STATE OF NEW YORK

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IN ASSEMBLY

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Introduced by M. of A. GIGLIO, DeSTEFANO, MONTESANO, LAWRENCE, MORINELLO, McDONOUGH, RAIA -- Multi-Sponsored by -- M. of A. SAYEGH -- read once and referred to the Committee on Environmental Conservation

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

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

Section 1. This act shall be known and may be cited as the "New York state environmental purchasing act".

§ 2. Subdivision 5 of section 160 of the state finance law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

5. "Costs" as used in this article shall be quantifiable and may include, without limitation, the price of the given good or service being purchased; the administrative, training, storage, maintenance or other overhead associated with a given good or service; the value of warranties, delivery schedules, financing costs and foregone opportunity costs associated with a given good or service; and the life span and associated life cycle costs of the given good or service being purchased. Life cycle costs may include, but shall not be limited to, costs or savings associated with **raw materials, production, manufacturing,** construction, **packaging, distribution, use,** energy use, maintenance, operation, and salvage or disposal**, and any associated public health and environmental costs**.

§ 3. Paragraph a of subdivision 1 of section 161 of the state finance law, as amended by chapter 452 of the laws of 2012, is amended to read as follows:

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

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a. The state procurement council shall continuously strive to improve the state's procurement process. Such council shall consist of [~~twenty-one~~] twenty-three members, including the commissioner, the state comptroller, the director of the budget, the chief diversity officer [~~and~~], the commissioner of economic development[~~,~~] and the commissioner of environmental conservation or their respective designees; [~~seven~~] six members who shall be the heads of other large and small state agencies chosen by the governor, or their respective designees; one member, appointed by the governor, representing a not-for-profit New York-based organization engaged in the marketing and/or promotion of New York grown farm and agricultural products or a not-for-profit New York-based organization engaged solely in the advocacy, marketing and/or promotion of organic New York grown farm and agricultural products to be limited to a two year term; and [~~eight~~] twelve at large members appointed as follows: [~~three~~] four appointed by the temporary president of the senate, one of whom shall be a representative of local government [~~and~~], one of whom shall be a representative of private business and one of whom shall be a representative of an organization whose prime function is the enhancement of public health or the environment; [~~three~~] four appointed by the speaker of the assembly, one of whom shall be a representative of local government [~~and~~], one of whom shall be a representative of private business and one of whom shall be a representative of an organization whose prime function is the enhancement of public health or the environment; one appointed by the minority leader of the senate; and, one appointed by the minority leader of the assembly; and two non-voting observers appointed as follows: one appointed by the temporary president of the senate and one appointed by the speaker of the assembly. The non-voting observers shall be provided, contemporaneously, all documentation and materials distributed to members. The council shall be chaired by the commissioner and shall meet at least quarterly.

§ 4. Paragraphs k, l, m and n of subdivision 2 of section 161 of the state finance law, paragraphs k and l as added by chapter 83 of the laws of 1995, paragraph m as amended by section 13 of part L of chapter 55 of the laws of 2012, paragraph n as added by chapter 173 of the laws of 2010, are amended and a new paragraph o is added to read as follows:

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

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

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

n. Recommend to the commissioner necessary legislative changes or modifications to existing or proposed rules, regulations and procedures that would increase access to the state's procurement process by minority-owned business enterprises and women-owned business enterprises and create model language to be used by agencies when issuing requests for bids or proposals to other solicitations or offers that would increase

the ability of small businesses to participate in state procurements[~~.~~]; and

o. Make recommendations to the commissioner for "target categories" of commodities, services and/or technologies which for the purposes of this section shall mean broad categories of commodities, services and/or technologies routinely procured by the state which may have an adverse impact on public health or the environment and for which more environmentally preferable products should be identified and substituted consistent with the goals and standards set forth in article ten-A of this chapter.

§ 5. Subparagraph (viii) of paragraph b of subdivision 3 of section 163 of the state finance law, as amended by chapter 381 of the laws of 2014, is amended to read as follows:

(viii) maintain a list of contractors which produce or manufacture or offer for sale [~~environmentally-sensitive cleaning and maintenance products in the form, function and utility generally used by elementary and secondary schools~~] environmentally preferable products in accordance with specifications or guidelines promulgated pursuant to [~~section four hundred nine-i of the education law~~] article ten-A of this chapter.

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

ARTICLE 10-A
STATE ENVIRONMENTAL PURCHASING

Section 159-a. Definitions.
159-b. Office of the environmental executive.
159-c. Agency environmental executives.
159-d. Interagency committee on sustainability and green procurement.
159-e. Issue-specific task forces.
159-f. Environmentally preferable products program.
159-g. State agency responsibilities.
159-h. Environmental procurement initiatives.
159-i. Business development and guidance.

§ 159-a. Definitions. For purposes of this article:

1. "Energy star" means a designation from the United States environmental protection agency or department of energy indicating that a product meets the energy efficiency standards set forth by the agency for compliance with the energy star program.

2. "Elementary or secondary school" means a facility used for instruction of elementary or secondary students by: (a) any school district, including a special act school district and a city school district in a city having a population of one hundred twenty-five thousand inhabitants or more, (b) a board of cooperative educational services, (c) a charter school, (d) an approved private school for the education of students with disabilities, (e) a state-supported school for the deaf or blind operated pursuant to article eighty-five of the education law, and (f) any other private or parochial elementary or secondary school.

3. "Environmentally preferable products" means but shall not be limited to products and services that: contain recycled materials, conserve energy or water, minimize waste, are less toxic and hazardous, reduce the generation, release or disposal of toxic substances, protect open space, and/or otherwise lessen the impact of such products or services on public health and the environment.

4. "Electronic product environmental assessment tool" means a tool for evaluating the environmental performance of electronic products through-

out their life cycle developed by the federal government and other stakeholders.

5. "Independent agencies" means any public benefit corporations or public authorities not included in the definition of state agencies.

6. "Recovered materials" means waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from and commonly reused within an original manufacturing process.

7. "Recycled content" shall mean recycled commodity as that term is defined in paragraph a of subdivision three of section one hundred sixty-five of this chapter.

8. "Remanufactured" shall have the same meaning as set forth in paragraph a of subdivision three of section one hundred sixty-five of this chapter.

9. "State agencies" means any department, division, board, bureau, commission, office, agency, authority or public corporation of the state.

§ 159-b. Office of the environmental executive. 1. The office of the environmental executive shall be designated by the governor and shall be located within the department of environmental conservation. The environmental executive shall take all actions necessary to ensure that state agencies comply with the requirements of this article and shall generate an annual report to the division of budget, at the time of agency budget submissions, on the actions taken by state agencies to comply with the requirements of this article. In carrying out his or her functions, the environmental executive shall consult with the commissioner of environmental conservation.

2. A minimum of four full time staff persons are to be provided to assist the environmental executive, one of whom shall have experience in specification review and program requirements, one of whom shall have experience in procurement practices and one of whom shall have experience in solid waste prevention and recycling. These four staff persons shall be appointed and replaced as follows:

(a) The adjutant general of the division of military and naval affairs or his or her designee shall be detailed for not less than one year and no more than two years;

(b) The commissioner of general services or his or her designee shall be detailed for not less than one year and no more than two years;

(c) The commissioner of environmental conservation or his or her designee shall be detailed for not less than one year and no more than two years; and

(d) The president of the New York state environmental facilities corporation or his or her designee for not more than one year.

3. State agencies are requested to make their services, personnel and facilities available to the environmental executive to the maximum extent practicable for the performance of functions.

4. The environmental executive, in consultation with the agency environmental executives designated pursuant to section one hundred fifty-nine-c of this article, shall:

(a) Identify and recommend initiatives for government-wide implementation that will promote the purposes of this article, including:

(i) The development of a state plan for agency implementation and appropriate incentives to encourage the acquisition of recycled and environmentally preferable products by the state government;

(ii) The development of a state implementation plan and guidance for instituting economically efficient state waste prevention, energy and

water efficiency programs, and recycling programs within each agency; and

(iii) The development of a plan for making maximum use of available funding assistance programs;

(b) Electronically collect and disseminate information concerning methods to reduce waste, materials that can be recycled, costs and savings associated with waste prevention and recycling, and current market sources of products that are environmentally preferable or produced with recovered materials;

(c) Provide guidance and assistance to state agencies in setting up and reporting on agency programs and monitoring their effectiveness;

(d) Establish a website for the office of the environmental executive and coordinate appropriate government-wide education and training programs for state agencies; and

(e) Promulgate such rules and regulations as may be deemed necessary and appropriate to effectuate the provisions of this article.

§ 159-c. Agency environmental executives. Within ninety days after the effective date of this article, the head of each executive department and major procuring agency shall designate an agency environmental executive from among his or her staff. The agency environmental executive will be responsible for:

1. Coordinating all environmental programs in the areas of procurement and acquisition, standards and specification review, facilities management, waste prevention and recycling, and logistics;

2. Participating in the interagency development of a state plan to:

(a) Create an awareness and outreach program for the private sector to facilitate markets for environmentally preferable and recycled products and services, promote new technologies, improve awareness about federal efforts in this area, and expedite agency efforts to procure new products identified under this order;

(b) Establish incentives, provide guidance and coordinate appropriate educational programs for agency employees; and

(c) Coordinate the development of standard agency reports required by this article.

3. Reviewing state agency programs and acquisitions to ensure compliance with this order.

§ 159-d. Interagency committee on sustainability and green procurement. 1. There is hereby established an interagency committee on sustainability and green procurement. The committee shall be comprised of the director of the budget, the commissioner of general services, the commissioner of environmental conservation, the commissioner of health, the commissioner of economic development, the president of the urban development corporation, the commissioner of transportation, the president of the environmental facilities corporation, the president of the New York state energy research and development authority, the chair of the power authority of the state of New York, and the executive director of the dormitory authority of the state of New York. The commissioner of general services and the commissioner of environmental conservation shall serve as co-chairs of the committee.

2. Members of the committee may designate an executive staff member to represent them and participate on the committee on their behalf. A majority of the members of the committee shall constitute a quorum, and all actions and recommendations of the committee shall require approval of a majority of the total members of the committee.

§ 159-e. Issue-specific task forces. 1. The committee shall have the authority to designate issue-specific task forces to examine specific

areas of environmental procurement and provide targeted technical assistance and guidance to agencies as needed.

2. One such task force shall be a toxic reduction task force to be overseen by the office of the environmental executive in coordination with the office of general services.

(a) The office of general services shall:

(i) Provide the toxic reduction task force with relevant information on what chemicals and products are procured, and the amounts used and by whom, in the state; and

(ii) Work with the office of the environmental executive and other stakeholders to implement the toxic reduction task force recommendations.

(b) Within ninety days after the effective date of this article, the office of the environmental executive shall consult with the office of general services in establishing said toxic reduction task force, which shall meet periodically, but not less than two times per year, to provide guidance on and assist agencies with identifying and eliminating purchases of products that contain toxic chemicals.

(c) Toxic reduction task force members shall include, but not be limited to the commissioner of general services, the commissioner of environmental conservation, the commissioner of health, and the commissioner of labor, and each shall appoint representatives to the task force within thirty days of their notification by the office of the environmental executive.

(d) The task force shall periodically consult with the committee and any other appropriate non-governmental stakeholders or state agencies, including, but not limited to, the office of general services, the department of education, the department of health and the department of transportation, to identify opportunities for the integration of less toxic products into public schools, healthcare facilities, construction projects and throughout the state and local government.

3. Members of other task forces shall be appointed by the chair of the committee in consultation with the members of the committee.

4. On or before February first of each year, the environmental executive shall report to the committee on the progress made by the toxic reduction task force and any other task force overseen by the office of the environmental executive in the prior fiscal year toward meeting the goals and requirements of this article.

§ 159-f. Environmentally preferable products program. The interagency committee on sustainability and green procurement shall develop and implement an environmentally preferable products program. 1. The environmentally preferable products program shall:

(a) Establish minimum environmental standards for products and services procured by state agencies wherever feasible and practicable;

(b) Provide guidance to state agencies on how to ensure that their procurements are in compliance with these standards and encourage state agencies to establish annual environmentally preferable product procurement goals;

(c) Include environmentally preferable products in statewide contracts and limit contract awards to environmentally preferable products exclusively, consistent with article eleven of this chapter and the regulations thereunder and the environmentally preferable product procurement goals and standards;

(d) Facilitate the purchase, demonstration and use of new and innovative environmentally preferable products, technologies and services;

(e) Encourage state contractors to incorporate environmentally preferable products and sustainable practices in their operations;

(f) Implement an environmentally preferable product certification program for state agencies and other public purchasers and/or work with partners within and outside the state to develop such a certification on a national level; and

(g) Support development of appropriate training and outreach on procuring environmentally preferable products and identification of their fiscal, environmental, and health benefits.

2. On or before February first of each year, the environmentally preferable products program shall report to the division of budget and the department of environmental conservation on the progress made in the prior fiscal year toward meeting the goals set forth in this section as well as provide available data on actual environmentally preferable product purchases and their associated environmental, health, and fiscal benefits, wherever possible.

3. All office of general services staff shall cooperate with the environmentally preferable products program in these efforts and incorporate environmental goals into the performance measurements of procurement officers and other appropriate staff.

4. The state purchasing agent shall direct the New York state energy research and development authority to facilitate coordination between the green jobs-green New York program and the environmentally preferable products program and include environmentally preferable products contract information in all appropriate training sessions.

5. The environmentally preferable products program shall develop and conduct outreach programs for municipalities and, in collaboration with the department of education, elementary or secondary schools.

6. Independent agencies may adopt the environmentally preferable products policies and programs consistent with this section.

§ 159-g. State agency responsibilities. 1. Where state agencies have the responsibility and opportunity to conduct procurements and to purchase products and services either through statewide contracts or department procurements and contracts, including consultants, service providers, and/or lease agreements, they shall incorporate environmentally preferable products into those activities to the greatest extent feasible.

2. State agencies shall:

(a) Work with their contractors and agency personnel to provide all necessary and appropriate support to the environmentally preferable products program in an effort to ensure that annual fiscal year purchasing data is reported to the office of general services within ninety days of the close of each fiscal year;

(b) Examine the benefits of establishing annual environmentally preferable product procurement goals and consult with the environmentally preferable products program to target appropriate procurement areas;

(c) Support and encourage key agency staff participation in environmentally preferable product procurement training; and

(d) Work to incorporate the use of environmentally preferable products in contracts authorized by the public health law and the regulations promulgated thereunder, construction, renovation and maintenance contracts, food service contracts, disposal contracts, lease agreements, grant programs, and other contracts overseen by state agencies.

§ 159-h. Environmental procurement initiatives. 1. (a) When procuring products that consume energy, all statewide contracts and agency procurements shall follow the minimum energy efficiency standards

promulgated by the president of the New York state energy research and development authority and take into account, in the procurement's specifications, the lifetime energy costs necessary to operate energy consuming products and equipment.

(b) The environmentally preferable products program shall review existing standards and establish minimum energy performance standards, taking into account initial and operating costs, and state agencies shall adhere to said standards. At a minimum, unless otherwise set forth in the minimum energy performance standards, state agencies shall:

(i) Procure only energy star rated office equipment, appliances, heating, ventilating and air conditioning equipment, and other energy star rated products unless such products can be demonstrated to be cost prohibitive over their life;

(ii) Ensure that all energy star equipment has the power saving mode enabled at the time of installation and that all staff are aware of these functions and their benefits;

(iii) Purchase only energy efficient light bulbs, such as, but not limited to, compact fluorescent lamps or light emitting diodes unless the purchase of a standard bulb, such as an incandescent, is necessary for a specific purpose or function that can only be served by said bulb;

(iv) Procure the most efficient and cost-effective linear lights possible that will meet agency needs and, wherever possible, replace older lamp ballasts with newer more efficient electronic ballasts;

(v) Ensure that all new street lights utilize the most efficient light sources possible and that all traffic lights installed or replaced by agencies utilize only light emitting diodes or similarly efficient technology; and

(vi) Support the procurement of other energy efficient products wherever possible, including but not limited to, high efficiency motors, tankless water heaters, programmable thermostats, heating, ventilation and air conditioning units/systems and food service equipment.

2. (a) The environmentally preferable products program and state agencies shall, wherever feasible, eliminate products procured by the state that contain toxic chemicals in concentrations that pose a significant threat to the environment and/or public health.

(b) When less toxic or non-toxic alternatives are readily available, meet state agency performance requirements, and are cost competitive, the environmentally preferable products program shall move promptly to make these alternatives available through statewide contracts. State agencies shall purchase only these less toxic or non-toxic alternatives unless it can be demonstrated that such alternatives do not meet the essential needs of the agency.

(c) Through both statewide and/or departmental contracts, state agencies shall:

(i) Purchase and use only those cleaning products, including floor finishes, that meet the environmental specifications established by the environmentally preferable products program;

(ii) Within one year of the effective date of this article, require cleaning service contractors to utilize cleaning products that meet the same or better environmentally preferable product standards;

(iii) Require pest control firms or licensed state staff to employ an integrated pest management approach in state facilities;

(iv) Ensure adherence to title twenty-one of article twenty-seven of the environmental conservation law and the regulations thereunder concerning mercury-added consumer products or develop standards that the environmentally preferable products program deems appropriate;

(v) Procure products that contain no or low amounts of volatile organic compounds wherever feasible, including but not limited to office equipment, furniture, flooring, paint, and construction materials; and

(vi) Purchase computers, monitors, laptops, and other relevant equipment that have achieved a minimum silver rating from the electronic products environmental assessment tool.

(d) The environmentally preferable products program shall work with agencies to develop best management practices and specifications with the intent of increasing the procurement of:

(i) Less toxic water treatment chemicals and processes;

(ii) Paper products processed without elemental chlorine;

(iii) Organic and/or less toxic fertilizers, pesticides and other landscaping products;

(iv) Vehicle tires with lead-free wheel weights;

(v) Packaging in conformance with the specifications developed by the coalition of northeastern governors designed to reduce heavy metals and toxics;

(vi) Furnishings, clothing, and other products that meet required flammability standards without the use of toxic flame retardants known as polybrominated diphenyl ethers; and

(vii) Other products identified by a task force established by the committee pursuant to section one hundred fifty-nine-e of this article.

3. Recycled content and waste minimization. (a) The environmentally preferable products program shall develop and expand minimum recycled content and remanufactured standards for all appropriate products and materials.

(b) The environmentally preferable products program shall utilize, wherever applicable, the minimum standards established by the federal environmental protection agency's comprehensive procurement guidelines as set forth in part two hundred forty-seven of title forty of the United States code of federal regulations or develop standards that the environmentally preferable products program deems appropriate.

(c) The environmentally preferable products program shall consider the ultimate disposal of products and their packaging when developing contract specifications and making contract awards. Agencies shall procure products that comply with all recycled content and waste reduction standards established by the environmentally preferable products program.

(d) The environmentally preferable products program shall ensure that the following product categories contain minimum recycled content standards and are included on statewide contracts:

(i) Office paper, printed materials, office supplies, packaging and storage boxes;

(ii) Office panels and interior and exterior furniture and equipment;

(iii) Janitorial paper products and trash liners;

(iv) Transportation products such as antifreeze, motor oil, retread tires and traffic control devices;

(v) Carpeting and flooring;

(vi) Compost and mulch; and

(vii) Plastic containers such as recycling containers and compost bins.

(e) The environmentally preferable products program shall work to develop standards and contracts for additional recycled content products identified by the federal environmental protection agency's comprehensive procurement guidelines as set forth in part two hundred forty-seven of title forty of the United States code of federal regulations, as well

as water and waste minimizing products such as double-sided copiers and printers, waterless and low-flow plumbing devices, and composting toilets.

(f) The environmentally preferable products program shall encourage vendor responsibility for the reuse or recycling of packaging and/or products at the end of their useful life.

(g) Agencies shall ensure that they integrate increased recycling practices in the disposal of their own waste materials, including but not limited to paper, glass, cans, plastic bottles, containers, and electronic equipment. This effort shall include the positioning of recycling bins in their offices and the contracting for recycling services to pick up and recycle these materials.

4. In developing standards and specifications for environmentally preferable products, the environmentally preferable products program shall encourage and prioritize the procurement of goods that are grown, manufactured, transported, and handled in a sustainable manner using, to the greatest extent feasible, a life-cycle analysis of materials and other inputs into the production of the final product. Such goods shall include, but not be limited to:

(a) Lumber and building materials;

(b) Organic and locally grown foods;

(c) Compostable food service products; and

(d) Bio-based products such as lubricants, food-service ware, fuels, plastics and coatings.

§ 159-i. Business development and guidance. The environmentally preferable products program shall collaborate with relevant state agencies to promote environmentally preferable products and sustainable business solutions to New York companies as well as those looking to relocate to the state. Such efforts may include guidance on how sustainable practices and environmental purchasing can result in a competitive edge when bidding on statewide contracts and how the use of environmentally preferable products can reduce environmental impacts while minimizing operating costs.

§ 7. The general municipal law is amended by adding a new section 109-e to read as follows:

§ 109-e. Intergovernmental agreements. 1. For purposes of this section, the term "public agency" shall mean any county, city, town, village, school district, improvement district or district corporation of the state of New York.

2. Any power or powers, privilege or privileges, authority or undertaking, exercised or capable of exercise, or which may be engaged in, and any public works which may be undertaken, by a public agency acting alone may be exercised, enjoyed, engaged in or undertaken jointly with any other public agency which could likewise act alone.

3. Any two or more public agencies may enter into a written agreement with one another for joint or cooperative action pursuant to the provisions of this section. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement shall become effective. Any separately legal or administrative entity established hereunder is a public corporation and may exist for the length of time set forth in the intergovernmental agreement.

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

§ 409-i. Implementation of the environmentally preferable products program. 1. For the purpose of this section the following terms shall mean:

(a) "Elementary or secondary school" means a facility used for instruction of elementary or secondary students by: (i) any school district, including a special act school district and a city school district in a city having a population of one hundred twenty-five thousand inhabitants or more, (ii) a board of cooperative educational services, (iii) a charter school, (iv) an approved private school for the education of students with disabilities, (v) a state-supported school for the deaf or blind operated pursuant to article eighty-five of this chapter, and (vi) any other private or parochial elementary or secondary school.

(b) "Environmentally preferable products program" means the program described by the provisions of section one hundred fifty-nine-f of the state finance law.

2. Elementary and secondary schools shall be required to implement the standards established by the environmentally preferable program consistent with the provisions of section one hundred fifty-nine-f of the state finance law.

3. The commissioner of general services shall disseminate to all elementary and secondary schools guidelines and specifications for implementation of the standards established by the environmentally preferable products program. The commissioner of general services shall provide assistance and guidance to elementary and secondary schools in carrying out the requirements of this section.

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

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

c. maintain, provide and market a compilation of existing programs providing incentives for new or expanded business enterprises which could be utilized by the secondary materials processing industry or which manufacture, produce or provide environmentally preferable products;

d. promote the utilization of such incentives for new or expanded business enterprises which process or utilize secondary materials or which manufacture, produce or provide environmentally preferable products to locate in New York state;

e. promote incentives for existing businesses to expand their utilization of secondary materials [~~and~~], their adoption of waste prevention technologies and practices and their development, manufacture, production and provision of environmentally preferable products;

f. identify special needs and problems facing the secondary materials processing industry [~~and~~], the implementation of waste prevention and the development, manufacture, production and provision of environmentally preferable products within New York state;

g. contact institutions, organizations and commercial enterprises that are potential consumers of secondary materials and products manufactured with secondary materials or environmentally preferable products; urging their expanded consumption of [~~secondary~~] such materials and products and establishing markets for such [~~secondary~~] materials and products through the use of letters of intent and such other techniques as the commissioner may deem appropriate;

h. conduct market surveys of the potential consumers of secondary materials and products manufactured with secondary materials **and of environmentally preferable products**;

i. conduct surveys to determine the potential supply of secondary materials **and environmentally preferable products** in the state;

l. provide information concerning local and regional markets for secondary materials **and environmentally preferable products**;

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

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

5. The department shall fund feasibility studies for testing of waste prevention technologies or practices [~~or both~~] **and environmentally preferable products** to reduce the amount of waste and to promote energy and resource conservation by the adoption **or use** of such technologies [~~or~~]**,** practices **or products** by small and medium sized firms in New York state.

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

10. Technical feasibility study. The department shall require the applicant to submit a technical feasibility study which identifies and analyzes in detail the waste prevention projects which the applicant wishes to implement. All feasibility studies must include the cost of implementation, a construction schedule and, a description of how the project will minimize, reduce or eliminate the generation of wastes, use or reuse wastes, increase energy efficiency or water conservation, **increase the manufacture, production, provision or use of environmentally preferable products,** improve air or water quality and/or improve process economics.

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

14. Reports. Beginning on January first, nineteen hundred eighty-nine, the commissioner shall make an annual report to the governor and the legislature which shall include, at a minimum, the status of the activities undertaken pursuant to paragraphs a, c, d, e, f, i, j and k of subdivision four of this section, the status of any other activities undertaken pursuant to this article, and recommendations for programs or policies that will further the objectives of expanding the utilization of secondary materials recovered for reuse**, increasing waste prevention and source reduction, and increasing the manufacture, production, provision and use of environmentally preferable products** within the state. The provisions of this subdivision shall not be deemed to require or authorize the disclosure of confidential information or trade secrets. This report may be consolidated with the report required by subdivision four of section two hundred sixty-three of this article.

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

Each state agency as defined in subdivision five of this section shall annually audit the environmental problems created by its operations or the operations of contractors it has hired and over whom it has exercised or is required to exercise direct oversight, acting in fulfillment

of their contracts. Such audit shall identify the extent to which these operations are in violation of this chapter, or regulations adopted thereunder. **Such audit also shall evaluate the environmental problems created by the agency's procurement of commodities, its energy use, waste production, water and paper use, and the use of any toxic materials of products reasonably anticipated to be carcinogens.** Each such state agency shall submit a report to the department on or before April first of each year. The report shall:

§ 15. This act shall take effect on the sixtieth day after it shall have become a law; provided, that the amendments to subparagraph (viii) of paragraph b of subdivision 3 of section 163 of the state finance law made by section five of this act shall not affect the repeal of such section and shall be deemed repealed therewith. Effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.