insurance
56 premium finance agency, licensed transmitter of money, licensed budget

1 planner, out-of-state state bank that maintains a branch or branches or
2 representative or other offices in this state, or foreign banking corpo-
3 ration licensed by the superintendent to do business in this state is
4 conducting business in an unauthorized or unsafe and unsound manner, he
5 or she may, in his or her discretion, issue an order directing the
6 discontinuance of such unauthorized or unsafe and unsound practices, and
7 fixing a time and place at which such banking organization, bank holding
8 company, registered mortgage broker, licensed mortgage banker, licensed
9 student loan servicer, registered mortgage loan servicer, licensed mort-
10 gage loan originator, licensed lender, licensed cashier of checks,
11 licensed sales finance company, licensed insurance premium finance agen-
12 cy, licensed transmitter of money, licensed budget planner, out-of-state
13 state bank that maintains a branch or branches or representative or
14 other offices in this state, or foreign banking corporation may volun-
15 tarily appear before him or her to present any explanation in defense of
16 the practices directed in said order to be discontinued.

17 3. To make good impairment of capital or to ensure compliance with
18 financial requirements. Whenever it shall appear to the superintendent
19 that the capital or capital stock of any banking organization, bank
20 holding company or any subsidiary thereof which is organized, licensed
21 or registered pursuant to this chapter, is impaired, or the financial
22 requirements imposed by subdivision one of section two hundred two-b of
23 this chapter or any regulation of the superintendent on any branch or
24 agency of a foreign banking corporation or the financial requirements
25 imposed by this chapter or any regulation of the superintendent on any
26 licensed lender, registered mortgage broker, licensed mortgage banker,
27 licensed student loan servicer, licensed cashier of checks, licensed
28 sales finance company, licensed insurance premium finance agency,
29 licensed transmitter of money, licensed budget planner or private banker
30 are not satisfied, the superintendent may, in the superintendent's
31 discretion, issue an order directing that such banking organization,
32 bank holding company, branch or agency of a foreign banking corporation,
33 registered mortgage broker, licensed mortgage banker, licensed student
34 loan servicer, licensed lender, licensed cashier of checks, licensed
35 sales finance company, licensed insurance premium finance agency,
36 licensed transmitter of money, licensed budget planner, or private bank-
37 er make good such deficiency forthwith or within a time specified in
38 such order.

39 4. To make good encroachments on reserves. Whenever it shall appear to
40 the superintendent that either the total reserves or reserves on hand of
41 any banking organization, branch or agency of a foreign banking corpo-
42 ration are below the amount required by or pursuant to this chapter or
43 any other applicable provision of law or regulation to be maintained, or
44 that such banking organization, branch or agency of a foreign banking
45 corporation is not keeping its reserves on hand as required by this
46 chapter or any other applicable provision of law or regulation, he or
47 she may, in his or her discretion, issue an order directing that such
48 banking organization, branch or agency of a foreign banking corporation
49 make good such reserves forthwith or within a time specified in such
50 order, or that it keep its reserves on hand as required by this chapter.

51 5. To keep books and accounts as prescribed. Whenever it shall appear
52 to the superintendent that any banking organization, bank holding compa-
53 ny, registered mortgage broker, licensed mortgage banker, licensed
54 student loan servicer, registered mortgage loan servicer, licensed mort-
55 gage loan originator, licensed lender, licensed cashier of checks,
56 licensed sales finance company, licensed insurance premium finance agen-

1 cy, licensed transmitter of money, licensed budget planner, agency or
2 branch of a foreign banking corporation licensed by the superintendent
3 to do business in this state, does not keep its books and accounts in
4 such manner as to enable him or her to readily ascertain its true condi-
5 tion, he or she may, in his or her discretion, issue an order requiring
6 such banking organization, bank holding company, registered mortgage
7 broker, licensed mortgage banker, licensed student loan servicer, regis-
8 tered mortgage loan servicer, licensed mortgage loan originator,
9 licensed lender, licensed casher of checks, licensed sales finance
10 company, licensed insurance premium finance agency, licensed transmitter
11 of money, licensed budget planner, or foreign banking corporation, or
12 the officers or agents thereof, or any of them, to open and keep such
13 books or accounts as he or she may, in his or her discretion, determine
14 and prescribe for the purpose of keeping accurate and convenient records
15 of its transactions and accounts.

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

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

22 (a) Without limiting any power granted to the superintendent under any
23 other provision of this chapter, the superintendent may, in a proceeding
24 after notice and a hearing, require any safe deposit company, licensed
25 lender, licensed casher of checks, licensed sales finance company,
26 licensed insurance premium finance agency, licensed transmitter of
27 money, licensed mortgage banker, licensed student loan servicer, regis-
28 tered mortgage broker, licensed mortgage loan originator, registered
29 mortgage loan servicer or licensed budget planner to pay to the people
30 of this state a penalty for any violation of this chapter, any regu-
31 lation promulgated thereunder, any final or temporary order issued
32 pursuant to section thirty-nine of this article, any condition imposed
33 in writing by the superintendent in connection with the grant of any
34 application or request, or any written agreement entered into with the
35 superintendent.

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

38

PART M

39 Section 1. Section 2 of part FF of chapter 55 of the laws of 2017
40 relating to motor vehicles equipped with autonomous vehicle technology,
41 as amended by section 2 of part H of chapter 58 of the laws of 2018, is
42 amended to read as follows:

43 § 2. The commissioner of motor vehicles shall, in consultation with
44 the superintendent of state police, submit a report to the governor, the
45 temporary president of the senate, the speaker of the assembly, and the
46 chairs of the senate and assembly transportation committees on the
47 demonstrations and tests authorized by section one of this act. Such
48 report shall include, but not be limited to, a description of the param-
49 eters and purpose of such demonstrations and tests, the location or
50 locations where demonstrations and tests were conducted, the demon-
51 strations' and tests' impacts on safety, traffic control, traffic
52 enforcement, emergency services, and such other areas as may be identi-
53 fied by such commissioner. Such commissioner shall submit such report

1 ~~[on or before June 1, 2018 and June 1, 2019]~~ June first of each year
2 this section remains in effect.

3 § 2. Section 3 of part FF of chapter 55 of the laws of 2017 relating
4 to motor vehicles equipped with autonomous vehicle technology, as
5 amended by section 3 of part H of chapter 58 of the laws of 2018, is
6 amended to read as follows:

7 § 3. This act shall take effect April 1, 2017; provided, however, that
8 section one of this act shall expire and be deemed repealed April 1,
9 ~~2019~~ 2021.

10 § 3. a. The New York state commissioner of motor vehicles may approve
11 demonstrations and tests consisting of the operation of a motor vehicle
12 equipped with autonomous vehicle technology while such motor vehicle is
13 engaged in the use of such technology on public highways within this
14 state for the purposes of demonstrating and assessing the current devel-
15 opment of autonomous vehicle technology and to begin identifying poten-
16 tial impacts of such technology on safety, traffic control, traffic
17 enforcement, emergency services, and such other areas as may be identi-
18 fied by such commissioner. Such demonstrations and tests shall take
19 place in a manner and form prescribed by the commissioner of motor vehi-
20 cles including, but not limited to: a requirement that the motor vehicle
21 utilized in such demonstrations and tests complies with all applicable
22 federal motor vehicle safety standards and New York state motor vehicle
23 inspection standards; and a requirement that the motor vehicle utilized
24 in such demonstrations and tests has in place, at a minimum, financial
25 security in the amount of five million dollars. Nothing in this act
26 shall authorize the motor vehicle utilized in such demonstrations and
27 tests to operate in violation of article 22 or title 7 of the vehicle
28 and traffic law, excluding section 1226 of such law.

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

36 § 4. The commissioner of motor vehicles shall, in consultation with
37 the superintendent of state police, submit a report to the governor, the
38 temporary president of the senate, the speaker of the assembly, and the
39 chairs of the senate and assembly transportation committees on the
40 demonstrations and tests authorized by section three of this act. Such
41 report shall include, but not be limited to, a description of the param-
42 eters and purpose of such demonstrations and tests, the location or
43 locations where demonstrations and tests were conducted, the demon-
44 strations' and tests' impacts on safety, traffic control, traffic
45 enforcement, emergency services, and such other areas as may be identi-
46 fied by such commissioner. The commissioner shall submit such report on
47 or before June first of each year section three of this act remains in
48 effect.

49 § 5. Section 1226 of the vehicle and traffic law is REPEALED.

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

52 § 7. This act shall take effect immediately; provided, however, that
53 sections three, four, and five of this act shall take effect April 1,
54 2021.

1 Section 1. Section 6 of chapter 713 of the laws of 1988, amending the
2 vehicle and traffic law relating to the ignition interlock device
3 program, as amended by section 14 of part A of chapter 55 of the laws of
4 2017, is amended to read as follows:

5 § 6. This act shall take effect on the first day of April next
6 succeeding the date on which it shall have become a law; provided,
7 however, that effective immediately, the addition, amendment or repeal
8 of any rule or regulation necessary for the implementation of the fore-
9 going sections of this act on their effective date is authorized and
10 directed to be made and completed on or before such effective date and
11 shall remain in full force and effect until the first day of September,
12 [~~2019~~] 2021 when upon such date the provisions of this act shall be
13 deemed repealed.

14 § 2. This act shall take effect immediately.

15 PART O

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

20 (p) The amendments to section 1809 of the vehicle and traffic law made
21 by sections three hundred thirty-seven and three hundred thirty-eight of
22 this act shall not apply to any offense committed prior to such effec-
23 tive date; provided, further, that section three hundred forty-one of
24 this act shall take effect immediately and shall expire November 1, 1993
25 at which time it shall be deemed repealed; sections three hundred
26 forty-five and three hundred forty-six of this act shall take effect
27 July 1, 1991; sections three hundred fifty-five, three hundred fifty-
28 six, three hundred fifty-seven and three hundred fifty-nine of this act
29 shall take effect immediately and shall expire June 30, 1995 and shall
30 revert to and be read as if this act had not been enacted; section three
31 hundred fifty-eight of this act shall take effect immediately and shall
32 expire June 30, 1998 and shall revert to and be read as if this act had
33 not been enacted; section three hundred sixty-four through three hundred
34 sixty-seven of this act shall apply to claims filed on or after such
35 effective date; sections three hundred sixty-nine, three hundred seven-
36 ty-two, three hundred seventy-three, three hundred seventy-four, three
37 hundred seventy-five and three hundred seventy-six of this act shall
38 remain in effect until September 1, [~~2019~~] 2021, at which time they
39 shall be deemed repealed; provided, however, that the mandatory
40 surcharge provided in section three hundred seventy-four of this act
41 shall apply to parking violations occurring on or after said effective
42 date; and provided further that the amendments made to section 235 of
43 the vehicle and traffic law by section three hundred seventy-two of this
44 act, the amendments made to section 1809 of the vehicle and traffic law
45 by sections three hundred thirty-seven and three hundred thirty-eight of
46 this act and the amendments made to section 215-a of the labor law by
47 section three hundred seventy-five of this act shall expire on September
48 1, [~~2019~~] 2021 and upon such date the provisions of such subdivisions
49 and sections shall revert to and be read as if the provisions of this
50 act had not been enacted; the amendments to subdivisions 2 and 3 of
51 section 400.05 of the penal law made by sections three hundred seventy-
52 seven and three hundred seventy-eight of this act shall expire on July
53 1, 1992 and upon such date the provisions of such subdivisions shall
54 revert and shall be read as if the provisions of this act had not been

1 enacted; the state board of law examiners shall take such action as is
2 necessary to assure that all applicants for examination for admission to
3 practice as an attorney and counsellor at law shall pay the increased
4 examination fee provided for by the amendment made to section 465 of the
5 judiciary law by section three hundred eighty of this act for any exam-
6 ination given on or after the effective date of this act notwithstanding
7 that an applicant for such examination may have prepaid a lesser fee for
8 such examination as required by the provisions of such section 465 as of
9 the date prior to the effective date of this act; the provisions of
10 section 306-a of the civil practice law and rules as added by section
11 three hundred eighty-one of this act shall apply to all actions pending
12 on or commenced on or after September 1, 1991, provided, however, that
13 for the purposes of this section service of such summons made prior to
14 such date shall be deemed to have been completed on September 1, 1991;
15 the provisions of section three hundred eighty-three of this act shall
16 apply to all money deposited in connection with a cash bail or a
17 partially secured bail bond on or after such effective date; and the
18 provisions of sections three hundred eighty-four and three hundred
19 eighty-five of this act shall apply only to jury service commenced
20 during a judicial term beginning on or after the effective date of this
21 act; provided, however, that nothing contained herein shall be deemed to
22 affect the application, qualification, expiration or repeal of any
23 provision of law amended by any section of this act and such provisions
24 shall be applied or qualified or shall expire or be deemed repealed in
25 the same manner, to the same extent and on the same date as the case may
26 be as otherwise provided by law;

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

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

32 § 3. This act shall take effect immediately.

33

PART P

34 Section 1. The vehicle and traffic law is amended by adding two new
35 sections 114-e and 114-f to read as follows:

36 § 114-e. Locally authorized scooter. Every two-wheeled device that is
37 no more than sixty inches in length, twenty-six inches in width, and
38 fifty-five inches in height, which does not have a seat or saddle, is
39 designed to transport one person standing on the device and can be
40 propelled by any power other than muscular power. Such device may be
41 lawfully operated on public highways pursuant to article thirty-four-D
42 of this chapter only within such counties, cities, towns or villages
43 that have authorized such operation by local law, ordinance, order, rule
44 or regulation.

45 § 114-f. Locally authorized motorcycle. Every motor vehicle, including
46 one partially powered by human power, other than one registered or capa-
47 ble of being registered pursuant to this chapter as a motorcycle or
48 limited use motorcycle, having a seat or a saddle for the use of the
49 rider and designed to travel on two wheels and having a maximum perform-
50 ance speed of not more than twenty miles per hour. Such device may be
51 lawfully operated on public highways pursuant to article thirty-four-E
52 of this chapter only within such counties, cities, towns or villages
53 that have authorized such operation by local law, ordinance, order, rule
54 or regulation.

1 § 2. Section 125 of the vehicle and traffic law, as amended by chapter
2 365 of the laws of 2008, is amended to read as follows:

3 § 125. Motor vehicles. Every vehicle operated or driven upon a public
4 highway which is propelled by any power other than muscular power,
5 except (a) electrically-driven mobility assistance devices operated or
6 driven by a person with a disability, (a-1) electric personal assistive
7 mobility devices operated outside a city with a population of one
8 million or more, (a-2) locally authorized scooters, (a-3) locally
9 authorized motorcycles, (b) vehicles which run only upon rails or
10 tracks, (c) snowmobiles as defined in article forty-seven of this chap-
11 ter, and (d) all terrain vehicles as defined in article forty-eight-B of
12 this chapter. For the purposes of title four of this chapter, the term
13 motor vehicle shall exclude fire and police vehicles other than ambu-
14 lances. For the purposes of titles four and five of this chapter the
15 term motor vehicles shall exclude farm type tractors and all terrain
16 type vehicles used exclusively for agricultural purposes, or for snow
17 plowing, other than for hire, farm equipment, including self-propelled
18 machines used exclusively in growing, harvesting or handling farm
19 produce, and self-propelled caterpillar or crawler-type equipment while
20 being operated on the contract site.

21 § 3. The vehicle and traffic law is amended by adding a new article
22 34-D to read as follows:

23 ARTICLE 34-D

24 OPERATION OF LOCALLY AUTHORIZED SCOOTERS

25 Section 1280. Effect of requirements.

26 1281. Traffic laws apply to persons operating locally authorized
27 scooters; local laws.

28 1282. Operating locally authorized scooters.

29 1283. Clinging to vehicles.

30 1284. Riding on roadways, shoulders and lanes reserved for non-
31 motorized vehicles and devices.

32 1285. Lamps and other equipment.

33 1286. Operators to wear protective headgear.

34 1287. Leaving the scene of an incident involving a locally
35 authorized scooter without reporting.

36 1288. Operation of a locally authorized scooter while under the
37 influence of alcohol or drugs.

38 § 1280. Effect of requirements. The parent of any child and the guard-
39 ian of any ward shall not authorize or knowingly permit any such child
40 or ward to violate any of the provisions of this article.

41 § 1281. Traffic laws apply to persons operating locally authorized
42 scooters; local laws. 1. Locally authorized scooters may only be oper-
43 ated on public highways with a posted speed limit of thirty miles per
44 hour or less, including non-interstate public highways, private roads
45 open to motor vehicle traffic, and designated bicycle or in-line skate
46 lanes. Every person operating a locally authorized scooter upon a high-
47 way or roadway shall be granted all of the rights and shall be subject
48 to all of the duties applicable to the driver of a vehicle by this
49 title, except as to special requirements in this article and except as
50 to those provisions of this title which by their nature can have no
51 application.

52 2. Notwithstanding the provisions of subdivision one of this section
53 the governing body of any county, city, town or village may, by local
54 law, ordinance, order, rule or regulation, further regulate the maximum
55 speed, time, place and manner of the operation of locally authorized
56 scooters including authorizing the use of locally authorized scooters on

1 sidewalks, and limiting or prohibiting the use thereof in specified
2 areas under the jurisdiction of such county, city, town or village.

3 § 1282. Operating locally authorized scooters. 1. No locally author-
4 ized scooter shall be used to carry more than one person at one time. No
5 person operating a locally authorized scooter shall carry any person as
6 a passenger in a pack fastened to the operator or fastened to such
7 scooter.

8 2. No person shall operate a locally authorized scooter outside during
9 the period of time between one-half hour after sunset and one-half hour
10 before sunrise unless such person is wearing readily visible reflective
11 clothing or material which is of a light or bright color.

12 3. No person operating a locally authorized scooter shall carry any
13 package, bundle or article which prevents the operator from keeping at
14 least one hand upon the handle bars or which obstructs his or her vision
15 in any direction.

16 4. Every person operating a locally authorized scooter shall yield the
17 right of way to pedestrians and motor vehicles.

18 5. Every operator of a locally authorized scooter shall be sixteen
19 years of age or older.

20 6. No person shall operate a locally authorized scooter in excess of
21 twenty miles per hour.

22 7. If the governing body of any county, city, town or village shall
23 authorize the use of locally authorized scooters upon any sidewalk, such
24 authorization shall not permit the operation thereof at a speed in
25 excess of eight miles per hour. Additionally, if such authorization is
26 granted, no operator of a locally authorized scooter shall overtake a
27 pedestrian on a sidewalk unless there is adequate space for the locally
28 authorized scooter to pass around the pedestrian and warning is given to
29 such pedestrian through the audible device defined in subdivision two of
30 section twelve hundred eighty-five of this article.

31 8. A first violation of the provisions of this section shall result in
32 no fine. A second or subsequent violation shall result in a civil fine
33 not to exceed fifty dollars.

34 § 1283. Clinging to vehicles. 1. No person operating a locally author-
35 ized scooter shall attach such scooter, or himself or herself to any
36 vehicle being operated upon a roadway.

37 2. No vehicle operator shall knowingly permit any person to attach any
38 locally authorized scooter or himself or herself to such operator's
39 vehicle in violation of subdivision one of this section.

40 § 1284. Riding on roadways, shoulders and lanes reserved for non-mo-
41 torized vehicles and devices. 1. Upon all roadways, any locally author-
42 ized scooter shall be operated either on a usable bicycle or in-line
43 skate lane or, if a usable bicycle or in-line skate lane has not been
44 provided, near the right-hand curb or edge of the roadway or upon a
45 usable right-hand shoulder in such a manner as to prevent undue inter-
46 ference with the flow of traffic except when preparing to turn left at
47 an intersection or when reasonably necessary to avoid conditions that
48 would make it unsafe to continue along near the right-hand curb or edge
49 of the roadway. Conditions to be taken into consideration include, but
50 are not limited to, fixed or moving objects, vehicles, bicycles, in-line
51 skaters, pedestrians, animals, surface hazards and traffic lanes too
52 narrow for a locally authorized scooter and a vehicle to travel safely
53 side-by-side within the lane.

54 2. Persons operating locally authorized scooters upon a roadway shall
55 ride single file. Persons operating locally authorized scooters upon a
56 shoulder, bicycle or in-line skate lane, or bicycle or in-line skate

1 path, intended for the use of bicycles, electric personal assistive
2 mobility devices, locally authorized scooters, locally authorized motor-
3 cycles or in-line skates may ride two or more abreast if sufficient
4 space is available, except that when passing a vehicle, bicycle, elec-
5 tric personal assistive mobility device, locally authorized scooter,
6 person on in-line skates or pedestrian standing or proceeding along such
7 shoulder, lane or path, persons operating locally authorized scooters
8 shall operate such scooter in single file.

9 3. Any person operating a locally authorized scooter who is entering
10 the roadway from a private road, driveway, alley or over a curb shall
11 come to a full stop before entering the roadway.

12 § 1285. Lamps and other equipment. 1. Every locally authorized scooter
13 when in use during the period from one-half hour after sunset to one-
14 half hour before sunrise shall be equipped with a lamp on the front
15 which shall emit a white light visible during hours of darkness from a
16 distance of at least five hundred feet to the front and with a red light
17 visible to the rear for three hundred feet. At least one of these lights
18 shall be visible for two hundred feet from each side.

19 2. No person shall operate a locally authorized scooter unless it is
20 equipped with a bell or other device capable of giving a signal audible
21 for a distance of at least one hundred feet, except that such scooter
22 shall not be equipped with nor shall any person use upon such scooter
23 any siren or whistle.

24 3. Every locally authorized scooter shall be equipped with a system
25 that enables the operator to bring the device to a controlled stop.

26 § 1286. Operators to wear protective headgear. 1. No person shall ride
27 upon, propel or otherwise operate a locally authorized scooter unless
28 such person is wearing a helmet meeting standards established by the
29 commissioner pursuant to the provisions of subdivision two-a of section
30 twelve hundred thirty-eight of this title. As used in this subdivision,
31 wearing a helmet means having a properly fitting helmet fixed securely
32 on the head of such wearer with the helmet straps securely fastened.

33 2. Any person who violates the provisions of subdivision one of this
34 section shall pay a civil fine not to exceed fifty dollars.

35 3. The court shall waive any fine for which a person who violates the
36 provisions of subdivision one of this section would be liable if such
37 person supplies the court with proof that between the date of violation
38 and the appearance date for such violation such person purchased or
39 rented a helmet, which meets the requirements of subdivision one of this
40 section, or if the court finds that due to reasons of economic hardship
41 such person was unable to purchase a helmet or due to such economic
42 hardship such person was unable to obtain a helmet from the statewide
43 in-line skate and bicycle helmet distribution program, as established in
44 section two hundred six of the public health law or a local distribution
45 program. Such waiver of fine shall not apply to a second or subsequent
46 conviction under subdivision one of this section.

47 4. The failure of any person to comply with the provisions of this
48 section shall not constitute contributory negligence or assumption of
49 risk, and shall not in any way bar, preclude or foreclose an action for
50 personal injury or wrongful death by or on behalf of such person, nor in
51 any way diminish or reduce the damages recoverable in any such action.

52 5. A police officer shall only issue a summons for a violation of
53 subdivision one of this section by a person less than fourteen years of
54 age to the parent or guardian of such person if the violation by such
55 person occurs in the presence of such person's parent or guardian and
56 where such parent or guardian is eighteen years of age or older. Such

1 summons shall only be issued to such parent or guardian, and shall not
2 be issued to the person less than fourteen years of age.

3 § 1287. Leaving the scene of an incident involving a locally author-
4 ized scooter without reporting. 1. (a) Any person eighteen years of age
5 or older operating a locally authorized scooter who, knowing or having
6 cause to know, that physical injury, as defined in subdivision nine of
7 section 10.00 of the penal law, has been caused to another person, due
8 to the operation of such locally authorized scooter by such person
9 shall, before leaving the place where such physical injury occurred,
10 stop and provide his or her name and residence, including street and
11 street number, to the injured party, if practical, and also to a police
12 officer, or in the event that no police officer is in the vicinity of
13 the place of said injury, then such person shall report said incident as
14 soon as physically able to the nearest police station or judicial offi-
15 cer.

16 (b) A violation of paragraph (a) of this subdivision shall be a
17 violation.

18 2. (a) Any person eighteen years of age or older operating a locally
19 authorized scooter who knowing or having cause to know, that serious
20 physical injury, as defined in subdivision ten of section 10.00 of the
21 penal law, has been caused to another person, due to the operation of
22 such locally authorized scooter by such person shall, before leaving the
23 place where such serious physical injury occurred, stop and provide his
24 or her name and residence, including street and street number, to the
25 injured party, if practical, and also to a police officer, or in the
26 event that no police officer is in the vicinity of the place of said
27 injury, then such person shall report said incident as soon as phys-
28 ically able to the nearest police station or judicial officer.

29 (b) A violation of paragraph (a) of this subdivision shall be a class
30 B misdemeanor.

31 § 1288. Operation of a locally authorized scooter while under the
32 influence of alcohol or drugs. 1. Offenses; criminal penalties. (a) No
33 person shall operate a locally authorized scooter while his or her abil-
34 ity to operate such locally authorized scooter is impaired by the
35 consumption of alcohol.

36 (i) A violation of this subdivision shall be an offense and shall be
37 punishable by a fine of not less than three hundred dollars nor more
38 than five hundred dollars, or by imprisonment in a penitentiary or coun-
39 ty jail for not more than fifteen days, or by both such fine and impri-
40 sonment.

41 (ii) A person who operates a locally authorized scooter in violation
42 of this subdivision after being convicted of a violation of any subdivi-
43 sion of this section within the preceding five years shall be punished
44 by a fine of not less than five hundred dollars nor more than seven
45 hundred fifty dollars, or by imprisonment of not more than thirty days
46 in a penitentiary or county jail or by both such fine and imprisonment.

47 (iii) A person who operates a locally authorized scooter in violation
48 of this subdivision after being convicted two or more times of a
49 violation of any subdivision of this section within the preceding ten
50 years shall be guilty of a misdemeanor, and shall be punished by a fine
51 of not less than seven hundred fifty dollars nor more than fifteen
52 hundred dollars, or by imprisonment of not more than one hundred eighty
53 days in a penitentiary or county jail or by both such fine and imprison-
54 ment.

55 (b) No such person shall operate a locally authorized scooter while he
56 or she has .08 of one per centum or more by weight of alcohol in his or

1 her blood, breath, urine, or saliva, as determined by the chemical test
2 made pursuant to the provisions of subdivision five of this section.

3 (c) No person shall operate a locally authorized scooter while he or
4 she is in an intoxicated condition.

5 (d) No person shall operate a locally authorized scooter while his or
6 her ability to operate such locally authorized scooter is impaired by
7 the use of a drug as defined by section one hundred fourteen-a of the
8 this chapter.

9 (e) No person shall operate a locally authorized scooter while his or
10 her ability to operate such locally authorized scooter is impaired by
11 the combined influence of drugs or of alcohol and any drug or drugs as
12 defined by section one hundred fourteen-a of this chapter.

13 (f)(i) A violation of paragraph (b), (c), or (d), of this subdivision
14 shall be a misdemeanor and shall be punishable by imprisonment in a
15 penitentiary or county jail for not more than one year, or by a fine of
16 not less than five hundred dollars nor more than one thousand dollars,
17 or by both such fine and imprisonment.

18 (i-a) A violation of paragraph (e) of this subdivision shall be a
19 class E felony, and shall be punished by a fine of not less than one
20 thousand dollars nor more than five thousand dollars or by a period of
21 imprisonment as provided in the penal law, or by both such fine and
22 imprisonment.

23 (ii) A person who operates a locally authorized scooter in violation
24 of paragraph (b), (c), (d), or (e) of this subdivision after having been
25 convicted of a violation of paragraph (b), (c), (d) or, (e), within the
26 preceding ten years, shall be guilty of a class E felony and shall be
27 punished by a period of imprisonment as provided in the penal law, or by
28 a fine of not less than one thousand dollars nor more than five thousand
29 dollars, or by both such fine and imprisonment.

30 (iii) A person who operates a locally authorized scooter in violation
31 of paragraph (b), (c), (d) or, (e) of this subdivision after having been
32 twice convicted of a violation of any of such paragraph (b), (c), (d)
33 or, (e), of this subdivision, within the preceding ten years, shall be
34 guilty of a class D felony and shall be punished by a fine of not less
35 than two thousand dollars nor more than ten thousand dollars or by a
36 period of imprisonment as provided in the penal law, or by both such
37 fine and imprisonment.

38 2. Sentencing limitations. Notwithstanding any provision of the penal
39 law, no judge or magistrate shall impose a sentence of unconditional
40 discharge or a violation of paragraph (b), (c), (d), (e) or (f) of
41 subdivision one of this section nor shall he or she impose a sentence of
42 conditional discharge unless such conditional discharge is accompanied
43 by a sentence of a fine as provided in this section.

44 3. Sentencing; previous convictions. When sentencing a person for a
45 violation of paragraph (b), (c), (d) or, (e) of subdivision one of this
46 section pursuant to subparagraph (ii) of paragraph (f) of subdivision
47 one of this section, the court shall consider any prior convictions the
48 person may have for a violation of subdivision two, two-a, three, four,
49 or four-a of section eleven hundred ninety-two of this title within the
50 preceding ten years. When sentencing a person for a violation paragraph
51 (b), (c), (d) or, (e) of subdivision one of this section pursuant to
52 subparagraph (iii) of paragraph (f) of subdivision one of this section,
53 the court shall consider any prior convictions the person may have for a
54 violation of subdivision two, two-a, three, four, or four-a of section
55 eleven hundred ninety-two of this title within the preceding ten years.
56 When sentencing a person for a violation of subparagraph (ii) of para-

1 graph (a) of subdivision one of this section, the court shall consider
2 any prior convictions the person may have for a violation of any subdivi-
3 vision of section eleven hundred ninety-two of this title within the
4 preceding five years. When sentencing a person for a violation of
5 subparagraph (iii) of paragraph (a) of subdivision one of this section,
6 the court shall consider any prior convictions the person may have for a
7 violation of any subdivision of section eleven hundred ninety-two of
8 this title within the preceding ten years.

9 4. Arrest and testing. (a) Notwithstanding the provisions of section
10 140.10 of the criminal procedure law, a police officer may, without a
11 warrant, arrest a person, in case of a violation of any paragraph of
12 subdivision one of this section, if such violation is coupled with an
13 accident or collision in which such person is involved, which in fact
14 had been committed, though not in the police officer's presence, when he
15 or she has reasonable cause to believe that the violation was committed
16 by such person. For the purposes of this subdivision police officer
17 shall also include a peace officer authorized to enforce this chapter
18 when the alleged violation constitutes a crime.

19 (b) Breath test for operators of locally authorized scooters. Every
20 person operating a locally authorized scooter which has been involved in
21 an accident or which is operated in violation of any of the provisions
22 of this section which regulate the manner in which a locally authorized
23 scooter is to be properly operated shall, at the request of a police
24 officer, submit to a breath test to be administered by the police offi-
25 cer. If such test indicates that such operator has consumed alcohol, the
26 police officer may request such operator to submit to a chemical test in
27 the manner set forth in subdivision five of this section.

28 5. Chemical tests. (a) Any person who operates a locally authorized
29 scooter shall be requested to consent to a chemical test of one or more
30 of the following: breath, blood, urine, or saliva for the purpose of
31 determining the alcoholic or drug content of his or her blood, provided
32 that such test is administered at the direction of a police officer: (i)
33 having reasonable cause to believe such person to have been operating in
34 violation of paragraph (a), (b), (c), (d) or, (e) of subdivision one of
35 this section and within two hours after such person has been placed
36 under arrest for any such violation or (ii) within two hours after a
37 breath test as provided in paragraph (b) of subdivision four this
38 section indicates that alcohol has been consumed by such person and in
39 accordance with the rules and regulations established by the police
40 force of which the officer is a member.

41 (b) For the purpose of this subdivision "reasonable cause" shall be
42 determined by viewing the totality of circumstances surrounding the
43 incident which, when taken together, indicate that the operator was
44 operating a locally authorized scooter in violation of any paragraph of
45 subdivision one of this section. Such circumstances may include, but are
46 not limited to: evidence that the operator was operating a locally
47 authorized scooter in violation of any provision of this chapter, local
48 law, ordinance, order, rule or regulation which regulates the manner in
49 which a locally authorized scooter be properly operated at the time of
50 the incident; any visible indication of alcohol or drug consumption or
51 impairment by the operator; and other evidence surrounding the circum-
52 stances of the incident which indicates that the operator has been oper-
53 ating a locally authorized scooter while impaired by the consumption of
54 alcohol or drugs or was intoxicated at the time of the incident.

55 6. Chemical test evidence. (a) Upon the trial of any such action or
56 proceeding arising out of actions alleged to have been committed by any

1 person arrested for a violation of any paragraph of subdivision one of
2 this section, the court shall admit evidence of the amount of alcohol or
3 drugs in the defendant's blood as shown by a test administered pursuant
4 to the provisions of subdivision five of this section.

5 (b) The following effect shall be give to evidence of blood alcohol
6 content, as determined by such tests, of a person arrested for a
7 violation of any paragraph of subdivision one of this section and who
8 was operating a locally authorized scooter:

9 (i) evidence that there was .05 of one per centum or less by weight of
10 alcohol in such person's blood shall be prima facie evidence that the
11 ability of such person to operate a locally authorized scooter was not
12 impaired by the consumption of alcohol, and that such person was not in
13 an intoxicated condition.

14 (ii) evidence that there was more than .05 of one per centum but less
15 than .07 of one per centum by weight of alcohol in such person's blood
16 shall be prima facie evidence that such person was not in an intoxicated
17 condition, but such evidence shall be relevant evidence but not be given
18 prima facie effect, in determining whether the ability of such person to
19 operate a locally authorized scooter was impaired by the consumption of
20 alcohol.

21 (iii) evidence that there was .07 of one per centum or more but less
22 than .08 of one per centum by weight of alcohol in his or her blood
23 shall be prima facie evidence that such person was not in an intoxicated
24 condition, but such evidence shall be given prima facie effect in deter-
25 mining whether the ability of such person to operate a locally author-
26 ized scooter was impaired by the consumption of alcohol.

27 (c) Evidence of a refusal to submit to a chemical test or any portion
28 thereof shall be admissible in any trial or hearing provided the request
29 to submit to such a test was made in accordance with the provisions of
30 subdivision five of this section.

31 7. Limitations. (a) A locally authorized scooter operator may be
32 convicted of a violation of paragraphs (a), (b), (d) or (e) of subdivi-
33 sion one of this section, notwithstanding that the charge laid before
34 the court alleged a violation of paragraph (b), (c), (d) or (e) of
35 subdivision one of this section, and regardless of whether or not such
36 condition is based on a plea of guilty.

37 (b) In any case wherein the charge laid before the court alleges a
38 violation of paragraph (b), (c), (d) or (e) of subdivision one of this
39 section, any plea of guilty thereafter entered in satisfaction of such
40 charge must include at least a plea of guilty to the violation of the
41 provisions of one of the paragraphs of such subdivision one and no other
42 disposition by plea of guilty to any other charge in satisfaction of
43 such charge shall be authorized; provided, however, if the district
44 attorney upon reviewing the available evidence determines that the
45 charge of a violation of subdivision one of this section is not
46 warranted, he or she may consent, and the court may allow, a disposition
47 by a plea of guilty to another charge in satisfaction of such charge.

48 § 4. The vehicle and traffic law is amended by adding a new article
49 34-E to read as follows:

50 ARTICLE 34-E

51 OPERATION OF LOCALLY AUTHORIZED MOTORCYCLES

52 Section 1290. Effect of requirements.

53 1291. Traffic laws apply to persons operating locally authorized
54 motorcycles; local laws.

55 1292. Operating locally authorized motorcycles.

56 1293. Clinging to vehicles.

1 1294. Riding on roadways, shoulders and lanes reserved for non-
2 motorized vehicles and devices.

3 1295. Lamps and other equipment.

4 1296. Operators to wear protective headgear.

5 1297. Leaving the scene of an incident involving a locally
6 authorized motorcycle without reporting.

7 1298. Operation of a locally authorized motorcycle while under
8 the influence of alcohol or drugs.

9 § 1290. Effect of requirements. The parent of any child and the guard-
10 ian of any ward shall not authorize or knowingly permit any such child
11 or ward to violate any of the provisions of this article.

12 § 1291. Traffic laws apply to persons operating locally authorized
13 motorcycles; local laws. 1. Locally authorized motorcycles may only be
14 operated on public highways with a posted speed limit of thirty miles
15 per hour or less, including non-interstate public highways, private
16 roads open to motor vehicle traffic, and designated bicycle or in-line
17 skate lanes. Every person operating a locally authorized motorcycle upon
18 a highway or roadway shall be granted all of the rights and shall be
19 subject to all of the duties applicable to the driver of a vehicle by
20 this title, except as to special requirements in this article and except
21 as to those provisions of this title which by their nature can have no
22 application.

23 2. Notwithstanding the provisions of subdivision one of this section
24 the governing body of any county, city, town or village may, by local
25 law, ordinance, order, rule or regulation, further regulate the maximum
26 speed, time, place and manner of the operation of locally authorized
27 motorcycles including authorizing the use of locally authorized motorcy-
28 cles on sidewalks, and limiting or prohibiting the use thereof in speci-
29 fied areas under the jurisdiction of such county, city, town or village.

30 § 1292. Operating locally authorized motorcycles. 1. no locally
31 authorized motorcycle shall be used to carry more than one person at one
32 time. No person operating a locally authorized motorcycle shall carry
33 any person as a passenger in a pack fastened to the operator or fastened
34 to such motorcycle.

35 2. No person shall operate a locally authorized motorcycle outside
36 during the period of time between one-half hour after sunset and one-
37 half hour before sunrise unless such person is wearing readily visible
38 reflective clothing or material which is of a light or bright color.

39 3. No person operating a locally authorized motorcycle shall carry any
40 package, bundle or article which prevents the operator from keeping at
41 least one hand upon the handle bars or which obstructs his or her vision
42 in any direction.

43 4. Every person operating a locally authorized motorcycle shall yield
44 the right of way to pedestrians and motor vehicles.

45 5. Every operator of a locally authorized motorcycle shall be sixteen
46 years of age or older.

47 6. No person shall operate a locally authorized motorcycle in excess
48 of twenty miles per hour.

49 7. If the governing body of any county, city, town or village shall
50 authorize the use of locally authorized motorcycles upon any sidewalk,
51 such authorization shall not permit the operation thereof at a speed in
52 excess of eight miles per hour. Additionally, if such authorization is
53 granted, no operator of a locally authorized motorcycle shall overtake a
54 pedestrian on a sidewalk unless there is adequate space for the locally
55 authorized motorcycle to pass around the pedestrian and warning is given

1 to such pedestrian through the audible device defined in subdivision two
2 of section twelve hundred ninety-five of this article.

3 8. A first violation of the provisions of this section shall result in
4 no fine. A second or subsequent violation shall result in a civil fine
5 not to exceed fifty dollars.

6 § 1293. Clinging to vehicles. 1. No person operating a locally author-
7 ized motorcycle shall attach such motorcycle, or himself or herself to
8 any vehicle being operated upon a roadway.

9 2. No vehicle operator shall knowingly permit any person to attach any
10 locally authorized motorcycle or himself or herself to such operator's
11 vehicle in violation of subdivision one of this section.

12 § 1294. Riding on roadways, shoulders and lanes reserved for non-mo-
13 torized vehicles and devices. 1. Upon all roadways, any locally author-
14 ized motorcycle shall be operated either on a usable bicycle or in-line
15 skate lane or, if a usable bicycle or in-line skate lane has not been
16 provided, near the right-hand curb or edge of the roadway or upon a
17 usable right-hand shoulder in such a manner as to prevent undue inter-
18 ference with the flow of traffic except when preparing to turn left at
19 an intersection or when reasonably necessary to avoid conditions that
20 would make it unsafe to continue along near the right-hand curb or edge
21 of the roadway. Conditions to be taken into consideration include, but
22 are not limited to, fixed or moving objects, vehicles, bicycles, in-line
23 skaters, pedestrians, animals, surface hazards and traffic lanes too
24 narrow for a locally authorized motorcycle and a vehicle to travel safe-
25 ly side-by-side within the lane.

26 2. Persons operating locally authorized motorcycles upon a roadway
27 shall ride single file. Persons operating locally authorized motorcy-
28 cles upon a shoulder, bicycle or in-line skate lane, or bicycle or
29 in-line skate path, intended for the use of bicycles, electric personal
30 assistive mobility devices, locally authorized scooter, locally author-
31 ized motorcycles or in-line skates may ride two or more abreast if
32 sufficient space is available, except that when passing a vehicle, bicy-
33 cle, electric personal assistive mobility device, locally authorized
34 scooter, locally authorized motorcycles, person on in-line skates or
35 pedestrian standing or proceeding along such shoulder, lane or path,
36 persons operating locally authorized motorcycles shall operate such
37 motorcycle in single file.

38 3. Any person operating a locally authorized motorcycle who is enter-
39 ing the roadway from a private road, driveway, alley or over a curb
40 shall come to a full stop before entering the roadway.

41 § 1295. Lamps and other equipment. 1. Every locally authorized motor-
42 cycle when in use during the period from one-half hour after sunset to
43 one-half hour before sunrise shall be equipped with a lamp on the front
44 which shall emit a white light visible during hours of darkness from a
45 distance of at least five hundred feet to the front and with a red light
46 visible to the rear for three hundred feet. At least one of these lights
47 shall be visible for two hundred feet from each side.

48 2. No person shall operate a locally authorized motorcycle unless it
49 is equipped with a bell or other device capable of giving a signal audi-
50 ble for a distance of at least one hundred feet, except that such motor-
51 cycle shall not be equipped with nor shall any person use upon such
52 motorcycle any siren or whistle.

53 3. Every locally authorized motorcycle shall equipped with a system
54 that enables the operator to bring the device to a controlled stop.

55 § 1296. Operators to wear protective headgear. 1. No person shall ride
56 upon, propel or otherwise operate a locally authorized motorcycle unless

1 such person is wearing a helmet meeting standards established by the
2 commissioner pursuant to the provisions of subdivision two-a of section
3 twelve hundred thirty-eight of this title. As used in this subdivision,
4 wearing a helmet means having a properly fitting helmet fixed securely
5 on the head of such wearer with the helmet straps securely fastened.

6 2. Any person who violates the provisions of subdivision one of this
7 section shall pay a civil fine not to exceed fifty dollars.

8 3. The court shall waive any fine for which a person who violates the
9 provisions of subdivision one of this section would be liable if such
10 person supplies the court with proof that between the date of violation
11 and the appearance date for such violation such person purchased or
12 rented a helmet, which meets the requirements of subdivision one of this
13 section, or if the court finds that due to reasons of economic hardship
14 such person was unable to purchase a helmet or due to such economic
15 hardship such person was unable to obtain a helmet from the statewide
16 in-line skate and bicycle helmet distribution program, as established in
17 section two hundred six of the public health law or a local distribution
18 program. Such waiver of fine shall not apply to a second or subsequent
19 conviction under subdivision one of this section.

20 4. The failure of any person to comply with the provisions of this
21 section shall not constitute contributory negligence or assumption of
22 risk, and shall not in any way bar, preclude or foreclose an action for
23 personal injury or wrongful death by or on behalf of such person, nor in
24 any way diminish or reduce the damages recoverable in any such action.

25 5. A police officer shall only issue a summons for a violation of
26 subdivision one of this section by a person less than fourteen years of
27 age to the parent or guardian of such person if the violation by such
28 person occurs in the presence of such person's parent or guardian and
29 where such parent or guardian is eighteen years of age or older. Such
30 summons shall only be issued to such parent or guardian, and shall not
31 be issued to the person less than fourteen years of age.

32 § 1297. Leaving the scene of an incident involving a locally author-
33 ized motorcycle without reporting. 1. (a) Any person eighteen years of
34 age or older operating a locally authorized motorcycle who, knowing or
35 having cause to know, that physical injury, as defined in subdivision
36 nine of section 10.00 of the penal law, has been caused to another
37 person, due to the operation of such locally authorized motorcycle by
38 such person shall, before leaving the place where such physical injury
39 occurred, stop and provide his or her name and residence, including
40 street and street number, to the injured party, if practical, and also
41 to a police officer, or in the event that no police officer is in the
42 vicinity of the place of said injury, then such person shall report said
43 incident as soon as physically able to the nearest police station or
44 judicial officer.

45 (b) A violation of paragraph (a) of this subdivision shall be a
46 violation.

47 2. (a) Any person eighteen years of age or older operating a locally
48 authorized motorcycle who, knowing or having cause to know, that serious
49 physical injury, as defined in subdivision ten of section 10.00 of the
50 penal law, has been caused to another person, due to the operation of
51 such locally authorized motorcycle by such person shall, before leaving
52 the place where such serious physical injury occurred, stop and provide
53 his or her name and residence, including street and street number, to
54 the injured party, if practical, and also to a police officer, or in the
55 event that no police officer is in the vicinity of the place of said

1 injury, then such person shall report said incident as soon as phys-
2 ically able to the nearest police station or judicial officer.

3 (b) A violation of paragraph (a) of this subdivision shall be a class
4 B misdemeanor.

5 § 1298. Operation of a locally authorized motorcycle while under the
6 influence of alcohol or drugs. 1. Offenses; criminal penalties. (a) No
7 person shall operate a locally authorized motorcycle while his or her
8 ability to operate such locally authorized motorcycle is impaired by the
9 consumption of alcohol.

10 (i) A violation of this subdivision shall be an offense and shall be
11 punishable by a fine of not less than three hundred dollars nor more
12 than five hundred dollars, or by imprisonment in a penitentiary or coun-
13 ty jail for not more than fifteen days, or by both such fine and impri-
14 sonment.

15 (ii) A person who operates a locally authorized motorcycle in
16 violation of this subdivision after being convicted of a violation of
17 any subdivision of this section within the preceding five years shall be
18 punished by a fine of not less than five hundred dollars nor more than
19 seven hundred fifty dollars, or by imprisonment of not more than thirty
20 days in a penitentiary or county jail or by both such fine and imprison-
21 ment.

22 (iii) A person who operates a locally authorized motorcycle in
23 violation of this subdivision after being convicted two or more times of
24 a violation of any subdivision of this section within the preceding ten
25 years shall be guilty of a misdemeanor, and shall be punished by a fine
26 of not less than seven hundred fifty dollars nor more than fifteen
27 hundred dollars, or by imprisonment of not more than one hundred eighty
28 days in a penitentiary or county jail or by both such fine and imprison-
29 ment.

30 (b) No such person shall operate a locally authorized motorcycle while
31 he or she has .08 of one per centum or more by weight of alcohol in his
32 or her blood, breath, urine, or saliva, as determined by the chemical
33 test made pursuant to the provisions of subdivision five of this
34 section.

35 (c) No person shall operate a locally authorized motorcycle while he
36 or she is in an intoxicated condition.

37 (d) No person shall operate a locally authorized motorcycle while his
38 or her ability to operate such locally authorized motorcycle is impaired
39 by the use of a drug as defined by section one hundred fourteen-a of
40 this chapter.

41 (e) No person shall operate a locally authorized motorcycle while his
42 or her ability to operate such locally authorized motorcycle is impaired
43 by the combined influence of drugs or of alcohol and any drug or drugs
44 as defined by section one hundred fourteen-a of this chapter.

45 (f) (i) A violation of paragraph (b), (c), (d), or (e) of this subdivi-
46 vision shall be a misdemeanor and shall be punishable by imprisonment in
47 a penitentiary or county jail for not more than one year, or by a fine
48 of not less than five hundred dollars nor more than one thousand
49 dollars, or by both such fine and imprisonment.

50 (i-a) A violation of paragraph (e) of this subdivision shall be a
51 class E felony, and shall be punished by a fine of not less than one
52 thousand dollars nor more than five thousand dollars or by a period of
53 imprisonment as provided in the penal law, or by both such fine and
54 imprisonment.

55 (ii) A person who operates a locally authorized motorcycle in
56 violation of paragraph (b), (c), (d), or (e) of this subdivision after

1 having been convicted of a violation of paragraph (b), (c), (d), or (e),
2 within the preceding ten years, shall be guilty of a class E felony and
3 shall be punished by a period of imprisonment as provided in the penal
4 law, or by a fine of not less than one thousand dollars nor more than
5 five thousand dollars, or by both such fine and imprisonment.

6 (iii) A person who operates a locally authorized motorcycle in
7 violation of paragraph (b), (c), (d) or (e) of this subdivision after
8 having been twice convicted of a violation of any of such paragraph (b),
9 (c), (d) or (e) of this subdivision, within the preceding ten years,
10 shall be guilty of a class D felony and shall be punished by a fine of
11 not less than two thousand dollars nor more than ten thousand dollars or
12 by a period of imprisonment as provided in the penal law, or by both
13 such fine and imprisonment.

14 2. Sentencing limitations. Notwithstanding any provision of the penal
15 law, no judge or magistrate shall impose a sentence of unconditional
16 discharge or a violation of paragraph (b), (c), (d) or (e) of subdivi-
17 sion one of this section nor shall he or she impose a sentence of condi-
18 tional discharge unless such conditional discharge is accompanied by a
19 sentence of a fine as provided in this section.

20 3. Sentencing: previous convictions. When sentencing a person for a
21 violation of paragraph (b), (c), (d) or (e) of subdivision one of this
22 section pursuant to subparagraph (ii) of paragraph (f) of subdivision
23 one of this section, the court shall consider any prior convictions the
24 person may have for a violation of subdivision two, two-a, three, four,
25 or four-a of section eleven hundred ninety-two of this title within the
26 preceding ten years. When sentencing a person for a violation of para-
27 graph (b), (c), (d) or (e) of subdivision one of this section pursuant
28 to subparagraph (iii) of paragraph (f) of subdivision one of this
29 section, the court shall consider any prior convictions the person may
30 have for a violation of subdivision two, two-a, three, four, or four-a
31 of section eleven hundred ninety-two of this title within the preceding
32 ten years. When sentencing a person for a violation of subparagraph (ii)
33 of paragraph (a) of subdivision one of this section, the court shall
34 consider any prior convictions the person may have for a violation of
35 any subdivision of section eleven hundred ninety-two of this title with-
36 in the preceding five years. When sentencing a person for a violation of
37 subparagraph (iii) of paragraph (a) of subdivision one of this section,
38 the court shall consider any prior convictions the person may have for a
39 violation of any subdivision of section eleven hundred ninety-two of
40 this title within the preceding ten years.

41 4. Arrest and testing. (a) Notwithstanding the provisions of section
42 140.10 of the criminal procedure law, a police officer may, without a
43 warrant, arrest a person, in case of a violation of any paragraph of
44 subdivision one of this section, if such violation is coupled with an
45 accident or collision in which such person is involved, which in fact
46 had been committed, though not in the police officer's presence, when he
47 or she has reasonable cause to believe that the violation was committed
48 by such person. For the purposes of this subdivision police officer
49 shall also include a peace officer authorized to enforce this chapter
50 when the alleged violation constitutes a crime.

51 (b) Breath test for operators of locally authorized motorcycles.
52 Every person operating a locally authorized motorcycle which has been
53 involved in an accident or which is operated in violation of any of the
54 provisions of this section which regulate the manner in which a locally
55 authorized motorcycle is to be properly operated shall, at the request
56 of a police officer, submit to a breath test to be administered by the

1 police officer. If such test indicates that such operator has consumed
2 alcohol, the police officer may request such operator to submit to a
3 chemical test in the manner set forth in subdivision five of this
4 section.

5 5. Chemical tests. (a) Any person who operates a locally authorized
6 motorcycle shall be requested to consent to a chemical test of one or
7 more of the following: breath, blood, urine, or saliva for the purpose
8 of determining the alcoholic or drug content of his or her blood,
9 provided that such test is administered at the direction of a police
10 officer: (i) having reasonable cause to believe such person to have been
11 operating in violation of paragraph (a), (b), (c), (d) or (e) of subdi-
12 vision one of this section and within two hours after such person has
13 been placed under arrest for any such violation or (ii) within two hours
14 after a breath test as provided in paragraph (b) of subdivision four of
15 this section indicates that alcohol has been consumed by such person and
16 in accordance with the rules and regulations established by the police
17 force of which the officer is a member.

18 (b) For the purpose of this subdivision "reasonable cause" shall be
19 determined by viewing the totality of circumstances surrounding the
20 incident which, when taken together, indicate that the operator was
21 operating a locally authorized motorcycle in violation of any paragraph
22 of subdivision one of this section. Such circumstances may include, but
23 are not limited to: evidence that the operator was operating a locally
24 authorized motorcycle in violation of any provision of this chapter,
25 local law, ordinance, order, rule or regulation which regulates the
26 manner in which a locally authorized motorcycle be properly operated at
27 the time of the incident; any visible indication of alcohol or drug
28 consumption or impairment by the operator; and other evidence surround-
29 ing the circumstances of the incident which indicates that the operator
30 has been operating a locally authorized motorcycle while impaired by the
31 consumption of alcohol or drugs or was intoxicated at the time of the
32 incident.

33 6. Chemical test evidence. (a) Upon the trial of any such action or
34 proceeding arising out of actions alleged to have been committed by any
35 person arrested for a violation of any paragraph of subdivision one of
36 this section, the court shall admit evidence of the amount of alcohol or
37 drugs in the defendant's blood as shown by a test administered pursuant
38 to the provisions of subdivision five of this section.

39 (b) The following effect shall be given to evidence of blood alcohol
40 content, as determined by such tests, of a person arrested for a
41 violation of any paragraph of subdivision one of this section and who
42 was operating a locally authorized motorcycle:

43 (i) evidence that there was .05 of one per centum or less by weight of
44 alcohol in such person's blood shall be prima facie evidence that the
45 ability of such person to operate a locally authorized motorcycle was
46 not impaired by the consumption of alcohol, and that such person was not
47 in an intoxicated condition.

48 (ii) evidence that there was more than .05 of one per centum but less
49 than .07 of one per centum by weight of alcohol in such person's blood
50 shall be prima facie evidence that such person was not in an intoxicated
51 condition, but such evidence shall be relevant evidence but not be given
52 prima facie effect, in determining whether the ability of such person to
53 operate a locally authorized motorcycle was impaired by the consumption
54 of alcohol.

55 (iii) evidence that there was .07 of one per centum or more but less
56 than .08 of one per centum by weight of alcohol in his or her blood

1 shall be prima facie evidence that such person was not in an intoxicated
2 condition, but such evidence shall be given prima facie effect in deter-
3 mining whether the ability of such person to operate a locally author-
4 ized motorcycle was impaired by the consumption of alcohol.

5 (c) Evidence of a refusal to submit to a chemical test or any portion
6 thereof shall be admissible in any trial or hearing provided the request
7 to submit to such a test was made in accordance with the provisions of
8 subdivision five of this section.

9 7. Limitations. (a) A locally authorized motorcycle operator may be
10 convicted of a violation of paragraphs (a), (b), (d) or, (e) of subdivi-
11 sion one of this section, notwithstanding that the charge laid before
12 the court alleged a violation of paragraph (b), (c), (d), or (e) of
13 subdivision one of this section, and regardless of whether or not such
14 condition is based on a plea of guilty.

15 (b) In any case wherein the charge laid before the court alleges a
16 violation of paragraph (b), (c), (d), or (e) of subdivision one of this
17 section, any plea of guilty thereafter entered in satisfaction of such
18 charge must include at least a plea of guilty to the violation of the
19 provisions of one of the paragraphs of such subdivision one and no other
20 disposition by plea of guilty to any other charge in satisfaction of
21 such charge shall be authorized; provided, however, if the district
22 attorney upon reviewing the available evidence determines that the
23 charge of a violation of subdivision one of this section is not
24 warranted, he or she may consent, and the court may allow, a disposition
25 by plea of guilty to another charge in satisfaction of such charge.

26 § 5. This act shall take effect immediately.

27 PART Q

28 Section 1. Paragraph (d) of section 304 of the business corporation
29 law is amended to read as follows:

30 (d) Any designated post office address maintained by the secretary of
31 state as agent of a domestic corporation or foreign corporation for the
32 purpose of mailing process shall be the post office address, within or
33 without the state, to which a person shall mail process against such
34 corporation as required by this article. Any designated [~~post-office~~]
35 post office address to which the secretary of state or a person shall
36 mail a copy of any process served upon [~~him~~] the secretary of state as
37 agent of a domestic corporation or a foreign corporation, shall continue
38 until the filing of a certificate under this chapter directing the mail-
39 ing to a different [~~post-office~~] post office address.

40 § 2. Paragraph (a) of section 305 of the business corporation law, as
41 amended by chapter 131 of the laws of 1985, is amended to read as
42 follows:

43 (a) In addition to such designation of the secretary of state, every
44 domestic corporation or authorized foreign corporation may designate a
45 registered agent in this state upon whom process against such corpo-
46 ration may be served. The agent shall be a natural person who is a resi-
47 dent of or has a business address in this state [~~or~~], a domestic corpo-
48 ration or foreign corporation of any type or kind formed, or authorized
49 to do business in this state[~~r~~] under this chapter or under any other
50 statute of this state, or a domestic limited liability company or
51 foreign limited liability company formed or authorized to do business in
52 this state.

1 § 3. Subparagraph 1 of paragraph (b) of section 306 of the business
2 corporation law, as amended by chapter 419 of the laws of 1990, is
3 amended to read as follows:

4 (1) Service of process on the secretary of state as agent of a domes-
5 tic or authorized foreign corporation, or other business entity that has
6 designated the secretary of state as agent for service of process pursu-
7 ant to article nine of this chapter, shall be made by [~~personally deliv-~~
8 ~~ering to and leaving with the secretary of state or a deputy, or with~~
9 ~~any person authorized by the secretary of state to receive such service,~~
10 ~~at the office of the department of state in the city of Albany, dupli-~~
11 ~~cate copies of such process together with the statutory fee, which fee~~
12 ~~shall be a taxable disbursement] mailing the process and notice of
13 service thereof by certified mail, return receipt requested, to such
14 corporation or other business entity, at the post office address on file
15 in the department of state specified for this purpose. If a domestic or
16 authorized foreign corporation has no such address on file in the
17 department of state, the process and notice of service thereof shall be
18 mailed, in the case of a domestic corporation, in care of any director
19 named in its certificate of incorporation at the director's address
20 stated therein or, in the case of an authorized foreign corporation, to
21 such corporation at the address of its office within this state on file
22 in the department. On the same day that such process is mailed, a dupli-
23 cate copy of such process and proof of mailing together with the statu-
24 tory fee, which fee shall be a taxable disbursement, shall be personally
25 delivered to and left with the secretary of state or a deputy, or with
26 any person authorized by the secretary of state to receive such service,
27 at the office of the department of state in the city of Albany. Proof of
28 mailing shall be by affidavit of compliance with this section. Service
29 of process on such corporation or other business entity shall be
30 complete when the secretary of state is so served. [~~The secretary of~~
31 ~~state shall promptly send one of such copies by certified mail, return~~
32 ~~receipt requested, to such corporation, at the post office address, on~~
33 ~~file in the department of state, specified for the purpose. If a domes-~~
34 ~~tic or authorized foreign corporation has no such address on file in the~~
35 ~~department of state, the secretary of state shall so mail such copy, in~~
36 ~~the case of a domestic corporation, in care of any director named in its~~
37 ~~certificate of incorporation at the director's address stated therein~~
38 ~~or, in the case of an authorized foreign corporation, to such corpo-~~
39 ~~ration at the address of its office within this state on file in the~~
40 ~~department.]~~~~

41 § 4. Subparagraphs 2 and 3 of paragraph (a) of section 306-A of the
42 business corporation law, as added by chapter 469 of the laws of 1997,
43 are amended to read as follows:

44 (2) That the address of the party has been designated by the corpo-
45 ration as the post office address to which [~~the secretary of state~~] a
46 person shall mail a copy of any process served on the secretary of state
47 as agent for such corporation, specifying such address, and that such
48 party wishes to resign.

49 (3) That at least sixty days prior to the filing of the certificate of
50 resignation for receipt of process with the department of state the
51 party has sent a copy of the certificate of resignation for receipt of
52 process by registered or certified mail to the address of the registered
53 agent of the designating corporation, if other than the party filing the
54 certificate of resignation[~~7~~] for receipt of process, or if the [~~resign-~~
55 ~~ing~~] designating corporation has no registered agent, then to the last
56 address of the designating corporation known to the party, specifying

1 the address to which the copy was sent. If there is no registered agent
2 and no known address of the designating corporation, the party shall
3 attach an affidavit to the certificate stating that a diligent but
4 unsuccessful search was made by the party to locate the corporation,
5 specifying what efforts were made.

6 § 5. Subparagraph 7 of paragraph (a) of section 402 of the business
7 corporation law is amended to read as follows:

8 (7) A designation of the secretary of state as agent of the corpo-
9 ration upon whom process against it may be served and the post office
10 address, within or without this state, to which [~~the secretary of state~~]
11 a person shall mail a copy of any process against it served upon [~~him~~]
12 the secretary of state.

13 § 6. Subparagraph (c) of paragraph 1 of section 408 of the business
14 corporation law, as amended by section 3 of part S of chapter 59 of the
15 laws of 2015, is amended to read as follows:

16 (c) The post office address, within or without this state, to which
17 [~~the secretary of state~~] a person shall mail a copy of any process
18 against it served upon [~~him or her~~] the secretary of state. Such
19 address shall supersede any previous address on file with the department
20 of state for this purpose.

21 § 7. Subparagraph 4 of paragraph (b) of section 801 of the business
22 corporation law is amended to read as follows:

23 (4) To specify or change the post office address to which [~~the secre-~~
24 ~~tary of state~~] a person shall mail a copy of any process against the
25 corporation served upon [~~him~~] the secretary of state.

26 § 8. Subparagraph 2 of paragraph (b) of section 803 of the business
27 corporation law, as amended by chapter 803 of the laws of 1965, is
28 amended to read as follows:

29 (2) To specify or change the post office address to which [~~the secre-~~
30 ~~tary of state~~] a person shall mail a copy of any process against the
31 corporation served upon [~~him~~] the secretary of state.

32 § 9. Paragraph (b) of section 805-A of the business corporation law,
33 as added by chapter 725 of the laws of 1964, is amended to read as
34 follows:

35 (b) A certificate of change which changes only the post office address
36 to which [~~the secretary of state~~] a person shall mail a copy of any
37 process against a corporation served upon [~~him or~~] the secretary of
38 state and/or the address of the registered agent, provided such address
39 being changed is the address of a person, partnership, limited liability
40 company or other corporation whose address, as agent, is the address to
41 be changed or who has been designated as registered agent for such
42 corporation, may be signed[~~, verified~~] and delivered to the department
43 of state by such agent. The certificate of change shall set forth the
44 statements required under subparagraphs [~~(a)~~] (1), (2) and (3) of para-
45 graph (a) of this section; that a notice of the proposed change was
46 mailed to the corporation by the party signing the certificate not less
47 than thirty days prior to the date of delivery to the department and
48 that such corporation has not objected thereto; and that the party sign-
49 ing the certificate is the agent of such corporation to whose address
50 [~~the secretary of state~~] a person is required to mail copies of process
51 served on the secretary of state or the registered agent, if such be the
52 case. A certificate signed[~~, verified~~] and delivered under this para-
53 graph shall not be deemed to effect a change of location of the office
54 of the corporation in whose behalf such certificate is filed.

1 § 10. Subparagraph 8 of paragraph (a) of section 904-a of the business
2 corporation law, as amended by chapter 177 of the laws of 2008, is
3 amended to read as follows:

4 (8) If the surviving or resulting entity is a foreign corporation or
5 other business entity, a designation of the secretary of state as its
6 agent upon whom process against it may be served in the manner set forth
7 in paragraph (b) of section three hundred six of this chapter, in any
8 action or special proceeding, and a post office address, within or with-
9 out this state, to which [~~the secretary of state~~] a person shall mail a
10 copy of any process against it served upon [~~him~~] the secretary of state.
11 Such post office address shall supersede any prior address designated as
12 the address to which process shall be mailed;

13 § 11. Clause (G) of subparagraph 2 of paragraph (e) of section 907 of
14 the business corporation law, as amended by chapter 494 of the laws of
15 1997, is amended to read as follows:

16 (G) A designation of the secretary of state as its agent upon whom
17 process against it may be served in the manner set forth in paragraph
18 (b) of section 306 (Service of process), in any action or special
19 proceeding, and a post office address, within or without this state, to
20 which [~~the secretary of state~~] a person shall mail a copy of any process
21 against it served upon [~~him~~] the secretary of state. Such post office
22 address shall supersede any prior address designated as the address to
23 which process shall be mailed.

24 § 12. Subparagraph 6 of paragraph (a) of section 1304 of the business
25 corporation law, as amended by chapter 684 of the laws of 1963 and as
26 renumbered by chapter 590 of the laws of 1982, is amended to read as
27 follows:

28 (6) A designation of the secretary of state as its agent upon whom
29 process against it may be served and the post office address, within or
30 without this state, to which [~~the secretary of state~~] a person shall
31 mail a copy of any process against it served upon [~~him~~] the secretary of
32 state.

33 § 13. Subparagraph 7 of paragraph (a) of section 1308 of the business
34 corporation law, as amended by chapter 725 of the laws of 1964 and as
35 renumbered by chapter 186 of the laws of 1983, is amended to read as
36 follows:

37 (7) To specify or change the post office address to which [~~the secre-~~
38 ~~tary of state~~] a person shall mail a copy of any process against it
39 served upon [~~him~~] the secretary of state.

40 § 14. Subparagraph 2 of paragraph (a) and paragraph (c) of section
41 1309-A of the business corporation law, subparagraph 2 of paragraph (a)
42 as added by chapter 725 of the laws of 1964 and paragraph (c) as amended
43 by chapter 172 of the laws of 1999, are amended to read as follows:

44 (2) To specify or change the post office address to which [~~the secre-~~
45 ~~tary of state~~] a person shall mail a copy of any process against it
46 served upon [~~him~~] the secretary of state.

47 (c) A certificate of change of application for authority which changes
48 only the post office address to which [~~the secretary of state~~] a person
49 shall mail a copy of any process against an authorized foreign corpo-
50 ration served upon [~~him or which~~] the secretary of state and/or changes
51 the address of its registered agent, provided such address is the
52 address of a person, partnership, limited liability company or other
53 corporation whose address, as agent, is the address to be changed or who
54 has been designated as registered agent for such authorized foreign
55 corporation, may be signed and delivered to the department of state by
56 such agent. The certificate of change of application for authority shall

1 set forth the statements required under subparagraphs (1), (2), (3) and
2 (4) of paragraph (b) of this section; that a notice of the proposed
3 change was mailed by the party signing the certificate to the authorized
4 foreign corporation not less than thirty days prior to the date of
5 delivery to the department and that such corporation has not objected
6 thereto; and that the party signing the certificate is the agent of such
7 foreign corporation to whose address [~~the secretary of state~~] a person
8 is required to mail copies of process served on the secretary of state
9 or the registered agent, if such be the case. A certificate signed and
10 delivered under this paragraph shall not be deemed to effect a change of
11 location of the office of the corporation in whose behalf such certifi-
12 cate is filed.

13 § 15. Subparagraphs 1 and 6 of paragraph (a) of section 1310 of the
14 business corporation law, subparagraph 1 as amended by chapter 590 of
15 the laws of 1982, are amended to read as follows:

16 (1) The name of the foreign corporation as it appears on the index of
17 names of existing domestic and authorized foreign corporations of any
18 type or kind in the department of state, division of corporations [~~or,~~
19 and the fictitious name, if any, the corporation has agreed to use in
20 this state pursuant to paragraph (d) of section 1301 of this [~~chapter~~]
21 article.

22 (6) A post office address, within or without this state, to which [~~the~~
23 secretary of state] a person shall mail a copy of any process against it
24 served upon [~~him~~] the secretary of state.

25 § 16. Subparagraph 4 of paragraph (d) of section 1310 of the business
26 corporation law is amended to read as follows:

27 (4) The changed post office address, within or without this state, to
28 which [~~the secretary of state~~] a person shall mail a copy of any process
29 against it served upon [~~him~~] the secretary of state.

30 § 17. Section 1311 of the business corporation law, as amended by
31 chapter 375 of the laws of 1998, is amended to read as follows:

32 § 1311. Termination of existence.

33 When an authorized foreign corporation is dissolved or its authority
34 or existence is otherwise terminated or cancelled in the jurisdiction of
35 its incorporation or when such foreign corporation is merged into or
36 consolidated with another foreign corporation, a certificate of the
37 secretary of state, or official performing the equivalent function as to
38 corporate records, of the jurisdiction of incorporation of such foreign
39 corporation attesting to the occurrence of any such event or a certified
40 copy of an order or decree of a court of such jurisdiction directing the
41 dissolution of such foreign corporation, the termination of its exist-
42 ence or the cancellation of its authority shall be delivered to the
43 department of state. The filing of the certificate, order or decree
44 shall have the same effect as the filing of a certificate of surrender
45 of authority under section 1310 (Surrender of authority). The secretary
46 of state shall continue as agent of the foreign corporation upon whom
47 process against it may be served in the manner set forth in paragraph
48 (b) of section 306 (Service of process), in any action or special
49 proceeding based upon any liability or obligation incurred by the
50 foreign corporation within this state prior to the filing of such
51 certificate, order or decree and [~~he~~] the person serving such process
52 shall [~~promptly cause a copy of any such~~] send the process [~~to be~~
53 mailed] by [~~registered~~] certified mail, return receipt requested, to
54 such foreign corporation at the post office address on file in [~~his~~] the
55 office of the secretary of state specified for such purpose and shall
56 provide the secretary of state with proof of such mailing in the manner

1 set forth in paragraph (b) of section 306 (Service of process). The
2 post office address may be changed by signing and delivering to the
3 department of state a certificate of change setting forth the statements
4 required under section 1309-A (Certificate of change; contents) to
5 effect a change in the post office address under subparagraph seven of
6 paragraph (a) [~~(4)~~] of section 1308 (Amendments or changes).

7 § 18. Subparagraph 6 of paragraph (a) of section 1530 of the business
8 corporation law, as added by chapter 505 of the laws of 1983, is amended
9 to read as follows:

10 (6) A designation of the secretary of state as its agent upon whom
11 process against it may be served and the post office address, within or
12 without this state, to which [~~the secretary of state~~] a person shall
13 mail a copy of any process against it served upon [~~him~~] the secretary of
14 state.

15 § 19. Subdivision 10 of section 11 of the cooperative corporations
16 law, as added by chapter 97 of the laws of 1969, is amended to read as
17 follows:

18 10. A designation of the secretary of state as agent of the corpo-
19 ration upon whom process against it may be served and the post office
20 address, within or without this state, to which [~~the secretary of state~~]
21 a person shall mail a copy of any process against it served upon [~~him~~]
22 the secretary of state.

23 § 20. Subdivision 10 of section 96 of the executive law, as amended by
24 chapter 39 of the laws of 1987, is amended to read as follows:

25 10. For service of process on the secretary of state, acting as agent
26 for a third party pursuant to law, except as otherwise specifically
27 provided by law, forty dollars. No fee shall be collected for process
28 served on behalf of [~~a~~] any state official, department, board, agency,
29 authority, county, city, town or village or other political subdivision
30 of the state. The fees paid the secretary of state shall be a taxable
31 disbursement.

32 § 21. The opening paragraph of subdivision 2 and subdivision 3 of
33 section 18 of the general associations law, as amended by chapter 13 of
34 the laws of 1938, are amended and two new subdivisions 5 and 6 are added
35 to read as follows:

36 Every association doing business within this state shall file in the
37 department of state a certificate in its associate name, signed [~~and~~
38 ~~acknowledged~~] by its president, or a vice-president, or secretary, or
39 treasurer, or managing director, or trustee, designating the secretary
40 of state as an agent upon whom process in any action or proceeding
41 against the association may be served within this state, and setting
42 forth an address to which [~~the secretary of state~~] a person shall mail a
43 copy of any process against the association which may be served upon
44 [~~him~~] the secretary of state pursuant to law. Annexed to the certif-
45 icate of designation shall be a statement, executed in the same manner
46 as the certificate is required to be executed under this section, which
47 shall set forth:

48 3. Any association, from time to time, may change the address to
49 which [~~the secretary of state~~] a person is directed to mail copies of
50 process served on the secretary of state, by filing a statement to that
51 effect, executed[~~r~~] and signed [~~and-acknowledged~~] in like manner as a
52 certificate of designation as herein provided.

53 5. Any designated post office address maintained by the secretary of
54 state as agent in any action or proceeding against the association for
55 the purpose of mailing process shall be the post office address, within
56 or without the state, to which a person shall mail process against such

1 association as required by this article. Such address shall continue
2 until the filing of a certificate under this chapter directing the mail-
3 ing to a different post office address.

4 6. "Process" means judicial process and all orders, demands, notices
5 or other papers required or permitted by law to be personally served on
6 an association, for the purpose of acquiring jurisdiction of such asso-
7 ciation in any action or proceeding, civil or criminal, whether judi-
8 cial, administrative, arbitrativ or otherwise, in this state or in the
9 federal courts sitting in or for this state.

10 § 22. Section 19 of the general associations law, as amended by chap-
11 ter 166 of the laws of 1991, is amended to read as follows:

12 § 19. Service of process. 1. Service of process against an associ-
13 ation upon the secretary of state shall be made by mailing the process
14 and notice of service thereof by certified mail, return receipt
15 requested, to such corporation or other business entity, at the post
16 office address on file in the department of state specified for this
17 purpose. On the same day that such process is mailed, a duplicate copy
18 of such process and proof of mailing shall be personally [delivering]
19 delivered to and [leaving] left with [him] the secretary of state or a
20 deputy [~~secretary of state or an associate attorney, senior attorney or~~
21 ~~attorney in the corporation division of the department of state, dupli-~~
22 ~~cate copies of such process at the office of the department of state in~~
23 ~~the city of Albany] so designated. At the time of such service the
24 plaintiff shall pay a fee of forty dollars to the secretary of state,
25 which shall be a taxable disbursement. [~~If the cost of registered mail~~
26 ~~for transmitting a copy of the process shall exceed two dollars, an~~
27 ~~additional fee equal to such excess shall be paid at the time of the~~
28 ~~service of such process. The secretary of state shall forthwith send by~~
29 ~~registered mail one of such copies to the association at the address~~
30 ~~fixed for that purpose, as herein provided.~~]~~

31 2. Proof of mailing shall be by affidavit of compliance with this
32 section. Service of process on such association shall be complete when
33 the secretary of state is so served. If the action or proceeding is
34 instituted in a court of limited jurisdiction, service of process may be
35 made in the manner provided in this section if the cause of action arose
36 within the territorial jurisdiction of the court and the office of the
37 defendant, as set forth in its statement filed pursuant to section eigh-
38 teen of this [~~chapter]~~ article, is within such territorial jurisdiction.

39 § 23. Subdivision 2 of section 352-b of the general business law, as
40 amended by chapter 252 of the laws of 1983, is amended to read as
41 follows:

42 2. Service of such process upon the secretary of state shall be made
43 by personally delivering to and leaving with [~~him or~~] the secretary of
44 state, a deputy secretary of state, or with a person authorized by the
45 secretary of state to receive such service, a copy thereof at the office
46 of the department of state in the city of Albany, and such service shall
47 be sufficient service provided that notice of such service and a copy of
48 such process are forthwith sent by the attorney general to such person,
49 partnership, corporation, company, trust or association, by registered
50 or certified mail with return receipt requested, at [~~his or its~~] the
51 office as set forth in the "broker-dealer's statement", "salesman's
52 statement" or "investment advisor's statement" filed in the department
53 of law pursuant to section three hundred fifty-nine-e or section three
54 hundred fifty-nine-eee of this article, or in default of the filing of
55 such statement, at the last address known to the attorney general.
56 Service of such process shall be complete on receipt by the attorney

1 general of a return receipt purporting to be signed by the addressee or
2 a person qualified to receive [~~his or its~~] registered or certified mail,
3 in accordance with the rules and customs of the post office department,
4 or, if acceptance was refused by the addressee or [~~his or its~~] their
5 agent, on return to the attorney general of the original envelope bear-
6 ing a notation by the postal authorities that receipt thereof was
7 refused.

8 § 24. Section 686 of the general business law, as added by chapter 730
9 of the laws of 1980, is amended to read as follows:

10 § 686. Designation of secretary of state as agent for service of proc-
11 ess; service of process. Any person who shall offer to sell or sell a
12 franchise in this state as a franchisor, subfranchisor or franchise
13 sales agent shall be deemed to have irrevocably appointed the secretary
14 of state as his or [~~its~~] her agent upon whom may be served any summons,
15 complaint, subpoena, subpoena duces tecum, notice, order or other proc-
16 ess directed to such person, or any partner, principal, officer, sales-
17 man or director thereof, or his or [~~its~~] her successor, administrator or
18 executor, in any action, investigation, or proceeding which arises under
19 this article or a rule hereunder, with the same force and validity as if
20 served personally on such person. Service of such process upon the
21 secretary of state shall be made by personally delivering to and leaving
22 with [~~him or~~] the secretary of state, a deputy secretary of state, or
23 with any person authorized by the secretary of state to receive such
24 service, a copy thereof at the office of the department of state, and
25 such service shall be sufficient provided that notice of such service
26 and a copy of such process are sent forthwith by the department to such
27 person, by registered or certified mail with return receipt requested,
28 at [~~his~~] the address [~~as~~] set forth in the application for registration
29 of his or her offering prospectus or in the registered offering prospec-
30 tus itself filed with the department of law pursuant to this article, or
31 in default of the filing of such application or prospectus, at the last
32 address known to the department. Service of such process shall be
33 complete upon receipt by the department of a return receipt purporting
34 to be signed by the addressee or a person qualified to receive [~~his or~~
35 ~~its~~] registered or certified mail, in accordance with the rules and
36 customs of the post office department, or, if acceptance was refused or
37 unclaimed by the addressee or his or [~~its~~] her agent, or if the address-
38 ee moved without leaving a forwarding address, upon return to the
39 department of the original envelope bearing a notation by the postal
40 authorities that receipt thereof was refused or that such mail was
41 otherwise undeliverable.

42 § 25. Paragraph 4 of subdivision (e) of section 203 of the limited
43 liability company law, as added by chapter 470 of the laws of 1997, is
44 amended to read as follows:

45 (4) a designation of the secretary of state as agent of the limited
46 liability company upon whom process against it may be served and the
47 post office address, within or without this state, to which [~~the secre-~~
48 ~~tary of state~~] a person shall mail a copy of any process against the
49 limited liability company served upon [~~him or her~~] the secretary of
50 state;

51 § 26. Paragraph 4 of subdivision (a) of section 206 of the limited
52 liability company law, as amended by chapter 44 of the laws of 2006, is
53 amended to read as follows:

54 (4) a statement that the secretary of state has been designated as
55 agent of the limited liability company upon whom process against it may
56 be served and the post office address, within or without this state, to

1 which [~~the secretary of state~~] a person shall mail a copy of any process
2 against it served upon [~~him or her~~] the secretary of state;

3 § 27. Paragraph 6 of subdivision (d) of section 211 of the limited
4 liability company law is amended to read as follows:

5 (6) a change in the post office address to which [~~the secretary of~~
6 ~~state~~] a person shall mail a copy of any process against the limited
7 liability company served upon [~~him or her~~] the secretary of state if
8 such change is made other than pursuant to section three hundred one of
9 this chapter;

10 § 28. Section 211-A of the limited liability company law, as added by
11 chapter 448 of the laws of 1998, is amended to read as follows:

12 § 211-A. Certificate of change. (a) A limited liability company may
13 amend its articles of organization from time to time to (i) specify or
14 change the location of the limited liability company's office; (ii)
15 specify or change the post office address to which [~~the secretary of~~
16 ~~state~~] a person shall mail a copy of any process against the limited
17 liability company served upon [~~him~~] the secretary of state; and (iii)
18 make, revoke or change the designation of a registered agent, or specify
19 or change the address of the registered agent. Any one or more such
20 changes may be accomplished by filing a certificate of change which
21 shall be entitled "Certificate of Change of (name of limited
22 liability company) under section 211-A of the Limited Liability Company
23 Law" and shall be signed and delivered to the department of state. It
24 shall set forth:

25 (1) the name of the limited liability company, and if it has been
26 changed, the name under which it was formed;

27 (2) the date the articles of organization were filed by the department
28 of state; and

29 (3) each change effected thereby.

30 (b) A certificate of change which changes only the post office address
31 to which [~~the secretary of state~~] a person shall mail a copy of any
32 process against a limited liability company served upon [~~him or~~] the
33 secretary of state and/or the address of the registered agent, provided
34 such address being changed is the address of a person, partnership,
35 limited liability company or corporation whose address, as agent, is the
36 address to be changed or who has been designated as registered agent for
37 such limited liability company may be signed and delivered to the
38 department of state by such agent. The certificate of change shall set
39 forth the statements required under subdivision (a) of this section;
40 that a notice of the proposed change was mailed to the domestic limited
41 liability company by the party signing the certificate not less than
42 thirty days prior to the date of delivery to the department of state and
43 that such domestic limited liability company has not objected thereto;
44 and that the party signing the certificate is the agent of such limited
45 liability company to whose address [~~the secretary of state~~] a person is
46 required to mail copies of process served on the secretary of state or
47 the registered agent, if such be the case. A certificate signed and
48 delivered under this subdivision shall not be deemed to effect a change
49 of location of the office of the limited liability company in whose
50 behalf such certificate is filed.

51 § 29. Paragraph 2 of subdivision (b) of section 213 of the limited
52 liability company law is amended to read as follows:

53 (2) to change the post office address to which [~~the secretary of~~
54 ~~state~~] a person shall mail a copy of any process against the limited
55 liability company served upon [~~him or her~~] the secretary of state; and

1 § 30. Subdivisions (c) and (e) of section 301 of the limited liability
2 company law, subdivision (e) as amended by section 5 of part S of chap-
3 ter 59 of the laws of 2015, are amended to read as follows:

4 (c) Any designated post office address maintained by the secretary of
5 state as agent of a domestic limited liability company or foreign limit-
6 ed liability company for the purpose of mailing process shall be the
7 post office address, within or without the state, to which a person
8 shall mail process against such limited liability company as required by
9 this article. Any designated post office address to which the secretary
10 of state or a person shall mail a copy of process served upon [~~him or~~
11 ~~her~~] the secretary of state as agent of a domestic limited liability
12 company or a foreign limited liability company shall continue until the
13 filing of a certificate under this chapter directing the mailing to a
14 different post office address.

15 [~~(e)~~] (d) (1) Except as otherwise provided in this subdivision, every
16 limited liability company to which this chapter applies, shall biennial-
17 ly in the calendar month during which its articles of organization or
18 application for authority were filed, or effective date thereof if stat-
19 ed, file on forms prescribed by the secretary of state, a statement
20 setting forth the post office address within or without this state to
21 which [~~the secretary of state~~] a person shall mail a copy of any process
22 accepted against it served upon [~~him or her~~] the secretary of state.
23 Such address shall supersede any previous address on file with the
24 department of state for this purpose.

25 (2) The commissioner of taxation and finance and the secretary of
26 state may agree to allow limited liability companies to include the
27 statement specified in paragraph one of this subdivision on tax reports
28 filed with the department of taxation and finance in lieu of biennial
29 statements and in a manner prescribed by the commissioner of taxation
30 and finance. If this agreement is made, starting with taxable years
31 beginning on or after January first, two thousand sixteen, each limited
32 liability company required to file the statement specified in paragraph
33 one of this subdivision that is subject to the filing fee imposed by
34 paragraph three of subsection (c) of section six hundred fifty-eight of
35 the tax law shall provide such statement annually on its filing fee
36 payment form filed with the department of taxation and finance in lieu
37 of filing a statement under this section with the department of state.
38 However, each limited liability company required to file a statement
39 under this section must continue to file the biennial statement required
40 by this section with the department of state until the limited liability
41 company in fact has filed a filing fee payment form with the department
42 of taxation and finance that includes all required information. After
43 that time, the limited liability company shall continue to provide annu-
44 ally the statement specified in paragraph one of this subdivision on its
45 filing fee payment form in lieu of the biennial statement required by
46 this subdivision.

47 (3) If the agreement described in paragraph two of this subdivision is
48 made, the department of taxation and finance shall deliver to the
49 department of state the statement specified in paragraph one of this
50 subdivision contained on filing fee payment forms. The department of
51 taxation and finance must, to the extent feasible, also include the
52 current name of the limited liability company, department of state iden-
53 tification number for such limited liability company, the name, signa-
54 ture and capacity of the signer of the statement, name and street
55 address of the filer of the statement, and the email address, if any, of
56 the filer of the statement.

1 § 31. Paragraphs 2 and 3 of subdivision (a), subparagraph (ii) of
2 paragraph 2 and subparagraph (ii) of paragraph 3 of subdivision (e) of
3 section 301-A of the limited liability company law, as added by chapter
4 448 of the laws of 1998, are amended to read as follows:

5 (2) that the address of the party has been designated by the limited
6 liability company as the post office address to which [~~the secretary of~~
7 ~~state~~] a person shall mail a copy of any process served on the secretary
8 of state as agent for such limited liability company, such address and
9 that such party wishes to resign.

10 (3) that at least sixty days prior to the filing of the certificate
11 of resignation for receipt of process with the department of state the
12 party has sent a copy of the certificate of resignation for receipt of
13 process by registered or certified mail to the address of the registered
14 agent of the designated limited liability company, if other than the
15 party filing the certificate of resignation[7] for receipt of process,
16 or if the [~~resigning~~] designating limited liability company has no
17 registered agent, then to the last address of the designated limited
18 liability company known to the party, specifying the address to which
19 the copy was sent. If there is no registered agent and no known address
20 of the designating limited liability company, the party shall attach an
21 affidavit to the certificate stating that a diligent but unsuccessful
22 search was made by the party to locate the limited liability company,
23 specifying what efforts were made.

24 (ii) sent by or on behalf of the plaintiff to such limited liability
25 company by registered or certified mail with return receipt requested to
26 the last address of such limited liability company known to the plain-
27 tiff.

28 (ii) Where service of a copy of process was effected by mailing in
29 accordance with this section, proof of service shall be by affidavit of
30 compliance with this section filed, together with the process, within
31 thirty days after receipt of the return receipt signed by the limited
32 liability company or other official proof of delivery or of the original
33 envelope mailed. If a copy of the process is mailed in accordance with
34 this section, there shall be filed with the affidavit of compliance
35 either the return receipt signed by such limited liability company or
36 other official proof of delivery, if acceptance was refused by it, the
37 original envelope with a notation by the postal authorities that accept-
38 ance was refused. If acceptance was refused a copy of the notice and
39 process together with notice of the mailing by registered or certified
40 mail and refusal to accept shall be promptly sent to such limited
41 liability company at the same address by ordinary mail and the affidavit
42 of compliance shall so state. Service of process shall be complete ten
43 days after such papers are filed with the clerk of the court. The
44 refusal to accept delivery of the registered or certified mail or to
45 sign the return receipt shall not affect the validity of the service and
46 such limited liability company refusing to accept such registered or
47 certified mail shall be charged with knowledge of the contents thereof.

48 § 32. Subdivision (a) of section 303 of the limited liability company
49 law, as relettered by chapter 341 of the laws of 1999, is amended to
50 read as follows:

51 (a) Service of process on the secretary of state as agent of a domes-
52 tic limited liability company [~~or~~], authorized foreign limited liability
53 company, or other business entity that has designated the secretary of
54 state as agent for service of process pursuant to article ten of this
55 chapter, shall be made by mailing the process and notice of service
56 thereof by certified mail, return receipt requested, to such limited

1 liability company or other business entity, at the post office address
2 on file in the department of state specified for this purpose. On the
3 same day as such process is mailed, a duplicate copy of such process and
4 proof of mailing shall be [made-by] personally [delivering] delivered to
5 and [leaving] left with the secretary of state or his or her deputy, or
6 with any person authorized by the secretary of state to receive such
7 service, at the office of the department of state in the city of Albany,
8 [~~duplicate copies of such process~~] together with the statutory fee,
9 which fee shall be a taxable disbursement. Proof of mailing shall be by
10 affidavit of compliance with this section. Service of process on such
11 limited liability company or other business entity shall be complete
12 when the secretary of state is so served. [~~The secretary of state shall~~
13 ~~promptly send one of such copies by certified mail, return receipt~~
14 ~~requested, to such limited liability company at the post office address~~
15 ~~on file in the department of state specified for that purpose.~~]

16 § 33. Section 305 of the limited liability company law is amended to
17 read as follows:

18 § 305. Records of process served on the secretary of state. The
19 [~~secretary of state~~] department of state shall keep a record of each
20 process served upon the secretary of state under this chapter, including
21 the date of such service [~~and the action of the secretary of state with~~
22 ~~reference thereto~~]. It shall, upon request made within ten years of such
23 service, issue a certificate under its seal certifying as to the receipt
24 of the process by an authorized person, the date and place of such
25 service and the receipt of the statutory fee. Process served upon the
26 secretary of state under this chapter shall be destroyed by the depart-
27 ment of state after a period of ten years from such service.

28 § 34. Paragraph 4 of subdivision (a) of section 802 of the limited
29 liability company law, as amended by chapter 470 of the laws of 1997, is
30 amended to read as follows:

31 (4) a designation of the secretary of state as its agent upon whom
32 process against it may be served and the post office address, within or
33 without this state, to which [~~the secretary of state~~] a person shall
34 mail a copy of any process against it served upon [~~him or her~~] the
35 secretary of state;

36 § 35. Section 804-A of the limited liability company law, as added by
37 chapter 448 of the laws of 1998, is amended to read as follows:

38 § 804-A. Certificate of change. (a) A foreign limited liability compa-
39 ny may amend its application for authority from time to time to (i)
40 specify or change the location of the limited liability company's
41 office; (ii) specify or change the post office address to which [~~the~~
42 ~~secretary of state~~] a person shall mail a copy of any process against
43 the limited liability company served upon [~~him~~] the secretary of state;
44 and (iii) to make, revoke or change the designation of a registered
45 agent, or to specify or change the address of a registered agent. Any
46 one or more such changes may be accomplished by filing a certificate of
47 change which shall be entitled "Certificate of Change of (name
48 of limited liability company) under section 804-A of the Limited Liabil-
49 ity Company Law" and shall be signed and delivered to the department of
50 state. It shall set forth:

51 (1) the name of the foreign limited liability company and, if applica-
52 ble, the fictitious name the limited liability company has agreed to use
53 in this state pursuant to section eight hundred two of this article;

54 (2) the date its application for authority was filed by the department
55 of state; and

56 (3) each change effected thereby[7].

1 (b) A certificate of change which changes only the post office address
2 to which [~~the secretary of state~~] a person shall mail a copy of any
3 process against a foreign limited liability company served upon [~~him or~~]
4 the secretary of state and/or the address of the registered agent,
5 provided such address being changed is the address of a person, partner-
6 ship [~~or~~], corporation or other limited liability company whose address,
7 as agent, is the address to be changed or who has been designated as
8 registered agent for such limited liability company may be signed and
9 delivered to the department of state by such agent. The certificate of
10 change shall set forth the statements required under subdivision (a) of
11 this section; that a notice of the proposed change was mailed to the
12 foreign limited liability company by the party signing the certificate
13 not less than thirty days prior to the date of delivery to the depart-
14 ment of state and that such foreign limited liability company has not
15 objected thereto; and that the party signing the certificate is the
16 agent of such foreign limited liability company to whose address [~~the~~
17 ~~secretary of state~~] a person is required to mail copies of process
18 served on the secretary of state or the registered agent, if such be the
19 case. A certificate signed and delivered under this subdivision shall
20 not be deemed to effect a change of location of the office of the
21 foreign limited liability company in whose behalf such certificate is
22 filed.

23 § 36. Paragraph 6 of subdivision (b) of section 806 of the limited
24 liability company law is amended to read as follows:

25 (6) a post office address, within or without this state, to which [~~the~~
26 ~~secretary of state~~] a person shall mail a copy of any process against it
27 served upon [~~him or her~~] the secretary of state.

28 § 37. Paragraph 11 of subdivision (a) of section 1003 of the limited
29 liability company law, as amended by chapter 374 of the laws of 1998, is
30 amended to read as follows:

31 (11) a designation of the secretary of state as its agent upon whom
32 process against it may be served in the manner set forth in article
33 three of this chapter in any action or special proceeding, and a post
34 office address, within or without this state, to which [~~the secretary of~~
35 ~~state~~] a person shall mail a copy of any process served upon [~~him or~~
36 ~~her~~] the secretary of state. Such post office address shall supersede
37 any prior address designated as the address to which process shall be
38 mailed;

39 § 38. Clause (iv) of subparagraph (A) of paragraph 2 of subdivision
40 (c) of section 1203 of the limited liability company law, as amended by
41 chapter 44 of the laws of 2006, is amended to read as follows:

42 (iv) a statement that the secretary of state has been designated as
43 agent of the professional service limited liability company upon whom
44 process against it may be served and the post office address, within or
45 without this state, to which [~~the secretary of state~~] a person shall
46 mail a copy of any process against it served upon [~~him or her~~] the
47 secretary of state;

48 § 39. Paragraph 6 of subdivision (a) and subparagraph 5 of paragraph
49 (i) of subdivision (d) of section 1306 of the limited liability company
50 law, subparagraph 5 of paragraph (i) of subdivision (d) as amended by
51 chapter 44 of the laws of 2006, are amended to read as follows:

52 (6) a designation of the secretary of state as its agent upon whom
53 process against it may be served and the post office address, within or
54 without this state, to which [~~the secretary of state~~] a person shall
55 mail a copy of any process against it served upon [~~him or her~~] the
56 secretary of state; and

1 (5) a statement that the secretary of state has been designated as
2 agent of the foreign professional service limited liability company upon
3 whom process against it may be served and the post office address, with-
4 in or without this state, to which [~~the secretary of state~~] a person
5 shall mail a copy of any process against it served upon [~~him or her~~] the
6 secretary of state;

7 § 40. Paragraph (d) of section 304 of the not-for-profit corporation
8 law, as amended by chapter 358 of the laws of 2015, is amended to read
9 as follows:

10 (d) Any designated post office address maintained by the secretary of
11 state as agent of a domestic not-for-profit corporation or foreign not-
12 for-profit corporation for the purpose of mailing process shall be the
13 post office address, within or without the state, to which a person
14 shall mail process against such corporation as required by this article.

15 Any designated [~~post-office~~] post office address to which the secretary
16 of state or a person shall mail a copy of process served upon [~~him or~~
17 ~~her~~] the secretary of state as agent of a domestic corporation formed
18 under article four of this chapter or foreign corporation, shall contin-
19 ue until the filing of a certificate under this chapter directing the
20 mailing to a different [~~post-office~~] post office address.

21 § 41. Paragraph (a) of section 305 of the not-for-profit corporation
22 law, as amended by chapter 549 of the laws of 2013, is amended to read
23 as follows:

24 (a) Every domestic corporation or authorized foreign corporation may
25 designate a registered agent in this state upon whom process against
26 such corporation may be served. The agent shall be a natural person who
27 is a resident of or has a business address in this state or a domestic
28 corporation or foreign corporation of any kind formed[~~7~~] or authorized
29 to do business in this state[~~7~~] under this chapter or under any other
30 statute of this state, or a domestic limited liability company or a
31 foreign limited liability company authorized to do business in this
32 state.

33 § 42. Paragraph (b) of section 306 of the not-for-profit corporation
34 law, as amended by chapter 23 of the laws of 2014, is amended to read as
35 follows:

36 (b) Service of process on the secretary of state as agent of a domes-
37 tic corporation formed under article four of this chapter or an author-
38 ized foreign corporation shall be made by mailing the process and notice
39 of service thereof by certified mail, return receipt requested, to such
40 corporation or other business entity, at the post office address on file
41 in the department of state specified for this purpose. On the same day
42 that such process is mailed, a duplicate copy of such process and proof
43 of mailing shall be personally [~~delivering~~] delivered to and [~~leaving~~]
44 left with the secretary of state or his or her deputy, or with any
45 person authorized by the secretary of state to receive such service, at
46 the office of the department of state in the city of Albany, [~~duplicate~~
47 ~~copies of such process~~] together with the statutory fee, which fee shall
48 be a taxable disbursement. Proof of mailing shall be by affidavit of
49 compliance with this section. Service of process on such corporation or
50 other business entity shall be complete when the secretary of state is
51 so served. [~~The secretary of state shall promptly send one of such~~
52 ~~copies by certified mail, return receipt requested, to such corporation,~~
53 ~~at the post office address, on file in the department of state, speci-~~
54 ~~fied for the purpose.~~] If a domestic corporation formed under article
55 four of this chapter or an authorized foreign corporation has no such
56 address on file in the department of state, the [~~secretary of state~~

1 ~~shall so mail such~~] duplicate copy of the process shall be mailed to
2 such corporation at the address of its office within this state on file
3 in the department.

4 § 43. Subparagraph 6 of paragraph (a) of section 402 of the not-for-
5 profit corporation law, as added by chapter 564 of the laws of 1981 and
6 as renumbered by chapter 132 of the laws of 1985, is amended to read as
7 follows:

8 (6) A designation of the secretary of state as agent of the corpo-
9 ration upon whom process against it may be served and the post office
10 address, within or without this state, to which [~~the secretary of state~~]
11 a person shall mail a copy of any process against it served upon [~~him~~]
12 the secretary of state.

13 § 44. Subparagraph 7 of paragraph (b) of section 801 of the not-for-
14 profit corporation law, as amended by chapter 438 of the laws of 1984,
15 is amended to read as follows:

16 (7) To specify or change the post office address to which [~~the secre-~~
17 ~~tary of state~~] a person shall mail a copy of any process against the
18 corporation served upon [~~him~~] the secretary of state.

19 § 45. Subparagraph 2 of paragraph (c) of section 802 of the not-for-
20 profit corporation law, as amended by chapter 186 of the laws of 1983,
21 is amended to read as follows:

22 (2) To specify or change the post office address to which [~~the secre-~~
23 ~~tary of state~~] a person shall mail a copy of any process against the
24 corporation served upon [~~him~~] the secretary of state.

25 § 46. Subparagraph 6 of paragraph (a) of section 803 of the not-for-
26 profit corporation law, as amended by chapter 23 of the laws of 2014, is
27 amended to read as follows:

28 (6) A designation of the secretary of state as agent of the corpo-
29 ration upon whom process against it may be served and the post office
30 address, within or without this state, to which [~~the secretary of~~
31 ~~state~~] a person shall mail a copy of any process against it served upon
32 the secretary of state.

33 § 47. Paragraph (b) of section 803-A of the not-for-profit corporation
34 law, as amended by chapter 172 of the laws of 1999, is amended to read
35 as follows:

36 (b) A certificate of change which changes only the post office address
37 to which [~~the secretary of state~~] a person shall mail a copy of any
38 process against the corporation served upon [~~him or~~] the secretary of
39 state and/or the address of the registered agent, provided such address
40 being changed is the address of a person, partnership, limited liability
41 company or other corporation whose address, as agent, is the address to
42 be changed or who has been designated as registered agent for such
43 corporation, may be signed and delivered to the department of state by
44 such agent. The certificate of change shall set forth the statements
45 required under subparagraphs (1), (2) and (3) of paragraph (a) of this
46 section; that a notice of the proposed change was mailed to the corpo-
47 ration by the party signing the certificate not less than thirty days
48 prior to the date of delivery to the department and that such corpo-
49 ration has not objected thereto; and that the party signing the certif-
50 icate is the agent of such corporation to whose address [~~the secretary~~
51 ~~of state~~] a person is required to mail copies of any process against the
52 corporation served upon [~~him~~] the secretary of state or the registered
53 agent, if such be the case. A certificate signed and delivered under
54 this paragraph shall not be deemed to effect a change of location of the
55 office of the corporation in whose behalf such certificate is filed.

1 § 48. Clause (E) of subparagraph 2 of paragraph (d) of section 906 of
2 the not-for-profit corporation law, as amended by chapter 1058 of the
3 laws of 1971, is amended to read as follows:

4 (E) A designation of the secretary of state as its agent upon whom
5 process against it may be served in the manner set forth in paragraph
6 (b) of section 306 (Service of process), in any action or special
7 proceeding described in [~~subparagraph~~] clause (D) of this subparagraph
8 and a post office address, within or without this state, to which [~~the~~
9 ~~secretary of state~~] a person shall mail a copy of the process in such
10 action or special proceeding served upon the secretary of state.

11 § 49. Clause (F) of subparagraph 2 of paragraph (d) of section 908 of
12 the not-for-profit corporation law is amended to read as follows:

13 (F) A designation of the secretary of state as [~~his~~] its agent upon
14 whom process against it may be served in the manner set forth in para-
15 graph (b) of section 306 (Service of process), in any action or special
16 proceeding described in [~~subparagraph~~] clause (D) of this subparagraph
17 and a post office address, within or without the state, to which [~~the~~
18 ~~secretary of state~~] a person shall mail a copy of the process in such
19 action or special proceeding served upon by the secretary of state.

20 § 50. Subparagraph 6 of paragraph (a) of section 1304 of the not-for-
21 profit corporation law, as renumbered by chapter 590 of the laws of
22 1982, is amended to read as follows:

23 (6) A designation of the secretary of state as its agent upon whom
24 process against it may be served and the post office address, within or
25 without this state, to which [~~the secretary of state~~] a person shall
26 mail a copy of any process against it served upon [~~him~~] the secretary of
27 state.

28 § 51. Subparagraph 7 of paragraph (a) of section 1308 of the not-for-
29 profit corporation law, as renumbered by chapter 186 of the laws of
30 1983, is amended to read as follows:

31 (7) To specify or change the post office address to which [~~the secre-~~
32 ~~tary of state~~] a person shall mail a copy of any process against it
33 served upon [~~him~~] the secretary of state.

34 § 52. Subparagraph 2 of paragraph (a) and paragraph (c) of section
35 1310 of the not-for-profit corporation law, paragraph (c) as amended by
36 chapter 172 of the laws of 1999, are amended to read as follows:

37 (2) To specify or change the post office address to which [~~the secre-~~
38 ~~tary of state~~] a person shall mail a copy of any process against it
39 served upon [~~him~~] the secretary of state.

40 (c) A certificate of change of application for authority which changes
41 only the post office address to which [~~the secretary of state~~] a person
42 shall mail a copy of any process against an authorized foreign corpo-
43 ration served upon [~~him or~~] the secretary of state and/or which changes
44 the address of its registered agent, provided such address is the
45 address of a person, partnership, limited liability company or other
46 corporation whose address, as agent, is the address to be changed or who
47 has been designated as registered agent for such authorized foreign
48 corporation, may be signed and delivered to the department of state by
49 such agent. The certificate of change of application for authority shall
50 set forth the statements required under subparagraphs (1), (2), (3) and
51 (4) of paragraph (b) of this section; that a notice of the proposed
52 change was mailed by the party signing the certificate to the authorized
53 foreign corporation not less than thirty days prior to the date of
54 delivery to the department and that such corporation has not objected
55 thereto; and that the party signing the certificate is the agent of such
56 foreign corporation to whose address [~~the secretary of state~~] a person

1 is required to mail copies of process served on the secretary of state
2 or the registered agent, if such be the case. A certificate signed and
3 delivered under this paragraph shall not be deemed to effect a change of
4 location of the office of the corporation in whose behalf such certifi-
5 cate is filed.

6 § 53. Subparagraph 6 of paragraph (a) and subparagraph 4 of paragraph
7 (d) of section 1311 of the not-for-profit corporation law are amended to
8 read as follows:

9 (6) A post office address, within or without this state, to which [~~the~~
10 ~~secretary of state~~] a person shall mail a copy of any process against it
11 served upon [~~him~~] the secretary of state.

12 (4) The changed post office address, within or without this state, to
13 which [~~the secretary of state~~] a person shall mail a copy of any process
14 against it served upon [~~him~~] the secretary of state.

15 § 54. Section 1312 of the not-for-profit corporation law, as amended
16 by chapter 375 of the laws of 1998, is amended to read as follows:

17 § 1312. Termination of existence.

18 When an authorized foreign corporation is dissolved or its authority
19 or existence is otherwise terminated or cancelled in the jurisdiction of
20 its incorporation or when such foreign corporation is merged into or
21 consolidated with another foreign corporation, a certificate of the
22 secretary of state, or official performing the equivalent function as to
23 corporate records, of the jurisdiction of incorporation of such foreign
24 corporation attesting to the occurrence of any such event or a certified
25 copy of an order or decree of a court of such jurisdiction directing the
26 dissolution of such foreign corporation, the termination of its exist-
27 ence or the cancellation of its authority shall be delivered to the
28 department of state. The filing of the certificate, order or decree
29 shall have the same effect as the filing of a certificate of surrender
30 of authority under section 1311 (Surrender of authority). The secretary
31 of state shall continue as agent of the foreign corporation upon whom
32 process against it may be served in the manner set forth in paragraph
33 (b) of section 306 (Service of process), in any action or special
34 proceeding based upon any liability or obligation incurred by the
35 foreign corporation within this state prior to the filing of such
36 certificate, order or decree and [~~he~~] the person serving such process
37 shall promptly cause a copy of any such process to be mailed by [~~regis-~~
38 ~~tered~~] certified mail, return receipt requested, to such foreign corpo-
39 ration at the post office address on file [~~in his office~~] with the
40 department specified for such purpose. The post office address may be
41 changed by signing and delivering to the department of state a certifi-
42 cate of change setting forth the statements required under section 1310
43 (Certificate of change, contents) to effect a change in the post office
44 address under subparagraph [~~(a)-(4)~~] (7) of paragraph (a) of section
45 1308 (Amendments or changes).

46 § 55. Subdivision (c) of section 121-104 of the partnership law, as
47 added by chapter 950 of the laws of 1990, is amended to read as follows:

48 (c) Any designated post office address maintained by the secretary of
49 state as agent of a domestic limited partnership or foreign limited
50 partnership for the purpose of mailing process shall be the post office
51 address, within or without the state, to which a person shall mail proc-
52 ess against such limited partnership as required by this article. Any
53 designated post office address to which the secretary of state or a
54 person shall mail a copy of process served upon [~~him~~] the secretary of
55 state as agent of a domestic limited partnership or foreign limited

1 partnership shall continue until the filing of a certificate under this
2 article directing the mailing to a different post office address.

3 § 56. Paragraphs 1, 2 and 3 of subdivision (a) of section 121-104-A of
4 the partnership law, as added by chapter 448 of the laws of 1998, are
5 amended to read as follows:

6 (1) the name of the limited partnership and the date that its [~~arti-~~
7 ~~cles of organization~~] certificate of limited partnership or application
8 for authority was filed by the department of state.

9 (2) that the address of the party has been designated by the limited
10 partnership as the post office address to which [~~the secretary of state~~]
11 a person shall mail a copy of any process served on the secretary of
12 state as agent for such limited partnership, and that such party wishes
13 to resign.

14 (3) that at least sixty days prior to the filing of the certificate of
15 resignation for receipt of process with the department of state the
16 party has sent a copy of the certificate of resignation for receipt of
17 process by registered or certified mail to the address of the registered
18 agent of the [~~designated~~] designating limited partnership, if other than
19 the party filing the certificate of resignation[~~r~~] for receipt of proc-
20 ess, or if the [~~resigning~~] designating limited partnership has no regis-
21 tered agent, then to the last address of the [~~designated~~] designating
22 limited partnership, known to the party, specifying the address to which
23 the copy was sent. If there is no registered agent and no known address
24 of the designating limited partnership the party shall attach an affida-
25 vit to the certificate stating that a diligent but unsuccessful search
26 was made by the party to locate the limited partnership, specifying what
27 efforts were made.

28 § 57. Subdivision (a) of section 121-105 of the partnership law, as
29 added by chapter 950 of the laws of 1990, is amended to read as follows:

30 (a) In addition to the designation of the secretary of state, each
31 limited partnership or authorized foreign limited partnership may design-
32 nate a registered agent upon whom process against the limited partner-
33 ship may be served. The agent must be (i) a natural person who is a
34 resident of this state or has a business address in this state, [~~or~~]
35 (ii) a domestic corporation or a foreign corporation authorized to do
36 business in this state, or (iii) a domestic limited liability company or
37 a foreign limited liability company authorized to do business in this
38 state.

39 § 58. Subdivisions (a) and (c) of section 121-109 of the partnership
40 law, as added by chapter 950 of the laws of 1990 and as relettered by
41 chapter 341 of the laws of 1999, are amended to read as follows:

42 (a) Service of process on the secretary of state as agent of a domes-
43 tic or authorized foreign limited partnership, or other business entity
44 that has designated the secretary of state as agent for service of proc-
45 ess pursuant to this chapter, shall be made [~~as follows:~~

46 ~~(1) By~~] by mailing the process and notice of service of process pursu-
47 ant to this section by certified mail, return receipt requested, to such
48 domestic or authorized foreign limited partnership or other business
49 entity, at the post office address on file in the department of state
50 specified for this purpose. On the same day as the process is mailed, a
51 duplicate copy of such process and proof of mailing shall be personally
52 [~~delivering~~] delivered to and [~~leaving~~] left with [~~him or his~~] the
53 secretary of state or a deputy, or with any person authorized by the
54 secretary of state to receive such service, at the office of the depart-
55 ment of state in the city of Albany, [~~duplicate copies of such process~~]
56 together with the statutory fee, which fee shall be a taxable disburse-

1 ment. Proof of mailing shall be by affidavit of compliance with this
2 section. Service of process on such limited partnership or other busi-
3 ness entity shall be complete when the secretary of state is so served.

4 [~~(2) The service on the limited partnership is complete when the~~
5 ~~secretary of state is so served.~~

6 ~~(3) The secretary of state shall promptly send one of such copies by~~
7 ~~certified mail, return receipt requested, addressed to the limited part-~~
8 ~~nership at the post office address, on file in the department of state,~~
9 ~~specified for that purpose.]~~

10 (c) The [~~secretary of state~~] department of state shall keep a record
11 of all process served upon [~~him~~] it under this section and shall record
12 therein the date of such service [~~and his action with reference there-~~
13 ~~to~~]. It shall, upon request made within ten years of such service, issue
14 a certificate under its seal certifying as to the receipt of the process
15 by an authorized person, the date and place of such service and the
16 receipt of the statutory fee. Process served upon the secretary of state
17 under this chapter shall be destroyed by the department after a period
18 of ten years from such service.

19 § 59. Paragraph 3 of subdivision (a) and subparagraph 4 of paragraph
20 (i) of subdivision (c) of section 121-201 of the partnership law, para-
21 graph 3 of subdivision (a) as amended by chapter 264 of the laws of
22 1991, and subparagraph 4 of paragraph (i) of subdivision (c) as amended
23 by chapter 44 of the laws of 2006, are amended to read as follows:

24 (3) a designation of the secretary of state as agent of the limited
25 partnership upon whom process against it may be served and the post
26 office address, within or without this state, to which [~~the secretary of~~
27 ~~state~~] a person shall mail a copy of any process against it served upon
28 [~~him~~] the secretary of state;

29 (4) a statement that the secretary of state has been designated as
30 agent of the limited partnership upon whom process against it may be
31 served and the post office address, within or without this state, to
32 which [~~the secretary of state~~] a person shall mail a copy of any process
33 against it served upon [~~him or her~~] the secretary of state;

34 § 60. Paragraph 4 of subdivision (b) of section 121-202 of the part-
35 nership law, as amended by chapter 576 of the laws of 1994, is amended
36 to read as follows:

37 (4) a change in the name of the limited partnership, or a change in
38 the post office address to which [~~the secretary of state~~] a person shall
39 mail a copy of any process against the limited partnership served on
40 [~~him~~] the secretary of state, or a change in the name or address of the
41 registered agent, if such change is made other than pursuant to section
42 121-104 or 121-105 of this article.

43 § 61. Section 121-202-A of the partnership law, as added by chapter
44 448 of the laws of 1998, paragraph 2 of subdivision (a) as amended by
45 chapter 172 of the laws of 1999, is amended to read as follows:

46 § 121-202-A. Certificate of change. (a) A certificate of limited part-
47 nership may be changed by filing with the department of state a certif-
48 icate of change entitled "Certificate of Change of (name of limit-
49 ed partnership) under Section 121-202-A of the Revised Limited
50 Partnership Act" and shall be signed and delivered to the department of
51 state. A certificate of change may (i) specify or change the location of
52 the limited partnership's office; (ii) specify or change the post office
53 address to which [~~the secretary of state~~] a person shall mail a copy of
54 process against the limited partnership served upon [~~him~~] the secretary
55 of state; and (iii) make, revoke or change the designation of a regis-

1 tered agent, or to specify or change the address of its registered
2 agent. It shall set forth:

3 (1) the name of the limited partnership, and if it has been changed,
4 the name under which it was formed;

5 (2) the date its certificate of limited partnership was filed by the
6 department of state; and

7 (3) each change effected thereby.

8 (b) A certificate of change which changes only the post office address
9 to which [~~the secretary of state~~] a person shall mail a copy of any
10 process against a limited partnership served upon [~~him or~~] the secretary
11 of state and/or the address of the registered agent, provided such
12 address being changed is the address of a person, partnership, limited
13 liability corporation or corporation whose address, as agent, is the
14 address to be changed or who has been designated as registered agent for
15 such limited partnership shall be signed and delivered to the department
16 of state by such agent. The certificate of change shall set forth the
17 statements required under subdivision (a) of this section; that a notice
18 of the proposed change was mailed to the domestic limited partnership by
19 the party signing the certificate not less than thirty days prior to the
20 date of delivery to the department of state and that such domestic
21 limited partnership has not objected thereto; and that the party signing
22 the certificate is the agent of such limited partnership to whose
23 address [~~the secretary of state~~] a person is required to mail copies of
24 process served on the secretary of state or the registered agent, if
25 such be the case. A certificate signed and delivered under this subdivi-
26 sion shall not be deemed to effect a change of location of the office of
27 the limited partnership in whose behalf such certificate is filed.

28 § 62. Paragraph 4 of subdivision (a) and subparagraph 5 of paragraph
29 (i) of subdivision (d) of section 121-902 of the partnership law, para-
30 graph 4 of subdivision (a) as amended by chapter 172 of the laws of 1999
31 and subparagraph 5 of paragraph (i) of subdivision (d) as amended by
32 chapter 44 of the laws of 2006, are amended to read as follows:

33 (4) a designation of the secretary of state as its agent upon whom
34 process against it may be served and the post office address, within or
35 without this state, to which [~~the secretary of state~~] a person shall
36 mail a copy of any process against it served upon [~~him~~] the secretary of
37 state;

38 (5) a statement that the secretary of state has been designated as its
39 agent upon whom process against it may be served and the post office
40 address, within or without this state, to which [~~the secretary of state~~]
41 a person shall mail a copy of any process against it served upon [~~him or~~
42 ~~her~~] the secretary of state;

43 § 63. Section 121-903-A of the partnership law, as added by chapter
44 448 of the laws of 1998, is amended to read as follows:

45 § 121-903-A. Certificate of change. (a) A foreign limited partnership
46 may change its application for authority by filing with the department
47 of state a certificate of change entitled "Certificate of Change
48 of (name of limited partnership) under Section 121-903-A of the
49 Revised Limited Partnership Act" and shall be signed and delivered to
50 the department of state. A certificate of change may (i) change the
51 location of the limited partnership's office; (ii) change the post
52 office address to which [~~the secretary of state~~] a person shall mail a
53 copy of process against the limited partnership served upon [~~him~~] the
54 secretary of state; and (iii) make, revoke or change the designation of
55 a registered agent, or to specify or change the address of its regis-
56 tered agent. It shall set forth:

1 (1) the name of the foreign limited partnership and, if applicable,
2 the fictitious name the foreign limited partnership has agreed to use in
3 this state pursuant to section 121-902 of this article;

4 (2) the date its application for authority was filed by the department
5 of state; and

6 (3) each change effected thereby.

7 (b) A certificate of change which changes only the post office address
8 to which [~~the secretary of state~~] a person shall mail a copy of any
9 process against a foreign limited partnership served upon [~~him or~~] the
10 secretary of state and/or the address of the registered agent, provided
11 such address being changed is the address of a person, partnership,
12 limited liability company or corporation whose address, as agent, is the
13 address to be changed or who has been designated as registered agent for
14 such foreign limited partnership shall be signed and delivered to the
15 department of state by such agent. The certificate of change shall set
16 forth the statements required under subdivision (a) of this section;
17 that a notice of the proposed change was mailed to the foreign limited
18 partnership by the party signing the certificate not less than thirty
19 days prior to the date of delivery to the department of state and that
20 such foreign limited partnership has not objected thereto; and that the
21 party signing the certificate is the agent of such foreign limited part-
22 nership to whose address [~~the secretary of state~~] a person is required
23 to mail copies of process served on the secretary of state or the regis-
24 tered agent, if such be the case. A certificate signed and delivered
25 under this subdivision shall not be deemed to effect a change of
26 location of the office of the limited partnership in whose behalf such
27 certificate is filed.

28 § 64. Paragraph 6 of subdivision (b) of section 121-905 of the part-
29 nership law, as added by chapter 950 of the laws of 1990, is amended to
30 read as follows:

31 (6) a post office address, within or without this state, to which [~~the~~
32 ~~secretary of state~~] a person shall mail a copy of any process against it
33 served upon [~~him~~] the secretary of state.

34 § 65. Paragraph 7 of subdivision (a) of section 121-1103 of the part-
35 nership law, as added by chapter 950 of the laws of 1990, is amended to
36 read as follows:

37 (7) A designation of the secretary of state as its agent upon whom
38 process against it may be served in the manner set forth in section
39 121-109 of this article in any action or special proceeding, and a post
40 office address, within or without this state, to which [~~the secretary of~~
41 ~~state~~] a person shall mail a copy of any process served upon [~~him~~] the
42 secretary of state. Such post office address shall supersede any prior
43 address designated as the address to which process shall be mailed.

44 § 66. Subparagraphs 2 and 4 of paragraph (I) and clause 4 of subpara-
45 graph (A) of paragraph (II) of subdivision (a) of section 121-1500 of
46 the partnership law, subparagraph 2 of paragraph (I) as added by chapter
47 576 of the laws of 1994, subparagraph 4 of paragraph (I) as amended by
48 chapter 643 of the laws of 1995 and such paragraph as redesignated by
49 chapter 767 of the laws of 2005 and clause 4 of subparagraph (A) of
50 paragraph (II) as amended by chapter 44 of the laws of 2006, are amended
51 to read as follows:

52 (2) the address, within this state, of the principal office of the
53 partnership without limited partners;

54 (4) a designation of the secretary of state as agent of the partner-
55 ship without limited partners upon whom process against it may be served
56 and the post office address, within or without this state, to which the

1 [~~secretary of state~~] a person shall mail a copy of any process against
2 it or served [~~upon it~~] on the secretary of state;

3 (4) a statement that the secretary of state has been designated as
4 agent of the registered limited liability partnership upon whom process
5 against it may be served and the post office address, within or without
6 this state, to which [~~the secretary of state~~] a person shall mail a copy
7 of any process against it served upon [~~him or her~~] the secretary of
8 state;

9 § 67. Paragraphs (ii) and (iii) of subdivision (g) of section 121-1500
10 of the partnership law, as amended by section 8 of part S of chapter 59
11 of the laws of 2015, are amended to read as follows:

12 (ii) the address, within this state, of the principal office of the
13 registered limited liability partnership, (iii) the post office address,
14 within or without this state, to which [~~the secretary of state~~] a person
15 shall mail a copy of any process accepted against it served upon [~~him or~~
16 ~~her~~] the secretary of state, which address shall supersede any previous
17 address on file with the department of state for this purpose, and

18 § 68. Subdivision (j-1) of section 121-1500 of the partnership law, as
19 added by chapter 448 of the laws of 1998, is amended to read as follows:

20 (j-1) A certificate of change which changes only the post office
21 address to which [~~the secretary of state~~] a person shall mail a copy of
22 any process against a registered limited liability partnership served
23 upon [~~him~~] the secretary of state and/or the address of the registered
24 agent, provided such address being changed is the address of a person,
25 partnership, limited liability company or corporation whose address, as
26 agent, is the address to be changed or who has been designated as regis-
27 tered agent for such registered limited liability partnership shall be
28 signed and delivered to the department of state by such agent. The
29 certificate of change shall set forth: (i) the name of the registered
30 limited liability partnership and, if it has been changed, the name
31 under which it was originally filed with the department of state; (ii)
32 the date of filing of its initial registration or notice statement;
33 (iii) each change effected thereby; (iv) that a notice of the proposed
34 change was mailed to the limited liability partnership by the party
35 signing the certificate not less than thirty days prior to the date of
36 delivery to the department of state and that such limited liability
37 partnership has not objected thereto; and (v) that the party signing the
38 certificate is the agent of such limited liability partnership to whose
39 address [~~the secretary of state~~] a person is required to mail copies of
40 process served on the secretary of state or the registered agent, if
41 such be the case. A certificate signed and delivered under this subdivi-
42 sion shall not be deemed to effect a change of location of the office of
43 the limited liability partnership in whose behalf such certificate is
44 filed. The certificate of change shall be accompanied by a fee of five
45 dollars.

46 § 69. Subdivision (a) of section 121-1502 of the partnership law, as
47 amended by chapter 643 of the laws of 1995, paragraph (v) as amended by
48 chapter 470 of the laws of 1997, is amended to read as follows:

49 (a) In order for a foreign limited liability partnership to carry on
50 or conduct or transact business or activities as a New York registered
51 foreign limited liability partnership in this state, such foreign limit-
52 ed liability partnership shall file with the department of state a
53 notice which shall set forth: (i) the name under which the foreign
54 limited liability partnership intends to carry on or conduct or transact
55 business or activities in this state; (ii) the date on which and the
56 jurisdiction in which it registered as a limited liability partnership;

1 (iii) the address, within this state, of the principal office of the
2 foreign limited liability partnership; (iv) the profession or
3 professions to be practiced by such foreign limited liability partner-
4 ship and a statement that it is a foreign limited liability partnership
5 eligible to file a notice under this chapter; (v) a designation of the
6 secretary of state as agent of the foreign limited liability partnership
7 upon whom process against it may be served and the post office address
8 within or without this state, to which [~~the secretary of state~~] a person
9 shall mail a copy of any process against it [~~or~~] served upon [~~it~~] the
10 secretary of state; (vi) if the foreign limited liability partnership is
11 to have a registered agent, its name and address in this state and a
12 statement that the registered agent is to be the agent of the foreign
13 limited liability partnership upon whom process against it may be
14 served; (vii) a statement that its registration as a limited liability
15 partnership is effective in the jurisdiction in which it registered as a
16 limited liability partnership at the time of the filing of such notice;
17 (viii) a statement that the foreign limited liability partnership is
18 filing a notice in order to obtain status as a New York registered
19 foreign limited liability partnership; (ix) if the registration of the
20 foreign limited liability partnership is to be effective on a date later
21 than the time of filing, the date, not to exceed sixty days from the
22 date of filing, of such proposed effectiveness; and (x) any other
23 matters the foreign limited liability partnership determines to include
24 in the notice. Such notice shall be accompanied by either (1) a copy of
25 the last registration or renewal registration (or similar filing), if
26 any, filed by the foreign limited liability partnership with the juris-
27 diction where it registered as a limited liability partnership or (2) a
28 certificate, issued by the jurisdiction where it registered as a limited
29 liability partnership, substantially to the effect that such foreign
30 limited liability partnership has filed a registration as a limited
31 liability partnership which is effective on the date of the certificate
32 (if such registration, renewal registration or certificate is in a
33 foreign language, a translation thereof under oath of the translator
34 shall be attached thereto). Such notice shall also be accompanied by a
35 fee of two hundred fifty dollars.

36 § 70. Subparagraphs (ii) and (iii) of paragraph (I) of subdivision (f)
37 of section 121-1502 of the partnership law, as amended by section 9 of
38 part S of chapter 59 of the laws of 2015, are amended to read as
39 follows:

40 (ii) the address, within this state, of the principal office of the
41 New York registered foreign limited liability partnership, (iii) the
42 post office address, within or without this state, to which [~~the secre-~~
43 ~~tary of state~~] a person shall mail a copy of any process accepted
44 against it served upon [~~him or her~~] the secretary of state, which
45 address shall supersede any previous address on file with the department
46 of state for this purpose, and

47 § 71. Clause 5 of subparagraph (A) of paragraph (II) of subdivision
48 (f) of section 121-1502 of the partnership law, as amended by chapter 44
49 of the laws of 2006, is amended to read as follows:

50 (5) a statement that the secretary of state has been designated as
51 agent of the foreign limited liability partnership upon whom process
52 against it may be served and the post office address, within or without
53 this state, to which [~~the secretary of state~~] a person shall mail a copy
54 of any process against it served upon [~~him or her~~] the secretary of
55 state;

1 § 72. Subdivision (i-1) of section 121-1502 of the partnership law, as
2 added by chapter 448 of the laws of 1998, is amended to read as follows:

3 (i-1) A certificate of change which changes only the post office
4 address to which [~~the secretary of state~~] a person shall mail a copy of
5 any process against a New York registered foreign limited liability
6 partnership served upon [~~him~~] the secretary of state and/or the address
7 of the registered agent, provided such address being changed is the
8 address of a person, partnership, limited liability company or corpo-
9 ration whose address, as agent, is the address to be changed or who has
10 been designated as registered agent of such registered foreign limited
11 liability partnership shall be signed and delivered to the department of
12 state by such agent. The certificate of change shall set forth: (i) the
13 name of the New York registered foreign limited liability partnership;
14 (ii) the date of filing of its initial registration or notice statement;
15 (iii) each change effected thereby; (iv) that a notice of the proposed
16 change was mailed to the limited liability partnership by the party
17 signing the certificate not less than thirty days prior to the date of
18 delivery to the department of state and that such limited liability
19 partnership has not objected thereto; and (v) that the party signing the
20 certificate is the agent of such limited liability partnership to whose
21 address [~~the secretary of state~~] a person is required to mail copies of
22 process served on the secretary of state or the registered agent, if
23 such be the case. A certificate signed and delivered under this subdivi-
24 sion shall not be deemed to effect a change of location of the office of
25 the limited liability partnership in whose behalf such certificate is
26 filed. The certificate of change shall be accompanied by a fee of five
27 dollars.

28 § 73. Subdivision (a) of section 121-1505 of the partnership law, as
29 added by chapter 470 of the laws of 1997, is amended and two new subdivi-
30 sions (d) and (e) are added to read as follows:

31 (a) Service of process on the secretary of state as agent of a regis-
32 tered limited liability partnership or New York registered foreign
33 limited liability partnership under this article shall be made by mail-
34 ing the process and notice of service thereof by certified mail, return
35 receipt requested, to such registered limited liability partnership or
36 New York registered foreign limited liability partnership, at the post
37 office address on file in the department of state specified for such
38 purpose. On the same date that such process is mailed, a duplicate copy
39 of such process and proof of mailing together with the statutory fee,
40 which fee shall be a taxable disbursement, shall be personally [~~deliver-~~
41 ~~ing~~] delivered to and [~~leaving~~] left with the secretary of state or a
42 deputy, or with any person authorized by the secretary of state to
43 receive such service, at the office of the department of state in the
44 city of Albany, [~~duplicate copies of such process~~] together with the
45 statutory fee, which fee shall be a taxable disbursement. Proof of mail-
46 ing shall be by affidavit of compliance with this section. Service of
47 process on such registered limited liability partnership or New York
48 registered foreign limited liability partnership shall be complete when
49 the secretary of state is so served. [~~The secretary of state shall~~
50 ~~promptly send one of such copies by certified mail, return receipt~~
51 ~~requested, to such registered limited liability partnership, at the post~~
52 ~~office address on file in the department of state specified for such~~
53 ~~purpose.~~]

54 (d) The department of state shall keep a record of each process served
55 upon the secretary of state under this chapter, including the date of
56 such service. It shall, upon request made within ten years of such

1 service, issue a certificate under its seal certifying as to the receipt
2 of the process by an authorized person, the date and place of such
3 service and the receipt of the statutory fee. Process served upon the
4 secretary of state under this chapter shall be destroyed by the depart-
5 ment of state after a period of ten years from such service.

6 (e) Any designated post office address maintained by the secretary of
7 state as agent of a registered limited liability partnership or New York
8 registered foreign limited liability partnership for the purpose of
9 mailing process shall be the post office address, within or without the
10 state, to which a person shall mail process against such limited liabil-
11 ity company as required by this article. Such address shall continue
12 until the filing of a certificate under this chapter directing the mail-
13 ing to a different post office address.

14 § 74. Subdivision (b) of section 121-1506 of the partnership law, as
15 added by chapter 448 of the laws of 1998, paragraph 4 as amended by
16 chapter 172 of the laws of 1999, is amended to read as follows:

17 (b) The party (or the party's legal representative) whose post office
18 address has been supplied by a limited liability partnership as its
19 address for process may resign. A certificate entitled "Certificate of
20 Resignation for Receipt of Process under Section 121-1506(b) of the
21 Partnership Law" shall be signed by such party and delivered to the
22 department of state. It shall set forth:

23 (1) The name of the limited liability partnership and the date that
24 its certificate of registration was filed by the department of state.

25 (2) That the address of the party has been designated by the limited
26 liability partnership as the post office address to which [~~the secretary~~
27 ~~of state~~] a person shall mail a copy of any process served on the secre-
28 tary of state as agent for such limited liability partnership and that
29 such party wishes to resign.

30 (3) That at least sixty days prior to the filing of the certificate of
31 resignation for receipt of process with the department of state the
32 party has sent a copy of the certificate of resignation for receipt of
33 process by registered or certified mail to the address of the registered
34 agent of the [~~designated~~] designating limited liability partnership, if
35 other than the party filing the certificate of resignation, for receipt
36 of process, or if the [~~resigning~~] designating limited liability partner-
37 ship has no registered agent, then to the last address of the [~~desig-~~
38 ~~nated~~] designating limited liability partnership, known to the party,
39 specifying the address to which the copy was sent. If there is no regis-
40 tered agent and no known address of the designating limited liability
41 partnership the party shall attach an affidavit to the certificate stat-
42 ing that a diligent but unsuccessful search was made by the party to
43 locate the limited liability partnership, specifying what efforts were
44 made.

45 (4) That the [~~designated~~] designating limited liability partnership is
46 required to deliver to the department of state a certificate of amend-
47 ment providing for the designation by the limited liability partnership
48 of a new address and that upon its failure to file such certificate, its
49 authority to do business in this state shall be suspended.

50 § 75. Paragraph 16 of subdivision 1 of section 103 of the private
51 housing finance law, as added by chapter 22 of the laws of 1970, is
52 amended to read as follows:

53 (16) A designation of the secretary of state as agent of the corpo-
54 ration upon whom process against it may be served and the post office
55 address, within or without this state, to which [~~the secretary of state~~]

1 a person shall mail a copy of any process against it served upon [~~him~~]
2 the secretary of state.

3 § 76. Subdivision 7 of section 339-n of the real property law is
4 REPEALED and subdivisions 8 and 9 are renumbered subdivisions 7 and 8.

5 § 76-a. Subdivision 15 of section 20.03 of the arts and cultural
6 affairs law, as added by chapter 656 of the laws of 1991, is amended to
7 read as follows:

8 15. "Non-institutional portion" shall mean the part or portion of a
9 combined-use facility other than the institutional portion. If the non-
10 institutional portion, or any part thereof, consists of a condominium,
11 the consent of the trust which has developed or approved the developer
12 of such condominium shall be required prior to any amendment of the
13 declaration of such condominium pursuant to subdivision [~~nine~~] eight of
14 section three hundred thirty-nine-n of the real property law and prior
15 to any amendment of the by-laws of such condominium pursuant to para-
16 graph (j) of subdivision one of section three hundred thirty-nine-v of
17 the real property law, and whether or not such trust is a unit owner of
18 such condominium, it may exercise the rights of the board of managers
19 and an aggrieved unit owner under section three hundred thirty-nine-j of
20 the real property law in the case of a failure of any unit owner of such
21 condominium to comply with the by-laws of such condominium and with the
22 rules, regulations, and decisions adopted pursuant thereto.

23 § 77. Subdivision 2 of section 339-s of the real property law, as
24 added by chapter 346 of the laws of 1997, is amended to read as follows:

25 2. [~~Each such declaration, and any amendment or amendments thereof~~
26 ~~shall be filed with the department of state~~] (a) The board of managers
27 for each condominium subject to this article shall file with the secre-
28 tary of state a certificate, in writing, signed, designating the secre-
29 tary of state as agent of the board of managers upon whom process
30 against it may be served and the post office address to which a person
31 shall mail a copy of such process. The certificate shall be accompanied
32 by a fee of sixty dollars.

33 (b) Any board of managers may change the address to which a person
34 shall mail a copy of process served upon the secretary of state, by
35 filing a signed certificate of amendment with the department of state.
36 Such certificate shall be accompanied by a fee of sixty dollars.

37 (c) Service of process on the secretary of state as agent of a board
38 of managers shall be made by mailing the process and notice of service
39 of process pursuant to this section by certified mail, return receipt
40 requested, to such board of managers, at the post office address on file
41 in the department of state specified for this purpose. On the same day
42 that such process is mailed, a duplicate copy of such process and proof
43 of mailing shall be personally delivered to and left with the secretary
44 of state or a deputy, or with any person authorized by the secretary of
45 state to receive such service, at the office of the department of state
46 in the city of Albany, a duplicate copy of such process with proof of
47 mailing together with the statutory fee, which shall be a taxable
48 disbursement. Proof of mailing shall be by affidavit of compliance with
49 this section. Service of process on a board of managers shall be
50 complete when the secretary of state is so served.

51 (d) As used in this article, "process" shall mean judicial process and
52 all orders, demands, notices or other papers required or permitted by
53 law to be personally served on a board of managers, for the purpose of
54 acquiring jurisdiction of such board of managers in any action or
55 proceeding, civil or criminal, whether judicial, administrative, arbi-

1 trative or otherwise, in this state or in the federal courts sitting in
2 or for this state.

3 (e) Nothing in this section shall affect the right to serve process in
4 any other manner permitted by law.

5 (f) The department of state shall keep a record of each process served
6 under this section, including the date of service. It shall, upon
7 request, made within ten years of such service, issue a certificate
8 under its seal certifying as to the receipt of process by an authorized
9 person, the date and place of such service and the receipt of the statu-
10 tory fee. Process served on the secretary of state under this section
11 shall be destroyed by the department of state after a period of ten
12 years from such service.

13 (g) Any designated post office address maintained by the secretary of
14 state as agent of the board of managers for the purpose of mailing proc-
15 ess shall be the post office address, within or without the state, to
16 which a person shall mail process against such board as required by this
17 article. Such address shall continue until the filing of a certificate
18 under this chapter directing the mailing to a different post office
19 address.

20 § 78. Subdivisions 3 and 4 of section 442-g of the real property law,
21 as amended by chapter 482 of the laws of 1963, are amended to read as
22 follows:

23 3. Service of such process upon the secretary of state shall be made
24 by personally delivering to and leaving with [~~him or his~~] the secretary
25 of state or a deputy, or with any person authorized by the secretary of
26 state to receive such service, at the office of the department of state
27 in the city of Albany, [~~duplicate copies~~] a copy of such process and
28 proof of mailing together with a fee of five dollars if the action is
29 solely for the recovery of a sum of money not in excess of two hundred
30 dollars and the process is so endorsed, and a fee of ten dollars in any
31 other action or proceeding, which fee shall be a taxable disbursement.
32 If such process is served upon behalf of a county, city, town or
33 village, or other political subdivision of the state, the fee to be paid
34 to the secretary of state shall be five dollars, irrespective of the
35 amount involved or the nature of the action on account of which such
36 service of process is made. [~~If the cost of registered mail for trans-~~
37 ~~mitting a copy of the process shall exceed two dollars, an additional~~
38 ~~fee equal to such excess shall be paid at the time of the service of~~
39 ~~such process.~~] Proof of mailing shall be by affidavit of compliance with
40 this section. Proof of service shall be by affidavit of compliance with
41 this subdivision filed by or on behalf of the plaintiff together with
42 the process, within ten days after such service, with the clerk of the
43 court in which the action or special proceeding is pending. Service
44 made as provided in this section shall be complete ten days after such
45 papers are filed with the clerk of the court and shall have the same
46 force and validity as if served on him personally within the state and
47 within the territorial jurisdiction of the court from which the process
48 issues.

49 4. The [~~secretary of state~~] person serving such process shall [~~prompt-~~
50 ~~ly~~] send [~~one of~~] such [~~copies~~] process by [~~registered~~] certified mail,
51 return receipt requested, to the nonresident broker or nonresident
52 salesman at the post office address of his main office as set forth in
53 the last application filed by him.

54 § 79. Subdivision 2 of section 203 of the tax law, as amended by chap-
55 ter 100 of the laws of 1964, is amended to read as follows:

1 2. Every foreign corporation (other than a moneyed corporation)
2 subject to the provisions of this article, except a corporation having a
3 certificate of authority [~~under section two hundred twelve of the gener-~~
4 ~~al corporation law~~] or having authority to do business by virtue of
5 section thirteen hundred five of the business corporation law, shall
6 file in the department of state a certificate of designation in its
7 corporate name, signed and acknowledged by its president or a vice-pre-
8 sident or its secretary or treasurer, under its corporate seal, desig-
9 nating the secretary of state as its agent upon whom process in any
10 action provided for by this article may be served within this state, and
11 setting forth an address to which [~~the secretary of state~~] a person
12 shall mail a copy of any such process against the corporation which may
13 be served upon [~~him~~] the secretary of state. In case any such corpo-
14 ration shall have failed to file such certificate of designation, it
15 shall be deemed to have designated the secretary of state as its agent
16 upon whom such process against it may be served; and until a certificate
17 of designation shall have been filed the corporation shall be deemed to
18 have directed [~~the secretary of state~~] a person serving process to mail
19 copies of process served upon [~~him~~] the secretary of state to the corpo-
20 ration at its last known office address within or without the state.
21 When a certificate of designation has been filed by such corporation
22 [~~the secretary of state~~] a person serving process shall mail copies of
23 process thereafter served upon [~~him~~] the secretary of state to the
24 address set forth in such certificate. Any such corporation, from time
25 to time, may change the address to which [~~the secretary of state~~] a
26 person is directed to mail copies of process, by filing a certificate to
27 that effect executed, signed and acknowledged in like manner as a
28 certificate of designation as herein provided. Service of process upon
29 any such corporation or upon any corporation having a certificate of
30 authority [~~under section two hundred twelve of the general corporation~~
31 ~~law~~] or having authority to do business by virtue of section thirteen
32 hundred five of the business corporation law, in any action commenced at
33 any time pursuant to the provisions of this article, may be made by
34 either (1) personally delivering to and leaving with the secretary of
35 state, a deputy secretary of state or with any person authorized by the
36 secretary of state to receive such service [~~duplicate copies~~] a copy
37 thereof at the office of the department of state in the city of Albany,
38 in which event [~~the secretary of state~~] a person serving such process
39 shall forthwith send by [~~registered~~] certified mail, return receipt
40 requested, [~~one of such copies~~] a duplicate copy to the corporation at
41 the address designated by it or at its last known office address within
42 or without the state, or (2) personally delivering to and leaving with
43 the secretary of state, a deputy secretary of state or with any person
44 authorized by the secretary of state to receive such service, a copy
45 thereof at the office of the department of state in the city of Albany
46 and by delivering a copy thereof to, and leaving such copy with, the
47 president, vice-president, secretary, assistant secretary, treasurer,
48 assistant treasurer, or cashier of such corporation, or the officer
49 performing corresponding functions under another name, or a director or
50 managing agent of such corporation, personally without the state. Proof
51 of such personal service without the state shall be filed with the clerk
52 of the court in which the action is pending within thirty days after
53 such service, and such service shall be complete ten days after proof
54 thereof is filed.

55 § 80. Section 216 of the tax law, as added by chapter 415 of the laws
56 of 1944, the opening paragraph as amended by chapter 100 of the laws of

1 1964 and redesignated by chapter 613 of the laws of 1976, is amended to
2 read as follows:

3 § 216. Collection of taxes. Every foreign corporation (other than a
4 moneyed corporation) subject to the provisions of this article, except a
5 corporation having a certificate of authority [~~under section two hundred~~
6 ~~twelve of the general corporation law~~] or having authority to do busi-
7 ness by virtue of section thirteen hundred five of the business corpo-
8 ration law, shall file in the department of state a certificate of
9 designation in its corporate name, signed and acknowledged by its presi-
10 dent or a vice-president or its secretary or treasurer, under its corpo-
11 rate seal, designating the secretary of state as its agent upon whom
12 process in any action provided for by this article may be served within
13 this state, and setting forth an address to which [~~the secretary of~~
14 ~~state~~] a person shall mail a copy of any such process against the corpo-
15 ration which may be served upon [~~him~~] the secretary of state. In case
16 any such corporation shall have failed to file such certificate of
17 designation, it shall be deemed to have designated the secretary of
18 state as its agent upon whom such process against it may be served; and
19 until a certificate of designation shall have been filed the corporation
20 shall be deemed to have directed [~~the secretary of state~~] a person to
21 mail [~~copies~~] a copy of process served upon [~~him~~] the secretary of state
22 to the corporation at its last known office address within or without
23 the state. When a certificate of designation has been filed by such
24 corporation [~~the secretary of state~~] a person serving such process shall
25 mail [~~copies~~] a copy of process thereafter served upon [~~him~~] a person
26 serving such process to the address set forth in such certificate. Any
27 such corporation, from time to time, may change the address to which
28 [~~the secretary of state~~] a person is directed to mail copies of process,
29 by filing a certificate to that effect executed, signed and acknowledged
30 in like manner as a certificate of designation as herein provided.
31 Service of process upon any such corporation or upon any corporation
32 having a certificate of authority [~~under section two hundred twelve of~~
33 ~~the general corporation law~~] or having authority to do business by
34 virtue of section thirteen hundred five of the business corporation law,
35 in any action commenced at any time pursuant to the provisions of this
36 article, may be made by either (1) personally delivering to and leaving
37 with the secretary of state, a deputy secretary of state or with any
38 person authorized by the secretary of state to receive such service
39 [~~duplicate copies~~] a copy thereof at the office of the department of
40 state in the city of Albany, in which event [~~the secretary of state~~] a
41 person serving such process shall forthwith send by [~~registered~~] certi-
42 fied mail, return receipt requested, [~~one of such copies~~] a duplicate
43 copy to the corporation at the address designated by it or at its last
44 known office address within or without the state, or (2) personally
45 delivering to and leaving with the secretary of state, a deputy secre-
46 tary of state or with any person authorized by the secretary of state to
47 receive such service, a copy thereof at the office of the department of
48 state in the city of Albany and by delivering a copy thereof to, and
49 leaving such copy with, the president, vice-president, secretary,
50 assistant secretary, treasurer, assistant treasurer, or cashier of such
51 corporation, or the officer performing corresponding functions under
52 another name, or a director or managing agent of such corporation,
53 personally without the state. Proof of such personal service without
54 the state shall be filed with the clerk of the court in which the action
55 is pending within thirty days after such service, and such service shall
56 be complete ten days after proof thereof is filed.

1 § 81. Subdivisions (a) and (b) of section 310 of the tax law, as added
2 by chapter 400 of the laws of 1983, are amended to read as follows:

3 (a) Designation for service of process.--Every petroleum business
4 which is a corporation, except such a petroleum business having a
5 certificate of authority [~~under section two hundred twelve of the gener-~~
6 ~~al corporation law~~] or having authority to do business by virtue of
7 section thirteen hundred five of the business corporation law, shall
8 file in the department of state a certificate of designation in its
9 corporate name, signed and acknowledged by its president or vice-presi-
10 dent or its secretary or treasurer, under its corporate seal, designat-
11 ing the secretary of state as its agent upon whom process in any action
12 provided for by this article may be served within this state, and
13 setting forth an address to which [~~the secretary of state~~] a person
14 shall mail a copy of any such process against such petroleum business
15 which may be served upon [~~him~~] the secretary of state. In case any such
16 petroleum business shall have failed to file such certificate of design-
17 nation, it shall be deemed to have designated the secretary of state as
18 its agent upon whom such process against it may be served; and until a
19 certificate of designation shall have been filed such a petroleum busi-
20 ness shall be deemed to have directed [~~the secretary of state~~] a person
21 to mail copies of process served upon [~~him~~] the secretary of state to
22 such petroleum business at its last known office address within or with-
23 out the state. When a certificate of designation has been filed by such
24 a petroleum business [~~the secretary of state~~] a person serving process
25 shall mail copies of process thereafter served upon [~~him~~] the secretary
26 of state to the address set forth in such certificate. Any such petrole-
27 um business, from time to time, may change the address to which [~~the~~
28 ~~secretary of state~~] a person is directed to mail copies of process, by
29 filing a certificate to that effect executed, signed and acknowledged in
30 like manner as a certificate of designation as herein provided.

31 (b) Service of process.--Service of process upon any petroleum busi-
32 ness which is a corporation (including any such petroleum business
33 having a certificate of authority [~~under section two hundred twelve of~~
34 ~~the general corporation law~~] or having authority to do business by
35 virtue of section thirteen hundred five of the business corporation
36 law), in any action commenced at any time pursuant to the provisions of
37 this article, may be made by either (1) personally delivering to and
38 leaving with the secretary of state, a deputy secretary of state or with
39 any person authorized by the secretary of state to receive such service
40 [~~duplicate copies~~] a copy thereof at the office of the department of
41 state in the city of Albany, in which event [~~the secretary of state~~] a
42 person serving process shall forthwith send by [~~registered~~] certified
43 mail, return receipt requested, [~~one of such copies~~] a duplicate copy to
44 such petroleum business at the address designated by it or at its last
45 known office address within or without the state, or (2) personally
46 delivering to and leaving with the secretary of state, a deputy secre-
47 tary of state or with any person authorized by the secretary of state to
48 receive such service, a copy thereof at the office of the department of
49 state in the city of Albany and by delivering a copy thereof to, and
50 leaving such copy with, the president, vice-president, secretary,
51 assistant secretary, treasurer, assistant treasurer, or cashier of such
52 petroleum business, or the officer performing corresponding functions
53 under another name, or a director or managing agent of such petroleum
54 business, personally without the state. Proof of such personal service
55 without the state shall be filed with the clerk of the court in which

1 the action is pending within thirty days after such service, and such
2 service shall be complete ten days after proof thereof is filed.
3 § 82. This act shall take effect on the one hundred twentieth day
4 after it shall have become a law.

5 PART R

6 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
7 executive law relating to permitting the secretary of state to provide
8 special handling for all documents filed or issued by the division of
9 corporations and to permit additional levels of such expedited service,
10 as amended by section 1 of part S of chapter 58 of the laws of 2018, is
11 amended to read as follows:

12 § 2. This act shall take effect immediately, provided however, that
13 section one of this act shall be deemed to have been in full force and
14 effect on and after April 1, 2003 and shall expire March 31, [2019]
15 2020.

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

18 PART S

19 Section 1. The first undesignated paragraph of subdivision 24-b of
20 section 10 of the highway law, as amended by chapter 155 of laws of
21 1985, is amended to read as follows:

22 Have power, whenever such commissioner of transportation deems it is
23 necessary as a result of work of construction, reconstruction or mainte-
24 nance of state highways, to provide for the removal, relocation,
25 replacement or reconstruction of privately, publicly or cooperatively
26 owned water, storm and sewer lines and facilities, facilities for the
27 transmission and/or distribution of communications, power, electricity,
28 light, heat, gas, crude products, steam and other similar commodities,
29 municipal utility facilities, or facilities of a corporation organized
30 pursuant to the transportation corporations law that are located on
31 privately owned property. Notwithstanding any other provision of any
32 law, the commissioner of transportation may enter into an agreement with
33 a fiber optic utility for occupancy of the state right of way, provided
34 however, any provider occupying a right of way in fulfillment of a state
35 grant award through the New NY Broadband Program shall not be subject to
36 a fee for such occupancy, and provided further, any fee for occupancy
37 charged to a fiber optic utility shall be prohibited from being passed
38 through in whole or in part as a fee, charge, increased service cost, or
39 by any other means by a fiber optic utility to any person or entity that
40 contracts with such fiber optic utility for service, and provided
41 further that any compensation received by the state pursuant to such
42 agreement shall be deposited by the comptroller into the special obli-
43 gation reserve and payment account of the dedicated highway and bridge
44 trust fund established pursuant to section eighty-nine-b of the state
45 finance law. If such work requires additional property or if it is
46 necessary that the relocation of such facilities be made to other prop-
47 erty, he may acquire such property as may be necessary for the purposes
48 of this subdivision, in the same manner as other property is acquired
49 for state highway purposes pursuant to this chapter, and he and the
50 owner of such facilities may enter into a written agreement to convey
51 such property as deemed necessary for the purposes of this subdivision
52 to such owner on terms beneficial to the state. The expense of such

1 removal, relocation, replacement or reconstruction and cost of property
2 acquisition shall be a proper charge against funds available for the
3 construction, reconstruction or maintenance of state highways. Except
4 when such facilities are owned by a corporation organized pursuant to
5 the transportation corporations law, the work of such removal, relo-
6 cation, replacement or reconstruction shall be performed by contract in
7 the same manner as provided for state highways in article three of this
8 chapter, or, by the use of departmental forces and equipment and of
9 materials purchased therefor, unless the commissioner of transportation
10 consents to having the owner of such facilities provide for the work of
11 such removal, relocation, replacement or reconstruction. In the case
12 where such facilities are owned by a corporation organized pursuant to
13 the transportation corporations law, the work of such removal, relo-
14 cation, replacement or reconstruction shall be provided for by such
15 corporation unless it consents to having the commissioner of transporta-
16 tion provide for such work to be performed by contract, in accordance
17 with specifications provided by such corporation, in the same manner as
18 provided for state highways in article three of this chapter, or, by the
19 use of departmental forces and equipment and of materials purchased
20 therefor. Upon the completion of the work, such facilities shall be
21 maintained by the owners thereof.

22 § 2. The transportation corporations law is amended by adding a new
23 section 7 to read as follows:

24 § 7. Agreement for fiber optic utility occupancy of state right of
25 way. Notwithstanding any other provision of any law, the commissioner
26 of transportation may enter into an agreement with a fiber optic utility
27 for occupancy of the state right of way, provided however, any provider
28 occupying a right of way in fulfillment of a state grant award through
29 the New NY Broadband Program shall not be subject to a fee for such
30 occupancy, and provided further, any fee for occupancy charged to a
31 fiber optic utility shall be prohibited from being passed through in
32 whole or in part as a fee, charge, increased service cost, or by any
33 other means by a fiber optic utility to any person or entity that
34 contracts with such fiber optic utility for service, and provided
35 further that any compensation received by the state pursuant to such
36 agreement shall be deposited by the comptroller into the special obli-
37 gation reserve and payment account of the dedicated highway and bridge
38 trust fund established pursuant to section eighty-nine-b of the state
39 finance law.

40 § 3. This act shall take effect immediately.

41

PART T

42 Section 1. Items (a) and (b) of subparagraph (v) of paragraph c of
43 subdivision 2 and subdivision 9 of section 140 of the transportation
44 law, items (a) and (b) of subparagraph (v) of paragraph c of subdivision
45 2 as amended by section 10 of part K of chapter 59 of the laws of 2009
46 and such paragraph as relettered by section 6 of part G of chapter 58 of
47 the laws of 2012 and subdivision 9 as amended by chapter 349 of the laws
48 of 1993, are amended to read as follows:

49 (a) ~~A driver who is convicted of violating an out of service order as~~
50 ~~provided for in the department's safety rules and regulations shall be~~
51 ~~guilty of a traffic infraction which shall be punishable by a fine of~~
52 ~~not less than two thousand five hundred dollars nor more than four thou-~~
53 ~~sand dollars upon the first offense, and upon being found guilty of a~~
54 ~~second or subsequent offense within eighteen months by a fine of not~~

1 ~~less than five thousand dollars nor more than six thousand dollars.]~~ A
2 person who knowingly and willfully violates an out-of-service order as
3 provided for in the department's safety rules and regulations, or who
4 knowingly and willfully removes an out-of-service sticker from a commer-
5 cial motor vehicle as defined by section five hundred one-a of the vehi-
6 cle and traffic law without the authority of the department, shall be
7 guilty of a class D felony. Upon making an arrest for any violation of
8 this subdivision, or pursuant to the authority of a warrant issued under
9 article six hundred ninety of the criminal procedure law, an officer
10 shall remove or arrange for the removal of the vehicle or vehicles used
11 in the commission of the offense to a garage, automobile pound, or other
12 place of safety where it shall remain impounded subject to the
13 provisions of subdivisions two through seven of section five hundred
14 eleven-b of the vehicle and traffic law and the vehicle shall be entered
15 into the New York statewide police information network as an impounded
16 vehicle and the impounding police department shall promptly notify the
17 owner and the local authority that the vehicle has been impounded. Upon
18 conviction as a second or subsequent offender as described herein the
19 court may order forfeiture of any right, title or interest held by the
20 defendant in any motor vehicle used in the commission of such offense.
21 In the alternative, upon conviction as a second or subsequent offender
22 as described herein, an action for forfeiture may be commenced by the
23 attorney general on behalf of the commissioner or the corporation coun-
24 sel or designee on behalf of the city in any superior court in the coun-
25 ty of conviction. The defendant shall have a right to a trial by jury on
26 any issue of fact. The plaintiff in the forfeiture action shall have the
27 burden of proof by clear and convincing evidence on such issues of fact.

28 (b) No person, corporation, limited liability company or business
29 entity, joint stock association, partnership, or any officer or agent
30 thereof, shall knowingly allow, require, permit or authorize any person
31 to operate a commercial motor vehicle as defined by section five hundred
32 one-a of the vehicle and traffic law during any period in which such
33 person, such commercial motor vehicle, or such motor carrier operation
34 has been placed out of service as provided for in the department's safe-
35 ty rules and regulations and shall be [~~subject to a fine of not less~~
36 ~~than two thousand seven hundred fifty dollars and not more than twenty-~~
37 ~~five thousand dollars]~~ guilty of a class D felony for any violation
38 thereof. Upon making an arrest for any violation of this subdivision, or
39 pursuant to the authority of a warrant issued under article six hundred
40 ninety of the criminal procedure law, an officer shall remove or arrange
41 for the removal of the vehicle or vehicles used in the commission of the
42 offense to a garage, automobile pound, or other place of safety where
43 it shall remain impounded subject to the provisions of subdivisions two
44 through seven of section five hundred eleven-b of the vehicle and traf-
45 fic law and the vehicle shall be entered into the New York statewide
46 police information network as an impounded vehicle and the impounding
47 police department shall promptly notify the owner and the local authori-
48 ty that the vehicle has been impounded. Upon conviction as a second or
49 subsequent offender as described herein the court may order forfeiture
50 of any right, title or interest held by the defendant in any motor vehi-
51 cle used in the commission of such offense. In the alternative, upon
52 conviction as a second or subsequent offender as described herein, an
53 action for forfeiture may be commenced by the attorney general on behalf
54 of the commissioner or the corporation counsel or designee on behalf of
55 the city in any superior court in the county of conviction. The defend-
56 ant shall have a right to a trial by jury on any issue of fact. The

1 plaintiff in the forfeiture action shall have the burden of proof by
2 clear and convincing evidence on such issues of fact.

3 9. (a) If, after notice and opportunity to be heard, the commissioner
4 shall find that any person is operating in violation of the provisions
5 of this section, the commissioner may penalize such person pursuant to
6 subdivision three of section one hundred forty-five of this article. The
7 commissioner may also notify the commissioner of motor vehicles that
8 such person is operating in violation of this section and the commis-
9 sioner of motor vehicles shall thereupon suspend the registration of all
10 motor vehicles owned or operated by such person, with the exception of
11 private passenger automobiles, until such time as the commissioner may
12 give notice that the violation has been satisfactorily adjusted. The
13 commissioner of motor vehicles may direct any police officer to secure
14 possession of the vehicle plates and to return the same to the commis-
15 sioner of motor vehicles. Failure of the holder or of any person
16 possessing the vehicle plates to deliver the vehicle plates to any
17 police officer who requests the same pursuant to this subdivision shall
18 be a class A misdemeanor. The commissioner of motor vehicles shall have
19 the authority to suspend, revoke or deny a registration or renewal
20 application to any other person for the same vehicle and may suspend,
21 revoke or deny a registration or renewal application for any other motor
22 vehicle registered in the name of the applicant where it has been deter-
23 mined that such registrant's intent has been to evade the purposes of
24 this subdivision and where the commissioner of motor vehicles has
25 reasonable grounds to believe that such registration or renewal will
26 have the effect of defeating the purposes of this subdivision. The
27 procedure on any such suspension shall be the same as in the case of a
28 suspension under the vehicle and traffic law. Operation of any motor
29 vehicle while under suspension as herein provided by any person with
30 knowledge of the suspension shall constitute a class [~~A—misdemeanor~~] E
31 felony. Upon making an arrest or upon issuing an appearance ticket for
32 operating any motor vehicle while under suspension as herein provided by
33 any person with knowledge of the suspension, or pursuant to the authori-
34 ty of a warrant issued under article six hundred ninety of the criminal
35 procedure law, an officer shall remove or arrange for the removal of the
36 vehicle or vehicles used in the commission of the offense to a garage,
37 automobile pound, or other place of safety where it shall remain
38 impounded subject to the provisions of subdivisions two through seven of
39 section five hundred eleven-b of the vehicle and traffic law and the
40 vehicle shall be entered into the New York statewide police information
41 network as an impounded vehicle and the impounding police department
42 shall promptly notify the owner and the local authority that the vehicle
43 has been impounded. Upon conviction as a second or subsequent offender
44 as described herein the court may order forfeiture of any right, title
45 or interest held by the defendant in any motor vehicle used in the
46 commission of such offense.

47 (b) Whenever the commissioner has reasonable grounds to believe that
48 any person is operating in violation of this section under circumstances
49 that endanger the health, safety, and welfare of the public, the commis-
50 sioner may: (i) immediately secure possession of the vehicle plates and
51 notify the commissioner of motor vehicles to that effect, or without
52 securing possession of the vehicle plates, immediately notify the
53 commissioner of motor vehicles to that effect, and the commissioner of
54 motor vehicles shall thereupon suspend the registration or registrations
55 of all motor vehicles owned or operated by such person, except private
56 passenger automobiles, until such time as the commissioner gives notice

1 that the violation has been satisfactorily adjusted provided, however,
2 that the commissioner give notice and opportunity to be heard within not
3 more than thirty days of the suspension; and (ii) after notice and
4 opportunity to be heard, penalize such person pursuant to subdivision
5 three of section one hundred forty-five of this article. When the regis-
6 tration or registrations of any motor vehicle is suspended pursuant to
7 this subdivision, the commissioner of motor vehicles may direct any
8 police officer to secure possession of the vehicle plates and to return
9 the same to the commissioner of motor vehicles. Failure of the holder or
10 of any person possessing the vehicle plates to deliver to the commis-
11 sioner or any police officer who requests the same pursuant to this
12 subdivision shall be a class A misdemeanor. The commissioner of motor
13 vehicles shall have the authority to suspend, revoke or deny a registra-
14 tion or renewal application to any other person for the same vehicle and
15 may suspend, revoke or deny a registration or renewal application for
16 any other motor vehicle registered in the name of the applicant where it
17 has been determined that such registrant's intent has been to evade the
18 purposes of this subdivision and where the commissioner of motor vehi-
19 cles has reasonable grounds to believe that such registration or renewal
20 will have the effect of defeating the purposes of this section. The
21 procedure on any such suspension of vehicle registration shall be the
22 same as in the case of a suspension under the vehicle and traffic law.
23 Operation of any motor vehicle while under suspension as herein provided
24 by any person with knowledge of the suspension shall constitute a class
25 E felony. Upon making an arrest or upon issuing an appearance ticket for
26 any felony violation of this subdivision, or pursuant to the authority
27 of a warrant issued under article six hundred ninety of the criminal
28 procedure law, an officer shall remove or arrange for the removal of the
29 vehicle or vehicles used in the commission of the offense to a garage,
30 automobile pound, or other place of safety where it shall remain
31 impounded subject to the provisions of subdivisions two through seven of
32 section five hundred eleven-b of the vehicle and traffic law and the
33 vehicle shall be entered into the New York statewide police information
34 network as an impounded vehicle and the impounding police department
35 shall promptly notify the owner and the local authority that the vehicle
36 has been impounded. Upon conviction as a second or subsequent offender
37 as described herein the court may order forfeiture of any right, title
38 or interest held by the defendant in any motor vehicle used in the
39 commission of such offense. In the alternative, upon conviction as a
40 second or subsequent offender as described herein, an action for forfei-
41 ture may be commenced by the attorney general on behalf of the commis-
42 sioner or the corporation counsel or designee on behalf of the city in
43 any superior court in the county of conviction. The defendant shall have
44 a right to a trial by jury on any issue of fact. The plaintiff in the
45 forfeiture action shall have the burden of proof by clear and convincing
46 evidence on such issues of fact.

47 § 2. Section 145 of the transportation law, as added by chapter 635 of
48 the laws of 1983, subdivision 4 as amended by chapter 349 of the laws of
49 1993, subdivision 6 as amended by chapter 444 of the laws of 1992, para-
50 graph (a) of subdivision 7 as amended by chapter 475 of the laws of
51 1991, and subdivision 8 as added by section 6 of part C of chapter 57 of
52 the laws of 2014, is amended to read as follows:

53 § 145. Penalties and forfeitures for violations. 1. (a) Any certif-
54 icate or permit may, after a hearing, be suspended, cancelled, revoked
55 or modified, in whole or in part, for failure to comply with the
56 provisions of this chapter or with any lawful rule, order or regulation

1 of the commissioner promulgated hereunder or with any term, condition,
2 or limitation of such certificate or permit or for failure to render
3 reasonably continuous service within the scope of the certificate or
4 permit.

5 (b) Whenever the commissioner has reasonable grounds to believe that
6 failure to comply with the provisions of this chapter or with any lawful
7 rule, order or regulation of the commissioner promulgated hereunder or
8 with any term, condition, or limitation of such certificate or permit
9 endangers the health, safety, and welfare of the public, the commission-
10 er may immediately suspend, cancel, revoke, or modify, in whole or in
11 part, any certificate or permit issued pursuant to this chapter
12 provided, however, that the commissioner shall give notice and opportu-
13 nity to be heard within not more than thirty days of the suspension,
14 cancellation, revocation, or modification of the certificate or permit.

15 2. The commissioner may upon complaint or upon the commissioner's
16 initiative without complaint institute proceedings to revoke, cancel,
17 suspend or modify any certificate or permit issued pursuant to this
18 chapter after a hearing at which the holder of such certificate or
19 permit and any person making such complaint shall be given an opportu-
20 nity to be heard. Provided, however, that any order of the commissioner
21 revoking, cancelling, suspending or modifying any certificate or permit
22 shall not become effective until thirty days after the serving of notice
23 thereof upon the holder of such certificate or permit, unless the
24 commissioner determines that the continued holding of such certificate
25 or permit for such period would be contrary to the public interest.
26 Hearings shall be held in such manner and upon such notice as may be
27 prescribed by rules of the commissioner, but such notice shall be of not
28 less than ten days and shall state the nature of the complaint. The
29 commissioner may, upon suspension, cancellation, revocation or modifica-
30 tion, in whole or in part, of any certificate or permit pursuant to
31 paragraph (a) of subdivision one of this section, notify the commission-
32 er of motor vehicles to that effect and the commissioner of motor vehi-
33 cles shall thereupon suspend the registration or registrations of all
34 motor vehicles used in the commission of the offense or, upon suspen-
35 sion, cancellation, revocation or modification, in whole or in part, of
36 any certificate or permit pursuant to paragraph (b) of subdivision one
37 of this section, suspend the registration or registrations of all motor
38 vehicles owned or operated by the holder of the revoked, cancelled,
39 suspended or modified certificate or permit, except private passenger
40 automobiles, until such time as the commissioner gives notice that the
41 violation has been satisfactorily adjusted. The commissioner of motor
42 vehicles may direct any police officer to secure possession of the vehi-
43 cle plates and to return the same to the commissioner of motor vehicles.
44 Failure of the holder or of any person possessing the vehicle plates to
45 deliver to any police officer who requests the same pursuant to this
46 subdivision shall be a class A misdemeanor. The commissioner of motor
47 vehicles shall have the authority to suspend, revoke or deny a registra-
48 tion or renewal application to any other person for the same vehicle and
49 may suspend, revoke or deny a registration or renewal application for
50 any other motor vehicle registered in the name of the applicant where it
51 has been determined that such registrant's intent has been to evade the
52 purposes of this section and where the commissioner of motor vehicles
53 has reasonable grounds to believe that such registration or renewal will
54 have the effect of defeating the purposes of this section. The procedure
55 on any such suspension of vehicle registration shall be the same as in
56 the case of a suspension under the vehicle and traffic law. Operation of

1 any motor vehicle while under suspension as herein provided by any
2 person with knowledge of the suspension shall constitute a class E felo-
3 ny. Upon making an arrest or upon issuing an appearance ticket for any
4 felony violation of this subdivision, or pursuant to the authority of a
5 warrant issued under article six hundred ninety of the criminal proce-
6 dure law, an officer shall remove or arrange for the removal of the
7 vehicle or vehicles used in the commission of the offense to a garage,
8 automobile pound, or other place of safety where it shall remain
9 impounded subject to the provisions of subdivisions two through seven of
10 section five hundred eleven-b of the vehicle and traffic law and the
11 vehicle shall be entered into the New York statewide police information
12 network as an impounded vehicle and the impounding police department
13 shall promptly notify the owner and the local authority that the vehicle
14 has been impounded.

15 3. In addition to, or in lieu of, any sanctions set forth in this
16 section and section one hundred forty of this article, the commissioner
17 may, after [~~a hearing~~] notice and opportunity to be heard, impose a
18 penalty not to exceed a maximum of [~~five thousand~~] twenty-five thousand
19 dollars [~~in~~] for any one [~~proceeding~~] violation upon any person if the
20 commissioner finds that such person or officer, agent or employee there-
21 of has failed to comply with the requirements of this chapter or any
22 rule, regulation or order of the commissioner promulgated thereunder. If
23 such penalty is not paid within [~~four months~~] thirty days, the amount
24 thereof may be entered as a judgment in the office of the clerk of the
25 county of Albany and in any other county in which the person resides,
26 has a place of business or through which it operates. Thereafter, if
27 said judgment has not been satisfied within ninety days, any certificate
28 or permit held by any such person may be revoked upon notice but without
29 a further hearing[~~, Provided, however, that if a person shall apply for~~
30 ~~a rehearing of the determination of the penalty pursuant to the~~
31 ~~provisions of section eighty-nine of this chapter, judgment shall not be~~
32 ~~entered until a determination has been made on the application for a~~
33 ~~rehearing. Further provided however, that if after a rehearing a penal-~~
34 ~~ty is imposed and such penalty is not paid within four months of the~~
35 ~~date of service of the rehearing decision, the amount of such penalty~~
36 ~~may be entered as a judgment in the office of the clerk of the county of~~
37 ~~Albany and in any other county in which the person resides, has a place~~
38 ~~of business or through which it operates. Thereafter, if said judgment~~
39 ~~has not been satisfied within ninety days, any certificate or permit~~
40 ~~held by any such person may be revoked upon notice but without a further~~
41 ~~hearing.] and the commissioner may notify the commissioner of motor
42 vehicles to that effect and the commissioner of motor vehicles shall
43 thereupon suspend the registration or registrations of the motor vehicle
44 or vehicles used in the commission of the underlying offense, and the
45 commissioner may direct any police officer to secure possession of the
46 vehicle plates and to return the same to the commissioner of motor vehi-
47 cles. Failure of the holder or of any person possessing the vehicle
48 plates to deliver to any police officer who requests the same pursuant
49 to this subdivision shall be a class A misdemeanor. The commissioner of
50 motor vehicles shall have the authority to suspend, revoke or deny a
51 registration or renewal application to any other person for the same
52 vehicle and may suspend, revoke or deny a registration or renewal appli-
53 cation for any other motor vehicle registered in the name of the appli-
54 cant where it has been determined that such registrant's intent has been
55 to evade the purposes of this subdivision and where the commissioner of
56 motor vehicles has reasonable grounds to believe that such registration~~

1 or renewal will have the effect of defeating the purposes of this
2 section. The procedure on any such suspension of vehicle registration
3 shall be the same as in the case of a suspension under the vehicle and
4 traffic law. Operation of any motor vehicle while under suspension as
5 herein provided by any person with knowledge of the suspension shall
6 constitute a class E felony. Upon making an arrest or upon issuing an
7 appearance ticket for operation of any motor vehicle while under suspen-
8 sion as herein provided by any person with knowledge of the suspension,
9 or pursuant to the authority of a warrant issued under article six
10 hundred ninety of the criminal procedure law, an officer shall remove or
11 arrange for the removal of the vehicle or vehicles used in the commis-
12 sion of the offense to a garage, automobile pound, or other place of
13 safety where it shall remain impounded subject to the provisions of
14 subdivisions two through seven of section five hundred eleven-b of the
15 vehicle and traffic law and the vehicle shall be entered into the New
16 York statewide police information network as an impounded vehicle and
17 the impounding police department shall promptly notify the owner and the
18 local authority that the vehicle has been impounded.

19 4. (a) If after notice and opportunity to be heard, the commissioner
20 shall find that any person or persons is or are providing transportation
21 subject to regulation under this chapter without having any certificate
22 or permit, or is or are holding themselves out to the public by adver-
23 tising or any other means to provide such transportation without having
24 any certificate or permit or approval from a city having jurisdiction
25 pursuant to section eighty of this chapter, the commissioner may notify
26 the commissioner of motor vehicles to that effect and the commissioner
27 of motor vehicles shall thereupon suspend the registration or registra-
28 tions of all motor vehicles owned or operated by such person or persons
29 except private passenger automobiles until such time as the commissioner
30 [~~of transportation~~] may give notice that the violation has been satis-
31 factorily adjusted. The commissioner of motor vehicles may direct any
32 police officer to secure possession of the vehicle plates and to return
33 the same to the commissioner of motor vehicles. Failure of the holder or
34 of any person possessing the vehicle plates to deliver to any police
35 officer who requests the same pursuant to this subdivision shall be a
36 class A misdemeanor. The commissioner of motor vehicles shall have the
37 authority to suspend, revoke or deny a registration or renewal applica-
38 tion to any other person for the same vehicle and may suspend, revoke or
39 deny a registration or renewal application for any other motor vehicle
40 registered in the name of the applicant where it has been determined
41 that such registrant's intent has been to evade the purposes of this
42 subdivision and where the commissioner of motor vehicles has reasonable
43 grounds to believe that such registration or renewal will have the
44 effect of defeating the purposes of this subdivision. The procedure on
45 any such suspension shall be the same as in the case of a suspension
46 under the vehicle and traffic law. Operation of any motor vehicle while
47 under suspension as herein provided by any person with knowledge of the
48 suspension shall constitute a class [~~A misdemeanor~~] E felony. Upon
49 making an arrest or upon issuing an appearance ticket for any felony
50 violation of this subdivision, or pursuant to the authority of a warrant
51 issued under article six hundred ninety of the criminal procedure law,
52 an officer shall remove or arrange for the removal of the vehicle or
53 vehicles used in the commission of the offense to a garage, automobile
54 pound, or other place of safety where it shall remain impounded subject
55 to the provisions of subdivisions two through seven of section five
56 hundred eleven-b of the vehicle and traffic law and the vehicle shall be

1 entered into the New York statewide police information network as an
2 impounded vehicle and the impounding police department shall promptly
3 notify the owner and the local authority that the vehicle has been
4 impounded.

5 (b) Whenever the commissioner has reasonable grounds to believe that
6 any person or persons is or are providing transportation subject to
7 regulation under this chapter without having any certificate or permit,
8 or is or are holding themselves out to the public by advertising or any
9 other means to provide such transportation without having any certifi-
10 cate or permit or approval from a city having jurisdiction pursuant to
11 section eighty of this chapter, under circumstances that endanger the
12 health, safety, and welfare of the public, the commissioner may secure
13 possession of vehicle plates and immediately notify the commissioner of
14 motor vehicles to that effect or without securing possession of the
15 vehicle plates, immediately notify the commissioner of motor vehicles to
16 that effect and the commissioner of motor vehicles shall thereupon
17 suspend the registration or registrations of all motor vehicles owned or
18 operated by such person or persons as described in paragraph (a) of this
19 subdivision provided, however, that the commissioner provide the person
20 or persons with notice and opportunity to be heard within not more than
21 thirty days. When the registration of any motor vehicle is suspended
22 pursuant to this subdivision, the commissioner of motor vehicles may
23 direct any police officer to secure possession of the vehicle plates and
24 return the same to the commissioner of motor vehicles. Failure of the
25 holder or of any person possessing the vehicle plates to deliver the
26 vehicle plates to the commissioner or any police officer who requests
27 the same shall be a class A misdemeanor.

28 5. Any person, whether carrier, passenger, shipper, consignee, or
29 broker, or any officer, employee, agent or representative thereof, who
30 shall knowingly offer, grant or give or solicit, accept, or receive any
31 rebate, concession or discrimination in violation of this chapter, or
32 who by means of any false statement or representation, or by the use of
33 any false or fictitious bill, bill of lading, receipt, voucher, roll,
34 account, claim, certificate, affidavit, deposition, lease or bill of
35 sale, or by any other means or device, shall knowingly and willfully
36 assist, suffer or permit any person or persons to obtain transportation
37 of property or passengers subject to this chapter for less than the
38 applicable rate, toll or charge, or who, with respect to the transporta-
39 tion of household goods, shall knowingly or willfully misrepresent the
40 applicable rate for transportation or the weight of a shipment or the
41 cost of transportation to the shipper, or who shall knowingly and will-
42 fully by any such means or otherwise fraudulently seek to evade or
43 defeat regulation as provided for in this chapter, shall be guilty of a
44 misdemeanor and upon conviction thereof be fined not more than [~~five~~
45 ~~hundred~~] twenty-five thousand dollars [~~for the first offense and not~~
46 ~~more than two thousand dollars for any subsequent~~] per offense.

47 6. Any person who shall provide transportation for compensation within
48 the state, or hold himself or herself out to the public by advertising
49 or any other means to provide such transportation, when such transporta-
50 tion requires either the permission or approval of the commissioner, or
51 the permission, approval or franchise of any city having regulatory
52 jurisdiction over such transportation and who does not possess a valid
53 permit, certificate or approval for such transportation, from the
54 commissioner or from such city, or attempts to do so, shall be guilty of
55 a [~~traffic infraction punishable by a fine of not less than five hundred~~
56 ~~and not more than one thousand dollars for the first offense~~] misdemea-

1 nor punishable by a fine of not less than twenty-five thousand dollars,
2 or by imprisonment for not more than one year, or by both such fine and
3 imprisonment. A violation of this subdivision by a person who has previ-
4 ously been convicted of such offense within five years of the violation
5 shall be a [~~misdemeanor and shall be punishable by a fine of not less~~
6 ~~than one thousand and not more than twenty-five hundred dollars, or by~~
7 ~~imprisonment for not more than sixty days, or by both such fine and~~
8 ~~imprisonment]~~ class E felony. [~~Upon conviction as a second or subse-~~
9 ~~quent offender as described herein the court may order forfeiture of any~~
10 ~~right, title or interest held by the defendant in any motor vehicle used~~
11 ~~in the commission of such offense pursuant to the provisions of subdivi-~~
12 ~~sion seven of this section.~~] Upon making an arrest or upon issuing an
13 appearance ticket for any felony violation of this subdivision, or
14 pursuant to the authority of a warrant issued under article six hundred
15 ninety of the criminal procedure law, an officer shall remove or arrange
16 for the removal of the vehicle or vehicles used in the commission of the
17 offense to a garage, automobile pound, or other place of safety where it
18 shall remain impounded subject to the provisions of subdivisions two
19 through seven of section five hundred eleven-b of the vehicle and traf-
20 fic law and the vehicle shall be entered into the New York statewide
21 police information network as an impounded vehicle and the impounding
22 police department shall promptly notify the owner and the local authori-
23 ty that the vehicle has been impounded. In addition to, or in lieu of,
24 any sanction set forth in this subdivision, the commissioner may, after
25 a hearing, impose a penalty equal to the gain or profit derived from
26 transportation services conducted in violation of this subdivision. Any
27 person holding regulatory authority or a franchise from either the
28 commissioner or any city having regulatory jurisdiction over such trans-
29 portation, or any public transportation authority created pursuant to
30 title nine, eleven, eleven-A, eleven-B, eleven-C or eleven-D of article
31 five of the public authorities law, who is being adversely affected by a
32 person providing transportation without having the necessary regulatory
33 authority or franchise from the commissioner or any such city, may bring
34 suit in his, her or its own behalf to restrain such person and recover
35 damages resulting from the actions of such person.

36 7. (a) Whenever it appears that any person is violating the provisions
37 of subdivision six of this section, the commissioner acting by the
38 attorney general, or the city acting by its corporation counsel, or
39 designee, may bring suit against such person in any court of competent
40 jurisdiction to restrain such person from continuing such violation. In
41 any such suit, the court shall have jurisdiction to grant to the commis-
42 sioner or city without bond or other undertaking, such prohibitory or
43 mandatory injunctions as the facts may warrant, including temporary
44 restraining orders and preliminary or permanent injunctions, and to levy
45 upon the gain or profit that may be subject to a penalty pursuant to
46 subdivision six of this section. [~~In cities with a population of one~~
47 ~~million or more, the police department shall have the power to issue~~
48 ~~summonses for violations of subdivision six of this section and those~~
49 ~~summonses shall be adjudicated according to the rules and regulations~~
50 ~~set forth in article two A of the vehicle and traffic law. The hearing~~
51 ~~officer responsible for adjudication of any violation of such subdivi-~~
52 ~~sion six shall review the record of any person found guilty of violating~~
53 ~~such subdivision six to determine whether or not that person has a prior~~
54 ~~conviction under such subdivision six. After a review of the record, if~~
55 ~~it is found that there has been a prior conviction, the hearing officer~~

1 ~~shall refer the matter to the appropriate local criminal court for prosecution under this article.]~~

2
3 (b) ~~[Any person convicted]~~ Upon conviction as a ~~[third]~~ second or
4 subsequent criminal offender ~~[as described in]~~ under subdivision two,
5 three, four, or six ~~[shall be subject to a court order divesting him]~~ of
6 this section the court may order forfeiture of any right, title or
7 interest held by the defendant in any motor vehicle used in the commis-
8 sion of the offense. ~~[An]~~ In the alternative, upon conviction as a
9 second or subsequent criminal offender under subdivision two, three,
10 four, or six of this section, an action for forfeiture may be commenced
11 by the attorney general on behalf of the commissioner or the corporation
12 counsel or designee on behalf of the city in any superior court in the
13 county of conviction. The defendant shall have a right to a trial by
14 jury on any issue of fact. The plaintiff in the forfeiture action shall
15 have the burden of proof by clear and convincing evidence on such issues
16 of fact.

17 (c) Any order of forfeiture issued pursuant to this subdivision shall
18 include provisions for the disposal of the property found to have been
19 forfeited. Such provisions shall be directed to the attorney general or
20 corporation counsel or designee as the case may be, and may include, but
21 are not limited to, an order directing that the property be sold in
22 accordance with provisions of article fifty-one of the civil practice
23 law and rules. Net proceeds of the sale shall be paid into the general
24 fund of the state or city, as the case may be, less all costs and
25 attendant expenses of seizure, storage and forfeiture, as the case may
26 be, which shall be paid to the office of the attorney general or corpo-
27 ration counsel in the appropriate case notwithstanding any other
28 provisions of law.

29 8. All penalties charged and collected by the commissioner pursuant to
30 this section shall be deposited by the comptroller into the special
31 obligation reserve and payment account of the dedicated highway and
32 bridge trust fund established pursuant to section ~~[eight-nine-b]~~
33 eighty-nine-b of the state finance law.

34 § 3. Subparagraph (iii) of paragraph b of subdivision 2 of section 510
35 of the vehicle and traffic law, as amended by section 1 of part A of
36 chapter 58 of the laws of 2018, is amended to read as follows:

37 (iii) such registrations shall be suspended when necessary to comply
38 with subdivision nine of section one hundred forty or subdivision two,
39 three, or four of section one hundred forty-five of the transportation
40 law or with an out of service order issued by the United States depart-
41 ment of transportation. The commissioner shall have the authority to
42 suspend, revoke or deny a registration or renewal application to any
43 other person for the same vehicle and may suspend, revoke or deny a
44 registration or renewal application for any other motor vehicle regis-
45 tered in the name of the applicant where it has been determined that
46 such registrant's intent has been to evade the purposes of this subdivi-
47 sion and where the commissioner has reasonable grounds to believe that
48 such registration or renewal will have the effect of defeating the
49 purposes of this subdivision. Any suspension issued pursuant to this
50 subdivision by reason of an out of service order issued by the United
51 States department of transportation shall remain in effect until such
52 time as the commissioner is notified by the United States department of
53 transportation or the commissioner of transportation that the order
54 resulting in the suspension is no longer in effect.

55 § 4. The penal law is amended by adding a new section 170.72 to read
56 as follows:

1 § 170.72 Tampering with a federal motor vehicle safety standard certifi-
2 ication label.

3 A person is guilty of tampering with a federal motor vehicle safety
4 standard certification label when:

5 (1) He or she, with intent to defraud, knowingly removes, defaces,
6 destroys, covers, alters, or otherwise changes the form or appearance of
7 a federal motor vehicle safety standard certification label issued in
8 accordance with 49 U.S.C.S. § 30115 and regulations promulgated there-
9 under; or

10 (2) He or she, with intent to defraud, affixes a federal motor vehicle
11 safety standard certification label to a vehicle, except in accordance
12 with 49 U.S.C.S. § 30115 and regulations promulgated thereunder.

13 (3) Upon making an arrest for any violation of this section, an offi-
14 cer shall remove or arrange for the removal of the vehicle or vehicles
15 used in the commission of the offense to a garage, automobile pound, or
16 other place of safety where it shall remain impounded subject to the
17 provisions of subdivisions two through seven of section five hundred
18 eleven-b of the vehicle and traffic law and the vehicle shall be entered
19 into the New York statewide police information network as an impounded
20 vehicle and the impounding police department shall promptly notify the
21 owner and the local authority that the vehicle has been impounded. Upon
22 conviction as a second or subsequent offender as described herein the
23 court may order forfeiture of any right, title or interest held by the
24 defendant in any motor vehicle used in the commission of such offense.
25 An action for forfeiture may be commenced by the attorney general on
26 behalf of the commissioner of motor vehicles or the corporation counsel
27 or designee on behalf of the city in any superior court in the county of
28 conviction. The defendant shall have a right to a trial by jury on any
29 issue of fact. The plaintiff in the forfeiture action shall have the
30 burden of proof by clear and convincing evidence on such issues of fact.

31 Tampering with a federal motor vehicle safety standard certification
32 label is a class D felony.

33 § 5. The transportation law is amended by adding a new section 144 to
34 read as follows:

35 § 144. Fees and charges. The commissioner or authorized officer or
36 employee of the department shall charge and collect one hundred twenty
37 dollars for the inspection or reinspection of all for-hire motor vehi-
38 cles transporting passengers subject to the department's inspection
39 requirements pursuant to section one hundred forty of this article,
40 except such motor vehicles operated under contract with a municipality
41 to provide statewide mass transportation operating assistance eligible
42 service; vehicles operated under contract with a municipality or school
43 district to provide school-related transportation services; or motor
44 vehicles authorized by the commissioner of health to provide non-emer-
45 gency medical transportation services. The department may deny
46 inspection of any motor vehicle transporting passengers subject to the
47 department's inspection requirements if such fee is not paid within
48 ninety days of the date noted on the department invoice.

49 § 6. The vehicle and traffic law is amended by adding a new section
50 121-dd to read as follows:

51 § 121-dd. Large livery. A livery vehicle or taxi designed or used to
52 transport at least eight but fewer than fifteen passengers, in addition
53 to the driver, irrespective of the motor vehicle registration class in
54 which such vehicle is registered.

1 § 7. Paragraph b of subdivision 1 of section 401 of the vehicle and
2 traffic law, as amended by chapter 222 of the laws of 1996, is amended
3 to read as follows:

4 b. Every owner of a motor vehicle which shall be operated or driven
5 upon the public highways of this state shall, except as otherwise
6 expressly provided, cause to be presented, by mail or otherwise, to the
7 office or a branch office of the commissioner, or to any agent of the
8 commissioner, constituted as provided in this chapter, an application
9 for registration addressed to the commissioner, and on a blank to be
10 prepared under the direction of and furnished by the commissioner for
11 that purpose, containing: (a) a brief description of the motor vehicle
12 to be registered, including the name and factory number of such vehicle,
13 and such other facts as the commissioner shall require; (b) the weight
14 of the vehicle upon which the registration fee is based if the fee is
15 based on weight; (c) the name and residence, including county of the
16 owner of such motor vehicle; (d) provided that, if such motor vehicle is
17 used or to be used as an omnibus, the applicant also shall so certify,
18 and in the case of an omnibus also certify as to the seating capacity,
19 and if the omnibus is to be operated wholly within a municipality pursu-
20 ant to a franchise other than a franchise express or implied in articles
21 of incorporation upon certain streets designated in such franchise,
22 those facts shall also be certified, and a certified copy of such fran-
23 chise furnished to the commissioner; and (e) [~~provided, that, if such~~
24 ~~motor vehicle is an altered livery, the applicant shall so furnish a~~
25 ~~certified copy of the length of the center panel of such vehicle,~~
26 ~~provided, however, that the commissioner shall require such proof, as he~~
27 ~~may determine is necessary, in the application for registration and~~
28 ~~provided further, if the center panel of such vehicle exceeds one~~
29 ~~hundred inches, the commissioner shall require proof that such vehicle~~
30 ~~is in compliance with all applicable federal and state motor vehicle~~
31 ~~safety standards, and (f)] such additional facts or evidence as the
32 commissioner may require in connection with the application for regis-
33 tration. Every owner of a trailer shall also make application for the
34 registration thereof in the manner herein provided for an application to
35 register a motor vehicle, but shall contain a statement showing the
36 manufacturer's number or other identification satisfactory to the
37 commissioner and no number plate for a trailer issued under the
38 provisions of subdivision three of section four hundred two of this
39 [~~chapter~~] article shall be transferred to or used upon any other trailer
40 than the one for which number plate is issued. The commissioner shall
41 require proof, in the application for registration, or otherwise, as
42 such commissioner may determine, that the motor vehicle for which regis-
43 tration is applied for is equipped with lights conforming in all
44 respects to the requirements of this chapter, and no motor vehicle shall
45 be registered unless it shall appear by such proofs that such motor
46 vehicle is equipped with proper lights as aforesaid. The said applica-
47 tion shall contain or be accompanied by such evidence of the ownership
48 of the motor vehicle described in the application as may be required by
49 the commissioner or his agent and which, with respect to new vehicles,
50 shall include, unless otherwise specifically provided by the commission-
51 er, the manufacturer's statement of origin. Applications received by an
52 agent of the commissioner shall be forwarded to the commissioner as he
53 shall direct for filing. No application for registration shall be
54 accepted unless the applicant is at least sixteen years of age.~~

55 § 8. Section 401 of the vehicle and traffic law is amended by adding
56 two new subdivisions 22 and 23 to read as follows:

1 22. The commissioner shall not register any motor vehicle that fails
2 to comply, as demonstrated to the satisfaction of the commissioner, with
3 the certification requirements established by 49 C.F.R. Part 567.

4 23. The commissioner shall revoke the registration of any altered
5 vehicle not in compliance with 49 C.F.R Part 567, as determined by the
6 commissioner, and refund to or credit the account of any person who paid
7 a registration fee for an altered vehicle, the pro rata unused portion
8 of such registration fee.

9 § 9. The vehicle and traffic law is amended by adding a new section
10 308-a to read as follows:

11 § 308-a. Mandatory reporting. If any motor vehicle is presented for
12 inspection at a licensed official inspection station, and such vehicle
13 has been altered, a vehicle commonly referred to as a "stretch limou-
14 sine", so as to add seating capacity beyond that provided by the
15 original manufacturer by way of an extended chassis, lengthened wheel
16 base, or an elongated seating area, and in the case of a truck, has been
17 modified to transport passengers, such licensed official inspection
18 station shall refuse inspection for such vehicle and promptly report
19 such vehicle to the commissioner in the form and manner prescribed by
20 the commissioner.

21 § 10. Section 306 of the vehicle and traffic law is amended by adding
22 a new subdivision (g) to read as follows:

23 (g) Any person who shall issue a certificate of inspection provided
24 for in this article for a motor vehicle that is required to obtain
25 approval to operate in the state as a common or contract carrier of
26 passengers by motor vehicle from the commissioner of transportation
27 shall be guilty of a misdemeanor.

28 § 11. Subparagraph (iv) of paragraph (b) of subdivision 2 of section
29 501 of the vehicle and traffic law, as amended by section 4 of part E of
30 chapter 58 of the laws of 2016, is amended to read as follows:

31 (iv) P endorsement. Shall be required to operate a bus as defined in
32 sections one hundred four and five hundred nine-a of this chapter, or a
33 large livery as defined in section one hundred twenty-one-dd of this
34 chapter, or any motor vehicle with a gross vehicle weight or gross vehi-
35 cle weight rating of more than twenty-six thousand pounds which is
36 designed to transport passengers in commerce. For the purposes of this
37 subparagraph the gross vehicle weight of a vehicle shall mean the actual
38 weight of the vehicle and the load.

39 § 12. Subparagraph (iv) of paragraph (a) of subdivision 4 of section
40 501-a of the vehicle traffic law, as added by chapter 173 of the laws of
41 1990, is amended to read as follows:

42 (iv) defined as a bus in subdivision one of section five hundred
43 nine-a of this chapter, or as a large livery in section one hundred
44 twenty-one-dd of this chapter; or

45 § 13. The vehicle and traffic law is amended by adding a new section
46 1161-a to read as follows:

47 § 1161-a. U-turns by certain motor vehicles prohibited. (1) Notwith-
48 standing any other provision of law, no U-turn shall be performed by a
49 vehicle having an overall length of eighteen feet or more, a bus as
50 defined in section one hundred four of this chapter, or a large livery
51 as defined in section one hundred twenty-one-dd of this chapter.

52 (2) The provisions of this section shall apply upon public highways
53 and privately owned roads open to motor vehicle traffic. In addition,
54 the provisions of this section shall apply irrespective of: (a) whether
55 the bus or large livery is carrying any passengers; and (b) the motor

1 vehicle registration class in which the bus or large livery is regis-
2 tered.

3 (3) Any violation of the provisions of this section which results in
4 serious physical injury as defined in section 10.00 of the penal law,
5 shall be a class A misdemeanor, punishable by a fine of not less than
6 five hundred dollars nor more than one thousand dollars in addition to
7 any other penalties provided by law. Any violation of this section which
8 results in death shall be a class E felony punishable by a fine of not
9 less than one thousand dollars nor more than five thousand dollars in
10 addition to any other penalties provided by law.

11 § 14. Paragraph (a) of subdivision 4 and subdivision 9 of section
12 1229-c of the vehicle and traffic law, paragraph (a) of subdivision 4 as
13 amended by chapter 448 of the laws of 2015 and subdivision 9 as amended
14 by chapter 340 of the laws of 2017, are amended to read as follows:

15 (a) "motor vehicle" shall include all motor vehicles which are
16 required by section three hundred eighty-three of this chapter or regu-
17 lation or would be required if such motor vehicle were registered in New
18 York state to be equipped by a safety belt but shall not include those
19 vehicles which are [~~used as school buses, as such term is defined in~~
20 ~~section one hundred forty-two of this chapter and those vehicles which~~
21 ~~are~~] authorized emergency vehicles, as such term is defined in section
22 one hundred one of this chapter, provided, however, that for purposes of
23 this section, "motor vehicle" shall also include fire vehicles owned
24 and/or operated by a fire company as defined by subdivision two of
25 section one hundred of the general municipal law and ambulances owned
26 and/or operated by a voluntary ambulance service as defined by subdivi-
27 sion three of section one hundred of the general municipal law;

28 [~~9. Notwithstanding the provisions of subdivision four of this~~
29 ~~section, the provisions of this section shall not apply to buses other~~
30 ~~than school buses and the provisions of subdivisions one, two, three and~~
31 ~~three-a of this section shall not apply to taxis and liveries.]~~

32 § 15. Subdivision 7 of section 510 of the vehicle and traffic law, as
33 amended by section 5 of part K of chapter 59 of the laws of 2010, is
34 amended to read as follows:

35 7. Miscellaneous provisions. Except as expressly provided, a court
36 conviction shall not be necessary to sustain a revocation or suspension.
37 Revocation or suspension hereunder shall be deemed an administrative act
38 reviewable by the supreme court as such. Notice of revocation or suspen-
39 sion, as well as any required notice of hearing, where the holder is not
40 present, may be given by mailing the same in writing to him or her at
41 the address contained in his or her license, certificate of registration
42 or at the current address provided by the United States postal service,
43 as the case may be. Proof of such mailing by certified mail to the hold-
44 er shall be presumptive evidence of the holder's receipt and actual
45 knowledge of such notice. Attendance of witnesses may be compelled by
46 subpoena. Failure of the holder or any other person possessing the
47 license card or number plates, to deliver the same to the suspending or
48 revoking officer is a misdemeanor. Suspending or revoking officers shall
49 place such license cards and number plates in the custody of the commis-
50 sioner except where the commissioner shall otherwise direct. [~~if any~~
51 ~~person shall fail to deliver a license card or number plates as provided~~
52 ~~herein, any] Any police officer, bridge and tunnel officer of the
53 Triborough bridge and tunnel authority, the commissioner, the commis-
54 sioner of transportation or agent of [~~the commissioner~~] such commis-
55 ers having knowledge of such facts shall have the power to secure
56 possession thereof and return the same to the commissioner[~~, and the~~~~

1 ~~commissioner may forthwith direct any police officer, bridge and tunnel~~
2 ~~officer of the Triborough bridge and tunnel authority, acting pursuant~~
3 ~~to his or her special duties, or agent of the commissioner to secure~~
4 ~~possession thereof and to return the same to the commissioner].~~ Failure
5 of the holder or of any person possessing the license card or number
6 plates to deliver to any police officer, bridge and tunnel officer of
7 the Triborough bridge and tunnel authority, or agent of the commissioner
8 of transportation, or agent of the commissioner who requests the same
9 pursuant to this subdivision shall be a misdemeanor. [~~Notice of revoca-~~
10 ~~tion or suspension of any license or registration shall be transmitted~~
11 ~~forthwith by the commissioner to the chief of police of the city or~~
12 ~~prosecuting officer of the locality in which the person whose license or~~
13 ~~registration so revoked or suspended resides.] In case any license or~~
14 registration shall expire before the end of any period for which it has
15 been revoked or suspended, and before it shall have been restored as
16 provided in this chapter, then and in that event any renewal thereof may
17 be withheld until the end of such period of suspension or until restora-
18 tion, as the case may be.

19 The revocation of a learner's permit shall automatically cancel the
20 application for a license of the holder of such permit.

21 No suspension or revocation of a license or registration shall be made
22 because of a judgment of conviction if the suspending or revoking offi-
23 cer is satisfied that the magistrate who pronounced the judgment failed
24 to comply with subdivision one of section eighteen hundred seven of this
25 chapter. In case a suspension or revocation has been made and the
26 commissioner is satisfied that there was such failure, the commissioner
27 shall restore the license or registration or both as the case may be.

28 §16. Subdivision 3 of section 1229-c of the vehicle and traffic law,
29 as added by chapter 365 of the laws of 1984, is amended to read as
30 follows:

31 3. No person shall operate a motor vehicle unless such person is
32 restrained by a safety belt approved by the commissioner. No person
33 sixteen years of age or over shall be a passenger in [~~the front seat of~~]
34 a motor vehicle unless such person is restrained by a safety belt
35 approved by the commissioner.

36 §17. Section 3635-a of the education law, as added by chapter 747 of
37 the laws of 1986, is repealed.

38 § 18. This act shall take effect immediately; provided, however,
39 section five of this act shall take effect October 1, 2019; and provided
40 further, however, that sections eleven and twelve of this act shall take
41 effect on the ninetieth day after they shall have become a law.

42

PART U

43 Section 1. Expenditures of moneys appropriated in a chapter of the
44 laws of 2019 to the department of agriculture and markets from the
45 special revenue funds-other/state operations, miscellaneous special
46 revenue fund-339, public service account shall be subject to the
47 provisions of this section. Notwithstanding any other provision of law
48 to the contrary, direct and indirect expenses relating to the department
49 of agriculture and markets' participation in general ratemaking
50 proceedings pursuant to section 65 of the public service law or certif-
51 ication proceedings pursuant to article 7 or 10 of the public service
52 law, shall be deemed expenses of the department of public service within
53 the meaning of section 18-a of the public service law. No later than
54 August 15, 2020, the commissioner of the department of agriculture and

1 markets shall submit an accounting of such expenses, including, but not
2 limited to, expenses in the 2019--2020 state fiscal year for personal
3 and non-personal services and fringe benefits, to the chair of the
4 public service commission for the chair's review pursuant to the
5 provisions of section 18-a of the public service law. No later than
6 August 15, 2021, the commissioner of the department of agriculture and
7 markets shall submit an accounting of such expenses, including, but not
8 limited to, expenses in the 2020--2021 state fiscal year for personal
9 and non-personal services and fringe benefits, to the chair of the
10 public service commission for the chair's review pursuant to the
11 provisions of section 18-a of the public service law.

12 § 2. Expenditures of moneys appropriated in a chapter of the laws of
13 2019 to the department of state from the special revenue funds-
14 other/state operations, miscellaneous special revenue fund-339, public
15 service account shall be subject to the provisions of this section.
16 Notwithstanding any other provision of law to the contrary, direct and
17 indirect expenses relating to the activities of the department of
18 state's utility intervention unit pursuant to subdivision 4 of section
19 94-a of the executive law, including, but not limited to participation
20 in general ratemaking proceedings pursuant to section 65 of the public
21 service law or certification proceedings pursuant to article 7 or 10 of
22 the public service law, shall be deemed expenses of the department of
23 public service within the meaning of section 18-a of the public service
24 law. No later than August 15, 2020, the secretary of state shall submit
25 an accounting of such expenses, including, but not limited to, expenses
26 in the 2019--2020 state fiscal year for personal and non-personal
27 services and fringe benefits, to the chair of the public service commis-
28 sion for the chair's review pursuant to the provisions of section 18-a
29 of the public service law. No later than August 15, 2021, the secretary
30 of state shall submit an accounting of such expenses, including, but not
31 limited to, expenses in the 2020--2021 state fiscal year for personal
32 and non-personal services and fringe benefits, to the chair of the
33 public service commission for the chair's review pursuant to the
34 provisions of section 18-a of the public service law.

35 § 3. Expenditures of moneys appropriated in a chapter of the laws of
36 2019 to the office of parks, recreation and historic preservation from
37 the special revenue funds-other/state operations, miscellaneous special
38 revenue fund-339, public service account shall be subject to the
39 provisions of this section. Notwithstanding any other provision of law
40 to the contrary, direct and indirect expenses relating to the office of
41 parks, recreation and historic preservation's participation in general
42 ratemaking proceedings pursuant to section 65 of the public service law
43 or certification proceedings pursuant to article 7 or 10 of the public
44 service law, shall be deemed expenses of the department of public
45 service within the meaning of section 18-a of the public service law. No
46 later than August 15, 2020, the commissioner of the office of parks,
47 recreation and historic preservation shall submit an accounting of such
48 expenses, including, but not limited to, expenses in the 2019--2020
49 state fiscal year for personal and non-personal services and fringe
50 benefits, to the chair of the public service commission for the chair's
51 review pursuant to the provisions of section 18-a of the public service
52 law. No later than August 15, 2021, the commissioner of the office of
53 parks, recreation and historic preservation shall submit an accounting
54 of such expenses, including, but not limited to, expenses in the
55 2020--2021 state fiscal year for personal and non-personal services and
56 fringe benefits, to the chair of the public service commission for the

1 chair's review pursuant to the provisions of section 18-a of the public
2 service law.

3 § 4. Expenditures of moneys appropriated in a chapter of the laws of
4 2019 to the department of environmental conservation from the special
5 revenue funds-other/state operations, environmental conservation special
6 revenue fund-301, utility environmental regulation account shall be
7 subject to the provisions of this section. Notwithstanding any other
8 provision of law to the contrary, direct and indirect expenses relating
9 to the department of environmental conservation's participation in state
10 energy policy proceedings, or certification proceedings pursuant to
11 article 7 or 10 of the public service law, shall be deemed expenses of
12 the department of public service within the meaning of section 18-a of
13 the public service law. No later than August 15, 2020, the commissioner
14 of the department of environmental conservation shall submit an account-
15 ing of such expenses, including, but not limited to, expenses in the
16 2019--2020 state fiscal year for personal and non-personal services and
17 fringe benefits, to the chair of the public service commission for the
18 chair's review pursuant to the provisions of section 18-a of the public
19 service law. No later than August 15, 2021, the commissioner of the
20 department of environmental conservation shall submit an accounting of
21 such expenses, including, but not limited to, expenses in the 2020--2021
22 state fiscal year for personal and non-personal services and fringe
23 benefits, to the chair of the public service commission for the chair's
24 review pursuant to the provisions of section 18-a of the public service
25 law.

26 § 5. Funding for services and expenses of the electric generation
27 facility cessation mitigation fund for state fiscal year 2019--2020, and
28 for each state fiscal year thereafter, shall be subject to the
29 provisions of this section. Notwithstanding any other provision of law
30 to the contrary, funding provided to the electric generation facility
31 cessation mitigation fund administered by the urban development corpo-
32 ration for payment to eligible municipalities shall be deemed expenses
33 of the department of public service within the meaning of section 18-a
34 of the public service law. For the 2019--2020 state fiscal year, and for
35 each state fiscal year thereafter, the electric businesses of public
36 utilities subject to the commission's regulation, other than munici-
37 palities, shall pay a total amount not to exceed \$10,000,000 to the
38 urban development corporation for deposit to the electric generation
39 facility cessation mitigation fund. The bill to each such public utility
40 shall be \$10,000,000 multiplied by the proportion which compares: (1)
41 the gross operating revenues, over and above five hundred thousand
42 dollars, for the electric business of such public utility derived from
43 intrastate utility operations in the last preceding calendar year, or
44 other twelve month period as determined by the chairman, to: (2) the
45 total of the gross operating revenues, derived from intrastate utility
46 operations for the electric businesses of all such public utilities in
47 the state. No later than August 15, 2020, and August 15 of each year
48 thereafter, the chair of the public service commission will review an
49 accounting of the electric generation facility cessation mitigation fund
50 pursuant to provisions of section 18-a of the public service law.

51 § 6. Notwithstanding any other law, rule or regulation to the contra-
52 ry, expenses of the department of health public service education
53 program incurred pursuant to appropriations from the cable television
54 account of the state miscellaneous special revenue funds shall be deemed
55 expenses of the department of public service. No later than August 15,
56 2020, the commissioner of the department of health shall submit an

1 accounting of expenses in the 2019--2020 state fiscal year to the chair
2 of the public service commission for the chair's review pursuant to the
3 provisions of section 217 of the public service law. No later than
4 August 15, 2021, the commissioner of the department of health shall
5 submit an accounting of such expenses, including, but not limited to,
6 expenses in the 2020--2021 state fiscal year for personal and non-per-
7 sonal services and fringe benefits, to the chair of the public service
8 commission for the chair's review pursuant to the provisions of section
9 18-a of the public service law.

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

14 § 8. This act shall take effect immediately and shall be deemed to
15 have been in full force and effect on and after April 1, 2019 and
16 sections one, two, three, four and six shall be deemed repealed April 1,
17 2021.

18 PART V

19 Section 1. The state finance law is amended by adding a new section
20 169 to read as follows:

21 § 169. Net neutrality. 1. As used herein, "net neutrality" shall mean
22 that an internet service provider will not block, throttle, or prior-
23 itize internet content or applications or require that end users pay
24 different or higher rates to access specific types of content or appli-
25 cations.

26 2. Each state agency shall enter into contracts with only those inter-
27 net service providers that adhere to net neutrality principles. Each
28 contract for internet services provided to a state agency shall specif-
29 ically state that the internet service provider may not block lawful
30 content, applications, services, non-harmful devices, or applications
31 that compete with other services provided by the internet service
32 provider. Any contract or contract renewal entered into by a state
33 agency shall include a binding agreement consistent with the foregoing
34 provisions, and no state agency shall enter into a contract with an
35 internet service provider, an agent therefor, or other entity offering
36 to or procuring on behalf of the state agency internet services unless
37 the contract contains such a binding agreement.

38 § 2. Subdivision 9 of section 160 of the state finance law, as amended
39 by chapter 106 of the laws of 2012, is amended to read as follows:

40 9. "State agency" or "state agencies" means all state departments,
41 boards, commissions, offices or institutions but excludes, however, for
42 the purposes of subdivision five of section three hundred fifty-five of
43 the education law, the state university of New York and excludes, for
44 the purposes of subdivision a of section sixty-two hundred eighteen of
45 the education law, the city university of New York; provided, however,
46 that the state university of New York and the city university of New
47 York shall be subject to the provisions of section one hundred sixty-
48 five-a and section one hundred sixty-nine of this article. Furthermore,
49 such term shall not include the legislature or the judiciary.

50 § 3. The public authorities law is amended by adding a new section
51 2878-c to read as follows:

52 § 2878-c. Net neutrality. 1. As used herein, "net neutrality" shall
53 mean that an internet service provider will not block, throttle, or
54 prioritize internet content or applications or require that end users

1 pay different or higher rates to access specific types of content or
2 applications.

3 2. Each state authority shall enter into contracts with only those
4 internet service providers that adhere to net neutrality principles.
5 Each contract for internet services provided to a state authority shall
6 specifically state that the internet service provider may not block
7 lawful content, applications, services, non-harmful devices, or applica-
8 tions that compete with other services provided by the internet service
9 provider. Any contract or contract renewal entered into by a state
10 authority shall include a binding agreement consistent with the forego-
11 ing provisions, and no state authority shall enter into a contract with
12 an internet service provider, an agent therefor, or other entity offer-
13 ing to or procuring on behalf of the state authority internet services
14 unless the contract contains such a binding agreement.

15 § 4. This act shall take effect immediately.

16 PART W

17 Section 1. Expenditures of moneys by the New York state energy
18 research and development authority for services and expenses of the
19 energy research, development and demonstration program, including
20 grants, the energy policy and planning program, the zero emissions vehi-
21 cle and electric vehicle rebate program, and the Fuel NY program shall
22 be subject to the provisions of this section. Notwithstanding the
23 provisions of subdivision 4-a of section 18-a of the public service law,
24 all moneys committed or expended in an amount not to exceed \$19,700,000
25 shall be reimbursed by assessment against gas corporations, as defined
26 in subdivision 11 of section 2 of the public service law and electric
27 corporations as defined in subdivision 13 of section 2 of the public
28 service law, where such gas corporations and electric corporations have
29 gross revenues from intrastate utility operations in excess of \$500,000
30 in the preceding calendar year, and the total amount which may be
31 charged to any gas corporation and any electric corporation shall not
32 exceed one cent per one thousand cubic feet of gas sold and .010 cent
33 per kilowatt-hour of electricity sold by such corporations in their
34 intrastate utility operations in calendar year 2017. Such amounts shall
35 be excluded from the general assessment provisions of subdivision 2 of
36 section 18-a of the public service law. The chair of the public service
37 commission shall bill such gas and/or electric corporations for such
38 amounts on or before August 10, 2019 and such amounts shall be paid to
39 the New York state energy research and development authority on or
40 before September 10, 2019. Upon receipt, the New York state energy
41 research and development authority shall deposit such funds in the ener-
42 gy research and development operating fund established pursuant to
43 section 1859 of the public authorities law. The New York state energy
44 research and development authority is authorized and directed to: (1)
45 transfer \$1 million to the state general fund for services and expenses
46 of the department of environmental conservation, \$150,000 to the state
47 general fund for services and expenses of the department of agriculture
48 and markets, and \$825,000 to the University of Rochester laboratory for
49 laser energetics from the funds received; and (2) commencing in 2016,
50 provide to the chair of the public service commission and the director
51 of the budget and the chairs and secretaries of the legislative fiscal
52 committees, on or before August first of each year, an itemized record,
53 certified by the president and chief executive officer of the authority,
54 or his or her designee, detailing any and all expenditures and commit-

1 ments ascribable to moneys received as a result of this assessment by
2 the chair of the department of public service pursuant to section 18-a
3 of the public service law. This itemized record shall include an item-
4 ized breakdown of the programs being funded by this section and the
5 amount committed to each program. The authority shall not commit for
6 any expenditure, any moneys derived from the assessment provided for in
7 this section, until the chair of such authority shall have submitted,
8 and the director of the budget shall have approved, a comprehensive
9 financial plan encompassing all moneys available to and all anticipated
10 commitments and expenditures by such authority from any source for the
11 operations of such authority. Copies of the approved comprehensive
12 financial plan shall be immediately submitted by the chair to the chairs
13 and secretaries of the legislative fiscal committees. Any such amount
14 not committed by such authority to contracts or contracts to be awarded
15 or otherwise expended by the authority during the fiscal year shall be
16 refunded by such authority on a pro-rata basis to such gas and/or elec-
17 tric corporations, in a manner to be determined by the department of
18 public service, and any refund amounts must be explicitly lined out in
19 the itemized record described above.

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

22

PART X

23 Section 1. Short title. This act shall be known and may be cited as
24 the "climate leadership act".

25 § 2. Legislative findings. The legislature finds and declares that:

26 1. New York state is on the front lines of the battle against climate
27 change, recognizing the moral imperative for this generation to protect
28 the next.

29 2. New York state has already experienced firsthand the damaging
30 consequences of a changing climate along with the economic impacts of
31 increasingly frequent and violent weather.

32 3. New York state accepts its responsibility to lead the fight to
33 address climate change, and as the world's thirteenth largest economy,
34 embraces this responsibility and the need for greater climate action and
35 leadership.

36 4. New York state accepts the findings of the United Nations Intergov-
37 ernmental Panel on Climate Change and the international scientific
38 community that global temperature must not increase by more than 2
39 degrees Celsius above preindustrial levels in order to avert the most
40 damaging effects of a changing climate.

41 5. New York state is mindful of the federal government's fourth
42 National Climate Assessment, which predicts that if significant steps
43 are not taken, the damage from climate change will reduce the size of
44 the U.S. economy by century's end as a result of severe weather and
45 natural disasters.

46 6. New York state is a national and international leader in addressing
47 climate change and has adopted ambitious policies and initiatives to
48 dramatically reduce greenhouse gas emissions, including a target to
49 reduce greenhouse gas emissions by 40% from 1990 levels by 2030, and 80%
50 from 1990 levels by 2050.

51 7. New York state is a founding participant in the U.S. Climate Alli-
52 ance, Regional Greenhouse Gas Initiative, and Zero Emissions Vehicles
53 Initiative.

1 8. New York state's Reforming the Energy Vision is a nationally recog-
2 nized initiative to fundamentally transform the state's energy economy
3 into one that is increasingly clean, resilient and affordable.

4 9. New York state's Clean Energy Standard was one of the first
5 programs in the nation to mandate that 50% of electricity come from
6 renewable energy sources by 2030.

7 10. New York state's offshore wind, solar, energy storage, and energy
8 efficiency targets and programs are leading the nation in propelling the
9 rapid growth of clean energy industries across the state.

10 11. New York state is committed to achieving carbon neutrality as soon
11 as practicable and to ensuring that the transition to a carbon neutral
12 economy is equitable for all New Yorkers and a transitioning workforce.

13 12. New York state acknowledges that worsening climate impacts will
14 disproportionately affect low-income and disadvantaged communities, and
15 is committed to making systemic changes to address the unequal impacts
16 of negative environmental burdens on distressed communities and sharing
17 the burdens and benefits of addressing climate change equitably and
18 fairly.

19 13. New York state is committed to ensuring that by the year 2040 one
20 hundred percent of its electricity is generated by clean sources, that
21 by 2030 seventy percent of its electricity is generated by renewable
22 sources and that the state is on a path to becoming carbon neutral econ-
23 omy-wide as soon as practicable.

24 § 3. The energy law is amended by adding a new section 6-105 to read
25 as follows:

26 § 6-105. Climate action council and roadmap for statewide carbon
27 neutrality. 1. It is hereby established as state policy that, as soon as
28 practicable, the state must sequester or offset a greater quantity of
29 atmospheric greenhouse gases than are emitted within the state, and that
30 in the consideration of carbon neutrality, the state must take into
31 account both atmospheric carbon and greenhouse gas emissions as well as
32 offsets from the local sequestration of atmospheric carbon and green-
33 house gases through long-term sinks and reservoirs.

34 2. In furtherance of state policy provided in subdivision one of this
35 section, there is hereby established a climate action council, which
36 shall consist of the following members or their designees:

37 (a) the commissioner of the state department of environmental conser-
38 vation;

39 (b) the president of the energy research and development authority;

40 (c) the chair of the public service commission;

41 (d) the commissioner of labor of the state of New York;

42 (e) the commissioner of the state department of transportation;

43 (f) the commissioner of agriculture and markets;

44 (g) one representative of clean energy associations;

45 (h) one member of an organization dedicated to environmental justice
46 issues;

47 (i) one representative of labor organizations; and

48 (j) any others as may be necessary to carry out the duties and respon-
49 sibilities under this section.

50 The members specified in paragraphs (g), (h), (i) and (j) of this
51 subdivision shall be promptly appointed by the governor, each for a term
52 of two years, provided that such person's membership shall continue
53 after such two year term if reappointed or until a successor is
54 appointed.

55 3. The climate action council will be co-chaired by the commissioners
56 of the department of environmental conservation and the president of the

1 energy research and development authority. It shall meet as often as is
2 necessary, but no less than three times per year, and under circum-
3 stances as are appropriate to fulfilling its duties under this section.
4 All members shall be provided with written notice reasonably in advance
5 of each meeting with date, time and location of such meeting.

6 4. The climate action council shall develop a roadmap of recommenda-
7 tions for attaining the statewide greenhouse gas emission goals of forty
8 percent reduction from 1990 levels by two thousand thirty and carbon
9 neutrality in all sectors of the economy which shall inform the state
10 energy planning council's adoption of a state energy plan in accordance
11 with section 6-104 of this article. To accommodate the work of the
12 climate action council, the state energy planning council shall complete
13 the next state energy plan required by this article no later than Decem-
14 ber thirty-first, two thousand twenty.

15 5. The roadmap required by subdivision four of this section shall
16 identify and make recommendations on regulatory measures, clean energy
17 programs, and other state actions and policies that will ensure the
18 attainment of statewide emission reduction and carbon neutrality goals.
19 In developing the roadmap required by subdivision four of this section
20 the council shall:

21 (a) recognize the global nature of anthropogenic climate change and
22 prioritize regional, multistate and international collaboration and
23 action to deliver maximum impact;

24 (b) engage the states in the U.S. Climate Alliance on pathways to
25 achieving a proportional share of the United Nations Paris Agreement
26 objective to keep global anthropogenic temperature increase to well
27 below 2 degrees Celsius while striving to limit the increase to 1.5
28 degrees Celsius;

29 (c) explore with U.S. Climate Alliance states regional market-based
30 programs and initiatives that can deliver environmental sustainability
31 and carbon neutrality in support of the Paris Agreement;

32 (d) consider all relevant information pertaining to greenhouse gas
33 emissions reduction programs among states in the U.S. Climate Alliance
34 as well as in other states, regions and nations;

35 (e) evaluate, using economic models, emission estimation techniques
36 and other scientific methods, the potential costs and potential economic
37 and non-economic benefits of transitioning to a carbon-neutral economy
38 on a statewide and multistate basis, taking into account the impact on
39 consumers and any regional variations and make such evaluation publicly
40 available;

41 (f) evaluate, using economic models, emission estimation techniques
42 and other scientific methods the economic, environmental, and public
43 health benefits and co-benefits of greenhouse gas emissions reductions
44 on a statewide and multistate basis, taking into account the value of
45 carbon, established by the department of environmental conservation
46 pursuant to section 75-0107 of the environmental conservation law, and
47 using any other tools that the council deems useful and pertinent for
48 this analysis; and

49 (g) consult with the environmental justice and just transition working
50 group established pursuant to this section, and other stakeholders iden-
51 tified by the council.

52 6. The programs and measures considered the roadmap as required by
53 subdivision four of this section may include:

54 (a) performance-based standards for sources of greenhouse gas emis-
55 sions, including but not limited to sources in the electricity, trans-
56 portation, building, industrial, commercial, and agricultural sectors;

1 (b) market-based mechanisms to reduce statewide greenhouse gas emis-
2 sions on a statewide and multistate basis or emissions from a particular
3 source category or categories, including an examination of the imposi-
4 tion of fees per ton of carbon dioxide equivalent emitted and the impo-
5 sition of emissions caps accompanied by a system of tradable emission
6 allowances;

7 (c) programs to reduce emissions from the electricity sector by tran-
8 sitioning from fossil fuel-based generation to generation powered by
9 clean resources or energy efficiency measures to the extent practicable,
10 including an analysis of technologies and other measures that should be
11 developed to facilitate such transition;

12 (d) land use and transportation planning measures aimed at reducing
13 greenhouse gas emissions on a statewide and multistate basis;

14 (e) measures to promote the beneficial electrification of personal and
15 freight transport, and other strategies to reduce greenhouse gas emis-
16 sions from the transportation sector;

17 (f) measures to achieve reductions in energy use in existing residen-
18 tial or commercial buildings, including the beneficial electrification
19 of water and space heating in buildings, establishing appliance effi-
20 ciency standards, strengthening building energy codes, requiring annual
21 building energy benchmarking, disclosing energy efficiency in home
22 sales, and expanding the ability of state facilities to utilize perform-
23 ance contracting;

24 (g) recommendations to aid in the transition of the New York state
25 workforce and the rapidly emerging clean energy industry;

26 (h) measures to achieve long-term carbon sequestration and/or promote
27 best management practices in land use, agriculture and forestry;

28 (i) measures to limit the use of chemicals, substances or products
29 that contribute to global climate change when released to the atmos-
30 phere, but are not intended for end-use combustion;

31 (j) mechanisms to limit emission leakage as defined in subdivision
32 eleven of section 75-0101 of the environmental conservation law; and

33 (k) verifiable, enforceable and voluntary emissions reduction meas-
34 ures.

35 7. The council shall provide meaningful opportunities for public
36 comment from all persons who will be impacted by the roadmap required by
37 subdivision four of this section, including public hearing opportunities
38 in all regions of the state, and shall allow at least one hundred twenty
39 days for the submission of public comment. The council is authorized to
40 conduct any public hearings associated with the roadmap in conjunction
41 with public hearings required for the state energy plan.

42 8. The council shall transmit the roadmap required by subdivision four
43 of this section to the governor, the speaker of the assembly, and the
44 temporary president of the senate. The council shall prepare and submit
45 a report, by December thirty-first, two thousand nineteen, and annually
46 thereafter, until completion of the roadmap required by subdivision four
47 of this section, detailing the progress of the council and identify any
48 interim recommendations on regulatory measures, clean energy programs,
49 and other state actions and policies that will ensure the attainment of
50 statewide emission reduction and carbon neutrality goals.

51 9. The council may consult with the Long Island power authority and
52 the power authority of the state of New York, and such authorities as
53 are authorized to cooperate with the council and provide input as
54 requested.

55 10. The Long Island power authority and the power authority of the
56 state of New York are authorized, as deemed feasible and advisable by

1 their respective governing boards, to make a voluntary contribution of
2 funds to mitigate part of the cost of development of the roadmap
3 required by subdivision four of this section.

4 11. Staff services shall be performed by the departments of public
5 service, environmental conservation, transportation, agriculture and
6 markets, labor, and the New York state energy research and development
7 authority, as directed by the council. Assistance shall also be made
8 available, as requested by the council, from other agencies, departments
9 and public authorities of the state. The council may provide for its own
10 representation in all actions or proceedings in which it is a party.

11 § 4. The energy law is amended by adding a new section 6-110 to read
12 as follows:

13 § 6-110. Environmental justice and just transition working group. 1.
14 There is hereby established an environmental justice and just transition
15 working group which shall consist of advocates for environmental justice
16 and community leaders and representatives of New York's workforce, and
17 have equal representation from New York city communities, rural communi-
18 ties, and upstate urban communities.

19 2. The working group shall advise the department of environmental
20 conservation, the energy research and development authority, the depart-
21 ment of public service, the department of labor, the climate action
22 council, and other agencies as appropriate, on:

23 (a) the development of statewide greenhouse gas emissions limits
24 established pursuant to section 75-0103 of the environmental conserva-
25 tion law;

26 (b) the preparation of a roadmap for reducing greenhouse gas emis-
27 sions, pursuant to the procedures set forth in section 6-105 of the
28 energy law that shall identify existing climate change mitigation and
29 adaptation efforts at the federal, state, and local levels and may make
30 recommendations regarding how such policies may improve the state's
31 efforts;

32 (c) the preparation of a roadmap for addressing issues and opportu-
33 nities related to the transition of the New York state workforce and the
34 rapidly emerging clean energy industry; and

35 (d) the transition of communities away from conventional energy indus-
36 tries and towards new opportunities in the clean energy economy.

37 § 5. The energy law is amended by adding a new section 6-112 to read
38 as follows:

39 § 6-112. Supplemental analysis for one hundred percent clean electric-
40 ity. 1. The board shall undertake the following assessment to supplement
41 information for future energy planning: on or before December thirty-
42 first, two thousand twenty-four, and every four years thereafter, the
43 board shall incorporate:

44 (a) analysis and recommendations into each plan supporting policies
45 and actions that would meet the state's objective of ensuring that the
46 state's electricity demand is supplied from one hundred percent clean
47 energy resources by the year two thousand forty in an economical and
48 technically feasible manner; and

49 (b) analysis and recommendations into each plan supporting policies
50 and actions that would advance the state toward the objective of meeting
51 the greenhouse gas emission reduction limits established by the depart-
52 ment of environmental conservation pursuant to section 75-0103 of the
53 environmental conservation law.

54 2. The board may consult with the Long Island power authority, the
55 power authority of the state of New York, any other state agency or
56 authority, and the bulk system operator as deemed necessary by the

1 board, and all state agencies and authorities are authorized to cooper-
2 ate with the board and provide input as requested with respect to such
3 assessment.

4 § 6. The public service law is amended by adding a new section 77-a to
5 read as follows:

6 § 77-a. New York state clean energy program. 1. The term "renewable
7 energy sources" when used in this section shall be defined by the
8 commission, and shall include but not be limited to, at a minimum, solar
9 photovoltaic generation, wind generation, existing hydroelectric gener-
10 ation as well as new hydroelectric generation subject to and compliant
11 with rules established by the commission and generators that use biogas
12 or other biofuels to generate electricity subject to and compliant with
13 rules established by the commission.

14 2. The term "clean energy sources" when used in this section shall be
15 defined by the commission, in consultation with the department of envi-
16 ronmental conservation, and shall include electric generation that
17 releases zero or de minimis net greenhouse gas emissions to the atmos-
18 phere as a byproduct of generating electricity, including electricity
19 generated by biofuels that are determined by the department of environ-
20 mental conservation to be carbon neutral.

21 3. Within one hundred twenty days of the effective date of this
22 section, the commission shall commence a proceeding or modify an exist-
23 ing proceeding to establish a clean energy program that shall require
24 that New York state load serving entities:

25 (a) meet one hundred percent of statewide electrical energy demand
26 with clean energy sources by the year two thousand forty;

27 (b) meet seventy percent of statewide electrical energy demand with
28 renewable energy sources by the year two thousand thirty; and

29 (c) demonstrate each year that the required percentage of their elec-
30 tric energy demand was met with clean and renewable energy sources
31 through methods or mechanisms established by the commission.

32 4. The commission may establish minimum annual percentage target
33 requirements for load serving entities for each year, or period of
34 years, of the program. In establishing such program, the commission
35 shall consult with the Long Island power authority, the department of
36 environmental conservation, the power authority of the state of New York
37 and the New York energy research and development authority.

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

40 26. To cooperate with the public service commission, the Long Island
41 power authority and the New York state energy research and development
42 authority to meet New York state's climate change and environmental
43 goals including those established pursuant to and consistent with
44 section seventy-seven-a of the public service law, section 75-0103 of
45 the environmental conservation law and section 6-105 of the energy law.

46 § 8. Paragraph 1 of subdivision (gg) of section 1020-f of the public
47 authorities law, as added by section 7 of part A of chapter 173 of the
48 laws of 2013, is amended to read as follows:

49 1. The authority in coordination with the service provider, the power
50 authority of the state of New York and the New York state energy
51 research and development authority shall, to the extent the authority's
52 rates are sufficient to provide safe and adequate transmission and
53 distribution service, and the measures herein, undertake actions to
54 design and administer renewable energy and energy efficiency measures in
55 the service area, with the goal of continuing and expanding such meas-
56 ures that cost-effectively reduce system-wide peak demand, minimize

1 long-term fuel price risk to rate payers, lower emissions, improve envi-
 2 ronmental quality, including the requirements established pursuant to
 3 and consistent with section seventy-seven-a of the public service law,
 4 section 75-0103 of the environmental conservation law and section 6-105
 5 of the energy law and seek to meet New York state climate change and
 6 environmental goals. Such actions shall also include implementation of
 7 any renewable energy competitive procurement or feed-in-tariff programs
 8 that were approved by the authority as of the effective date of the
 9 chapter of the laws of two thousand thirteen which added this subdivi-
 10 sion.

11 § 9. The environmental conservation law is amended by adding a new
 12 article 75 to read as follows:

13 ARTICLE 75
 14 CLIMATE CHANGE

15 Section 75-0101. Definitions.

16 75-0103. Statewide greenhouse gas emissions limits.

17 75-0105. Regulations to achieve statewide greenhouse gas emis-
 18 sions reductions.

19 75-0107. Value of carbon.

20 § 75-0101. Definitions.

21 For the purposes of this article, the following definitions apply:

22 1. "Council" means the climate action council established pursuant to
 23 section 6-105 of the energy law.

24 2. "Carbon dioxide equivalent" means the amount of carbon dioxide by
 25 mass that would produce the same integrated radiative forcing as a given
 26 mass of another greenhouse gas over a one hundred year or other appro-
 27 priate time frame after emission, as determined by the department.

28 3. "Carbon neutrality policy" means the state policy established
 29 pursuant to subdivision one of section 6-105 of the energy law.

30 4. "Carbon neutrality roadmap" means the roadmap for statewide carbon
 31 neutrality prepared by the climate action council pursuant to section
 32 6-105 of the energy law.

33 5. "Climate action council" means the board established pursuant to
 34 subdivision two of section 6-105 of the energy law.

35 6. "Emissions reduction measures" means programs, measures and stand-
 36 ards, including those authorized pursuant to this chapter, applicable to
 37 sources or categories of sources that are designed to reduce emissions
 38 of greenhouse gases.

39 7. "Environmental justice and just transition working group" means the
 40 group established pursuant to section 6-110 of the energy law.

41 8. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide,
 42 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other
 43 substance emitted into the air that may be reasonably anticipated to
 44 cause or contribute to anthropogenic climate change, as determined by
 45 the department.

46 9. "Greenhouse gas emission limit" means an authorization, during a
 47 specified year, for a greenhouse gas emission source to emit up to a
 48 level or rate of greenhouse gases specified by the department, expressed
 49 in tons of carbon dioxide equivalent.

50 10. "Greenhouse gas emission source" or "source" means any anthropo-
 51 genic source or category of anthropogenic sources of greenhouse gas
 52 emissions including prime suppliers, with the exception of agricultural
 53 emissions from livestock, that the department determines:

54 (a) will enable the state to effectively reduce greenhouse gas emis-
 55 sions through the source's participation in a program or mechanism; and

56 (b) is capable of being monitored for compliance.

1 11. "Leakage" means a reduction in emissions of greenhouse gases with-
2 in the state that is offset by an increase in emissions of greenhouse
3 gases outside of the state.

4 12. "State energy plan" means the plan issued by the state energy
5 planning board pursuant to article six of the energy law.

6 13. "Statewide greenhouse gas emissions" means the total annual emis-
7 sions of greenhouse gases produced within the state from sources. State-
8 wide greenhouse gas emissions shall be expressed in short tons of carbon
9 dioxide equivalents.

10 14. "Statewide greenhouse gas emissions limit" or "statewide emissions
11 limit" means the maximum allowable level of statewide greenhouse gas
12 emissions in a specified year.

13 § 75-0103. Statewide greenhouse gas emissions limits.

14 Within two years of the effective date of this article, the department
15 shall promulgate a statewide greenhouse gas emissions limit measured in
16 units of carbon dioxide equivalent for the year two thousand thirty, at
17 which statewide greenhouse gas emissions would achieve a forty percent
18 reduction from nineteen hundred ninety emission levels based on an
19 inventory of statewide emissions developed or approved by the depart-
20 ment. The department may periodically revise the limit based on new
21 information.

22 § 75-0105. Regulations to achieve statewide greenhouse gas emissions
23 reductions.

24 1. In addition to regulations promulgated by the department pursuant
25 to existing authority established by this chapter, no later than four
26 years after the effective date of this article, the department shall
27 promulgate rules and regulations consistent with measures recommended in
28 the carbon neutrality roadmap issued by the climate action council to
29 support compliance with the statewide greenhouse gas emission limits
30 established by the department pursuant to section 75-0103 of this arti-
31 cle.

32 2. The regulations promulgated by the department pursuant to this
33 section may include, as appropriate:

34 (a) legally enforceable emissions reduction measures or greenhouse gas
35 emission limits, which may include performance standards or measures or
36 other requirements to control emissions from greenhouse gas emission
37 sources;

38 (b) measures to reduce emissions from greenhouse gas emission sources
39 or source categories that have a cumulatively significant impact on
40 statewide greenhouse gas emissions;

41 (c) measures, as determined by the department, to limit or preclude
42 the use of certain chemicals or substances, including hydrofluorocar-
43 bons, perfluorinated compounds, sulfur hexafluoride, and nitrous oxide,
44 that contribute to global climate change when released to the atmos-
45 phere, but are not intended for end-use combustion; and

46 (d) mechanisms to minimize leakage.

47 § 75-0107. Value of carbon.

48 1. No later than one year after the effective date of this article,
49 the department, in consultation with the energy research and development
50 authority, shall establish a social cost of carbon for use by New York
51 state agencies, expressed in terms of dollars per ton of carbon dioxide
52 equivalent.

53 2. The social cost of carbon shall serve as a monetary estimate of the
54 value of not emitting a ton of greenhouse gas emissions. As determined
55 by the department, the social cost of carbon may be based on marginal
56 greenhouse gas abatement costs or on the global economic, environmental,

1 and social impacts of emitting a marginal ton of greenhouse gas emis-
2 sions into the atmosphere, utilizing a range of appropriate discount
3 rates, including a rate of zero.

4 3. In developing the social cost of carbon, the department shall
5 consider prior or existing estimates of the social cost of carbon issued
6 or adopted by the federal government, appropriate international bodies,
7 or other appropriate and reputable scientific organizations.

8 § 10. This act shall take effect immediately.

9

PART Y

10 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
11 New York state urban development corporation act, relating to the powers
12 of the New York state urban development corporation to make loans, as
13 amended by section 1 of part P of chapter 58 of the laws of 2018, is
14 amended to read as follows:

15 § 2. This act shall take effect immediately provided, however, that
16 section one of this act shall expire on July 1, [~~2019~~] 2020, at which
17 time the provisions of subdivision 26 of section 5 of the New York state
18 urban development corporation act shall be deemed repealed; provided,
19 however, that neither the expiration nor the repeal of such subdivision
20 as provided for herein shall be deemed to affect or impair in any manner
21 any loan made pursuant to the authority of such subdivision prior to
22 such expiration and repeal.

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

25

PART Z

26 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
27 of the laws of 1968 constituting the New York state urban development
28 corporation act, as amended by section 1 of part O of chapter 58 of the
29 laws of 2018, is amended to read as follows:

30 3. The provisions of this section shall expire, notwithstanding any
31 inconsistent provision of subdivision 4 of section 469 of chapter 309 of
32 the laws of 1996 or of any other law, on July 1, [~~2019~~] 2020.

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

35

PART AA

36 Section 1. Subdivision 2, paragraph (e) of subdivision 7, paragraph
37 (b) of subdivision 8, subdivision 13, paragraph (e) of subdivision 15,
38 subdivisions 16, 19, 21 and 22 of section 310 of the executive law, as
39 added by chapter 261 of the laws of 1988, paragraph (e) of subdivision 7
40 and paragraph (e) of subdivision 15 as amended by chapter 22 of the laws
41 of 2014, subdivision 13 as amended by chapter 506 of the laws of 2009,
42 subdivision 16 as added by section 3 of part BB of chapter 59 of the
43 laws of 2006, and subdivisions 19, 21 and 22 as added by chapter 175 of
44 the laws of 2010, are amended and a new subdivision 24 is added to read
45 as follows:

46 2. "Contracting agency" shall mean a state agency or state funded
47 entity which is a party or a proposed party to a state contract or, in
48 the case of a state contract described in paragraph (c) of subdivision
49 thirteen of this section, shall mean the New York state housing finance
50 agency, housing trust fund corporation or affordable housing corpo-

1 ration, whichever has made or proposes to make the grant or loan for the
2 state assisted housing project.

3 (e) an enterprise owned by an individual or individuals, whose owner-
4 ship, control and operation are relied upon for certification, with a
5 personal net worth that does not exceed three million five hundred thou-
6 sand dollars, or such other amount as the director shall set forth in
7 regulations, as adjusted annually on the first of January for inflation
8 according to the consumer price index of the previous year; and

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

12 13. "State contract" shall mean: (a) a written agreement or purchase
13 order instrument, providing for a total expenditure in excess of twen-
14 ty-five thousand dollars, whereby a contracting agency is committed to
15 expend or does expend or grant funds in return for labor, services
16 including but not limited to legal, financial and other professional
17 services, supplies, equipment, materials or any combination of the fore-
18 going, to be performed for, on behalf of, or rendered or furnished to
19 the contracting agency; (b) a written agreement in excess of one hundred
20 thousand dollars whereby a contracting agency is committed to expend or
21 grant or does expend funds for the acquisition, construction, demoli-
22 tion, replacement, major repair or renovation of real property and
23 improvements thereon; [~~and~~] (c) a written agreement in excess of one
24 hundred thousand dollars whereby the owner of a state assisted housing
25 project is committed to expend or does expend funds for the acquisition,
26 construction, demolition, replacement, major repair or renovation of
27 real property and improvements thereon for such project; and (d) a writ-
28 ten agreement or purchase order instrument, providing for a total
29 expenditure in excess of fifty thousand dollars, whereby a state-funded
30 entity is committed to expend or does expend funds paid to the state-
31 funded entity by the state of New York, including those paid to the
32 state-funded entity pursuant to an appropriation, for any product or
33 service.

34 (e) an enterprise owned by an individual or individuals, whose owner-
35 ship, control and operation are relied upon for certification, with a
36 personal net worth that does not exceed three million five hundred thou-
37 sand dollars, or such other amount as the director shall set forth in
38 regulations, as adjusted annually on the first of January for inflation
39 according to the consumer price index of the previous year; and

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

44 19. "Personal net worth" shall mean the aggregate adjusted net value
45 of the assets of an individual remaining after total liabilities are
46 deducted. Personal net worth includes the individual's share of assets
47 held jointly with said individual's spouse and does not include the
48 individual's ownership interest in the certified minority and women-
49 owned business enterprise, the individual's equity in his or her primary
50 residence ownership interest in a holding company that leases real prop-
51 erty, machinery, equipment, or vehicles exclusively to the certified
52 minority or women-owned business enterprise that is majority owned by
53 the minority group members or women relied upon for certification, or up
54 to [~~five hundred~~] seven hundred fifty thousand dollars of the present
55 cash value of any qualified retirement savings plan or individual

1 retirement account held by the individual less any penalties for early
2 withdrawal.

3 21. "The [2010] disparity study" shall refer to the most recent
4 disparity study commissioned by the [~~empire state development corpo-~~
5 ~~ration~~] department of economic development, pursuant to section three
6 hundred twelve-a of this article[~~, and published on April twenty-nine,~~
7 ~~two thousand ten~~].

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

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

13 (b) entering into partnerships, joint ventures or other similar
14 arrangements with certified minority and women-owned business enter-
15 prises as defined in this article or other applicable statute or regu-
16 lation governing an entity's utilization of minority or women-owned
17 business enterprises; and

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

20 24. "State-funded entity" shall mean any unit of local government,
21 including, but not limited to a county, city, town, village or school
22 district that is paid pursuant to an appropriation in a state fiscal
23 year.

24 § 2. The opening paragraph of subdivision 4 of section 311 of the
25 executive law, as amended by chapter 361 of the laws of 2009, is amended
26 to read as follows:

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

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

40 § 311-a. Minority and women-owned business enterprise statewide advo-
41 cate. 1. There is hereby established within the [~~department of economic~~
42 ~~development~~] division of minority and women's business an office of the
43 minority and women-owned business enterprise statewide advocate. The
44 statewide advocate shall be appointed by the commissioner [~~with the~~
45 ~~advice of the small business advisory board as established in section~~
46 ~~one hundred thirty-three of the economic development law and shall serve~~
47 ~~in the unclassified service of the director. The statewide advocate~~
48 ~~shall be located in the Albany empire state development office~~] in
49 consultation with the director.

50 2. The advocate shall act as a liaison for minority and women-owned
51 business enterprises (MWBEs) to assist them in obtaining technical,
52 managerial, financial and other business assistance for certified busi-
53 nesses and applicants. The advocate shall receive and investigate
54 complaints brought by or on behalf of MWBEs concerning certification
55 delays and instances of violations of [~~law~~] the requirements of this
56 article by contractors and by state agencies. [~~The statewide advocate~~

1 ~~shall assist certified businesses and applicants in the certification~~
2 ~~process.~~] Other functions of the statewide advocate shall be directed by
3 the commissioner. The advocate shall have the resources necessary to
4 perform its functions, and, as such, may request and the director may
5 appoint staff and employees of the division of minority and women busi-
6 ness development to support the administration of the office of the
7 statewide advocate.

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

19 4. The statewide advocate shall investigate complaints by minority-
20 owned business enterprises or women-owned business enterprises, certi-
21 fied as such by the division of minority and women's business develop-
22 ment, to the minority and women-owned business enterprise statewide
23 advocate concerning a procuring governmental entity's failure to comply
24 with the requirements of section three hundred fifteen of this article.

25 5. The statewide advocate shall report to the director and commission-
26 er by November fifteenth on an annual basis on all activities related to
27 fulfilling the obligations of the office of the statewide advocate. [~~The~~
28 ~~commissioner shall include the unedited text of the statewide advocate's~~
29 ~~report within the reports submitted by the department of economic devel-~~
30 ~~opment to the governor and the legislature.~~]

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

33 § 312-a. Study of minority and women-owned business [~~enterprise~~
34 ~~programs~~] enterprises. 1. The director of the division of minority and
35 women-owned business development [~~in the department of economic develop-~~
36 ~~ment~~] is authorized and directed to recommission a statewide disparity
37 study regarding the participation of minority and women-owned business
38 enterprises in state contracts since the amendment of this article to be
39 delivered to the governor and legislature [~~no later than August~~
40 ~~fifteenth, two thousand sixteen~~]. The study shall be prepared by an
41 entity independent of the department and selected through a request for
42 proposal process. The purpose of such study is:

43 (a) to determine whether there is a disparity between the number of
44 qualified minority and women-owned businesses ready, willing and able to
45 perform state contracts for commodities, services and construction, and
46 the number of such contractors actually engaged to perform such
47 contracts, and to determine what changes, if any, should be made to
48 state policies affecting minority and women-owned business enterprises;
49 and (b) to determine whether there is a disparity between the number of
50 qualified minorities and women ready, willing and able, with respect to
51 labor markets, qualifications and other relevant factors, to participate
52 in contractor employment, management level bodies, including boards of
53 directors, and as senior executive officers within contracting entities
54 and the number of such group members actually employed or affiliated
55 with state contractors in the aforementioned capacities, and to deter-
56 mine what changes, if any, should be made to state policies affecting

1 minority and women group populations with regard to state contractors'
2 employment and appointment practices relative to diverse group members.
3 Such study shall include, but not be limited to, an analysis of the
4 history of minority and women-owned business enterprise programs and
5 their effectiveness as a means of securing and ensuring participation by
6 minorities and women, and a disparity analysis by market area and region
7 of the state. Such study shall distinguish between minority males,
8 minority females and non-minority females in the statistical analysis.

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

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

16 § 313. Opportunities for minority and women-owned business enter-
17 prises. 1. Goals and requirements for agencies and contractors. Each
18 agency shall structure procurement procedures for contracts made direct-
19 ly or indirectly to minority and women-owned business enterprises, in
20 accordance with the findings of the [~~two thousand ten~~] most recent
21 disparity study, consistent with the purposes of this article, to
22 attempt to achieve [~~the following results with regard to~~] total annual
23 statewide procurement[+]

24 ~~(a) construction industry for certified minority-owned business enter-~~
25 ~~prises: fourteen and thirty four hundredths percent;~~

26 ~~(b) construction industry for certified women-owned business enter-~~
27 ~~prises: eight and forty one hundredths percent;~~

28 ~~(c) construction related professional services industry for certified~~
29 ~~minority-owned business enterprises: thirteen and twenty one hundredths~~
30 ~~percent;~~

31 ~~(d) construction related professional services industry for certified~~
32 ~~women-owned business enterprises: eleven and thirty two hundredths~~
33 ~~percent;~~

34 ~~(e) non-construction related services industry for certified minori-~~
35 ~~ty-owned business enterprises: nineteen and sixty hundredths percent;~~

36 ~~(f) non-construction related services industry for certified women-~~
37 ~~owned business enterprises: seventeen and forty four hundredths percent;~~

38 ~~(g) commodities industry for certified minority-owned business enter-~~
39 ~~prises: sixteen and eleven hundredths percent;~~

40 ~~(h) commodities industry for certified women-owned business enter-~~
41 ~~prises: ten and ninety three hundredths percent;~~

42 ~~(i) overall agency total dollar value of procurement for certified~~
43 ~~minority-owned business enterprises: sixteen and fifty three hundredths~~
44 ~~percent;~~

45 ~~(j) overall agency total dollar value of procurement for certified~~
46 ~~women-owned business enterprises: twelve and thirty nine hundredths~~
47 ~~percent; and~~

48 ~~(k) overall agency total dollar value of procurement for certified~~
49 ~~minority, women-owned business enterprises: twenty eight and ninety two~~
50 ~~hundredths percent] goals as specified by the director.~~

51 1-a. The director shall ensure that each state agency has been
52 provided with [a] an electronic copy of the [~~two thousand ten~~] most
53 recent disparity study.

54 1-b. Each agency shall develop and adopt agency-specific goals based
55 on the findings of the [~~two thousand ten~~] most recent disparity study.

1 2. The director shall promulgate rules and regulations [~~pursuant to~~
2 based on the [~~goals established in subdivision one of this section~~
3 findings of the most recent disparity study that provide measures and
4 procedures to ensure that certified minority and women-owned businesses
5 shall be given the opportunity for maximum feasible participation in the
6 performance of state contracts and to assist in the agency's identifica-
7 tion of those state contracts for which minority and women-owned certi-
8 fied businesses may best bid to actively and affirmatively promote and
9 assist their participation in the performance of state contracts [~~so as
10 to facilitate the agency's achievement of the maximum feasible portion
11 of the goals for state contracts to such businesses~~].

12 2-a. The director shall promulgate rules and regulations that will
13 accomplish the following:

14 (a) provide for the certification and decertification of minority and
15 women-owned business enterprises for all agencies through a single proc-
16 ess that meets applicable requirements;

17 (b) require that each contract solicitation document accompanying each
18 solicitation set forth the expected degree of minority and women-owned
19 business enterprise participation based, in part, on:

20 (i) the potential subcontract opportunities available in the prime
21 procurement contract; [~~and~~]

22 (ii) the availability[~~, as contained within the study,~~] of certified
23 minority and women-owned business enterprises to respond competitively
24 to the potential subcontract opportunities as reflected in the divi-
25 sion's directory of certified minority and women-owned business enter-
26 prises; and

27 (iii) the findings of the disparity study;

28 (c) require that each agency provide a current list of certified
29 minority business enterprises to each prospective contractor or direct
30 them to the division's directory of certified minority and women-owned
31 business enterprises for such purpose;

32 (d) allow a contractor that is a certified minority-owned or women-
33 owned business enterprise to use the work it performs to meet require-
34 ments for use of certified minority-owned or women-owned business enter-
35 prises as subcontractors;

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

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

43 [~~(f)~~] (g) consistent with subdivision six of this section, provide for
44 circumstances under which an agency or state-funded entity may waive
45 obligations of the contractor relating to minority and women-owned busi-
46 ness enterprise participation;

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

51 [~~(h)~~] (i) provide for the collection of statistical data by each agen-
52 cy or state-funded entity concerning actual minority and women-owned
53 business enterprise participation; [~~and~~

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

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

3 3. Solely for the purpose of providing the opportunity for meaningful
4 participation by certified businesses in the performance of state
5 contracts as provided in this section, state contracts shall include
6 leases of real property by a state agency to a lessee where: the terms
7 of such leases provide for the construction, demolition, replacement,
8 major repair or renovation of real property and improvements thereon by
9 such lessee; and the cost of such construction, demolition, replacement,
10 major repair or renovation of real property and improvements thereon
11 shall exceed the sum of one hundred thousand dollars. Reports to the
12 director pursuant to section three hundred fifteen of this article shall
13 include activities with respect to all such state contracts. Contracting
14 agencies shall include or require to be included with respect to state
15 contracts for the acquisition, construction, demolition, replacement,
16 major repair or renovation of real property and improvements thereon,
17 such provisions as may be necessary to effectuate the provisions of this
18 section in every bid specification and state contract, including, but
19 not limited to: (a) provisions requiring contractors to make a good
20 faith effort to solicit active participation by enterprises identified
21 in the directory of certified businesses [~~provided to the contracting~~
22 ~~agency by the office~~]; (b) requiring the parties to agree as a condition
23 of entering into such contract, to be bound by the provisions of section
24 three hundred sixteen of this article; and (c) requiring the contractor
25 to include the provisions set forth in paragraphs (a) and (b) of this
26 subdivision in every subcontract in a manner that the provisions will be
27 binding upon each subcontractor as to work in connection with such
28 contract. Provided, however, that no such provisions shall be binding
29 upon contractors or subcontractors in the performance of work or the
30 provision of services that are unrelated, separate or distinct from the
31 state contract as expressed by its terms, and nothing in this section
32 shall authorize the director or any contracting agency to impose any
33 requirement on a contractor or subcontractor except with respect to a
34 state contract.

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

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

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

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

55 5. (a) Contracting agencies shall administer the rules and regulations
56 promulgated by the director in a good faith effort to [~~meet~~] achieve the

1 maximum feasible [~~portion of the agency's goals~~] participation by minor-
2 ity and women owned business enterprises adopted pursuant to this arti-
3 cle and the regulations of the director. Such rules and regulations:
4 shall require a contractor to submit a utilization plan after bids are
5 opened, when bids are required, but prior to the award of a state
6 contract; shall require the contracting agency to review the utilization
7 plan submitted by the contractor and to post the utilization plan and
8 any waivers of compliance issued pursuant to subdivision six of this
9 section on the website of the contracting agency within a reasonable
10 period of time as established by the director; shall require the
11 contracting agency to notify the contractor in writing within a period
12 of time specified by the director as to any deficiencies contained in
13 the contractor's utilization plan; shall require remedy thereof within a
14 period of time specified by the director; shall require the contractor
15 to submit periodic compliance reports relating to the operation and
16 implementation of any utilization plan; shall not allow any automatic
17 waivers but shall allow a contractor to apply for a partial or total
18 waiver of the minority and women-owned business enterprise participation
19 requirements pursuant to subdivisions six and seven of this section;
20 shall allow a contractor to file a complaint with the director pursuant
21 to subdivision eight of this section in the event a contracting agency
22 has failed or refused to issue a waiver of the minority and women-owned
23 business enterprise participation requirements or has denied such
24 request for a waiver; and shall allow a contracting agency to file a
25 complaint with the director pursuant to subdivision nine of this section
26 in the event a contractor is failing or has failed to comply with the
27 minority and women-owned business enterprise participation requirements
28 set forth in the state contract where no waiver has been granted.

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

39 (c) Without limiting other grounds for the disqualification of bids or
40 proposals on the basis of non-responsibility, a contracting agency may
41 disqualify the bid or proposal of a contractor as being non-responsible
42 for failure to remedy notified deficiencies contained in the contrac-
43 tor's utilization plan within a period of time specified in regulations
44 promulgated by the director after receiving notification of such defi-
45 ciencies from the contracting agency. Where failure to remedy any noti-
46 fied deficiency in the utilization plan is a ground for disqualifica-
47 tion, that issue and all other grounds for disqualification shall be
48 stated in writing by the contracting agency. Where the contracting agen-
49 cy states that a failure to remedy any notified deficiency in the utili-
50 zation plan is a ground for disqualification the contractor shall be
51 entitled to an administrative hearing, on a record, involving all
52 grounds stated by the contracting agency. Such hearing shall be
53 conducted by the appropriate authority of the contracting agency to
54 review the determination of disqualification. A final administrative
55 determination made following such hearing shall be reviewable in a
56 proceeding commenced under article seventy-eight of the civil practice

1 law and rules, provided that such proceeding is commenced within thirty
2 days of the notice given by certified mail return receipt requested
3 rendering such final administrative determination. Such proceeding shall
4 be commenced in the supreme court, appellate division, third department
5 and such proceeding shall be preferred over all other civil causes
6 except election causes, and shall be heard and determined in preference
7 to all other civil business pending therein, except election matters,
8 irrespective of position on the calendar. Appeals taken to the court of
9 appeals of the state of New York shall be subject to the same prefer-
10 ence.

11 6. Where it appears that a contractor cannot, after a good faith
12 effort, comply with the minority and women-owned business enterprise
13 participation requirements set forth in a particular state contract, a
14 contractor may file a written application with the contracting agency
15 requesting a partial or total waiver of such requirements setting forth
16 the reasons for such contractor's inability to meet any or all of the
17 participation requirements together with an explanation of the efforts
18 undertaken by the contractor to obtain the required minority and women-
19 owned business enterprise participation. In implementing the provisions
20 of this section, the contracting agency shall consider the number and
21 types of minority and women-owned business enterprises [~~located~~] avail-
22 able to provide goals or services required under the contract in the
23 region in which the state contract is to be performed, the total dollar
24 value of the state contract, the scope of work to be performed and the
25 project size and term. If, based on such considerations, the contracting
26 agency determines there is not a reasonable availability of contractors
27 on the list of certified business to furnish services for the project,
28 it shall issue a waiver of compliance to the contractor. In making such
29 determination, the contracting agency shall first consider the avail-
30 ability of other business enterprises located in the region and shall
31 thereafter consider the financial ability of minority and women-owned
32 businesses located outside the region in which the contract is to be
33 performed to perform the state contract.

34 7. For purposes of determining a contractor's good faith effort to
35 comply with the requirements of this section or to be entitled to a
36 waiver therefrom the contracting agency shall consider, among other
37 things:

38 (a) whether the contractor has advertised in general circulation
39 media, trade association publications, and minority-focus and women-fo-
40 cus media or other forms of advertisement and, in such event, (i) wheth-
41 er or not certified minority or women-owned businesses which have been
42 solicited by the contractor exhibited interest in submitting proposals
43 for a particular project by communication or other form of contract with
44 the contractor or attending a pre-bid conference, if any, scheduled by
45 the state agency awarding the state contract with certified minority and
46 women-owned business enterprises; and

47 (ii) whether certified businesses which have been solicited by the
48 contractor have responded in a timely fashion to the contractor's solici-
49 tations for timely competitive bid quotations prior to the contracting
50 agency's bid date; and

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

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

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

15 9. If, after the review of a contractor's minority and [~~women-owned~~]
16 women-owned business utilization plan or review of a periodic compliance
17 report and after such contractor has been afforded an opportunity to
18 respond to a notice of deficiency issued by the contracting agency in
19 connection therewith, it appears that a contractor is failing or refus-
20 ing to comply with the minority and women-owned business participation
21 requirements as set forth in the state contract and where no waiver from
22 such requirements has been granted, the contracting agency may file a
23 written complaint with the director pursuant to section three hundred
24 sixteen of this article setting forth the facts and circumstances giving
25 rise to the contracting agency's complaint together with a demand for
26 relief. The contracting agency shall serve a copy of such complaint
27 upon the contractor by personal service or by certified mail, return
28 receipt requested. The contractor shall be afforded an opportunity to
29 respond to such complaint in writing.

30 § 6. Section 314 of the executive law, as added by chapter 216 of the
31 laws of 1988, subdivision 2-a as amended by chapter 175 of the laws of
32 2010, subdivision 2-b as added by chapter 409 of the laws of 2018,
33 subdivision 4 as amended and subdivision 5 as added by chapter 399 of
34 the laws of 2014, is amended to read as follows:

35 § 314. Statewide certification program. 1. The director shall promul-
36 gate rules and regulations providing for the establishment of a state-
37 wide certification program including rules and regulations governing the
38 approval, denial or revocation of any such certification including revo-
39 cations for convictions for fraudulently misrepresenting the status of
40 minority or women-owned business enterprises. Such rules shall set forth
41 the maximum personal net worth of a minority group member or woman who
42 may be relied upon to certify a business as a minority-owned business
43 enterprise or women-owned business enterprise, and may establish differ-
44 ent maximum levels of personal net worth for minority group members and
45 women on an industry-by-industry basis for such industries as the direc-
46 tor shall determine. Such rules and regulations shall include, but not
47 be limited to, such matters as may be required to ensure that the estab-
48 lished procedures thereunder shall at least be in compliance with the
49 code of fair procedure set forth in section seventy-three of the civil
50 rights law and consistent with the provisions of article twenty-three of
51 the correction law.

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

1 provisions of this article. The director shall periodically update the
2 directory.

3 2-a. (a) The director shall establish a procedure enabling the office
4 to accept New York municipal corporation certification verification for
5 minority and women-owned business enterprise applicants in lieu of
6 requiring the applicant to complete the state certification process. The
7 director shall promulgate rules and regulations to set forth criteria
8 for the acceptance of municipal corporation certification. All eligible
9 municipal corporation certifications shall require business enterprises
10 seeking certification to meet the following standards:

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

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

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

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

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

22 (vi) be owned by an individual or individuals, whose ownership,
23 control and operation are relied upon for certification, with a personal
24 net worth that does not exceed three million five hundred thousand
25 dollars or such other amount as the director shall set forth in regu-
26 lations, as adjusted annually for inflation according to the consumer
27 price index; and

28 (vii) be an enterprise that is a small business pursuant to subdivi-
29 sion twenty of section three hundred ten of this article.

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

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

42 2-b. The director shall establish a procedure enabling an applicant
43 who was a military service member to prove his or her race or ethnicity,
44 date of birth, place of birth and verification of address for purposes
45 of certification of the applicant's business as a minority-owned busi-
46 ness by submission of the DD Form 214 issued to the applicant by the
47 United States department of defense upon such applicant's retirement,
48 separation, or discharge from active duty in the armed forces of the
49 United States, provided the DD Form 214 contains such information, in
50 lieu of requiring the applicant to otherwise prove his or her race or
51 ethnicity. The director shall promulgate rules and regulations to set
52 forth criteria for the acceptance of the DD Form 214 by the office.

53 2-c. (a) Each business applying for minority or women-owned business
54 enterprise certification pursuant to this section must agree to allow:
55 (i) the department of taxation and finance to share its tax information

1 with the division; and (ii) the department of labor to share its tax and
2 employer information with the division.

3 (b) Such information provided pursuant to paragraph (a) of this subdivi-
4 vision shall be kept confidential by the division in the same manner and
5 under the same condition as such information is kept by the department
6 of taxation and finance or the department of labor.

7 3. Following application for certification pursuant to this section,
8 the director shall provide the applicant with written notice of the
9 status of the application, including notice of any outstanding deficiencies
10 [~~within thirty days~~]. Within [~~sixty~~] thirty days of submission of
11 a final completed application, the director shall provide the applicant
12 with written notice of a determination by the office approving or deny-
13 ing such certification and, in the event of a denial a statement setting
14 forth the reasons for such denial. Upon a determination denying or
15 revoking certification, the business enterprise for which certification
16 has been so denied or revoked shall, upon written request made within
17 thirty days from receipt of notice of such determination, be entitled to
18 a hearing before an independent hearing officer designated for such
19 purpose by the director. In the event that a request for a hearing is
20 not made within such thirty day period, such determination shall be
21 deemed to be final. The independent hearing officer shall conduct a
22 hearing and upon the conclusion of such hearing, issue a written recom-
23 mendation to the director to affirm, reverse or modify such determi-
24 nation of the director. Such written recommendation shall be issued to
25 the parties. The director, within thirty days, by order, must accept,
26 reject or modify such recommendation of the hearing officer and set
27 forth in writing the reasons therefor. The director shall serve a copy
28 of such order and reasons therefor upon the business enterprise by
29 personal service or by certified mail return receipt requested. The
30 order of the director shall be subject to review pursuant to article
31 seventy-eight of the civil practice law and rules.

32 4. The director may, after performing an availability analysis and
33 upon a finding that industry-specific factors coupled with personal net
34 worth or small business eligibility requirements pursuant to subdivi-
35 sions nineteen and twenty of section three hundred ten of this article,
36 respectively, have led to the significant exclusion of businesses owned
37 by minority group members or women in that industry, grant provisional
38 MWBE certification status to applicants from that designated industry,
39 provided, however, that all other eligibility requirements pursuant to
40 subdivision seven or fifteen of section three hundred ten of this arti-
41 cle, as applicable, are satisfied. Any industry-based determination made
42 under this section by the director shall be made widely available to the
43 public and posted on the division's website.

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

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

52 § 315. Responsibilities of contracting agencies. 1. Each contracting
53 agency shall be responsible for monitoring state contracts under its
54 jurisdiction, and recommending matters to the office respecting non-com-
55 pliance with the provisions of this article so that the office may take
56 such action as is appropriate to [~~insure~~] ensure compliance with the

1 provisions of this article, the rules and regulations of the director
2 issued hereunder and the contractual provisions required pursuant to
3 this article. All contracting agencies shall comply with the rules and
4 regulations of the office and are directed to cooperate with the office
5 and to furnish to the office such information and assistance as may be
6 required in the performance of its functions under this article.

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

12 ~~3-~~ Each contracting agency shall report to the director with respect
13 to activities undertaken to promote employment of minority group members
14 and women and promote and increase participation by certified businesses
15 with respect to state contracts and subcontracts. Such reports shall be
16 submitted periodically, but not less frequently than annually, as
17 required by the director, and shall include such information as is
18 necessary for the director to determine whether the contracting agency
19 and any contractor to the contracting agency have complied with the
20 purposes of this article, including, without limitation, a summary of
21 all waivers of the requirements of subdivisions six and seven of section
22 three hundred thirteen of this article allowed by the contracting agency
23 during the period covered by the report, ~~[including a description of the
24 basis of the waiver request and the rationale for granting any such
25 waiver]~~ any instances in which the contracting agency has deemed a
26 contractor to have committed a violation pursuant to section three
27 hundred sixteen of this article and such other information as the direc-
28 tor shall require. Each agency shall also include in such annual report
29 whether or not it has been required to prepare a remedial plan, and, if
30 so, the plan and the extent to which the agency has complied with each
31 element of the plan.

32 ~~[4-]~~ 3. The division of minority and women's business development
33 shall issue an annual report which: (a) summarizes the report submitted
34 by each contracting agency pursuant to subdivision ~~[three]~~ two of this
35 section; (b) contains such comparative or other information as the
36 director deems appropriate, including but not limited to goals compared
37 to actual participation of minority and women-owned business enterprises
38 in state contracting, to evaluate the effectiveness of the activities
39 undertaken by each such contracting agency to promote increased partic-
40 ipation by certified minority or women-owned businesses with respect to
41 state contracts and subcontracts; (c) contains a summary of all waivers
42 of the requirements of subdivisions six and seven of section three
43 hundred thirteen of this article allowed by each contracting agency
44 during the period covered by the report, ~~[including a description of the
45 basis of the waiver request and the contracting agency's rationale for
46 granting any such waiver]~~ and; (d) ~~[describes any efforts to create a
47 database or other information storage and retrieval system containing
48 information relevant to contracting with minority and women-owned busi-
49 ness enterprises; and (e)]~~ contains a summary of (i) all determinations
50 of violations of this article by a contractor or a contracting agency
51 made during the period covered by the annual report pursuant to section
52 three hundred sixteen-a of this article and (ii) the penalties or sanc-
53 tions, if any, assessed in connection with such determinations and the
54 rationale for such penalties or sanctions. Copies of the annual report
55 shall be provided to the commissioner, the governor, the comptroller,
56 the temporary president of the senate, the speaker of the assembly, the

1 minority leader of the senate, the minority leader of the assembly and
2 shall also be made widely available to the public via, among other
3 things, publication on a website maintained by the division of minority
4 and women's business development.

5 ~~[5.]~~ 4. Each agency shall include in its annual report to the governor
6 and legislature pursuant to section one hundred sixty-four of ~~[the execu-~~
7 ~~utive law]~~ this chapter its annual goals for contracts with minority-
8 owned and women-owned business enterprises, the number of actual
9 contracts issued to minority-owned and women-owned business enterprises;
10 and a summary of all waivers of the requirements of subdivisions six and
11 seven of section three hundred thirteen of this article allowed by the
12 reporting agency during the preceding year, including a description of
13 the basis of the waiver request and the rationale for granting such
14 waiver. Each agency shall also include in such annual report whether or
15 not it has been required to prepare a remedial plan, and, if so, the
16 plan and the extent to which the agency has complied with each element
17 of the plan.

18 ~~[6.]~~ 5. Each contracting agency that substantially fails to ~~[meet the~~
19 ~~goals supported by the disparity study,]~~ make good faith effort as
20 defined by regulation of the director, to achieve the maximum feasible
21 participation of minority and women-owned business enterprises in such
22 agency's contracting shall be required to submit to the director a reme-
23 dial action plan to remedy such failure.

24 ~~[7.]~~ 6. If it is determined by the director that any agency has failed
25 to act in good faith to implement the remedial action plan, pursuant to
26 subdivision ~~[six]~~ five of this section within one year, the director
27 shall provide written notice of such a finding, which shall be publicly
28 available, and direct implementation of remedial actions to:

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

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

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

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

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

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

49 § 316-a. Prohibitions in contracts; violations. Every contracting
50 agency shall include a provision in its state contracts expressly
51 providing that any contractor who willfully and intentionally fails to
52 make a good faith effort to comply with the minority and women-owned
53 participation requirements of this article as set forth in such state
54 contract shall be liable to the contracting agency for liquidated or
55 other appropriate damages and shall provide for other appropriate reme-
56 dies on account of such breach. A contracting agency that elects to

1 proceed against a contractor for breach of contract as provided in this
2 section shall be precluded from seeking enforcement pursuant to section
3 three hundred sixteen of this article; provided however, that the
4 contracting agency shall include a summary of all enforcement actions
5 undertaken pursuant to this section in its annual report submitted
6 pursuant to [~~subdivision three of~~] section three hundred fifteen of this
7 article.

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

10 6. Discretionary buying thresholds. Pursuant to guidelines established
11 by the state procurement council: the commissioner may purchase services
12 and commodities in an amount not exceeding eighty-five thousand dollars
13 without a formal competitive process; state agencies may purchase
14 services and commodities in an amount not exceeding fifty thousand
15 dollars without a formal competitive process; and state agencies may
16 purchase commodities or services from small business concerns or those
17 certified pursuant to articles fifteen-A and seventeen-B of the execu-
18 tive law, or commodities or technology that are recycled or remanufac-
19 tured, or commodities that are food, including milk and milk products,
20 grown, produced or harvested in New York state in an amount not exceed-
21 ing [~~two~~] **four** hundred thousand dollars without a formal competitive
22 process.

23 § 10. Subparagraph (i) of paragraph (b) of subdivision 3 of section
24 2879 of the public authorities law, as amended by chapter 174 of the
25 laws of 2010, is amended to read as follows:

26 (i) for the selection of such contractors on a competitive basis, and
27 provisions relating to the circumstances under which the board may by
28 resolution waive competition, including, notwithstanding any other
29 provision of law requiring competition, the purchase of goods or
30 services from small business concerns [~~or~~] those certified as minority
31 or women-owned business enterprises, or goods or technology that are
32 recycled or remanufactured, in an amount not to exceed [~~two~~] **four**
33 hundred thousand dollars without a formal competitive process;

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

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

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

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

51 6. All contracts for amounts in excess of five thousand dollars for
52 the work of construction, reconstruction, alteration, repair or improve-
53 ment of any state building, whether constructed or to be constructed
54 must be offered for public bidding and may be awarded to the lowest
55 responsible and reliable bidder, as will best promote the public inter-
56 est, by the said department or other agency with the approval of the

1 comptroller for the whole or any part of the work to be performed, and,
2 in the discretion of the said department or other agency, such contracts
3 may be sublet; provided, however, that no such contract shall be awarded
4 to a bidder other than the lowest responsible and reliable bidder,
5 except for certain contracts awarded to minority or women-owned business
6 enterprises as provided herein, without the written approval of the
7 comptroller. When a proposal consists of unit prices of items specified
8 to be performed, except for certain contracts awarded to minority or
9 women-owned business enterprises as provided herein, the lowest bid
10 shall be deemed to be that which specifically states the lowest gross
11 sum for which the entire work will be performed, including all the items
12 specified in the proposal thereof. The lowest bid shall be determined by
13 the commissioner of general services on the basis of the gross sum for
14 which the entire work will be performed, arrived at by a correct compu-
15 tation of all the items specified in the proposal therefor at the unit
16 prices contained in the bid. Provided, however, that where a responsi-
17 ble and reliable bidder certified as a minority-owned business enter-
18 prise or women-owned business enterprise pursuant to article fifteen-A
19 of the executive law submits a bid of one million four hundred thousand
20 dollars or less, as adjusted annually for inflation beginning January
21 first, two thousand twenty, the bid of the minority or women-owned busi-
22 ness enterprise shall be deemed the lowest bid unless it exceeds the bid
23 of any other bidder by more than ten percent.

24 § 13. The penal law is amended by adding a new article 181 to read as
25 follows:

26 ARTICLE 181

27 MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISE FRAUD

28 Section 181.00 Definitions.

29 181.10 Minority or women-owned business enterprise fraud in the
30 third degree.

31 181.20 Minority or women-owned business enterprise fraud in the
32 second degree.

33 181.30 Minority or women-owned business enterprise fraud in the
34 first degree.

35 § 181.00 Definitions.

36 1. "Minority-owned business enterprise" means a business enterprise
37 certified as such pursuant to article fifteen-A of the executive law.

38 2. "State contract" shall have the same meaning as in article
39 fifteen-A of the executive law.

40 3. "Women-owned business enterprise" means a business enterprise
41 certified as such pursuant to article fifteen-A of the executive law.

42 § 181.10 Minority or women-owned business enterprise fraud in the third
43 degree.

44 A person is guilty of minority or women-owned business enterprise
45 fraud in the third degree when he or she knowingly provides materially
46 false information or omits material information concerning the use or
47 identification of a minority or women-owned business enterprise for the
48 purpose of being awarded, or demonstrating compliance with the minority
49 and women-owned business participation requirements of a state contract.

50 Minority or women-owned business enterprise fraud in the third degree
51 is a class A misdemeanor.

52 § 181.20 Minority or women-owned business enterprise fraud in the second
53 degree.

1 A person is guilty of minority or women-owned business enterprise
 2 fraud in the second degree when he or she knowingly provides materially
 3 false information or omits material information concerning the use or
 4 identification of a minority or women-owned business enterprise for the
 5 purpose of being awarded, or demonstrating compliance with the minority
 6 and women-owned business participation requirements of, a state
 7 contract, and the state contract is valued in excess of fifty thousand
 8 dollars.

9 Minority or women-owned business enterprise fraud in the second degree
 10 is a class E felony.

11 § 181.30 Minority or women-owned business enterprise fraud in the first
 12 degree.

13 A person is guilty of minority or women-owned business enterprise
 14 fraud in the first degree when he or she knowingly provides materially
 15 false information or omits material information concerning the use or
 16 identification of a minority or women-owned business enterprise for the
 17 purpose of being awarded, or demonstrating compliance with the minority
 18 and women-owned business enterprise participation requirements of a
 19 state contract, and the state contract is valued in excess of one
 20 million dollars.

21 Minority or women-owned business enterprise fraud in the first degree
 22 is a class D felony.

23 § 14. The opening paragraph of subdivision (h) of section 121 of chap-
 24 ter 261 of the laws of 1988, amending the state finance law and other
 25 laws relating to the New York state infrastructure trust fund, as
 26 amended by section 1 of part 000 of chapter 59 of the laws of 2018, is
 27 amended to read as follows:

28 The provisions of sections sixty-two through sixty-six of this act
 29 shall expire and be deemed repealed on December thirty-first, two thou-
 30 sand [~~nineteen~~] twenty-four, except that:

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

33 ARTICLE 28

34 WORKFORCE DIVERSITY PROGRAM

35 Section 821. Definitions.

36 822. Workforce participation goals.

37 823. Reporting.

38 824. Enforcement.

39 825. Powers and responsibilities of the division.

40 826. Severability.

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

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

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

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

51 4. "Disparity study" shall mean the most recent study of disparities
 52 between the utilization of minority group members and women in the
 53 performance of state contracts and the availability of minority group

1 members and women to perform such work by the director pursuant to arti-
2 cle fifteen-A of this chapter.

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

5 6. "List of non-compliant contractors" shall mean a list of contrac-
6 tors and subcontractors, maintained by the division and published on the
7 website of the division, that are ineligible to participate as contrac-
8 tors or subcontractors in the performance of state contracts for a term
9 determined by the director.

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

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

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

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

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

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

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

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

40 Albany County Airport Authority;

41 Albany Port District Commission;

42 Alfred, Almond, Hornellsville Sewer Authority;

43 Battery Park City Authority;

44 Cayuga County Water and Sewer Authority;

45 (Nelson A. Rockefeller) Empire State Plaza Performing Arts Center
46 Corporation;

47 Industrial Exhibit Authority;

48 Livingston County Water and Sewer Authority;

49 Long Island Power Authority;

50 Long Island Rail Road;

51 Long Island Market Authority;

52 Manhattan and Bronx Surface Transit Operating Authority;

53 Metro-North Commuter Railroad;

54 Metropolitan Suburban Bus Authority;

55 Metropolitan Transportation Authority;

56 Natural Heritage Trust;

1 New York City Transit Authority;
2 New York Convention Center Operating Corporation;
3 New York State Bridge Authority;
4 New York State Olympic Regional Development Authority;
5 New York State Thruway Authority;
6 Niagara Falls Public Water Authority;
7 Niagara Falls Water Board;
8 Port of Oswego Authority;
9 Power Authority of the State of New York;
10 Roosevelt Island Operating Corporation;
11 Schenectady Metroplex Development Authority;
12 State Insurance Fund;
13 Staten Island Rapid Transit Operating Authority;
14 State University Construction Fund;
15 Syracuse Regional Airport Authority;
16 Triborough Bridge and Tunnel Authority;
17 Upper Mohawk Valley Regional Water Board;
18 Upper Mohawk Valley Regional Water Finance Authority;
19 Upper Mohawk Valley Memorial Auditorium Authority;
20 Urban Development Corporation and its subsidiary corporations.

21 (c) the following only to the extent of state contracts entered into
22 for its own account or for the benefit of a state agency as defined in
23 paragraph (a) or (b) of this subdivision:

24 Dormitory Authority of the State of New York;
25 Facilities Development Corporation;
26 New York State Energy Research and Development Authority;
27 New York State Science and Technology Foundation.

28 10. "State contract" shall mean: (a) a written agreement or purchase
29 order instrument, providing for a total expenditure in excess of fifty
30 thousand dollars, whereby a state agency is committed to expend or does
31 expend or grant funds in return for labor, services including but not
32 limited to legal, financial and other professional services, supplies,
33 equipment, materials or any combination of the foregoing, to be
34 performed on behalf of, for, or rendered or furnished to the state agen-
35 cy; (b) a written agreement in excess of one hundred thousand dollars
36 whereby a state agency is committed to expend or does expend or grant
37 funds for the acquisition, construction, demolition, replacement, major
38 repair or renovation of real property and improvements thereon; and (c)
39 a written agreement in excess of one hundred thousand dollars whereby
40 the owner of a state assisted housing project is committed to expend or
41 does expend funds for the acquisition, construction, demolition,
42 replacement, major repair or renovation of real property and improve-
43 ments thereon for such project.

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

48 § 822. Workforce participation goals. 1. The director, in consulta-
49 tion with the department, shall develop aspirational goals for the
50 utilization of minority group members and women in any trade, profes-
51 sion, occupation, or categories thereof.

52 (a) Aspirational goals for the utilization of minority group members
53 and women must set forth the expected participation of minority group
54 members and women in each trade, profession, and occupation, or catego-
55 ries thereof and shall be expressed as a percentage of the total hours
56 of work to be performed by each trade, profession, and occupation based

1 on the availability of minority group members and women within each
2 trade, profession, and occupation or categories thereof.

3 (i) The aspirational goals shall set forth separate levels of expected
4 participation by men and women for each minority group, and for Cauca-
5 sian women, in each trade, profession, and occupation of categories
6 thereof.

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

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

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

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

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

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

28 (i) Black men;

29 (ii) Black women;

30 (iii) Hispanic men;

31 (iv) Hispanic women;

32 (v) Native American men;

33 (vi) Native American women;

34 (vii) Asian men;

35 (viii) Asian women;

36 (ix) Caucasian women.

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

39 (i) the findings of the disparity study;

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

42 (iii) if applicable, any aspirational goal established by the divi-
43 sion.

44 (d) In any case where a state agency establishes a workforce partic-
45 ipation goal on an invitation for bids, request for proposals, or other
46 solicitation that will result in the award of a state contract that
47 deviates from the aspirational goal for work or service in the county or
48 municipality in which the work or service will be performed, the state
49 agency shall document numerical evidence demonstrating that the applica-
50 tion of the aspirational goal would not be practical, feasible, or
51 appropriate.

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

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

5 (i) A certification stating that the contractor will make a good faith
6 effort to achieve the applicable workforce participation goal and will
7 contractually require any subcontractors to the contractor to make a
8 good faith effort to achieve the applicable workforce participation goal
9 in any subcontracted work, which certification shall acknowledge that
10 failure by the contractor or any of its subcontractors to make a good
11 faith effort to achieve the applicable workforce participation goal may
12 result in a determination by the contracting state agency that the
13 contractor or its subcontractor is a non-compliant contractor;

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

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

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

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

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

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

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

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

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

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

51 4. A state agency shall not award a state contract to a contractor
52 unless the contractor has (i) certified that it will make a good faith
53 effort to achieve the applicable workforce participation goal and
54 provided documentation of the workforce anticipated to perform the work
55 of the state contract or (ii) submitted a waiver request which the state
56 agency deems to reflect the maximum feasible participation of minority

1 group members and women in each of the trades, professions, and occupa-
2 tions required in performance of the work of the state contract.

3 (a) In the event that a contractor submits a certification or waiver
4 request that is accepted by the state agency, the state agency shall
5 establish in the state contract the expected level of participation by
6 minority group members and women in each of the trades, professions, and
7 occupations required in performance of the work of the state contract,
8 require that the contractor make good faith efforts to achieve such
9 workforce participation goals, require that the contractor require any
10 subcontractors to make a good faith effort to achieve the applicable
11 workforce participation goal in any subcontracted work, and indicate
12 that the failure of the contractor or any of its subcontractors to make
13 a good faith effort to achieve the workforce participation goal may
14 result in the contractor or subcontractor being deemed a non-compliant
15 contractor.

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

26 (i) Where failure to remedy any notified deficiency in the workforce
27 utilization plan is a ground for disqualification, that issue and all
28 other grounds for disqualification shall be stated in writing by the
29 contracting state agency. The contractor shall be entitled to an admin-
30 istrative hearing, on the record, involving all grounds stated by the
31 contracting state agency in its notice of the contractor's disqualifica-
32 tion. Such hearing shall be conducted by the appropriate authority of
33 the contracting agency to review the determination of disqualification.
34 A final administrative determination made following such hearing shall
35 be reviewable in a proceeding commenced under article seventy-eight of
36 the civil practice law and rules, provided that such proceeding is
37 commenced within thirty days of the notice given by certified mail
38 return receipt requested rendering such final administrative determi-
39 nation. Such proceeding shall be commenced in the supreme court, appel-
40 late division, third department and such proceeding shall be preferred
41 over all other civil causes except election causes, and shall be heard
42 and determined in preference to all other civil business pending there-
43 in, except election matters, irrespective of position on the calendar.
44 Appeals taken to the court of appeals of the state of New York shall be
45 subject to the same preference.

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

55 2. State agencies shall submit periodic reports to the director, or
56 the designee of the director, concerning the participation of minority

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

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

9 § 824. Enforcement. 1. Where it appears that a contractor cannot,
10 after a good faith effort, meet the workforce participation goals set
11 forth in a particular state contract, a contractor may file a written
12 application with the contracting state agency requesting a partial or
13 total waiver of such requirements. Such request shall set forth the
14 reasons for such contractor's inability to meet the workforce partic-
15 ipation goal, specifically describe the reasons for any deviations from
16 the anticipated workforce participation goal set forth in the contrac-
17 tor's bid or proposal leading to the award of the state contract, and
18 describe the efforts by the contractor and any subcontractors to achieve
19 the maximum feasible participation of minority group members and women
20 in the performance of the work of the state contract. Where the contrac-
21 tor's inability to achieve the workforce participation goal on a state
22 contract is attributable to the failure of one or more subcontractors to
23 make good faith efforts to achieve the maximum feasible participation of
24 minority group members and women in the performance of the work of the
25 state contract, the contractor shall identify such subcontractor or
26 subcontractors to the contracting state agency.

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

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

34 (b) The contractor contractually required each of its subcontractors
35 to make a good faith effort to achieve the maximum feasible partic-
36 ipation of minority group members and women in the performance of the
37 subcontracted work, periodically monitored such subcontractors' deploy-
38 ment of minority group members and women in the performance of the
39 subcontracted work, provided notice to such subcontractors of any defi-
40 ciencies in their deployment of minority group members and women in the
41 performance of such subcontracted work, and could not achieve the work-
42 force participation goal for one or more trades, professions, or occupa-
43 tions without the good faith efforts of such subcontractors.

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

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

55 5. Upon receipt of a recommendation from a state agency that a
56 contractor or subcontractor should be deemed a non-compliant contractor,

1 the director shall, with the assistance of the department, review the
2 facts and circumstances forming the basis of the recommendation and
3 issue a determination as to whether or not the contractor or subcontractor
4 should be deemed a non-compliant contractor and, if so, the duration
5 of such status as a non-compliant contractor. In determining the dura-
6 tion of a contractor's or subcontractor's status as a non-compliant
7 contractor, the director shall consider:

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

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

14 (iii) whether the contractor or subcontractor has offered to provide
15 employment opportunities, training, or other remedial benefits to minor-
16 ity group members or women in relevant trades, professions, or occupa-
17 tions.

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

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

31 § 825. Powers and responsibilities of the division. 1. The director
32 shall post to the website of the division on or before October first of
33 each year the aspirational goals for the utilization of minority group
34 members and women in certain trades, professions and/or occupations as
35 required pursuant to section eight hundred twenty-two of this article.

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

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

47 § 826. Severability. If any clause, sentence, paragraph, section or
48 part of this article shall be adjudged by any court of competent juris-
49 isdiction to be invalid, the judgment shall not affect, impair or invali-
50 date the remainder thereof, but shall be confined in its operation to
51 the clause, sentence, paragraph, section or part of this article direct-
52 ly involved in the controversy in which the judgment shall have been
53 rendered.

54 § 16. This act shall take effect immediately, and shall be deemed to
55 have been in full force and effect on and after April 1, 2019; provided,
56 however, that:

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

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

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

11 (d) subdivision 2-b of section 314 of the executive law shall take
12 effect on the same date and in the same manner as section 1 of chapter
13 409 of the laws of 2018 takes effect; and

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

16 PART BB

17 Section 1. The vehicle and traffic law is amended by adding a new
18 article 44-C to read as follows:

19 ARTICLE 44-C

20 CONGESTION TOLLING PROGRAM

21 Section 1701. Legislative findings and declaration.

22 1702. Short title.

23 1703. Definitions.

24 1704. Establishment of congestion tolling program.

25 1704-a. Congestion toll.

26 1705. Disposition of revenue and penalties.

27 1706. Reporting.

28 § 1701. Legislative findings and declaration. The ongoing failures of
29 the tracks, signals, switches and other transportation infrastructure
30 throughout the subway system in the city of New York continue to pose an
31 imminent threat and have a vast and deleterious impact on the health,
32 safety, and livelihood of commuters, tourists, resident New Yorkers, as
33 well as business and commerce in the metropolitan commuter transporta-
34 tion district, which is the recognized economic engine of the state of
35 New York, and thereby have adversely affected the economy of the state
36 of New York. Temporary actions have been taken to address the safety of
37 subway riders short term including an emergency declaration and
38 increased capital funding for the subways in the most recently adopted
39 state budget. The legislature, however, determines that a long-term and
40 sustainable solution is necessary in order to ensure stable and reliable
41 funding to repair and revitalize this significantly important mass tran-
42 sit asset.

43 The legislature further finds and declares that traffic congestion in
44 the city of New York ranks second worst among cities in the United
45 States and third worst among cities in the world, and results in signif-
46 icant cost to the New York metropolitan area economy and in turn the
47 state's economy at estimates exceeding one hundred million dollars over
48 the next five years. Travel speeds in the city of New York's central
49 business district have dropped more than seventeen percent in two thou-
50 sand sixteen to an average of 6.8 miles per hour and in Midtown Manhat-
51 tan, the most congested area of the city-the area from fifty-ninth
52 street to thirty-fifth street and from ninth avenue to the east river-
53 the average vehicular speed is 4.7 miles per hour. Congestion in these
54 areas is crippling and impacts the everyday lives of residents, commu-

1 ters, taxi and for-hire vehicle traffic, bus transit and emergency
2 services.

3 These issues have been recognized by both the Fix NYC Advisory Panel
4 and the MTA Sustainability Advisory Workgroup as significant impediments
5 to everyday New Yorkers.

6 In order to ensure a safe and efficient mass transit system within the
7 city of New York and to protect the public health and safety of New
8 York's residents, a program to establish fees for vehicles entering or
9 remaining in the most congested area of the state is found to be neces-
10 sary and to be a matter of substantial state concern.

11 § 1702. Short title. This act shall be known as and may be cited as
12 "the congestion tolling program".

13 § 1703. Definitions. For the purposes of this article, unless the
14 context otherwise requires:

15 1. "City" means the city of New York.

16 2. "Congestion toll" means a toll charged for entry into or remaining
17 in the congestion tolling zone as described in section seventeen hundred
18 four of this article.

19 3. "Congestion tolling program" means the program for charging tolls
20 for vehicles that enter or remain in the congestion tolling zone and
21 includes the congestion tolling infrastructure, the congestion tolling
22 collection system and the congestion tolling customer service center.

23 4. "Congestion tolling zone" means the area described in section
24 seventeen hundred four of this article for which tolls shall be charged
25 for a vehicle's entry into such zone.

26 5. "Congestion tolling infrastructure" means the devices and struc-
27 tures including but not limited to gantries and power and communication
28 lines that the Triborough bridge and tunnel authority will plan, design
29 and construct as part of the congestion tolling program.

30 6. "Congestion tolling collection system" means the electronic system
31 of collecting tolls or other charges using electronic data and/or images
32 that the Triborough bridge and tunnel authority will plan, design,
33 install and operate as part of the congestion tolling program.

34 7. "Congestion tolling customer service center" means the customer
35 contact and back-office system and operation services for the collection
36 of congestion tolls and enforcement of congestion toll violations that
37 the Triborough bridge and tunnel authority will plan, design, implement
38 and operate as part of the congestion tolling program.

39 8. "Operation date" means the date determined by the metropolitan
40 transportation authority and the Triborough bridge and tunnel authority,
41 which shall not be earlier than December thirty-first, two thousand
42 twenty, for the beginning of the operation and enforcement of the
43 congestion tolling program.

44 9. "Triborough bridge and tunnel authority" means the corporation
45 organized pursuant to section five hundred fifty-two of the public
46 authorities law as consolidated pursuant to section five hundred fifty-
47 two-a of the public authorities law or any successor corporation or
48 corporation into which it may be consolidated.

49 § 1704. Establishment of congestion tolling program. 1. The metropol-
50 itan transportation authority shall establish the congestion tolling
51 program.

52 2. The congestion tolling program will operate in the congestion toll-
53 ing zone. The congestion tolling zone shall include any roadways, bridg-
54 es, tunnels, approaches or ramps that are located within, or enter into,
55 the geographic area in the borough of Manhattan south of and inclusive

1 of sixtieth street to the extent practicable but shall not include the
2 FDR Drive.

3 3. (a) Notwithstanding any law to the contrary, the Triborough bridge
4 and tunnel authority shall plan, design, construct, and maintain the
5 congestion tolling infrastructure. The city of New York shall cooperate
6 fully with the Triborough bridge and tunnel authority for purposes of
7 the planning, design, construction, timely implementation, and mainte-
8 nance of the congestion tolling infrastructure and shall not unduly
9 prohibit, restrict, or delay the installation, operation, construction,
10 timely implementation, or maintenance of the same.

11 (b) The Triborough bridge and tunnel authority shall plan, design,
12 install, implement, operate and maintain a congestion toll collection
13 system to collect the congestion toll.

14 (c) The Triborough bridge and tunnel authority shall plan, design,
15 implement and operate a congestion toll customer service center.

16 (d) The congestion tolling collection system shall be planned,
17 designed, implemented and operated to facilitate payment of congestion
18 tolls by various methods including but not limited to cash, credit or
19 debit card, check or automated clearing house payment, by telephone or
20 over the internet or any other method of payment that the Triborough
21 bridge or tunnel authority may implement.

22 (e) All procurements of goods, services or construction of any kind by
23 the Triborough bridge and tunnel authority for the congestion tolling
24 program shall be deemed to be subject only to the same requirements that
25 otherwise apply to procurements by the Triborough bridge and tunnel
26 authority.

27 4. The congestion tolling infrastructure, the congestion toll
28 collection system and the congestion tolling customer service center
29 shall be completed by the operation date.

30 5. Responsibility for maintenance of the congestion tolling infras-
31 tructure after the operation date shall be performed by the Triborough
32 bridge and tunnel authority.

33 6. The planning, designing, constructing, installing or maintaining of
34 the congestion tolling program and the planning, designing, installing,
35 operating or maintaining of the congestion toll collection system by the
36 Triborough bridge and tunnel authority including the establishment
37 consistent with the determination of the mass transit expert panel
38 established pursuant to § 1265-C of the public authorities law by such
39 authority of congestion tolls, and any other fees or rentals for the use
40 of its projects and any changes thereafter shall not be subject to the
41 provisions of article eight of the environmental conservation law, the
42 provisions of chapter six of article forty-three or chapter five of
43 title sixty-two of the rules of the city of New York, or the provisions
44 of section one hundred ninety-seven-c of the New York city charter,
45 relating to a uniform land use review procedure, nor the provisions of
46 any other local law of the city of New York of like or similar effect
47 including approvals or charges associated with the use of property owned
48 and maintained by the city of New York necessary for the installation of
49 congestion tolling infrastructure.

50 § 1704-a. Congestion toll. 1. The Triborough bridge and tunnel author-
51 ity shall have the power, subject to agreements with its bondholders, to
52 charge tolls and fees for vehicles entering or remaining in the
53 congestion tolling zone at any time and shall have the power, subject to
54 agreements with bondholders, to make rules and regulations for the
55 collection of congestion tolls and the establishment of fees.

1 2. No owner of a for-hire vehicle that is subject to a surcharge
2 imposed by article twenty-nine-C of the tax law for a for-hire transpor-
3 tation trip shall also be charged a congestion toll if it enters or
4 remains in the congestion toll zone as part of such trip.

5 3. No owner of an emergency vehicle as defined pursuant to section one
6 hundred one of this chapter shall be charged a congestion toll if it
7 enters or remains in the congestion tolling zone.

8 4. Any vehicle entering the congestion tolling zone using a vehicular
9 crossing known as the Queens Midtown Tunnel, the Hugh Carey Tunnel, the
10 Holland Tunnel, the Lincoln Tunnel, or the Henry Hudson Bridge shall be
11 credited an amount equal to the toll charged to such vehicle for the use
12 of such crossing immediately prior to entry into such zone from the
13 amount of the congestion toll charged to such vehicle for purposes of
14 entering the congestion tolling zone.

15 § 1705. Disposition of revenue and penalties. The Triborough bridge
16 and tunnel authority shall collect congestion tolls and establish and
17 collect fees and other charges as provided in subdivision twelve-a of
18 section five hundred fifty-three of the public authorities law.

19 § 1706. Reporting. Beginning one year after the operation date and
20 every two years thereafter, the Triborough bridge and tunnel authority
21 and the metropolitan transportation authority shall report on the effect
22 of the congestion tolling program on congestion in the congestion zone
23 and on mass transit use including the vehicle-miles traveled for each
24 trip within the congestion tolling zone for taxis and for-hire vehicles;
25 the volume and type of vehicles entering the congestion tolling zone;
26 and transit ridership and average bus speeds within the congestion toll-
27 ing zone, and on all receipts and expenditures relating to the
28 congestion tolling program. The department of transportation of the city
29 of New York shall be required to assist in gathering and providing to
30 the Triborough bridge and tunnel authority congestion data and other
31 related data as directed by the Triborough bridge and tunnel authority
32 for purposes of compiling such report. The report shall be readily
33 available to the public, and shall be posted on the authority's website
34 and be submitted to the governor, the director of the budget, the tempo-
35 rary president of the senate, the speaker of the assembly, the mayor and
36 council speaker of the city of New York, and the metropolitan transpor-
37 tation authority capital program review board.

38 § 2. Subdivision 1 of section 402 of the vehicle and traffic law is
39 amended by adding a new paragraph (c) to read as follows:

40 (c) It shall be unlawful for any person to operate, drive or park a
41 motor vehicle on a toll highway, bridge and/or tunnel facility or enter
42 a congestion tolling zone, under the jurisdiction of the tolling author-
43 ity, if such number plate is not easily readable, nor shall any number
44 plate be covered by glass or any plastic material, and shall not be
45 knowingly covered or coated with any artificial or synthetic material or
46 substance that conceals or obscures such number plates or that distorts
47 a recorded or photographic image of such number plates, and the view of
48 such number plates shall not be obstructed by any part of the vehicle or
49 by anything carried thereon, except for a receiver-transmitter issued by
50 a publicly owned tolling facility in connection with electronic toll
51 collection when such receiver-transmitter is affixed to the exterior of
52 a vehicle in accordance with mounting instructions provided by the toll-
53 ing facility. For purposes of this paragraph, "tolling authority" shall
54 mean every public authority which operates a toll highway, bridge and/or
55 tunnel facility or which charges and collects congestion tolls as well
56 as the port authority of New York and New Jersey, a bi-state agency

1 created by compact set forth in chapter one hundred fifty-four of the
2 laws of nineteen hundred twenty-one, as amended.

3 § 3. Subdivision 8 of section 402 of the vehicle and traffic law, as
4 amended by chapter 61 of the laws of 1989 and as renumbered by chapter
5 648 of the laws of 2006, is amended to read as follows:

6 8. The violation of this section shall be punishable by a fine of not
7 less than twenty-five nor more than two hundred dollars except for
8 violations of paragraph (c) of subdivision one of this section which
9 shall be punishable by a fine of not less than one hundred nor more than
10 five hundred dollars.

11 § 4. Subdivision 4 of section 1630 of the vehicle and traffic law is
12 amended to read as follows:

13 4. Charging of tolls, taxes, fees, licenses or permits for the use of
14 the highway or any of its parts or entry into or remaining within the
15 congestion tolling zone established by article forty-four-C of this
16 chapter, where the imposition thereof is authorized by law.

17 § 5. Subdivision 9 of section 553 of the public authorities law is
18 amended by adding a new paragraph (s) to read as follows:

19 (s) The congestion tolling program to the extent specified in article
20 forty-four-C of the vehicle and traffic law and in this title, and as
21 directed by the metropolitan transportation authority.

22 § 6. Section 553 of the public authorities law is amended by adding a
23 new subdivision 12-a to read as follows:

24 12-a. To charge tolls and fees for vehicles entering or remaining
25 within the congestion tolling zone and to make rules and regulations for
26 the collection of such tolls and fees, subject to and in accordance with
27 such agreement with bondholders as may be made as hereinafter provided.
28 Subject to contracts with bondholders, all tolls, fees and other reven-
29 ues derived from the congestion tolling program shall be applied to the
30 payment of operating, administration, and other necessary expenses of
31 the authority properly allocable to such program and thereafter to the
32 payment of interest or principal of bonds for such program and if not so
33 used all remaining congestion tolling funds shall be transferred to the
34 metropolitan transportation authority and deposited into the fund estab-
35 lished by section twelve hundred seventy-j of this chapter and shall not
36 be subject to distribution under section five hundred sixty-nine-c or
37 section twelve hundred nineteen-a of this chapter.

38 § 7. The public authorities law is amended by adding a new section
39 1270-j to read as follows:

40 § 1270-j. Congestion tolling capital lockbox fund. 1. The authority
41 shall establish a fund to be known as the congestion tolling capital
42 lockbox fund which shall be kept separate from and shall not be commin-
43 gled with any other moneys of the authority. The fund shall consist of
44 all moneys transferred to the authority by the Triborough bridge and
45 tunnel authority pursuant to article forty-four-C of the vehicle and
46 traffic law and subdivision twelve-a of section five hundred fifty-three
47 of this chapter.

48 2. Moneys in the fund may be pledged by the authority to secure bonds,
49 notes or other obligations of the authority and related reserves, fees,
50 costs and expenses, for any metropolitan transportation authority capi-
51 tal projects included within the 2020 to 2024 MTA capital program or any
52 successor programs. Subject to the provisions of any such pledge, or in
53 the event there is no such pledge, any moneys in the congestion tolling
54 capital lockbox fund may be used by the authority for payment of capital
55 costs, including debt service and reserve requirements, if any, for any
56 metropolitan transportation authority capital projects included within

1 the 2020 to 2024 MTA capital program or any successor programs. Such
2 revenues shall only supplement and shall not supplant any federal,
3 state, or local funds expended by the metropolitan transportation
4 authority, such authority's affiliates or subsidiaries for such respec-
5 tive purposes.

6 3. The authority shall report annually on all receipts and expendi-
7 tures of the fund. The report shall detail operating expenses of the
8 congestion tolling program and all fund expenditures including capital
9 projects. The report shall be readily available to the public, and shall
10 be posted on the authority's website and be submitted to the governor,
11 the temporary president of the senate, the speaker of the assembly, the
12 mayor and council of the city of New York, and the metropolitan trans-
13 portation authority capital program review board. The metropolitan
14 transportation authority is prohibited from using or transferring monies
15 in the congestion tolling capital lockbox fund to make payments for any
16 non-capital cost.

17 § 8. Subdivision 3 of section 165.15 of the penal law is amended to
18 read as follows:

19 3. With intent to obtain railroad, subway, bus, air, taxi or any other
20 public transportation service or use of any highway, parkway, road,
21 bridge or tunnel or enter a congestion tolling zone without payment of
22 the lawful charge or toll therefor, or to avoid payment of the lawful
23 charge or toll for such transportation service which has been rendered
24 to him or for such use of any highway, parkway, road, bridge or tunnel
25 or entry into a congestion tolling zone, he obtains or attempts to
26 obtain such service, use or entry or avoids or attempts to avoid payment
27 therefor by force, intimidation, stealth, deception or mechanical
28 tampering, or by unjustifiable failure or refusal to pay; or

29 § 9. Subdivision 2 of section 87 of the public officers law is amended
30 by adding a new paragraph (p) to read as follows:

31 (p) are data or images produced by an electronic toll collection
32 system under authority of article forty-four-C of the vehicle and traf-
33 fic law and in title three of article three of the public authorities
34 law.

35 § 10. Title 11 of Article 5 of the Public Authorities Law is amended
36 by adding a new section 1265-C to read as follows:

37 1265-C. Mass transit expert panel.

38 1. There is hereby established the mass transit expert panel
39 ("panel"), which shall consist of six members. Members of the panel must
40 have an extensive background or executive experience in at least one of
41 the following areas: auditing; public finance; engineering; transporta-
42 tion; transit; management; corporate restructuring and risk management.

43 2. The panel shall oversee the preparation of a performance and finan-
44 cial audit of the capital and operating budgets of the metropolitan
45 transportation authority, its subsidiaries, affiliates, and subsidiaries
46 of affiliates that shall begin to be prepared by the authority upon the
47 effective date of a chapter of the laws of the state of New York estab-
48 lishing this section, review and approve the capital and operating budg-
49 ets of the metropolitan transportation authority, review and approve the
50 metropolitan transportation authority's 2020-2024 Capital Plan and
51 successor plans, review and approve the metropolitan transportation
52 authority reorganization plan proposed pursuant to section 1279-e of the
53 public authorities law, determine the congestion toll amounts, which
54 shall include a variable-pricing structure, no sooner than November 15,
55 2020 and no later than December 31, 2020, and assess fiscal and program-
56 matic risk and improve workforce management.

1 3. For purposes of establishing a congestion toll or tolls, the panel
2 shall, at minimum, ensure that annual revenues and fees collected under
3 such program, less costs of operation of the same, provide for revenues
4 into the congestion tolling capital lockbox fund, established pursuant
5 to section twelve hundred seventy-j of the public authorities law,
6 necessary to fund fifteen billion dollars for capital projects.

7 4. The authority, its subsidiaries, affiliates, and subsidiaries of
8 affiliates, the city of new york, and any state agency or authority
9 shall provide any assistance necessary to assist in the completion of
10 the panel's tasks and promptly respond to any requests for information
11 or consultation consistent with the purposes of this section.

12 5. Members of the panel shall serve without compensation.

13 §11. Severability clause. If any clause, sentence, paragraph, subdivi-
14 sion, section or part of this act shall be adjudged by a court of compe-
15 tent jurisdiction to be invalid, such judgment shall not affect, impair,
16 or invalidate the remainder thereof, but shall be confined in its opera-
17 tion to the clause, sentence, paragraph, subdivision, section or part
18 thereof directly involved in the controversy in which such judgment
19 shall have been rendered. It is hereby declared to be the intent of the
20 legislature that this act would have been enacted even if such invalid
21 provision had not been included herein.

22 § 12. This act shall take effect immediately.

23 PART CC

24 Section 1. Paragraph 1 of subdivision (a) of section 1180-b of the
25 vehicle and traffic law, as amended by chapter 43 of the laws of 2014,
26 is amended to read as follows:

27 1. Notwithstanding any other provision of law, the city of New York is
28 hereby authorized to establish a demonstration program imposing monetary
29 liability on the owner of a vehicle for failure of an operator thereof
30 to comply with posted maximum speed limits in a school speed zone within
31 [~~the~~] such city (i) when a school speed limit is in effect as provided
32 in paragraphs one and two of subdivision (c) of section eleven hundred
33 eighty of this article or (ii) when other speed limits are in effect as
34 provided in subdivision (b), (d), (f) or (g) of section eleven hundred
35 eighty of this article during the following times: (A) on school days
36 during school hours and one hour before and one hour after the school
37 day, and (B) a period during student activities at the school and up to
38 thirty minutes immediately before and up to thirty minutes immediately
39 after such student activities. Such demonstration program shall empower
40 the city of New York to install photo speed violation monitoring systems
41 within no more than [~~one hundred forty~~] two hundred ninety school speed
42 zones within [~~the~~] such city at any one time and to operate such systems
43 within such zones (iii) when a school speed limit is in effect as
44 provided in paragraphs one and two of subdivision (c) of section eleven
45 hundred eighty of this article or (iv) when other speed limits are in
46 effect as provided in subdivision (b), (d), (f) or (g) of section eleven
47 hundred eighty of this article during the following times: (A) on school
48 days during school hours and one hour before and one hour after the
49 school day, and (B) a period during student activities at the school and
50 up to thirty minutes immediately before and up to thirty minutes imme-
51 diately after such student activities. In selecting a school speed zone
52 in which to install and operate a photo speed violation monitoring
53 system, the city of New York shall consider criteria including, but not

1 limited to the speed data, crash history, and the roadway geometry
2 applicable to such school speed zone. Such city shall prioritize the
3 placement of photo speed violation monitoring systems in school speed
4 zones based upon speed data or the crash history of a school speed zone.
5 A photo speed violation monitoring system shall not be installed or
6 operated on a controlled-access highway exit ramp or within three
7 hundred feet along a highway that continues from the end of a cont-
8 rolled-access highway exit ramp.

9 § 2. Paragraph 2 of subdivision (a) of section 1180-b of the vehicle
10 and traffic law, as added by chapter 189 of the laws of 2013, is amended
11 to read as follows:

12 2. No photo speed violation monitoring system shall be used in a
13 school speed zone unless (i) on the day it is to be used it has success-
14 fully passed a self-test of its functions; and (ii) it has undergone an
15 annual calibration check performed pursuant to paragraph four of this
16 subdivision. The city [~~may~~] shall install signs giving notice that a
17 photo speed violation monitoring system is in use to be mounted on
18 advance warning signs notifying approaching motor vehicle operators of
19 such upcoming school speed zone and/or on speed limit signs applicable
20 within such school speed zone, in conformance with standards established
21 in the MUTCD. Such advance warning signs shall also, to the extent
22 authorized by the MUTCD, contain words "speed camera ahead" and be no
23 more than three hundred feet from such photo speed violation monitoring
24 system.

25 § 3. Paragraph 4 of subdivision (c) of section 1180-b of the vehicle
26 and traffic law, as added by chapter 189 of the laws of 2013, is amended
27 to read as follows:

28 4. "school speed zone" shall mean a radial distance not to exceed one
29 thousand three hundred twenty feet [~~on a highway passing~~] from a school
30 building, entrance, or exit [~~of a school abutting on the highway~~].

31 § 4. Subdivision (n) of section 1180-b of the vehicle and traffic law,
32 as added by chapter 189 of the laws of 2013, is amended to read as
33 follows:

34 (n) If the city adopts a demonstration program pursuant to subdivision
35 [~~one~~] (a) of this section it shall conduct [~~a~~] an annual study and
36 submit a report on the results of the use of photo devices to the gover-
37 nor, the temporary president of the senate and the speaker of the assem-
38 bly on or before June first, two thousand nineteen and on the same date
39 in each succeeding year in which the demonstratable program is operable.
40 Such report shall include:

41 1. the locations where and dates when photo speed violation monitoring
42 systems were used;

43 2. the aggregate number, type and severity of crashes, fatalities,
44 injuries and property damage reported within all school speed zones
45 within the city, to the extent the information is maintained by the
46 department of motor vehicles of this state;

47 3. the aggregate number, type and severity of crashes, fatalities,
48 injuries and property damage reported within school speed zones where
49 photo speed violation monitoring systems were used, to the extent the
50 information is maintained by the department of motor vehicles of this
51 state;

52 4. the number of violations recorded within all school speed zones
53 within the city, in the aggregate on a daily, weekly and monthly basis;

54 5. the number of violations recorded within each school speed zone
55 where a photo speed violation monitoring system is used, in the aggre-
56 gate on a daily, weekly and monthly basis;

1 6. the number of violations recorded within all school speed zones
2 within the city that were:

3 (i) more than ten but not more than twenty miles per hour over the
4 posted speed limit;

5 (ii) more than twenty but not more than thirty miles per hour over the
6 posted speed limit;

7 (iii) more than thirty but not more than forty miles per hour over the
8 posted speed limit; and

9 (iv) more than forty miles per hour over the posted speed limit;

10 7. the number of violations recorded within each school speed zone
11 where a photo speed violation monitoring system is used that were:

12 (i) more than ten but not more than twenty miles per hour over the
13 posted speed limit;

14 (ii) more than twenty but not more than thirty miles per hour over the
15 posted speed limit;

16 (iii) more than thirty but not more than forty miles per hour over the
17 posted speed limit; and

18 (iv) more than forty miles per hour over the posted speed limit;

19 8. the total number of notices of liability issued for violations
20 recorded by such systems;

21 9. the number of fines and total amount of fines paid after the first
22 notice of liability issued for violations recorded by such systems;

23 10. the number of violations adjudicated and the results of such adju-
24 dications including breakdowns of dispositions made for violations
25 recorded by such systems;

26 11. the total amount of revenue realized by the city in connection
27 with the program;

28 12. the expenses incurred by the city in connection with the program;
29 [~~and~~]

30 13. the quality of the adjudication process and its results[~~-~~]; and

31 14. the effectiveness and adequacy of the hours of operation for such
32 program to determine the impact on speeding violations and prevention of
33 crashes.

34 § 5. The opening paragraph of section 12 of chapter 43 of the laws of
35 2014, amending the vehicle and traffic law, the public officers law and
36 the general municipal law relating to photo speed violation monitoring
37 systems in school speed zones in the city of New York, is amended to
38 read as follows:

39 This act shall take effect on the thirtieth day after it shall have
40 become a law [~~and~~]; provided that sections one through ten of this act
41 shall expire 4 years after such effective date when upon such date the
42 provisions of such sections of this act shall be deemed repealed; and
43 provided further that any rules necessary for the implementation of this
44 act on its effective date shall be promulgated on or before such effec-
45 tive date, provided that:

46 § 6. The opening paragraph of section 15 of chapter 189 of the laws of
47 2013, amending the vehicle and traffic law and the public officers law
48 relating to establishing in a city with a population of one million or
49 more a demonstration program implementing speed violation monitoring
50 systems in school speed zones by means of photo devices, is amended to
51 read as follows:

52 This act shall take effect on the thirtieth day after it shall have
53 become a law and shall expire [~~5 years after such effective date when~~
54 ~~upon such date the provisions of this act shall~~] and be deemed repealed
55 July 1, 2022; and provided further that any rules necessary for the

1 implementation of this act on its effective date shall be promulgated on
2 or before such effective date, provided that:

3 § 7. Photo speed violation monitoring systems within the additional
4 150 school speed zones authorized for the city of New York by paragraph
5 1 of subdivision (a) of section 1180-b of the vehicle and traffic law,
6 as amended by section one of this act, shall be authorized to be
7 installed over the 3 year period following the effective date of this
8 act as follows:

9 (a) in no more than 50 school speed zones during the first such year;

10 (b) in no more than 50 additional school speed zones during the second
11 such year; and

12 (c) in no more than 50 additional school speed zones during the third
13 such year.

14 § 8. Subdivision (m) of section 1180-b of the vehicle and traffic law,
15 as added by chapter 189 of the laws of 2013, is amended as follows:

16 (m) (i) Nothing in this section shall be construed to limit the
17 liability of an operator of a vehicle for any violation of subdivision
18 (c) or (d) of section eleven hundred eighty of this article.

19 (ii) Any penalties, monetary fines, or interest collected pursuant to
20 this section, attributable to zones in excess of one hundred forty,
21 shall be paid over by the fifteenth business day of each succeeding
22 month to the New York city transit authority to support capital initi-
23 atives for improvements to system safety.

24 § 9. Notwithstanding the provisions of article 5 of the general
25 construction law, the provisions of:

26 (a) paragraph (1) of subdivision (a) of section 1180-b of the vehicle
27 and traffic law, as amended by section one of this act, is hereby
28 revived and shall be deemed to have been in full force and effect on and
29 after July 25, 2018; and

30 (b) section 1180-b of the vehicle and traffic law, as amended by
31 sections two, three, four and eight of this act, is hereby revived and
32 shall be deemed to have been in full force and effect on and after
33 August 30, 2018.

34 § 10. This act shall take effect immediately; provided that the amend-
35 ments to section 1180-b of the vehicle and traffic law made by sections
36 one, two, three, four and eight of this act shall not affect the repeal
37 of such section and shall be deemed repealed therewith; and provided
38 further that the amendments to paragraph 2 of subdivision (a) of section
39 1180-b of the vehicle and traffic law made by section two of this act
40 shall take effect on the ninetieth day after it shall have become a law.

41 PART DD

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

44 § 2. Gateway Development Commission. 1. a. Legislative findings and
45 intent. The Legislature finds and declares that: the State of New Jersey
46 and the State of New York and their respective citizens share a common
47 concern to preserve the functionality and strengthen the resiliency of
48 long-distance and commuter rail infrastructure between New Jersey and
49 New York, including passenger rail infrastructure owned, controlled, or
50 utilized by the National Railroad Passenger Corporation, also known as
51 "Amtrak"; the two states and their respective citizens share the bene-
52 fits of existing interstate passenger rail infrastructure between the
53 two states, including the existing North River Tunnel; interstate
54 passenger rail service and infrastructure is vital to the economies of

1 New Jersey and New York; , because of the passage of time and damage
2 caused by natural disasters, both states recognize the existing inter-
3 state passenger rail infrastructure, including the existing North River
4 Tunnel, is at risk of system failures that could result in prolonged
5 service disruptions that would severely damage the economies of the two
6 states and many other participants in the economy of the Northeast
7 Corridor both states recognize the urgent need to undertake projects
8 necessary to create passenger rail capacity under the Hudson River,
9 rehabilitate passenger rail infrastructure, maintain current levels of
10 long-distance and commuter rail service between the two states and
11 provide additional reliability, safety and security; the citizens of
12 both states will share the benefits of expanded capacity and rehabili-
13 tated passenger rail infrastructure between the two states; and there
14 has been a long history of cooperation among state and local govern-
15 mental entities, Amtrak, and various private organizations and individ-
16 uals in the two states to ensure the preservation of a variety of
17 passenger rail service options. b. The legislature therefore determines
18 that there is a need to endorse and formalize that bi-state cooperative
19 effort to help ensure that the functionality of long-distance and commu-
20 ter rail infrastructure between New Jersey and New York and thence
21 throughout the Northeast Corridor, is preserved and maintained for the
22 benefit of the economy of New Jersey and New York and for the well-being
23 of present and future generations of citizens in both states; and that
24 the creation of a bi-state commission that shall be a body corporate and
25 politic established by the State of New Jersey and the State of New
26 York, acting in the public interest and exercising essential govern-
27 mental functions, is an appropriate means to accomplish these very
28 important goals and is not intended to impair, limit, diminish, or
29 otherwise affect any right, power, or jurisdiction of the United States
30 of America or any department, branch, agency, court, bureau, or other
31 instrumentality thereof with respect to any matter, or grant or confer
32 any right or power on such bi-state commission, or any officer or trustee
33 thereof, to regulate commerce between the states. c. It is the
34 intention of the legislature that the commission so created constitute
35 an institution which has been established by the states to effectuate a
36 public purpose and is therefore eligible to apply for financial assist-
37 ance from the United States government, including the agencies thereof.

38 2. Definitions. Except where different meanings are expressly speci-
39 fied in subsequent provisions of this section, the following terms shall
40 have the following meanings:

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

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

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

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

48 (e) "Facilitate" means the planning, designing, financing, acquisi-
49 tion, development, redevelopment, expansion, construction, recon-
50 struction, replacement, approval of works, lease, leaseback, licensing,
51 cosigning, asset management, optimization, rehabilitation, repair,
52 alteration, improvement, extension, management, ownership, use and
53 effectuation of the matters described in this act. "Facilitation" shall
54 have a concomitant meaning.

55 (f) "Full Funding" means the sum of commitments to fund, from sources
56 deemed by the Commission to be creditworthy, plus Commission cash-on-

1 hand, plus any institution of a tariff or an agreement to impose user
2 fees not subject to further approvals (if any), plus such other sources
3 of funding deemed certain to be available as and when required, found by
4 the Commission to be sufficient to facilitate the project or a discrete
5 component thereof which is beneficial to the public.

6 (g) "Meeting" means any gathering, whether corporeal or by means of
7 communication equipment, which is attended by, or open to, the Board,
8 held with the intent, on the part of the commissioners present, to act
9 as a unit upon the specific public business of the Commission. "Meeting"
10 does not mean a gathering (i) attended by less than a quorum of commis-
11 sioners; (ii) in which the board is engaged in ordinary course super-
12 vision of Commission staff; (iii) in which consideration of Commission
13 business matters are informally discussed without the intent or effect
14 of effectuating any action of the Commission; or (iv) attended by or
15 open to all the members of three or more similar public bodies at a
16 convention or similar gathering.

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

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

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

30 (a) Facilitate the project;

31 (b) Coordinate activities of governmental entities, Amtrak, and
32 private entities providing assistance to the project or otherwise regu-
33 lating the Project, with a view to achieving Full funding, and encourage
34 and enable such parties to participate in the effectuation of the
35 Project;

36 (c) act as a coordinating agency to arrange for cooperation among the
37 federal government, the State of New Jersey, any local government there-
38 of, the state of New York, any local government thereof, any agency,
39 instrumentality, department, commission, or authority of any one or more
40 of the foregoing, any bi-state agency, Amtrak, any individual or private
41 firm, entity or corporation, or with any one or more of them (including
42 by contract among the parties), for and in connection with the Facili-
43 tation of the Project for any of the purposes of this act, and to enter
44 into an agreement or agreements (and from time to time to enter into
45 agreements amending or supplementing the same) with the federal govern-
46 ment, the State of New Jersey, any local government thereof, the state
47 of New York, any local government thereof, any agency, instrumentality,
48 department, commission, or authority of any one or more of the forego-
49 ing, any bi-state agency, Amtrak, any individual or private firm, entity
50 or corporation, or with any one or more of them, for or relating to such
51 purposes, including but not limited to agreements with respect to finan-
52 cial assistance, loans, grants or any other funding as may be available
53 for the Project. The Commission is hereby intended to qualify for,
54 authorized, and empowered to apply for and accept, financial assistance,
55 loans, grants, or any other funding for such purposes under federal,
56 state, or local laws, and to make application directly to the appropri-

1 ate officials or agencies for the application for and receipt of feder-
2 al, state or local assistance, loans, grants or any other funding in aid
3 of any of the purposes of this act;

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

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

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

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

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

42 (c) At the conclusion of a commissioner's term (including an initial
43 commissioner's term), the commissioner may be reappointed for a succes-
44 sive three year term at the pleasure of the party who originally
45 appointed that commissioner (or in the case of the initial commission-
46 ers, the party who originally appointed that individual as a trustee of
47 the Gateway Program Development Corporation). A commissioner shall auto-
48 matically continue to serve following the expiration of the Commission-
49 er's term until a successor is appointed in accordance with paragraph
50 (a) of this subdivision and seated.

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

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

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

10 5. Organization of the Commission; meetings. (a) The commissioners
11 shall select a chairperson. The chairperson shall be elected from the
12 representatives of New Jersey and New York. The initial chairperson
13 shall be the commissioner who was serving as chairperson of the board of
14 trustees of the Gateway Program Development Corporation whose term as
15 chairperson shall continue until the earlier to occur of (i) the date on
16 which such commissioner's term as the Gateway Program Development Corpo-
17 ration chairperson would have expired; or (ii) the date on which that
18 commissioner is otherwise terminated as a commissioner. Thereafter, the
19 commissioner appointed by the state which did not appoint the initial
20 chairperson shall succeed as chairperson. The chairpersonship shall be
21 alternated between the two states and each chairperson following the
22 initial chairperson shall serve as chairperson for a term of one year.
23 The commissioner appointed by Amtrak shall serve as vice-chairperson.

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

29 (c) The powers of the Commission may be exercised by the commissioners
30 at a meeting duly called and held where a quorum of all three commis-
31 sioners are present; provided, however, that in the event a vacancy
32 remains for ninety days, the powers of the Commission may be exercised
33 by the commissioners at a meeting duly called and held where all remain-
34 ing commissioners are present. Action may be taken and motions and
35 resolutions adopted by the Commission at any meeting thereof by unani-
36 mous affirmative vote of the commissioners. The commissioners shall
37 adopt bylaws providing for attendance protocols, voting procedures, and
38 other matters related to the conduct of the business of the Commission.

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

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

54 (f) The legislature finds and declares that the right of the public to
55 be present at meetings of the Commission, and to witness the deliber-
56 ation, policy formulation, and decision making of the Commission, is

1 vital to the enhancement and proper functioning of the democratic proc-
2 ess, and that secrecy in public affairs undermines the faith of the
3 public in government and the public's effectiveness in fulfilling its
4 role in a democratic society; and declares it to be the public policy of
5 the state of New Jersey and the state of New York to ensure the right of
6 its citizens to have adequate advance notice of and the right to attend
7 all meetings of the Commission at which any public business is acted
8 upon in any way, except only in those circumstances where the public
9 interest would be clearly endangered, the relevant matters are made
10 confidential by federal or state law, or the personal privacy of indi-
11 viduals would be clearly in danger of unwarranted invasion.

12 (g) The Commission shall adopt and promulgate appropriate bylaws,
13 rules and regulations concerning the right of the public to be present
14 at Meetings of the Commission and to obtain records of the Commission's
15 activities or Public business. Any rules or regulations adopted here-
16 under shall become a part of the minutes of the Commission and be posted
17 on its website.

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

23 (a) Make appropriate application for, and act as a coordinating,
24 distributing, or recipient agency for, federal, state, or private fund-
25 ing and authorizations necessary or appropriate to Facilitate the
26 project;

27 (b) Cooperate with other agencies or authorities or departments
28 (federal, state, local, and bi-state), Amtrak, and private parties to
29 Facilitate the Project, including entering into agreements specifying a
30 party's rights and obligations with respect to the Project, to create a
31 Project capable of achieving long-term stability and Full Funding, with-
32 out obligating the full faith and credit of the federal government,
33 either state or any local government thereof, or any other party, except
34 as explicitly authorized by any party empowered by law to do so;

35 (c) Adopt bylaws to govern the conduct of its affairs, and adopt rules
36 and regulations, including a conflict of interest policy and code of
37 ethics for commissioners and officers of the Commission, and make appro-
38 priate orders to carry out and discharge its powers, duties, and func-
39 tions;

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

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

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

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

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

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

10 (b) Sue and be sued in its own name in federal and state courts in
11 Mercer county, New Jersey and New York county, New York, it being under-
12 stood that the commissioners shall have no obligation or liability for
13 the acts or omissions of the commission;

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

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

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

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

49 (g) Grant public and private entities the use of the Project or a
50 portion thereof by way of franchise, concession, license, lease, or
51 otherwise, provide for payments to and accept payments from such enti-
52 ties in exchange for value received from such use, work, or services
53 performed or otherwise and to establish or agree with Project users on
54 tolls, fees, rates, charges, revenue sharing, and rentals for the use
55 thereof, provided that such tolls, fees, rates, charges, revenue shar-
56 ing, and rentals do not conflict with applicable federal law and the

1 laws of the State of New Jersey and the State of New York, and provided
2 further that the Commission shall not have the authority to set passen-
3 ger fares for Amtrak or any publicly owned and operated passenger
4 service utilizing the Project;

5 (h) Adopt its own public procurement rules and guidelines that the
6 Commission deems necessary or appropriate to Facilitate the Project
7 through any combination of means and methods otherwise available to the
8 Commission under this act, regardless of whether such combination is
9 generally available to the State of New Jersey, any local government
10 thereof, the State of New York, any local government thereof, any agen-
11 cy, instrumentality, department, commission or authority of any one or
12 more of the foregoing, or any bi-state agency, and engage and contract
13 with third parties in accordance with such procurement rules and guide-
14 lines;

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

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

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

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

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

54 (n) Cooperate with the federal government, the state of New Jersey,
55 any local government thereof, the state of New York, any local govern-
56 ment thereof with any local government thereof, with any agency, instru-

1 mentality, department, commission or authority of any one or more of the
2 foregoing, any bi-state agency, Amtrak, any individual or private firm,
3 entity or corporation, or with any one or more of them, in connection
4 with the Project, and to enter into an agreement or agreements, notwith-
5 standing any other provision of law of the states, general, special,
6 charter or local, with the federal government, with the state of New
7 Jersey, any local government thereof, the state of New York, any local
8 government thereof any agency, instrumentality, department, commission,
9 or authority of any one or more of the foregoing, any bi-state agency,
10 Amtrak, any individual or private firm, entity, or corporation, or with
11 any one or more of the same for or relating to the Project;

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

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

16 (q) Utilize the existing labor force in the states and foster labor
17 harmony in allowing for adoption of efficient labor work rules and prac-
18 tices during construction of the Project; and

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

21 8. Exemption from taxes, local laws. (a) The Commission shall be
22 performing essential governmental functions in exercising its powers and
23 functions and in carrying out the provisions of this act and of any law
24 relating thereto, and shall not be required to pay any taxes or assess-
25 ments of any character, levied by either state or any local government
26 thereof, upon any of the property used by it or its agents or contrac-
27 tors for the Facilitation of the Project, or any income or revenue ther-
28 efrom, including any profit from a sale, lease or exchange, or in
29 connection with the transfer thereof or of any real property interest
30 therein. Any bonds or other securities or obligations issued by the
31 Commission, their transfer and the interest paid thereon or income ther-
32 efrom, including any profit from a sale or exchange, shall at all times
33 be free from taxation by either state or any subdivision thereof.

34 (b) The Commission shall, as a matter of policy, conform to the enact-
35 ments, ordinances, resolutions, and regulations of the respective states
36 and local governments where the Project is located in regard to the
37 construction and maintenance of the Project and in regard to health and
38 fire protection which would be applicable if the Commission were a
39 private corporation, to the extent that the Commission finds it practi-
40 cable so to do, without interfering with, impairing, or affecting the
41 efficiency of its purposes under this act, or its ability to effectuate
42 the Project upon a self-supporting basis, or its obligations, duties,
43 and responsibilities to the two states, its bondholders, if any, and the
44 general public, but the decision of the Commission as to whether it is
45 practicable so to do shall be controlling. To that end, the Commission
46 shall submit copies of plans and specifications for buildings and struc-
47 tures to the appropriate state and local government officials and shall
48 consult with them with respect thereto, and shall receive their comments
49 and suggestions thereon, but the Commission shall make the final deter-
50 mination as to which comments and suggestions to accept in effectuating
51 the project.

52 (c) Notwithstanding the provisions of Paragraph a of this subdivision,
53 the Commission is hereby authorized and empowered, in its discretion, to
54 enter into a voluntary agreement or agreements with any local government
55 whereby the Commission may undertake to pay in lieu of taxes a fair and
56 reasonable sum, if any, annually in connection with any real property

1 acquired and owned by the Commission for any of the purposes of this
2 act, and to provide for the payment as a rental or additional rental
3 charge by any person occupying any portion of such real property as
4 lessee, vendee or otherwise of such fair and reasonable sum, provided
5 that in no event shall any voluntary agreement entered into by the
6 commission provide for the payment of an amount in lieu of taxes in
7 excess of the amount last paid as taxes upon such real property prior to
8 the time of its acquisition by the Commission.

9 (d) Notwithstanding any other provision of law, general, special,
10 charter, or local, each local government is hereby authorized and
11 empowered to enter into such agreement or agreements with the Commis-
12 sion, and to accept the payment or payments which the Commission is
13 hereby authorized and empowered to make, and the sums so received by
14 such local government shall be devoted to purposes to which taxes may be
15 applied in all affected taxing jurisdictions unless and until otherwise
16 directed by law of the state in which such local government is located.

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

20 1. The department of transportation may cooperate and contract with
21 the national railroad passenger corporation or if deemed necessary,
22 desirable or convenient by the commissioner to facilitate the purposes
23 of this section 14-c, with gateway development commission to the extent
24 that commission is so authorized to act under its authorizing statute,
25 for any intercity rail passenger services deemed necessary, convenient
26 or desirable by the commissioner, within the amounts available by appro-
27 priation therefor, as such services are made available pursuant to the
28 provisions of the rail passenger service act of nineteen hundred seventy
29 and any acts amendatory or supplemental thereto, subject to the approval
30 of the director of the budget or pursuant to reimbursement available
31 from the gateway development commission, any railroad company, any other
32 state or agency, the federal government, any public authority of this
33 state or any other state or two or more states, or any political subdivi-
34 vision or municipality of the state. Notwithstanding any inconsistent
35 law, general, special or local, the commissioner, as funds are made
36 available for the purposes hereof, is hereby empowered to contract with
37 such corporation or Commission and to do all other things necessary,
38 convenient or desirable on behalf of the state to secure the full bene-
39 fits available under and pursuant to such act and any other federal act
40 which provides funding for intercity rail passenger services, and to
41 contract and do all other things necessary as hereinafter provided on
42 behalf of the state to effect [~~the~~] and facilitate intercity rail
43 passenger [~~service-program~~] services which he determines is necessary,
44 convenient or desirable and the department of transportation may cooper-
45 ate and contract with gateway development commission for passenger rail
46 activities, to the extent that gateway development commission is so
47 authorized to act under its authorizing statute, provided, however, that
48 the department of transportation shall only contract with the gateway
49 development commission if such contract is approved by that commission's
50 board of commissioners in accordance with its authorizing statute.

51 2. The commissioner shall coordinate the intercity rail passenger
52 activities of the state and other interested public and private organ-
53 izations and persons to effectuate the purposes of this section and
54 shall have the responsibility for negotiating with the federal govern-
55 ment with respect to intercity rail passenger service programs. The
56 commissioner is authorized to enter into joint service agreements and

1 other agreements between the state and any railroad company, any other
2 state department or agency, the federal government, the Canadian govern-
3 ment, any other state, or agency or instrumentality thereof, any public
4 authority of this state or any other state or two or more states, or any
5 political subdivision or municipality of the state, relating to proper-
6 ty, buildings, structures, facilities, services, rates, fares, classi-
7 fications, dividends, allowances or charges (including charges between
8 intercity rail passenger service facilities), or rules or regulations
9 pertaining thereto, for or in connection with or incidental to transpor-
10 tation in part upon intercity rail passenger service facilities. Inter-
11 city rail passenger service facilities include the right of way and
12 related trackage, rails, cars, locomotives, or other rolling stock,
13 signal, power, fuel, communication and ventilation systems, power
14 plants, stations, terminals, tunnels, storage yards, repair and mainte-
15 nance shops, yards, equipment and parts, offices and other real estate
16 or personnel used or held for or incidental to the operation, rehabili-
17 tation or improvement of any railroad operating intercity rail passenger
18 service or to operate such service, including but not limited to build-
19 ings, structures, and rail property.

20 3. [~~The~~] Notwithstanding any other provision of law, general, special,
21 charter or local, the commissioner may on such terms and conditions as
22 he may determine necessary, convenient or desirable, establish,
23 construct, effectuate, operate, maintain, renovate, improve, extend or
24 repair any such intercity rail passenger service facility or any related
25 services and activities, or may provide for such by contract, lease or
26 other arrangement on such terms as the commissioner may deem necessary,
27 convenient or desirable with any agency, corporation or person, includ-
28 ing but not limited to any railroad company, any state agency, the
29 federal government, the Canadian government, any other state or agency
30 or instrumentality thereof, any public authority of this or any other
31 state or two or more states, or any political subdivision or munici-
32 pality of the state.

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

39 § 5. Upon the concurrence of the State of New Jersey, the State of New
40 Jersey and the State of New York consent to suits, actions or
41 proceedings of any form or nature at law, in equity, or otherwise
42 (including proceedings to enforce arbitration agreements), against the
43 Commission, and to appeals therefrom and reviews thereof, except as
44 hereinafter provided. The foregoing consent does not extend to: (a)
45 suits, actions, or proceedings upon any causes of action whatsoever
46 accruing before the effective date of this act; (b) suits, actions or
47 proceedings upon any causes of action whatsoever, upon, in connection
48 with, or arising out of any contract, express or implied, entered into
49 or assumed by or assigned to the Commission before the effective date of
50 this act (including any supplement to, or amendment, extension or
51 renewal of any such contract, even if such supplement, amendment, exten-
52 sion or renewal is made on or after the effective date of this act),
53 regardless of whether such cause of action accrued before or after that
54 date; (c) civil suits, actions or proceedings for the recovery of statu-
55 tory penalties; and (d) suits, actions or proceedings for judgments,
56 orders or decrees restraining, enjoining or preventing the Commission

1 from committing or continuing to commit any act or acts, other than
2 suits, actions or proceedings by the Attorney General of New Jersey or
3 by the Attorney General of New York, each of whom is hereby authorized
4 to bring such suits, actions or proceedings in his or her discretion on
5 behalf of any person or persons whatsoever who requests the Attorney
6 General to do so, except in the cases otherwise excluded by this act;
7 provided, that in any such suit, action or proceeding, no judgment,
8 order or decree shall be entered except upon at least two days' prior
9 written notice to the [~~Gateway Development~~] Commission of the proposed
10 entry thereof.

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

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

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

25 § 7. (a) This act shall take effect upon the enactment into law by the
26 state of New Jersey of legislation having an identical effect with this
27 act, but if the state of New Jersey shall have already enacted such
28 legislation, this act shall take effect immediately; provided that the
29 state of New Jersey shall notify the legislative bill drafting commis-
30 sion upon the occurrence of the enactment of the legislation provided
31 for in this act in order that the commission may maintain an accurate
32 and timely effective data base of the official text of the laws of the
33 state of New York in furtherance of effectuating the provisions of
34 section 44 of the legislative law and section 70-b of the public offi-
35 cers law; and

36 (b) the Commission shall dissolve following a joint determination by
37 the Governor of New Jersey and the Governor of New York that the Project
38 has been completed or should be transferred to another agency, instru-
39 mentality or entity and: (i) any bonds or other securities issued and
40 any other debt incurred for such Project purposes have been repaid or
41 arrangements have been made to ensure such repayment in full, without
42 impairment of credit worthiness and; (ii) Amtrak is not unduly preju-
43 diced by such dissolution; provided that the Gateway Development Commis-
44 sion shall notify the legislative bill drafting commission upon the
45 occurrence of the intended dissolution in order that the commission may
46 maintain an accurate and timely effective data base of the official text
47 of the laws of the state of New York in furtherance of effectuating the
48 provisions of section 44 of the legislative law and section 70-b of the
49 public officers law.

50

PART EE

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

53 § 1279-e. Assignment, transfer, sharing or consolidating powers, func-
54 tions or activities. 1. Notwithstanding any provision of this title or

1 any other provision of law, general, special or local, the authority
2 shall develop a reorganization plan which shall, in whole or in part,
3 assign, transfer, share, or consolidate any one or more of its powers,
4 duties, functions or activities or any department, division or office
5 established therewith, or any of those of its subsidiaries, or affil-
6 iates or their subsidiaries, within or between itself, its subsidiaries
7 or affiliates or their subsidiaries, in a manner consistent with the
8 provisions of this section.

9 2. Such assignment, transfer, sharing, or consolidation pursuant to
10 this section shall occur only if approved by resolution of the board of
11 the authority, serving on behalf of the authority and any affected
12 subsidiary or affiliate or their subsidiary, adopted by not less than a
13 majority vote of the whole number of members of the authority then in
14 office, with the chairman having one additional vote in the event of a
15 tie vote.

16 3. Such reorganization plan shall also be subject to the approval of
17 the mass transit expert panel created pursuant to section 1265-C of
18 section ten of title eleven of article five of the public authorities
19 law.

20 4. Pursuant to this section, any such assigning, transferring, shar-
21 ing, or consolidating of powers, duties, functions or activities shall
22 not be authorized where it would impair any rights and remedies of any
23 holders of notes, bonds or other obligations issued by or violate any
24 duly executed labor agreements entered into by the authority, its
25 subsidiaries, or affiliates or their subsidiaries.

26 § 2. Subdivision 1 of section 1264 of the public authorities law is
27 amended to read as follows:

28 § 1264. Purposes of the authority. 1. The purposes of the authority
29 shall be the continuance, further development and improvement of commu-
30 ter transportation and other services related thereto within the metro-
31 politan commuter transportation district, including but not limited to
32 such transportation by railroad, omnibus, marine and air, in accordance
33 with the provisions of this title. It shall be the further purpose of
34 the authority, consistent with its status as the ex officio board of
35 both the New York city transit authority and the triborough bridge and
36 tunnel authority, to develop and implement a unified mass transportation
37 policy for such district in an efficient and cost-effective manner that
38 includes the use of design-build contracting on all major projects.

39 § 3. Subdivision 1 of section 1263 of the public authorities law is
40 amended to add a new subparagraph (c) to read as follows:

41 (c) Notwithstanding any inconsistent provision of this section, the
42 term of any chairman or any member shall expire upon the expiration of
43 the term in office being served by the county, city, or state elected
44 official upon whose recommendation they were appointed; provided, howev-
45 er, that in such circumstance the chairman or any member may continue to
46 serve as a holdover appointee until such time as a chairman or member is
47 appointed to fill their position. The term of any chairman or member
48 appointed to replace such a holdover appointee shall expire at the end
49 of the term in office of the county, city or state elected officer upon
50 whose recommendation they were appointed.

51 § 4. This act shall take effect immediately.

52 PART FF

53 Section 1. Paragraphs (b-1) and (c-3) of subdivision 2 of section 503
54 of the vehicle and traffic law, paragraph (b-1) as added by section 1

1 and paragraph (c-3) as added by section 2 of part A of chapter 25 of the
2 laws of 2009, are amended to read as follows:

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

13 (ii) The commissioner shall deposit daily all funds collected pursuant
14 to subparagraph (i) of this paragraph with such responsible banks, bank-
15 ing houses or trust companies as may be designated by the state comp-
16 troller, [~~to the credit of the comptroller~~] in trust for the credit of
17 the metropolitan transportation authority. An account may be established
18 in one or more of such depositories. Such deposits shall be kept sepa-
19 rate and apart from all other money in the possession of the
20 comptroller. On or before the twelfth day of each month, the commis-
21 sioner shall certify to the comptroller the amount of all revenues received
22 pursuant to subparagraph (i) of this paragraph during the prior month as
23 a result of the supplemental fee imposed, including any interest and
24 penalties thereon. The revenues so certified over the prior three months
25 in total shall be [~~deposited by the state comptroller in the metropol-~~
26 ~~itan transportation authority aid trust account of the metropolitan~~
27 ~~transportation authority financial assistance fund established pursuant~~
28 ~~to section ninety-two ff of the state finance law for deposit, subject~~
29 ~~to~~] paid over by the fifteenth day of the last month of each calendar
30 quarter from such account, without appropriation, [~~in~~] into the corpo-
31 rate transportation account of the metropolitan transportation authority
32 special assistance fund established by section twelve hundred seventy-a
33 of the public authorities law, to be applied as provided in paragraph
34 (e) of subdivision four of such section. Any money collected pursuant to
35 this section that is deposited by the comptroller in the [~~metropolitan~~
36 ~~transportation authority aid trust account~~] corporate transportation
37 account of the metropolitan transportation authority [~~financial~~] special
38 assistance fund shall be held in such fund free and clear of any claim
39 by any person or entity paying an additional fee pursuant to this
40 section, including, without limiting the generality of the foregoing,
41 any right or claim against the metropolitan transportation authority,
42 any of its bondholders, or any subsidiary or affiliate of the metropol-
43 itan transportation authority.

44 (c-3) (i) Supplemental renewal fee in the metropolitan commuter trans-
45 portation district. In addition to the fees required to be paid pursuant
46 to paragraph (c) of this subdivision, a supplemental fee of one dollar
47 for each six months or portion thereof of the validity of the license
48 shall be paid for renewal of a license of a person who resides in the
49 metropolitan commuter transportation district established by section one
50 thousand two hundred sixty-two of the public authorities law issued by
51 the commissioner.

52 (ii) The commissioner shall deposit daily all funds collected pursuant
53 to this paragraph with such responsible banks, banking houses or trust
54 companies as may be designated by the state comptroller, [~~to the credit~~
55 ~~of the comptroller~~] in trust for the credit of the metropolitan trans-
56 portation authority. An account may be established in one or more of

1 such depositories. Such deposits shall be kept separate and apart from
2 all other money in the possession of the comptroller. On or before the
3 twelfth day of each month, the commissioner shall certify to the comp-
4 troller the amount of all revenues received pursuant to this paragraph
5 during the prior month as a result of the supplemental fees imposed,
6 including any interest and penalties thereon. The revenues so certified
7 over the prior three months in total shall be [~~deposited by the state~~
8 ~~comptroller in the metropolitan transportation authority aid trust~~
9 ~~account of the metropolitan transportation authority financial assist-~~
10 ~~ance fund established pursuant to section ninety two ff of the state~~
11 ~~finance law for deposit, subject to~~] paid over by the fifteenth day of
12 the last month of each calendar quarter from such account, without
13 appropriation, [~~in~~] into the corporate transportation account of the
14 metropolitan transportation authority special assistance fund estab-
15 lished by section twelve hundred seventy-a of the public authorities
16 law, to be applied as provided in paragraph (e) of subdivision four of
17 such section. Any money collected pursuant to this section that is
18 deposited by the comptroller in the [~~metropolitan transportation author-~~
19 ~~ity aid trust account~~] corporate transportation account of the metropol-
20 itan transportation authority [~~financial~~] special assistance fund shall
21 be held in such fund free and clear of any claim by any person or entity
22 paying an additional fee pursuant to this section, including, without
23 limiting the generality of the foregoing, any right or claim against the
24 metropolitan transportation authority, any of its bondholders, or any
25 subsidiary or affiliate of the metropolitan transportation authority.

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

29 § 499-d. Deposit and disposition of revenue from supplemental fee. The
30 commissioner shall deposit daily all funds derived from the collection
31 of the supplemental fee established pursuant to this article with such
32 responsible banks, banking houses or trust companies as may be desig-
33 nated by the state comptroller, [~~to the credit of the comptroller~~] in
34 trust for the credit of the metropolitan transportation authority. An
35 account may be established in one or more of such depositories. Such
36 deposits shall be kept separate and apart from all other money in the
37 possession of the comptroller. On or before the twelfth day of each
38 month, the commissioner shall certify to the comptroller the amount of
39 all revenues received pursuant to this article during the prior month as
40 a result of the supplemental fee imposed, including any interest and
41 penalties thereon. The revenues so certified over the prior three months
42 in total shall be [~~deposited by the state comptroller in the metropol-~~
43 ~~itan transportation authority aid trust account of the metropolitan~~
44 ~~transportation authority financial assistance fund established pursuant~~
45 ~~to section ninety two ff of the state finance law for deposit, subject~~
46 ~~to~~] paid over by the fifteenth day of the last month of each calendar
47 quarter from such account, without appropriation, [~~in~~] into the corpo-
48 rate transportation account of the metropolitan transportation authority
49 special assistance fund established by section twelve hundred seventy-a
50 of the public authorities law, to be applied as provided in paragraph
51 (e) of subdivision four of such section. Any money collected pursuant to
52 this section that is deposited by the comptroller in the [~~metropolitan~~
53 ~~transportation authority aid trust account~~] corporate transportation
54 account of the metropolitan transportation authority [~~financial~~] special
55 assistance fund shall be held in such fund free and clear of any claim
56 by any person or entity paying an additional fee pursuant to this

1 section, including, without limiting the generality of the foregoing,
2 any right or claim against the metropolitan transportation authority,
3 any of its bondholders, or any subsidiary or affiliate of the metropol-
4 itan transportation authority.

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

7 § 1288. Deposit and disposition of revenue. Notwithstanding any
8 provision of law to the contrary: (a) All taxes, interest and penalties
9 collected or received by the commissioner pursuant to this article shall
10 be deposited daily with such responsible banks, banking houses or trust
11 companies, as may be designated by the comptroller, [~~to the credit of~~
12 ~~the comptroller~~] in trust for the credit of the metropolitan transporta-
13 tion authority. [~~Such an~~] An account may be established in one or more
14 of such depositories. Such deposits shall be kept separate and apart
15 from all other money in the possession of the comptroller. The comp-
16 troller shall require adequate security from all such depositories. Of
17 the total revenue collected or received under this section, the comp-
18 troller shall retain in the comptroller's hands such amount as the
19 commissioner may determine to be necessary for refunds under this arti-
20 cle. The commissioner is authorized and directed to deduct from such
21 amounts collected or received under this article, before deposit into
22 the accounts specified by the comptroller, a reasonable amount necessary
23 to effectuate refunds of appropriations of the department to reimburse
24 the department for the costs to administer, collect and distribute the
25 taxes imposed by this article.

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

31 (c) [~~The~~] By the fifteenth day of the last month of each calendar
32 quarter the comptroller shall pay over the amount of revenues from the
33 prior three months in total so certified by the commissioner [~~to the~~
34 ~~metropolitan transportation authority aid trust account of the metropol-~~
35 ~~itan transportation authority financial assistance fund established by~~
36 ~~section ninety two ff of the state finance law for deposit, subject to~~],
37 without appropriation, [~~in~~] into the corporate transportation account of
38 the metropolitan transportation authority special assistance fund estab-
39 lished by section twelve hundred seventy-a of the public authorities law
40 to be applied as provided in paragraph (e) of subdivision four of such
41 section twelve hundred seventy-a. Any money collected pursuant to this
42 article that is deposited by the comptroller in the [~~metropolitan trans-~~
43 ~~portation authority aid trust account~~] corporate transportation account
44 of the metropolitan transportation authority [~~financial~~] special assist-
45 ance fund shall be held in such fund free and clear of any claim by any
46 person or entity paying the tax pursuant to this article, including,
47 without limiting the generality of the foregoing, any right or claim
48 against the metropolitan transportation authority, any of its bondhold-
49 ers, or any subsidiary or affiliate of the metropolitan transportation
50 authority.

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

53 § 1167. Deposit and disposition of revenue. 1. All taxes, interest and
54 penalties collected or received by the commissioner under this article
55 shall be deposited and disposed of pursuant to the provisions of section
56 one hundred seventy-one-a of this chapter, except that after reserving

1 amounts in accordance with such section one hundred seventy-one-a of
2 this chapter, the remainder shall be paid by the comptroller to the
3 credit of the highway and bridge trust fund established by section
4 eighty-nine-b of the state finance law, provided, however, taxes, inter-
5 est and penalties collected or received pursuant to section eleven
6 hundred sixty-six-a of this article shall be [~~paid to the credit of the~~
7 ~~metropolitan transportation authority aid trust account of the metropol-~~
8 ~~itan transportation authority financial assistance fund established by~~
9 ~~section ninety-two-ff of the state finance law~~] deposited and disposed
10 of pursuant to subdivision two of this section.

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

33 § 5. Subdivision 3 and paragraph (a) of subdivision 6 of section
34 92-ff of the state finance law, subdivision 3 as amended by section 14
35 of part UU of chapter 59 of the laws of 2018 and paragraph (a) of subdivi-
36 sion 6 as added by section 1 of part G of chapter 25 of the laws of
37 2009, are amended to read as follows:

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

51 (a) The "metropolitan transportation authority aid trust account"
52 shall consist of [~~revenues required to be deposited therein pursuant to~~
53 ~~the provisions of section eleven hundred sixty-six-a of the tax law,~~
54 ~~article twenty-nine-A of the tax law; article seventeen-C of the vehicle~~
55 ~~and traffic law; and section five hundred three of the vehicle and traf-~~

1 ~~the law, and all other~~] moneys credited or transferred thereto from any
2 other [~~fund or~~] source pursuant to law.

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

5 13. Notwithstanding subdivision one of this section and any other law
6 to the contrary, the revenue (including fees, taxes, interest and penal-
7 ties) from the metropolitan commuter transportation district supple-
8 mental fees and taxes imposed pursuant to paragraph (b-1) of subdivision
9 two of section five hundred three of the vehicle and traffic law, para-
10 graph (c-3) of subdivision two of section five hundred three of the
11 vehicle and traffic law, article seventeen-C of the vehicle and traffic
12 law, article twenty-nine-A of the tax law and section eleven hundred
13 sixty-six-a of the tax law which are paid in accordance with subpara-
14 graph (ii) of paragraph (b-1) of subdivision two of section five hundred
15 three of the vehicle and traffic law, subparagraph (ii) of paragraph
16 (c-3) of subdivision two of section five hundred three of the vehicle
17 and traffic law, section twelve hundred eighty-eight of the tax law and
18 section eleven hundred sixty-seven of the tax law into the corporate
19 transportation account of the metropolitan transportation authority
20 special assistance fund established by section twelve hundred seventy-a
21 of the public authorities law shall be made pursuant to statute but
22 without an appropriation.

23 § 7. Subdivision 1 and paragraph (e) of subdivision 4 of section
24 1270-a of the public authorities law, subdivision 1 as amended by
25 section 14 and paragraph (e) of subdivision 4 as added by section 15 of
26 part H of chapter 25 of the laws of 2009, are amended to read as
27 follows:

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

34 The authority shall make deposits in the transit account and the
35 commuter railroad account of the moneys received by it pursuant to the
36 provisions of subdivision one of section two hundred sixty-one of the
37 tax law in accordance with the provisions thereof, and shall make depos-
38 its in the corporate transportation account of the moneys received by it
39 pursuant to the provisions of subdivision two of section two hundred
40 sixty-one of the tax law and section ninety-two-ff of the state finance
41 law. The comptroller shall deposit, without appropriation, into the
42 corporate transportation account the revenue fees, taxes, interest and
43 penalties collected in accordance with paragraph (b-1) of subdivision
44 two of section five hundred three of the vehicle and traffic law, para-
45 graph (c-3) of subdivision two of section five hundred three of the
46 vehicle and traffic law, article seventeen-C of the vehicle and traffic
47 law, article twenty-nine-A of the tax law and section eleven hundred
48 sixty-six-a of the tax law.

49 (e) Notwithstanding the foregoing provisions of this subdivision, any
50 moneys in the corporate transportation account that are received by the
51 authority: (i) without appropriation pursuant to subdivision one of this
52 section, or (ii) pursuant to the provisions of section ninety-two-ff of
53 the state finance law may be pledged by the authority, or pledged to the
54 Triborough bridge and tunnel authority, to secure bonds, notes or other
55 obligations of the authority or the Triborough bridge and tunnel author-
56 ity, as the case may be, and, if so pledged to the Triborough bridge and

1 tunnel authority, shall be paid to the Triborough bridge and tunnel
2 authority in such amounts and at such times as necessary to pay or to
3 reimburse that authority for its payment of debt service and reserve
4 requirements, if any, on that portion of special Triborough bridge and
5 tunnel authority bonds and notes issued by that authority pursuant to
6 section five hundred fifty-three-d of this chapter. Subject to the
7 provisions of any such pledge, or in the event there is no such pledge,
8 any moneys in the corporate transportation account received by the
9 authority: (i) without appropriation pursuant to subdivision one of this
10 section, or (ii) pursuant to the provisions of section ninety-two-ff of
11 the state finance law may be used by the authority for payment of oper-
12 ating costs of, and capital costs, including debt service and reserve
13 requirements, if any, of or for the authority, the New York city transit
14 authority and their subsidiaries as the authority shall determine. No
15 moneys in the corporate transportation account that are reserved by the
16 authority: (i) without appropriation pursuant to subdivision one of this
17 section; or (ii) pursuant to the provisions of section ninety-two-ff of
18 the state finance law may be used for making any payment to the Dutch-
19 ess, Orange and Rockland fund created by section twelve hundred seven-
20 ty-b of this title or considered in calculating the amounts required to
21 be paid into such fund.

22 § 8. This act shall take effect immediately.

23 PART GG

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

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

36 (e) An owner liable for a violation of a bus lane restriction imposed
37 on any route within a bus rapid transit program shall be liable for
38 monetary penalties in accordance with a schedule of fines and penalties
39 promulgated by the parking violations bureau of the city of New York;
40 provided, however, that the monetary penalty for violating a bus lane
41 restriction shall not exceed one hundred [~~fifteen~~] twenty-five dollars,
42 one hundred fifty dollars for a second offense within a twelve-month
43 period, two hundred dollars for a third offense within a twelve-month
44 period, two hundred fifty dollars for a fourth offense within a twelve-
45 month period, and three hundred fifty dollars for each subsequent
46 offense within a twelve-month period; provided, further, that an owner
47 shall be liable for an additional penalty not to exceed twenty-five
48 dollars for each violation for the failure to respond to a notice of
49 liability within the prescribed time period.

50 (n) 1. Notwithstanding any other provision of law, in accordance with
51 the provisions of this subdivision, the city of New York is hereby
52 authorized and empowered to impose monetary liability on the owner of a
53 vehicle for failure of an operator thereof to comply with the applicable
54 local laws and regulations of the city of New York relating to stopping,

1 standing, parking and turning movements as defined herein, while operat-
2 ing a vehicle within the congestion toll zone or along designated bus
3 corridors. The department of transportation of the city of New York
4 and/or an applicable mass transit agency, shall operate photo devices
5 that may be stationary or mobile and shall be activated at locations
6 determined by such department of transportation and/or on buses selected
7 by such department of transportation in consultation with the applicable
8 mass transit agency. Locations of such photo devices shall be within the
9 congestion toll zone in the borough of Manhattan or along designated bus
10 corridors to be determined jointly by the department of transportation
11 and the applicable mass transit agency.

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

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

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

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

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

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

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

50 5. The owner of a vehicle shall be liable for a penalty imposed pursu-
51 ant to this subdivision if such vehicle was used or operated with the
52 permission of the owner, express or implied, in violation of any appli-
53 cable local law or regulation defined herein, while operated within the
54 congestion toll zone or along a designated bus corridor, and such
55 violation is evidenced by information obtained from a photo device;
56 provided however that no owner of a vehicle shall be liable for a penal-

1 ty imposed pursuant to this subdivision where the operator of such vehi-
2 cle has been convicted of the underlying violation of such applicable
3 local law or regulation.

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

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

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

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

16 § 4-08(f)(4) and § 4-12(m): General no standing zones, Bus lanes

17 § 4-08(c)(3): Violation of posted no standing rules prohibited, Bus
18 stop

19 § 4-08(f)(1): General no standing zones, Double parking

20 § 4-08(k)(2): Special rules for commercial vehicles, No standing
21 except trucks loading and unloading

22 § 4-08(a)(3): Standing prohibited

23 § 4-07(b)(1) and § 4-08(e)(11): Stopping prohibited

24 § 4-07(e)(4): General no stopping zones, Intersections

25 § 4-08 (e)(5): General no stopping zones, Crosswalks

26 § 4-08(e)(12): General no stopping zones, Obstructing traffic at inter-
27 section.

28 § 4-05, § 4-07(h)(2): Turns

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

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

41 8. An owner liable for a violation shall be liable for monetary penal-
42 ties in accordance with a schedule of fines and penalties promulgated by
43 the parking violations bureau of the city of New York; provided, howev-
44 er, that the monetary penalty for a first offense of a provision of
45 local law or regulation of the city of New York relating to stopping,
46 standing, parking and turning movement violations pursuant to this
47 subdivision shall not exceed one hundred twenty-five dollars, one
48 hundred fifty dollars for a second offense within a twelve-month period,
49 two hundred dollars for a third offense within a twelve-month period,
50 two hundred fifty dollars for a fourth offense within a twelve-month
51 period, and three hundred fifty dollars for each subsequent offense
52 within a twelve-month period; and provided, further, that an owner shall
53 be liable for an additional penalty not to exceed twenty-five dollars
54 for each violation for the failure to respond to a notice of liability
55 within the prescribed time period set forth in the notice of violation.

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

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

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

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

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

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

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

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

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

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

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

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

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

13 16. The city of New York and the applicable mass transit agency shall
 14 submit a report on the results of the use of photo devices to the gover-
 15 nor, the temporary president of the senate and the speaker of the assem-
 16 bly by April first, within twelve months of operation of such photo
 17 devices and every two years thereafter. Such report shall include, but
 18 not be limited to:

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

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

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

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

26 (v) the number of violations adjudicated and results of such adjudi-
 27 cations including breakdowns of dispositions made;

28 (vi) the total amount of revenue realized by such city and any partic-
 29 ipating mass transit agency;

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

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

32 (ix) the total cost to the city and the total cost to any participat-
 33 ing mass transit agency.

34 17. Any revenue from fines and penalties collected pursuant to this
 35 subdivision from mobile bus photo devices shall be remitted by the city
 36 of New York to the applicable mass transit agency on a quarterly basis
 37 to be deposited in the general transportation account of the New York
 38 city transportation assistance fund established pursuant to section
 39 twelve hundred seventy of the public authorities law.

40 § 2. The opening paragraph of section 14 of part II of chapter 59 of
 41 the laws of 2010, amending the vehicle and traffic law and the public
 42 officers law relating to establishing a bus rapid transit demonstration
 43 program to restrict the use of bus lanes by means of bus lane photo
 44 devices, as amended by chapter 239 of the laws of 2015, is amended to
 45 read as follows:

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

51 § 3. This act shall take effect immediately. Effective immediately,
 52 the addition, amendment and/or repeal of any rule or regulation neces-
 53 sary for the implementation of this act on its effective date are
 54 authorized to be made and completed on or before such effective date.

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

5 § 45. This act shall take effect immediately; except that: (a) para-
6 graph (d) of subdivision 3 of section 1263 of the public authorities
7 law, as added by section twenty-six of this act, shall be deemed to have
8 been in full force and effect on and after August 5, 1986; (b) sections
9 thirty-three and thirty-four of this act shall not apply to a certified
10 or recognized public employee organization which represents any public
11 employees described in subdivision 16 of section 1204 of the public
12 authorities law and such sections shall expire on July 1, [~~2019~~] 2021
13 and nothing contained within these sections shall be construed to divest
14 the public employment relations board or any court of competent juris-
15 diction of the full power or authority to enforce any order made by the
16 board or such court prior to the effective date of this act; (c) the
17 provisions of section thirty-five of this act shall expire on March 31,
18 1987; and (d) provided, however, the commissioner of taxation and
19 finance shall have the power to enforce the provisions of sections two
20 through nine of this act beyond December 31, 1990 to enable such commis-
21 sioner to collect any liabilities incurred prior to January 1, 1991.

22 § 2. This act shall take effect immediately.

23 PART II

24 Section 1. Subdivisions 3 and 11 of section 120.05 of the penal law,
25 subdivision 3 as amended by chapter 267 of the laws of 2016 and subdivi-
26 sion 11 as separately amended by chapters 268 and 281 of the laws of
27 2016, are amended to read as follows:

28 3. With intent to prevent a peace officer, a police officer, prosecu-
29 tor as defined in subdivision thirty-one of section 1.20 of the criminal
30 procedure law, registered nurse, licensed practical nurse, public health
31 sanitarian, New York city public health sanitarian, sanitation enforce-
32 ment agent, New York city sanitation worker, a firefighter, including a
33 firefighter acting as a paramedic or emergency medical technician admin-
34 istering first aid in the course of performance of duty as such fire-
35 fighter, an emergency medical service paramedic or emergency medical
36 service technician, or medical or related personnel in a hospital emer-
37 gency department, a city marshal, a school crossing guard appointed
38 pursuant to section two hundred eight-a of the general municipal law, a
39 traffic enforcement officer, traffic enforcement agent, highway worker
40 as defined in section one hundred eighteen-a of the vehicle and traffic
41 law, motor vehicle inspector and motor carrier investigator as defined
42 in section one hundred eighteen-b of the vehicle and traffic law, or
43 employee of any entity governed by the public service law in the course
44 of performing an essential service, from performing a lawful duty, by
45 means including releasing or failing to control an animal under circum-
46 stances evincing the actor's intent that the animal obstruct the lawful
47 activity of such peace officer, police officer, prosecutor as defined in
48 subdivision thirty-one of section 1.20 of the criminal procedure law,
49 registered nurse, licensed practical nurse, public health sanitarian,
50 New York city public health sanitarian, sanitation enforcement agent,
51 New York city sanitation worker, firefighter, paramedic, technician,
52 city marshal, school crossing guard appointed pursuant to section two
53 hundred eight-a of the general municipal law, traffic enforcement offi-
54 cer, traffic enforcement agent, highway worker as defined in section one

1 hundred eighteen-a of the vehicle and traffic law, motor vehicle inspec-
2 tor and motor carrier investigator as defined in section one hundred
3 eighteen-b of the vehicle and traffic law, or employee of an entity
4 governed by the public service law, he or she causes physical injury to
5 such peace officer, police officer, prosecutor as defined in subdivision
6 thirty-one of section 1.20 of the criminal procedure law, registered
7 nurse, licensed practical nurse, public health sanitarian, New York city
8 public health sanitarian, sanitation enforcement agent, New York city
9 sanitation worker, firefighter, paramedic, technician or medical or
10 related personnel in a hospital emergency department, city marshal,
11 school crossing guard, traffic enforcement officer, traffic enforcement
12 agent, highway worker as defined in section one hundred eighteen-a of
13 the vehicle and traffic law, motor vehicle inspector and motor carrier
14 investigator as defined in section one hundred eighteen-b of the vehicle
15 and traffic law, or employee of an entity governed by the public service
16 law; or

17 11. With intent to cause physical injury to a train operator, ticket
18 inspector, conductor, signalperson, bus operator, station agent, station
19 cleaner [~~ex~~], terminal cleaner, station customer assistant, person whose
20 official duties include the sale or collection of tickets, passes,
21 vouchers or other fare payment media for use on a train or bus, person
22 whose official duties include the maintenance, repair, inspection, trou-
23 bleshooting, testing or cleaning of a transit signal system, elevated or
24 underground subway tracks, transit station structure, train yard, reven-
25 ue train in passenger service, or a train or bus station or terminal, or
26 a supervisor of such personnel employed by any transit agency, authority
27 or company, public or private, whose operation is authorized by New York
28 state or any of its political subdivisions, a city marshal, a school
29 crossing guard appointed pursuant to section two hundred eight-a of the
30 general municipal law, a traffic enforcement officer, traffic enforce-
31 ment agent, highway worker as defined in section one hundred eighteen-a
32 of the vehicle and traffic law, motor vehicle inspector and motor carri-
33 er investigator as defined in section one hundred eighteen-b of the
34 vehicle and traffic law, prosecutor as defined in subdivision thirty-one
35 of section 1.20 of the criminal procedure law, sanitation enforcement
36 agent, New York city sanitation worker, public health sanitarian, New
37 York city public health sanitarian, registered nurse, licensed practical
38 nurse, emergency medical service paramedic, or emergency medical service
39 technician, he or she causes physical injury to such train operator,
40 ticket inspector, conductor, signalperson, bus operator, station agent,
41 station cleaner [~~ex~~], terminal cleaner, station customer assistant,
42 person whose official duties include the sale or collection of tickets,
43 passes, vouchers or other fare payment media for use on a train or bus,
44 person whose official duties include the maintenance, repair,
45 inspection, troubleshooting, testing or cleaning of a transit signal
46 system, elevated or underground subway tracks, transit station struc-
47 ture, train yard, revenue train in passenger service, or a train or bus
48 station or terminal, or a supervisor of such personnel, city marshal,
49 school crossing guard appointed pursuant to section two hundred eight-a
50 of the general municipal law, traffic enforcement officer, traffic
51 enforcement agent, highway worker as defined in section one hundred
52 eighteen-a of the vehicle and traffic law, motor vehicle inspector and
53 motor carrier investigator as defined in section one hundred eighteen-b
54 of the vehicle and traffic law, prosecutor as defined in subdivision
55 thirty-one of section 1.20 of the criminal procedure law, registered
56 nurse, licensed practical nurse, public health sanitarian, New York city

1 public health sanitarian, sanitation enforcement agent, New York city
2 sanitation worker, emergency medical service paramedic, or emergency
3 medical service technician, while such employee is performing an
4 assigned duty on, or directly related to, the operation of a train or
5 bus, [~~including the cleaning of a train or bus station or terminal~~]
6 cleaning of a train or bus station or terminal or maintenance of a train
7 or bus station or terminal, signal system, elevated or underground
8 subway tracks, transit station structure, train yard or revenue train in
9 passenger service, or such city marshal, school crossing guard, traffic
10 enforcement officer, traffic enforcement agent, highway worker as
11 defined in section one hundred eighteen-a of the vehicle and traffic
12 law, motor vehicle inspector and motor carrier investigator as defined
13 in section one hundred eighteen-b of the vehicle and traffic law, prose-
14 cutor as defined in subdivision thirty-one of section 1.20 of the crimi-
15 nal procedure law, registered nurse, licensed practical nurse, public
16 health sanitarian, New York city public health sanitarian, sanitation
17 enforcement agent, New York city sanitation worker, emergency medical
18 service paramedic, or emergency medical service technician is performing
19 an assigned duty; or

20 § 2. The vehicle and traffic law is amended by adding two new
21 sections 118-a and 118-b to read as follows:

22 § 118-a. Highway worker. Any person employed by or on behalf of the
23 state, a county, city, town or village, a public authority, a local
24 authority, or a public utility company, or the agent or contractor of
25 any such entity, who has been assigned to perform work on a highway,
26 including maintenance, repair, flagging, utility work, construction,
27 reconstruction or operation of equipment on public highway infrastruc-
28 ture and associated rights-of-way in highway work areas, and shall also
29 include any flagperson as defined in section one hundred fifteen-b of
30 this article.

31 § 118-b. Motor vehicle inspector and motor carrier investigator. Any
32 person employed by the New York State department of transportation who
33 has been assigned to perform inspections of any motor vehicles or inves-
34 tigation of any carriers regulated by the commissioner of transporta-
35 tion.

36 § 3. The vehicle and traffic law is amended by adding a new section
37 1221-a to read as follows:

38 § 1221-a. Intrusion into an active work zone. 1. No driver of a vehi-
39 cle shall enter or intrude into an active work zone except upon direc-
40 tion from a flagperson, police officer or other visibly designated
41 person in charge of traffic control or direction from a traffic control
42 device regulating entry therein. For purposes of this section, the term
43 "active work zone" shall mean the physical area of a highway, street or
44 private road on which construction, maintenance or utility work is being
45 conducted, which area is marked by any signs, channeling devices, barri-
46 ers, pavement markings, or work vehicles, and where workers are phys-
47 ically present.

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

53 § 4. The vehicle and traffic law is amended by adding a new section
54 1221-b to read as follows:

55 § 1221-b. Work zone safety and outreach. The governor's traffic safety
56 committee, upon consultation with the commissioner of transportation,

1 the superintendent of state police, the commissioner, the chairman of
2 the New York state thruway authority, local law enforcement agencies,
3 and representatives for contractors and laborers, shall design and
4 implement a public education and outreach program to increase motorist
5 awareness of the importance of highway work zone safety, to reduce the
6 number of work zone incidents, including speeding, unauthorized intru-
7 sions into work zones, and any conduct resulting in threats or injuries
8 to highway workers, and to increase and promote work zone safety.

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

11 11-d. With intent to cause physical injury to a terminal cleaner,
12 cabin cleaner, facilities cleaner, wheelchair assist employee, baggage
13 handler, skycap, ticket agent, customer services employee, security
14 guard, queue management employee, shuttle bus driver, or any employee
15 whose duties require him or her to work on the tarmac, employed by any
16 airport, airport authority or company, public or private, that performs
17 such services at an airport, he or she causes physical injury to such
18 terminal cleaner, cabin cleaner, facilities cleaner, wheelchair assist
19 employee, baggage handler, skycap, ticket agent, customer services
20 employee, security guard, queue management employee, shuttle bus driver,
21 or any employee whose duties require him or her to work on the tarmac,
22 while such employee is performing an assigned duty of, or directly
23 related to, such services at an airport in the state of New York; or

24 § 6. This act shall take effect immediately.

25 PART JJ

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

28 § 2985-a. Payment of tolls under the Tolls by Mail program. 1. For
29 purposes of this section the following terms shall have the following
30 meanings:

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

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

47 (c) "toll bill" shall mean a notice sent to an owner notifying such
48 owner that the owner's vehicle has been used or operated in or upon a
49 cashless tolling facility and the owner has incurred an obligation to
50 pay a toll;

51 (d) "notice of violation" shall mean a notice sent to an owner notify-
52 ing such owner that a toll incurred at a cashless tolling facility by
53 the owner has not been paid at the place and time and in the manner

1 established for collection of such toll in the toll bill and that an
2 administrative violation fee is being imposed for each such unpaid toll;

3 (e) "billing cycle" shall mean a period not to exceed thirty calendar
4 days for purposes of consolidated toll billing;

5 (f) "initial billing cycle" shall mean a period not to exceed fifteen
6 calendar days after identifying the owner or other party responsible for
7 paying the toll for the purpose of consolidated toll billing for an
8 obligation to pay a toll for the first time at a cashless tolling facil-
9 ity in a six-month period; and

10 (g) "tolls by mail program" shall mean any program operated by or on
11 behalf of a public authority to send a toll bill to an owner whose vehi-
12 cle crosses a cashless tolling facility without an electronic device
13 that successfully transmits information through an electronic toll
14 collection system as defined in subdivision twelve of section twenty-
15 nine hundred eighty-five of this title.

16 2. In the case of an owner who incurs an obligation to pay a toll
17 under the Tolls by Mail program at a cashless tolling facility, a toll
18 bill shall be sent within six calendar days of the end of the initial
19 billing cycle and each subsequent billing cycle. Unless the owner
20 consents to have toll bills sent by electronic means of communication,
21 toll bills shall be sent to the owner by first class mail by or on
22 behalf of the public authority which operates such cashless tolling
23 facility. The owner shall have thirty days from the date of the toll
24 bill to pay the incurred toll. The toll bill shall include: (i) the
25 total amount of the incurred tolls due, (ii) the date by which payment
26 of the incurred tolls is due, (iii) an image of the license plate of the
27 vehicle being used or operated on the toll facility, (iv) notice of how
28 to dispute the tolls and the grounds for doing so, and (v) any other
29 information required by law or by the public authority. Each toll bill
30 shall identify the date, time, location, license plate number, and
31 state, territory, district, province, nation or other jurisdiction of
32 the license plate for each toll that has been incurred.

33 3. Any toll bill required to be sent pursuant to this section by first
34 class mail may instead be sent, with consent, by electronic means of
35 communication by or on behalf of the public authority, which consent can
36 be revoked at any time by the owner with notice to the public authority
37 or its agent. Such consent shall be deemed to be revoked when any toll
38 bill is unable to be delivered by electronic means of communication. It
39 shall be the sole responsibility of the owner to update the address used
40 for electronic means of communication to the owner. A manual or automat-
41 ic record of electronic communications prepared in the ordinary course
42 of business shall be adequate record of electronic notice.

43 4. In the case of an owner who does not pay a toll incurred under the
44 Tolls by Mail program on a cashless facility at the place and time and
45 in the manner established for collection of such toll in the toll bill,
46 a notice of violation shall be sent notifying the owner that the toll is
47 unpaid and an administrative violation fee is being imposed for each
48 such unpaid toll. The notice of violation shall be sent to the owner by
49 first class mail by or on behalf of the public authority which operates
50 such cashless tolling facility to an address supplied by the applicable
51 department of motor vehicles, the United States Postal Service National
52 Change of Address Service or the owner. The notice of violation shall
53 include: (i) the total amount of unpaid tolls and administrative
54 violation fees due, (ii) the date by which payment of the tolls and
55 administrative violation fees is due, and (iii) any other information
56 required by law or by the public authority. Each notice of violation

1 shall identify the date, time, location, license plate number, and
2 state, territory, district, province, nation or other jurisdiction of
3 the license plate for each unpaid toll that has been incurred.

4 5. Nothing in this section shall prohibit a public authority from
5 collecting any toll, fee, or penalty in the event that an owner does not
6 properly register a vehicle pursuant to the laws, rules and regulations
7 of this state, or any other state, territory, district, province, nation
8 or other jurisdiction.

9 6. Any owner or responsible party who incurs an obligation to pay a
10 toll under the Tolls by Mail program at a public authority's cashless
11 tolling facility shall have an option to receive text message or elec-
12 tronic mail alerts that a toll has been incurred. Such alerts shall be
13 provided to the owner no more than seventy-two hours after the owner or
14 responsible party is identified. Each public authority shall create an
15 online registration for text message or electronic mail alerts that a
16 toll has been incurred under the Tolls by Mail program at a cashless
17 tolling facility. In the event an owner chooses to receive text message
18 or electronic mail alerts of a toll incurred, it shall be the owner's
19 sole responsibility to provide and then update any mobile numbers and
20 any electronic mail addresses to which alerts are sent. A manual or
21 automatic record of electronic communications prepared in the ordinary
22 course of business shall be adequate record of electronic notice.

23 7. Any public authority that operates a cashless tolling facility
24 shall maintain a website and toll-free phone number for any person to
25 receive updated information on any tolls or fees which are outstanding.
26 Such website and phone number shall be included on any toll bill or
27 notice of violation sent by or on behalf of a public authority.

28 8. Any public authority which operates a cashless tolling facility
29 shall establish procedures for owners to dispute any tolls and violation
30 fees incurred in connection with toll bills. Such procedures shall be
31 prominently displayed on such public authority's toll bills, notices of
32 violation and website.

33 9. Any public authority which operates a cashless tolling facility
34 shall conspicuously and prominently display the amount of tolls for
35 passenger vehicles and violation fees at that facility on signage of a
36 reasonable size in a manner reasonably calculated to provide ample and
37 adequate notice.

38 10. Nothing in this section shall require a public authority to
39 perform any action or forebear from performing an action that would in
40 the public authority's sole discretion impair any covenant with the
41 holders of any of the public authority's bonds, notes or other obli-
42 gations.

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

47 12. Every public authority which operates a cashless tolling facility
48 shall undertake a public awareness campaign regarding the use of and
49 process involved with the payment of tolls under the Tolls by Mail
50 program at cashless tolling facilities. Each public authority shall
51 provide for sufficient methods to obtain an electronic device for the
52 charging of tolls through an electronic toll collection system as
53 defined in subdivision twelve of section twenty-nine hundred eighty-five
54 of this title, including, in the New York state thruway authority's
55 discretion, making such devices available at service areas owned or
56 operated by the thruway authority.

1 § 2. This act shall take effect immediately.

2 PART KK

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

6 (a) As deemed feasible and advisable by the trustees, to (i) finance
7 [and], design, develop, construct, implement, provide and administer
8 energy-related projects, programs and services for itself, for any other
9 public entity, any independent not-for-profit institution of higher
10 education within the state, [and] any recipient of [the] economic devel-
11 opment power, expansion power, replacement power, preservation power,
12 high load factor power, municipal distribution agency power, [power for
13 jobs, and] or recharge New York power [programs administered] allocated
14 by the authority and any party located within the state under contract
15 with the authority to purchase power from the authority pursuant to this
16 title or any other law, and (ii) provide energy supply services for any
17 public entity. In establishing and providing high performance and
18 sustainable building programs and services authorized by this subdivi-
19 sion, the authority is authorized to consult standards, guidelines,
20 rating systems, and/or criteria established or adopted by other organ-
21 izations, including but not limited to the United States green building
22 council under its leadership in energy and environmental design (LEED)
23 programs, the green building initiative's green globes rating system,
24 and the American National Standards Institute. The source of any financ-
25 ing and/or loans provided by the authority for the purposes of this
26 subdivision may be the proceeds of notes issued pursuant to section one
27 thousand nine-a of this title, the proceeds of bonds issued pursuant to
28 section one thousand ten of this title, or any other available authority
29 funds.

30 § 2. Subparagraphs 2 and 3 of paragraph (b) of subdivision 17 of
31 section 1005 of the public authorities law, as added by chapter 477 of
32 the laws of 2009 and such subdivision as renumbered by section 16 of
33 part CC of chapter 60 of the laws of 2011, are amended to read as
34 follows:

35 (2) "Energy-related projects, programs and services" means projects,
36 programs and services related to energy efficiency and conservation
37 [projects and services], energy management, energy supply reliability,
38 clean energy technology [projects and services], and high performance
39 and sustainable building [programs and services], and the construction,
40 installation and/or operation of facilities or equipment done in
41 connection with any such projects, programs or services.

42 (3) "Energy services contract" or "contract" means a contract pursuant
43 to which the authority provides energy-related projects, programs and
44 services or energy supply services.

45 § 3. Paragraph (b) of subdivision 17 of section 1005 of the public
46 authorities law is amended by adding a new subparagraph 2-a to read as
47 follows:

48 (2-a) "Energy supply services" means services pursuant to which the
49 authority supplies energy, power and/or related credits or attributes to
50 a public entity, and includes the supply of any such energy products for
51 the purpose of meeting the energy-related needs of any municipal corpo-
52 ration and/or the residents of a municipal corporation under a community
53 choice aggregation program approved by the public service commission.

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

5 (c) Any public entity is authorized to [~~enter into an energy services~~]
6 contract with the authority for energy-related projects, programs and
7 services and contract with the authority for energy supply services that
8 are authorized by this subdivision, provided that (i) the authority
9 issues and advertises written requests for proposals from third party
10 providers of goods and services in accordance with the authority's
11 procurement policies, procedures and/or guidelines, and (ii) the author-
12 ity shall not contract with a third party provider of goods and services
13 if such person is listed on a debarment list maintained and published in
14 accordance with New York law, as being ineligible to submit a bid on or
15 be awarded any public contract or subcontract with the state, any munic-
16 ipal corporation or public body. For the purpose of meeting the energy
17 needs of any municipal corporation and its residents under a community
18 choice aggregation program approved by the public service commission,
19 the authority is authorized to contract with any entity that has entered
20 into a written agreement with such municipal corporation to administer a
21 community choice aggregation program or to procure energy or related
22 products for such municipal corporation and/or its residents under the
23 community choice aggregation program.

24 § 5. Subparagraph (i) of paragraph (d) of subdivision 17 of section
25 1005 of the public authorities law, as added by chapter 477 of the laws
26 of 2009 and such subdivision as renumbered by section 16 of part CC of
27 chapter 60 of the laws of 2011, is amended to read as follows:

28 (d)(i) Notwithstanding any other provision of law to the contrary, any
29 energy services contract entered into by the authority with any public
30 entity: (1) may have a term of up to thirty-five years duration,
31 provided, however, that the duration of any such contract shall not
32 exceed the reasonably expected useful life of any facilities or equip-
33 ment constructed, installed or operated as part of such energy-related
34 projects, programs and services subject to such contract; and (2) in the
35 case of an energy services contract with any municipal corporation or
36 agency, shall contain the following clause: "This contract shall be
37 deemed executory only to the extent of the monies appropriated and
38 available for the purpose of the contract, and no liability on account
39 therefor shall be incurred beyond the amount of such monies. It is
40 understood that neither this contract nor any representation by any
41 public employee or officer creates any legal or moral obligation to
42 request, appropriate or make available monies for the purpose of the
43 contract." A school district or board of cooperative educational
44 services may only enter into an energy services contract with the
45 authority for such maximum term as is prescribed in the regulations
46 promulgated by the commissioner of education or the useful life of the
47 facilities or equipment being constructed, installed or operated, which-
48 ever is less.

49 § 6. Section 1005 of the public authorities law is amended by adding a
50 new subdivision 9-a to read as follows:

51 9-a. To design, finance, develop, construct, install, lease, operate
52 and maintain electric vehicle charging stations throughout the state for
53 use by the public.

54 § 7. This act shall take effect immediately.

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

3 26. (a) The authority is authorized, as deemed feasible and advisable
4 by the trustees, to plan, finance, construct, acquire, operate, improve
5 and maintain, either alone or jointly with one or more other entities,
6 transmission facilities for the purpose of transmitting power and energy
7 generated by renewable generation projects that are located in whole or
8 in part outside state jurisdictional waters which supplies electric
9 power and energy to the state of New York that the authority deems
10 necessary and desirable in order to: (i) provide, support and maintain
11 an adequate and reliable supply of electric power and energy in the
12 state of New York, and/or (ii) assist the state in meeting state ener-
13 gy-related goals and standards.

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

19 § 2. Section 1005 of the public authorities law is amended by adding a
20 new subdivision 27 to read as follows:

21 27. (a) Notwithstanding any other provision of this title, as deemed
22 feasible and advisable by the trustees, the authority is authorized to
23 undertake the following actions when it deems it necessary or desirable
24 to address the energy-related needs of any (i) authority customer, (ii)
25 public entity, or (iii) CCA community:

26 (1) supply power, energy, or related credits or attributes procured
27 through a competitive process, from competitive market sources, or
28 through negotiation on terms and conditions determined by the authority
29 to be reasonable, to any authority customer, public entity, or CCA
30 community; and

31 (2) (A) alone or jointly with one or more other entities, finance the
32 development of renewable energy generating projects that are located in
33 the state, including its territorial waters, and/or on property or in
34 waters under the jurisdiction or regulatory authority of the United
35 States, (B) purchase power, energy or related credits or attributes
36 produced from such renewable energy generating projects, and (C) allo-
37 cate and sell any such products to any authority customer, to any public
38 entity, and, for the purpose of meeting the energy-related needs of any
39 CCA community, to any municipal corporation that supplies electricity to
40 a CCA community or any other entity that has entered into a written
41 agreement with a CCA community to administer a CCA program or supply
42 electricity to a CCA community.

43 (b) Any public entity is hereby authorized to contract with the
44 authority for the purchase of power, energy, or related credits or
45 attributes which the authority is authorized to supply under paragraph
46 (a) of this subdivision.

47 (c) The source of any financing and/or loans provided by the authority
48 for any of the actions authorized in paragraph (a) of this subdivision
49 may be the proceeds of notes issued pursuant to section one thousand
50 nine-a of this title, the proceeds of bonds issued pursuant to section
51 one thousand ten of this title, or any other available authority funds.

52 (d) The authority shall complete and submit a report, on or before
53 January thirty-first, two thousand twenty, and annually thereafter on
54 those actions undertaken pursuant to this subdivision to the governor,
55 the speaker of the assembly, the temporary president of the senate, the
56 chair of the assembly ways and means committee, the chair of the senate

1 finance committee, the chair of the assembly energy committee and the
2 chair of the senate energy and telecommunications committee. Such
3 report, at a minimum, shall include: (i) a description of all renewable
4 energy generating projects developed in connection with the authori-
5 zation provided in this subdivision, including the total number of
6 projects developed, the renewable energy resource for each project, the
7 location of each project, and the nameplate generating capacity of each
8 project; (ii) identification of all public entities that have purchased
9 renewable power, energy, or related credits or attributes from the
10 authority that are derived from renewable energy generating projects
11 developed in connection with the authorization provided in this subdivi-
12 sion, including the projects from which such products were derived;
13 (iii) identification of all authority customers that have purchased
14 renewable power, energy, or related credits or attributes from the
15 authority that are derived from renewable energy generating projects
16 developed in connection with the authorization provided in this subdivi-
17 sion, including the projects from which such products were derived; and
18 (iv) the aggregate amount of increased renewable power and energy gener-
19 ation developed in connection with the authorization in this subdivi-
20 sion.

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

24 (i) "Authority customer" means an entity located in the state to which
25 the authority sells or is under contract to sell power or energy under
26 the authority in this title or any other law.

27 (ii) "CCA community" means one or more municipal corporations located
28 within the state that have provided for the purchase of power, energy,
29 or related credits or other attributes under a CCA program.

30 (iii) "CCA program" means a community choice aggregation program
31 approved by the public service commission.

32 (iv) "Public entity" has the meaning ascribed to that term by subpara-
33 graph five of paragraph (b) of subdivision seventeen of this section.

34 (v) "Renewable energy resources" means solar power, wind power, hydro-
35 electric, and any other generation resource authorized by any renewable
36 energy standard adopted by the state for the purpose of implementing any
37 state clean energy standard.

38 (vi) "Renewable energy generating project" means a project that gener-
39 ates power and energy by means of renewable energy resources, or that
40 stores and supplies power and energy generated by means of renewable
41 energy resources, and includes the construction, installation and/or
42 operation of ancillary facilities or equipment done in connection with
43 any such renewable energy generating projects, provided, however, that
44 such term shall not include the authority's Saint Lawrence hydroelectric
45 project or Niagara hydroelectric project.

46 (vii) "State" means the state of New York.

47 § 3. Nothing in this act is intended to limit, impair, or affect the
48 legal authority of the Power Authority of the State of New York under
49 any other provision of this title.

50 § 4. This act shall take effect immediately.

51 PART MM

52 Section 1. The state finance law is amended by adding a new section
53 99-ff to read as follows:

1 § 99-ff. Parks retail stores fund. 1. Notwithstanding sections eight,
2 eight-a and seventy of this chapter and any other provision of law,
3 rule, regulation or practice to the contrary, there is hereby estab-
4 lished in the joint custody of the state comptroller and the commis-
5 sioner of tax and finance a parks retail stores fund, which shall be classi-
6 fied by the state comptroller as an enterprise fund, and which shall
7 consist of all moneys received from private entities and individuals
8 from retail operations at state parks, recreational facilities and
9 historic sites operated by the office of parks, recreation and historic
10 preservation.

11 2. Moneys within the parks retail stores fund shall be made available
12 to the commissioner of parks, recreation and historic preservation for
13 services and expenses relating to the operation of retail stores and in
14 support of the sale of retail goods at state parks, recreational facili-
15 ties and historic sites.

16 § 2. The state finance law is amended by adding a new section 99-gg to
17 read as follows:

18 § 99-gg. Golf fund. 1. Notwithstanding sections eight, eight-a and
19 seventy of this chapter and any other provision of law, rule, regulation
20 or practice to the contrary, there is hereby established in the joint
21 custody of the state comptroller and the commissioner of tax and finance
22 a golf fund, which shall be classified by the state comptroller as an
23 enterprise fund, and which shall consist of all moneys collected from
24 private entities and individuals for the use of state-owned golf cours-
25 es, any other miscellaneous fees associated with the use of such golf
26 courses, and sale of retail goods and services at state owned golf
27 courses.

28 2. Moneys within the golf fund shall be made available to the commis-
29 sioner of parks, recreation and historic preservation for services and
30 expenses of the office of parks, recreation and historic preservation
31 relating to the direct maintenance and operation of state owned golf
32 courses, and in support of the sale of retail goods and services at
33 state owned golf courses.

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

36 PART NN

37 Section 1. Subdivision 7 of section 2611 of the public authorities
38 law, as amended by section 3 of part C of chapter 60 of the laws of
39 2012, is amended to read as follows:

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

1 § 2. This act shall take effect immediately.

2 PART OO

3 Section 1. Clauses 6 and 7 of subparagraph (B) of paragraph (i) of
4 subdivision (b) of section 349-g of the highway law, as added by chapter
5 78 of the laws of 2018, are amended to read as follows:

6 6. Within the waters of Flushing Bay South 45°-38'-00" East, a
7 distance of 1092.05' to a point in the waters of Flushing Bay, said
8 point also being the westerly line of Tax Map Lot 65 Block [~~789~~] 1789,
9 thence;

10 7. Along the westerly line of same South 05°-02'-52" East, a distance
11 of 456.35' to a point in the westerly line of Tax Map Lot 65 Block [~~789~~]
12 1789, thence;

13 § 2. This act shall take effect immediately and shall be deemed to
14 have been in full force and effect on and after chapter 78 of the laws
15 of 2018 took effect, and shall be deemed repealed therewith.

16 PART PP

17 Section 1. Paragraph (r) of section 104-A of the business corporation
18 law is REPEALED.

19 § 2. Subparagraphs 3 and 4 of paragraph (a) and paragraphs (b) and (c)
20 of section 306-A of the business corporation law, as added by chapter
21 469 of the laws of 1997, subparagraph 4 of paragraph (a) as amended by
22 chapter 172 of the laws of 1999, paragraphs (b) and (c) as amended by
23 section 2 of part S of chapter 59 of the laws of 2015, are amended to
24 read as follows:

25 (3) That sixty days prior to the filing of the certificate of resigna-
26 tion for receipt of process with the department of state the party has
27 sent a copy of the certificate of resignation for receipt of process by
28 registered or certified mail to the address of the registered agent of
29 the designating corporation, if other than the party filing the certif-
30 icate of resignation[~~r~~] for receipt of process, or if the [~~resigning~~]
31 designating corporation has no registered agent, then to the last
32 address of the designating corporation known to the party, specifying
33 the address to which the copy was sent. If there is no registered agent
34 and no known address of the designating corporation, the party shall
35 attach an affidavit to the certificate stating that a diligent but
36 unsuccessful search was made by the party to locate the corporation,
37 specifying what efforts were made.

38 (4) That the designating corporation is required to deliver to the
39 department of state a certificate of amendment or change providing for
40 the designation by the corporation of a new address and that upon its
41 failure to file such certificate, its authority to do business in this
42 state shall be suspended[~~, unless the corporation has previously filed a~~
43 ~~biennial statement under section four hundred eight of this chapter, in~~
44 ~~which case the address of the principal executive office stated in the~~
45 ~~last filed biennial statement shall constitute the new address for pro-~~
46 ~~cess of the corporation, and no such certificate of amendment or change~~
47 ~~need be filed].~~

48 (b) Upon the failure of the designating corporation to file a certif-
49 icate of amendment or change providing for the designation by the corpo-
50 ration of the new address after the filing of a certificate of resigna-
51 tion for receipt of process with the secretary of state, its authority
52 to do business in this state shall be suspended [~~unless the corporation~~

1 ~~has previously filed a statement under section four hundred eight of~~
2 ~~this chapter, in which case the address of the principal executive~~
3 ~~office stated in the last filed statement, shall constitute the new~~
4 ~~address for process of the corporation provided such address is differ-~~
5 ~~ent from the previous address for process, and the corporation shall not~~
6 ~~be deemed suspended].~~

7 (c) The filing by the department of state of a certificate of amend-
8 ment or change [~~or statement under section four hundred eight of this~~
9 ~~chapter~~] providing for a new address by a designating corporation shall
10 annul the suspension and its authority to do business in this state
11 shall be restored and continue as if no suspension had occurred.

12 § 3. Section 408 of the business corporation law is REPEALED.

13 § 4. Section 409 of the business corporation law is REPEALED.

14 § 5. Subdivision (e) of section 301 of the limited liability company
15 law is REPEALED.

16 § 6. Subdivision (c) of section 1101 of the limited liability company
17 law is REPEALED.

18 § 7. Subdivision (g) of section 121-1500 of the partnership law, as
19 amended by section 8 of part S of chapter 59 of the laws of 2015, is
20 amended to read as follows:

21 (g) [~~Each registered limited liability partnership shall, within sixty~~
22 ~~days prior to the fifth anniversary of the effective date of its regis-~~
23 ~~tration and every five years thereafter, furnish a statement to the~~
24 ~~department of state setting forth: (i) the name of the registered limit-~~
25 ~~ed liability partnership, (ii) the address of the principal office of~~
26 ~~the registered limited liability partnership, (iii) the post office~~
27 ~~address within or without this state to which the secretary of state~~
28 ~~shall mail a copy of any process accepted against it served upon him or~~
29 ~~her, which address shall supersede any previous address on file with the~~
30 ~~department of state for this purpose, and (iv) a statement that it is~~
31 ~~eligible to register as a registered limited liability partnership~~
32 ~~pursuant to subdivision (a) of this section. The statement shall be~~
33 ~~executed by one or more partners of the registered limited liability~~
34 ~~partnership. The statement shall be accompanied by a fee of twenty~~
35 ~~dollars if submitted directly to the department of state. The commis-~~
36 ~~sioner of taxation and finance and the secretary of state may agree to~~
37 ~~allow registered limited liability partnerships to provide the statement~~
38 ~~specified in this subdivision on tax reports filed with the department~~
39 ~~of taxation and finance in lieu of statements filed directly with the~~
40 ~~secretary of state and in a manner prescribed by the commissioner of~~
41 ~~taxation and finance. If this agreement is made, starting with taxable~~
42 ~~years beginning on or after January first, two thousand sixteen, each~~
43 ~~registered limited liability partnership required to file the statement~~
44 ~~specified in this subdivision that is subject to the filing fee imposed~~
45 ~~by paragraph three of subsection (c) of section six hundred fifty-eight~~
46 ~~of the tax law shall provide such statement annually on its filing fee~~
47 ~~payment form filed with the department of taxation and finance in lieu~~
48 ~~of filing a statement under this subdivision with the department of~~
49 ~~state. However, each registered limited liability partnership required~~
50 ~~to file a statement under this section must continue to file a statement~~
51 ~~with the department of state as required by this section until the~~
52 ~~registered limited liability partnership in fact has filed a filing fee~~
53 ~~payment form with the department of taxation and finance that includes~~
54 ~~all required information. After that time, the registered limited~~
55 ~~liability partnership shall continue to provide annually the statement~~
56 ~~specified in this subdivision on its filing fee payment form in lieu of~~

~~the statement required by this subdivision. The commissioner of taxation and finance shall deliver the completed statement specified in this subdivision to the department of state for filing. The department of taxation and finance must, to the extent feasible, also include in such delivery the current name of the registered limited liability partnership, department of state identification number for such registered limited liability partnership, the name, signature and capacity of the signer of the statement, name and street address of the filer of the statement, and the email address, if any, of the filer of the statement. If a registered limited liability partnership shall not timely file the statement required by this subdivision, the department of state may, upon sixty days' notice mailed to the address of such registered limited liability partnership as shown in the last registration or statement or certificate of amendment filed by such registered limited liability partnership, make a proclamation declaring the registration of such registered limited liability partnership to be revoked pursuant to this subdivision. The department of state shall file the original proclamation in its office and shall publish a copy thereof in the state register no later than three months following the date of such proclamation. This shall not apply to registered limited liability partnerships that have filed a statement with the department of state through the department of taxation and finance. Upon the publication of such proclamation in the manner aforesaid, the registration of each registered limited liability partnership named in such proclamation shall be deemed revoked without further legal proceedings.] Any registered limited liability partnership whose registration was [~~so~~] revoked pursuant to this subdivision as it existed on the day prior to the effective date of the chapter of the laws of two thousand nineteen which amended this subdivision may file in the department of state a [~~statement required by this subdivision~~] certificate entitled, "Certificate of annulment of revocation of registration of(name of limited liability partnership) pursuant to section 121-1500(g) of the Partnership Law", and shall set forth:~~

(1) The name of the registered limited liability partnership and, if it has been changed, the name under which it was initially registered. (2) The date of the filing of its certificate of registration by the department of state. (3) That it elects to annul the revocation of its registration. The certificate shall be executed by one or more partners of the registered limited liability partnership. The filing of such [~~statement~~] certificate shall have the effect of annulling all of the proceedings theretofore taken for the revocation of the registration of such registered limited liability partnership under this subdivision and (1) the registered limited liability partnership shall thereupon have such powers, rights, duties and obligations as it had on the date of the publication of the proclamation, with the same force and effect as if such proclamation had not been made or published and (2) such publication shall not affect the applicability of the provisions of subdivision (b) of section twenty-six of this chapter to any debt, obligation or liability incurred, created or assumed from the date of publication of the proclamation through the date of the filing of the [~~statement~~] certificate with the department of state. [~~If, after the publication of such proclamation, it shall be determined by the department of state that the name of any registered limited liability partnership was erroneously included in such proclamation, the department of state shall make appropriate entry on its records, which entry shall have the effect of annulling all of the proceedings theretofore taken for the revocation of the registration of such registered limited liability partnership~~]

1 ~~under this subdivision and (A) such registered limited liability part-~~
2 ~~nership shall have such powers, rights, duties and obligations as it had~~
3 ~~on the date of the publication of the proclamation, with the same force~~
4 ~~and effect as if such proclamation had not been made or published and~~
5 ~~(B) such publication shall not affect the applicability of the~~
6 ~~provisions of subdivision (b) of section twenty six of this chapter to~~
7 ~~any debt, obligation or liability incurred, created or assumed from the~~
8 ~~date of publication of the proclamation through the date of the making~~
9 ~~of the entry on the records of the department of state. Whenever a~~
10 ~~registered limited liability partnership whose registration was revoked~~
11 ~~shall have filed a statement pursuant to this subdivision or if the name~~
12 ~~of a registered limited liability partnership was erroneously included~~
13 ~~in a proclamation and such proclamation was annulled, the department of~~
14 ~~state shall publish a notice thereof in the state register.]~~

15 § 8. Paragraph (I) of subdivision (f) of section 121-1502 of the part-
16 nership law, as amended by section 4 of part S of chapter 59 of the laws
17 of 2015, is amended to read as follows:

18 (I) ~~[Each New York registered foreign limited liability partnership~~
19 ~~shall, within sixty days prior to the fifth anniversary of the effective~~
20 ~~date of its notice and every five years thereafter, furnish a statement~~
21 ~~to the department of state setting forth:~~

22 ~~(i) the name under which the New York registered foreign limited~~
23 ~~liability partnership is carrying on or conducting or transacting busi-~~
24 ~~ness or activities in this state, (ii) the address of the principal~~
25 ~~office of the New York registered foreign limited liability partnership,~~
26 ~~(iii) the post office address within or without this state to which the~~
27 ~~secretary of state shall mail a copy of any process accepted against it~~
28 ~~served upon him or her, which address shall supersede any previous~~
29 ~~address on file with the department of state for this purpose, and (iv)~~
30 ~~a statement that it is a foreign limited liability partnership. The~~
31 ~~statement shall be executed by one or more partners of the New York~~
32 ~~registered foreign limited liability partnership. The statement shall be~~
33 ~~accompanied by a fee of fifty dollars if submitted directly to the~~
34 ~~department of state. The commissioner of taxation and finance and the~~
35 ~~secretary of state may agree to allow New York registered foreign limit-~~
36 ~~ed liability partnerships to provide the statement specified in this~~
37 ~~paragraph on tax reports filed with the department of taxation and~~
38 ~~finance in lieu of statements filed directly with the secretary of state~~
39 ~~and in a manner prescribed by the commissioner of taxation and finance.~~
40 ~~If this agreement is made, starting with taxable years beginning on or~~
41 ~~after January first, two thousand sixteen, each New York registered~~
42 ~~foreign limited liability partnership required to file the statement~~
43 ~~specified in this paragraph that is subject to the filing fee imposed by~~
44 ~~paragraph three of subsection (c) of section six hundred fifty-eight of~~
45 ~~the tax law shall provide such statement annually on its filing fee~~
46 ~~payment form filed with the department of taxation and finance in lieu~~
47 ~~of filing a statement under this paragraph directly with the department~~
48 ~~of state. However, each New York registered foreign limited liability~~
49 ~~partnership required to file a statement under this section must contin-~~
50 ~~ue to file a statement with the department of state as required by this~~
51 ~~section until the New York registered foreign limited liability partner-~~
52 ~~ship in fact has filed a filing fee payment form with the department of~~
53 ~~taxation and finance that includes all required information. After that~~
54 ~~time, the New York registered foreign limited liability partnership~~
55 ~~shall continue to provide annually the statement specified in this para-~~
56 ~~graph on its filing fee payment form in lieu of filing the statement~~

~~required by this paragraph directly with the department of state. The commissioner of taxation and finance shall deliver the completed statement specified in this paragraph to the department of state for filing. The department of taxation and finance must, to the extent feasible, also include in such delivery the current name of the New York registered foreign limited liability partnership, department of state identification number for such New York registered foreign limited liability partnership, the name, signature and capacity of the signer of the statement, name and street address of the filer of the statement, and the email address, if any, of the filer of the statement. If a New York registered foreign limited liability partnership shall not timely file the statement required by this subdivision, the department of state may, upon sixty days' notice mailed to the address of such New York registered foreign limited liability partnership as shown in the last notice or statement or certificate of amendment filed by such New York registered foreign limited liability partnership, make a proclamation declaring the status of such New York registered foreign limited liability partnership to be revoked pursuant to this subdivision. This shall not apply to New York registered foreign limited liability partnerships that have filed a statement with the department of state through the department of taxation and finance. The department of state shall file the original proclamation in its office and shall publish a copy thereof in the state register no later than three months following the date of such proclamation. Upon the publication of such proclamation in the manner aforesaid, the status of each New York registered foreign limited liability partnership named in such proclamation shall be deemed revoked without further legal proceedings.] Any New York registered foreign limited liability partnership whose status was [~~so~~] revoked pursuant to this paragraph as it existed on the day prior to the effective date of the chapter of the laws of two thousand nineteen which amended this paragraph may file in the department of state a [~~statement required by this subdivision~~] certificate entitled, "Certificate of revocation of registration of (name of New York registered foreign limited liability partnership) pursuant to section 121-1502(f)(I) of the Partnership Law", and shall set forth: (1) The name of the New York registered foreign limited liability partnership and, if it has been changed, the name under which it was initially registered. (2) The date of filing of its notice of registration by the department of state. (3) That it elects to annul the revocation of its registration. The certificate shall be executed by one or more partners of the New York registered foreign limited liability partnership. The filing of such [~~statement~~] certificate shall have the effect of annulling all of the proceedings theretofore taken for the revocation of the status of such New York registered foreign limited liability partnership under this subdivision and (1) the New York registered foreign limited liability partnership shall thereupon have such powers, rights, duties and obligations as it had on the date of the publication of the proclamation, with the same force and effect as if such proclamation had not been made or published and (2) such publication shall not affect the applicability of the laws of the jurisdiction governing the agreement under which such New York registered foreign limited liability partnership is operating (including laws governing the liability of partners) to any debt, obligation or liability incurred, created or assumed from the date of publication of the proclamation through the date of the filing of the statement with the department of state. [~~If, after the publication of such proclamation, it shall be determined by the department of state that the~~~~

~~1 name of any New York registered foreign limited liability partnership
2 was erroneously included in such proclamation, the department of state
3 shall make appropriate entry on its records, which entry shall have the
4 effect of annulling all of the proceedings theretofore taken for the
5 revocation of the status of such New York registered foreign limited
6 liability partnership under this subdivision and (1) such New York
7 registered foreign limited liability partnership shall have such powers,
8 rights, duties and obligations as it had on the date of the publication
9 of the proclamation, with the same force and effect as if such proclama-
10 tion had not been made or published and (2) such publication shall not
11 affect the applicability of the laws of the jurisdiction governing the
12 agreement under which such New York registered foreign limited liability
13 partnership is operating (including laws governing the liability of
14 partners) to any debt, obligation or liability incurred, created or
15 assumed from the date of publication of the proclamation through the
16 date of the making of the entry on the records of the department of
17 state. Whenever a New York registered foreign limited liability partner-
18 ship whose status was revoked shall have filed a statement pursuant to
19 this subdivision or if the name of a New York registered foreign limited
20 liability partnership was erroneously included in a proclamation and
21 such proclamation was annulled, the department of state shall publish a
22 notice thereof in the state register.]~~

23 § 9. This act shall take effect on the ninetieth day after it shall
24 have become a law; provided, however, sections one, two, three, four,
25 five, seven and eight of this act shall take effect upon the development
26 of a new computerized filing system currently being developed by the
27 department of state; provided further, however, that the secretary of
28 state shall notify the legislative bill drafting commission upon the
29 occurrence of the development of a new computerized filing system being
30 developed by the department of state in order that the commission may
31 maintain an accurate and timely effective data base of the official text
32 of the laws of the state of New York in furtherance of effectuating the
33 provisions of section 44 of the legislative law and section 70-b of the
34 public officers law.

PART QQ

36 Section 1. Subdivision 6 of section 2897 of the public authorities law
37 is amended by adding a new paragraph f to read as follows:

38 f. Notwithstanding anything to the contrary in this section, disposals
39 for use of the thruway authority's fiber optic system, or any part ther-
40 eof, may be made through agreements based on set fees that shall not
41 require public auction, provided that:

42 (i) the thruway authority has determined the disposal of such property
43 complies with all applicable provisions of this chapter;

44 (ii) the thruway authority has determined that disposal of such prop-
45 erty is in the best interest of the thruway authority; and

46 (iii) the set fees established by the thruway authority for use of the
47 fiber optic system, or part thereof, shall be based on an independent
48 appraisal of the fair market value of the property.

49 Disposals of the fiber optic system, or any part thereof, through
50 agreements based on set fees shall not require the explanatory state-
51 ments required by this section.

52 § 2. This act shall take effect immediately.

PART RR

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

4 6. The provisions of subdivisions one, two, three and four of this
5 section shall not be applicable to any procurement by the authority
6 commenced during the period from the effective date of this subdivision
7 until December thirty-first, nineteen hundred ninety-one or during the
8 period from December sixteenth, nineteen hundred ninety-three until June
9 thirtieth, two thousand [~~nineteen~~] twenty-five; and the provisions of
10 subdivisions seven, eight, nine, ten, eleven, twelve and thirteen of
11 this section shall only apply to procurements by the authority commenced
12 during such periods. The provisions of such subdivisions one, two, three
13 and four shall apply to procurements by the authority commenced during
14 the period from December thirty-first, nineteen hundred ninety-one until
15 December sixteenth, nineteen hundred ninety-three, and to procurements
16 by the authority commenced on and after July first, two thousand [~~nine-~~
17 ~~teen~~] twenty-five. Notwithstanding the foregoing, the provisions of such
18 subdivisions one, two, three and four shall apply to (i) the award of
19 any contract of the authority if the bid documents for such contract so
20 provide and such bid documents are issued within sixty days of the
21 effective date of this subdivision or within sixty days of December
22 sixteenth, nineteen hundred ninety-three, or (ii) for a period of one
23 hundred eighty days after the effective date of this subdivision, or for
24 a period of one hundred eighty days after December sixteenth, nineteen
25 hundred ninety-three, the award of any contract for which an invitation
26 to bid, solicitation, request for proposal, or any similar document has
27 been issued by the authority prior to the effective date of this subdivi-
28 sion or during the period from January first, nineteen hundred nine-
29 ty-two until December fifteenth, nineteen hundred ninety-three.

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

33 1. The provisions of this section shall only apply to procurements by
34 the authority commenced during the period from April first, nineteen
35 hundred eighty-seven until December thirty-first, nineteen hundred nine-
36 ty-one, and during the period from December sixteenth, nineteen hundred
37 ninety-three until June thirtieth, two thousand [~~nineteen~~] twenty-five;
38 provided, however, that the provisions of this section shall not apply
39 to (i) the award of any contract of the authority if the bid documents
40 for such contract so provide and such bid documents are issued within
41 sixty days of the effective date of this section or within sixty days of
42 December sixteenth, nineteen hundred ninety-three, or (ii) for a period
43 of one hundred eighty days after the effective date of this section or
44 for a period of one hundred eighty days after December sixteenth, nine-
45 teen hundred ninety-three, the award of any contract for which an invi-
46 tation to bid, solicitation, request for proposal, or any similar docu-
47 ment has been issued by the authority prior to the effective date of
48 this section or during the period from January first, nineteen hundred
49 ninety-two until December sixteenth, nineteen hundred ninety-three.

50 § 3. Section 15 of part 00 of chapter 54 of the laws of 2016, amending
51 the public authorities law relating to procurements by the New York city
52 transit authority and metropolitan transportation authority, is amended
53 to read as follows:

54 § 15. This act shall take effect immediately, and shall expire and be
55 deemed repealed [~~April 1, 2021~~] June 30, 2025.

56 § 4. This act shall take effect immediately.

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

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