STATE OF NEW YORK

S. 1508 A. 2008

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

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

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 disclosure of cleansing products, labeling of consumer products, and requiring manufacturer disclosure of the ingredients in personal care products (Part K); to amend the banking law, in relation to student

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

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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 development corporation to make loans, in relation to the effectiveness thereof (Part Y); to amend the New York state urban development corporation act, in relation to extending certain provisions relating to

the empire state economic development fund (Part Z); to amend the executive law, the public buildings law, the state finance law, 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 authority 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 authori-

ties 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); and 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)

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

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

PART A

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

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

§ 2. This act shall take effect immediately.

PART B

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

The office of parks, recreation and historic preservation.

The department of environmental conservation.

§ 2. This act shall take effect immediately.

PART C

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

(e) Notwithstanding any other provision of law to the contrary, including but not limited to title five-A of article nine of this chap-

ter, the Atlantic Avenue Healthcare Property Holding Corporation is hereby authorized and empowered to sell, exchange, lease, transfer and convey certain real property located at 483-503 Herkimer Street, 1028-1038 Broadway, 528 Prospect Place and/or 1366 East New York Avenue, all in Brooklyn, New York as directed by the commissioner of New York state division of homes and community renewal, upon such terms and conditions as such commissioner may fix and determine.

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

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

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

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

PART D

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

(i) "authorized state entity" shall mean the New York state thruway authority, the department of transportation, the office of parks, recreation and historic preservation, the department of environmental conservation, the dormitory authority, the urban development corporation, the office of general services, the department of health, and the New York state olympic regional development authority and the New York state bridge authority.

Notwithstanding the provisions of subdivision 26 of section 1678 of the public authorities law, section 8 of the public buildings law,

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

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

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

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

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

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

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

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

§ 3. Notwithstanding the provisions of section 38 of the highway law, section 136-a of the state finance law, [~~section~~] **sections** 359**, 1678, 1680, 1680-a and 2879-a** of the public authorities law, [~~section~~] **sections 407-a, 6281 and** 7210 of the education law, **sections 8 and 9 of the public buildings law, section 11 of chapter 795 of the laws of 1967, sections 8 and 9 of section 1 of chapter 359 of the laws of 1968 as amended, section 11 of section 1 of chapter 174 of the laws of 1968, as amended, section 29 of chapter 337 of the laws of 1972, section 21 of chapter 464 of the laws of 1972, section 103 of the general municipal law,** and the provisions of any other law to the contrary, and in conformity with the requirements of this act, an authorized state entity may utilize [~~the~~] alternative **project** delivery [~~method referred to as design-build~~] contracts, in consultation with relevant local labor organizations and construction industry, for capital projects **located in**

the state and related to [~~the state's~~] physical infrastructure, including, but not limited to, [~~the state's~~] buildings and appurtenant structures, highways, bridges, dams, flood control projects, canals, and parks, including, but not limited to, to repair damage caused by natural disaster, to correct health and safety defects, to comply with federal and state laws, standards, and regulations, to extend the useful life of or replace [~~the state's~~] buildings and appurtenant structures, highways, bridges, dams, flood control projects, canals, and parks or to improve or add to [~~the state's~~] buildings and appurtenant structures, highways, bridges, dams, flood control projects, canals, and parks; provided that for the contracts executed by the department of transportation, the office of parks, recreation and historic preservation, or the department of environmental conservation, the total cost of each such project shall not be less than ten million dollars ($10,000,000).

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

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

(a) Step one. Generation of a list of entities that have demonstrated the general capability to perform the [~~design-build~~] alternative project delivery contract. Such list shall consist of a specified number of entities, as determined by an authorized state entity, and shall be generated based upon the authorized state entity's review of responses to a publicly advertised request for qualifications. The authorized state entity's request for qualifications shall include a general description of the project, the maximum number of entities to be included on the list, the selection criteria to be used and the relative weight of each criteria in generating the list. Such selection criteria shall include the qualifications and experience of the [~~design and construction team~~] entity or team of entities, organization, demonstrated responsibility, ability of the team or of a member or members of the team to comply with applicable requirements, including the provisions of articles 145, 147 and 148 of the education law, past record of compliance with the labor law, and such other qualifications the authorized state entity deems appropriate which may include but are not limited to project understanding, financial capability and record of past performance. The authorized state entity shall evaluate and rate all entities responding to the request for qualifications. Based upon such ratings, the authorized state entity shall list the entities that shall receive a request for proposals in accordance with subdivision (b) of this section. To the extent consistent with applicable federal law, the authorized state entity shall consider, when awarding any contract pursuant to this section, the participation of: (i) firms certified pursuant to article 15-A of the executive law as minority or women-owned businesses and the ability of other businesses under consideration to work with minority and women-owned businesses so as to promote and assist participation by such businesses; [~~and~~] (ii) small business concerns identified pursuant to subdivision (b) of section 139-g of the state finance law[~~.~~]; and (iii) firms certified pursuant to article 17-B of the executive law as service-disabled veteran-owned businesses and the ability of other businesses under consideration to work with service-disabled veteran-owned businesses so as to promote and assist participation by such businesses.

(b) Step two. Selection of the proposal which is the best value to the authorized state entity. The authorized state entity shall issue a request for proposals to the entities listed pursuant to subdivision (a) of this section. If such an entity consists of a team of separate entities, the entities that comprise such a team must remain unchanged from the entity as listed pursuant to subdivision (a) of this section unless otherwise approved by the authorized state entity. The request for proposals shall set forth the project's scope of work, and other requirements, as determined by the authorized state entity. The request for proposals shall specify the criteria to be used to evaluate the responses and the relative weight of each such criteria. Such criteria shall include the proposal's cost, the quality of the proposal's solution, the qualifications and experience of the [~~design-build~~] entity, and other factors deemed pertinent by the authorized state entity, which may include, but shall not be limited to, the proposal's project implementation, ability to complete the work in a timely and satisfactory manner, maintenance costs of the completed project, maintenance of traffic approach, and community impact. Any contract awarded pursuant to this act shall be awarded to a responsive and responsible entity that submits the proposal, which, in consideration of these and other specified criteria deemed pertinent to the project, offers the best value to the authorized state entity, as determined by the authorized state entity. The request for proposals shall include a statement that entities shall designate in writing those portions of the proposal that contain trade secrets or other proprietary information that are to remain confidential; that the material designated as confidential shall be readily separable from the entity's proposal. Nothing herein shall be construed to prohibit the authorized entity from negotiating final contract terms and conditions including cost. All proposals submitted shall be scored according to the criteria listed in the request for proposals and such final scores shall be published on the authorized state entity's website.

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

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

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

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

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

§ 11. The submission of a proposal or responses or the execution of [~~a design-build~~] **an alternative project delivery** contract pursuant to this

act shall not be construed to be a violation of section 6512 of the education law.

§ 9. Section 13 of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, as amended by section 11 of part RRR of chapter 59 of the laws of 2017, is amended to read as follows:

§ 13. Alternative construction awarding processes. (a) Notwithstanding the provisions of any other law to the contrary, the authorized state entity may award [~~a construction~~] **an alternative project delivery** contract:

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

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

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

(ii) include a detailed line item cost breakdown;

(iii) include a list of all drawings, specifications and other information on which the guaranteed maximum price is based;

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

(v) include a schedule of unit prices; or

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

4. The contract may include a combination of elements of the contract types listed in this section and may provide for professional services on a fee-for-service basis.

(b) Capital projects undertaken by an authorized state entity may include an incentive clause in the contract for various performance objectives, but the incentive clause shall not include an incentive that exceeds the quantifiable value of the benefit received by the authorized state entity. [~~The~~] **Notwithstanding the provisions of sections 136 and 137 of the state finance law, the** authorized state entity shall [~~establish~~] **require** such performance and payment bonds**, bonds or other form of undertaking,** as it deems necessary.

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

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

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

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

§ 12. This act shall take effect immediately.

PART E

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

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

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

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

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

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

(a) recapped or resold tires;

(b) mail-order sales; or

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

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

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

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

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

(a) Each return shall include:

(i) the name of the tire service;

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

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

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

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

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

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

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

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

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

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

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

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

§ 4. This act shall take effect immediately.

PART F

Section 1. Subdivisions 1, 2-a and 5-a of section 27-1003 of the environmental conservation law, subdivision 1 as amended by section 2 of part SS of chapter 59 of the laws of 2009, subdivision 2-a as amended by section 2 of part F of chapter 58 of the laws of 2013, and subdivision 5-a as added by section 3 of part SS of chapter 59 of the laws of 2009, are amended to read as follows:

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

The term "beverage" shall not include:

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

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

c. infant formula;

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

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

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

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

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

i. instant drink powders;

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

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

2-a. "[~~Bottler~~] Beverage manufacturer" means a person, firm or corporation who:

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

b. imports filled beverage containers into the United States.

5-a. A "deposit initiator" for each beverage container for which a refund value is established under section 27-1005 of this title means the first person to charge a deposit on a filled beverage container. For the purposes of charging such deposit the deposit initiator may be:

a. the [~~bottler of the beverage in such container~~] beverage manufacturer;

b. the distributor of such container if such distributor's purchase of such container was not, directly or indirectly, from a registered deposit initiator;

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

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

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

§ 27-1004. Deposit initiators.

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

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

(i) the manufacturer does not sell, offer for sale, or distribute such beverage to any person in the state or to any other person that distributes such beverage into the state;

(ii) the first distributor has a geographically exclusive distributorship for the sale of such beverage; and

(iii) the manufacturer and the first distributor have a written agreement detailing the specific geographic areas in the state of such exclusive distributorship.

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

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

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

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

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

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

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

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

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

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

~~(a) The dealer has a written agreement with a redemption center, be it either at a fixed physical location within the same county and within one-half mile of the dealer's place of business, or a mobile redemption center, operated by a redemption center, that is located within one-quarter mile of the dealer's place of business. The redemption center must have a written agreement with the dealer to accept containers on behalf of the dealer; and the redemption center's hours of operation must cover at least 9:00 a.m. through 7:00 p.m. daily or in the case of a mobile redemption center, the hours of operation must cover at least four consecutive hours between 8:00 a.m. and 8:00 p.m. daily. The dealer must post a conspicuous, permanent sign, meeting the size and color specifications set forth in subdivision two of this section, open to public view, identifying the location and hours of operation of the affiliated redemption center or mobile redemption center; and~~

~~(b) The dealer provides, at a minimum, a consecutive two hour period between 7:00 a.m. and 7:00 p.m. daily whereby the dealer will accept up to two hundred forty containers, per redeemer, per day, and posts a conspicuous, permanent sign, meeting the size and color specifications set forth in subdivision two of this section, open to public view, iden-~~

~~tifying those hours. The dealer may not change the hours of redemption without first posting a thirty-day notice; and~~

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

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

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

8. It shall be the responsibility of the deposit initiator or distributor to provide to a dealer or redemption center a sufficient number of bags, cartons, or other suitable containers, at no cost, for the packaging, handling and pickup of empty beverage containers that are not redeemed through a reverse vending machine. The bags, cartons, or containers must be provided by the deposit initiator or distributor on a schedule that allows the dealer or redemption center sufficient time to sort the empty beverage containers prior to pick up by the deposit initiator or distributor. In addition:

(a) When picking up empty beverage containers, a deposit initiator or distributor shall not require a dealer or redemption center to load their own bags, cartons or containers onto or into the deposit initiator's or distributor's vehicle or vehicles or provide the staff or equipment needed to do so. However, where pallets or skids, bags, cartons or containers are readily movable only by means of a forklift or similar equipment, a deposit initiator or distributor may require a dealer or redemption center to move or load such items at no cost using a forklift or similar equipment belonging to the dealer or redemption center.

(b) For empty containers not processed through a reverse vending machine, a dealer or redemption center may provide to a deposit initiator or a distributor a signed, written statement attesting to the count of the number of containers tendered for redemption. If such statement is provided, the deposit initiator or distributor shall pay the redemption center or dealer all applicable refunds and handling fees for the containers as indicated on such statement, unless discrepancies discovered during the course of an audit are documented by the deposit initi-

ator or distributor and the reasons for the discrepancies are provided in writing to the redemption center or dealer. A deposit initiator or distributor [~~shall not~~] may require a redemption center or dealer's count of empty containers to be [~~counted~~] audited at a location other than the redemption center or dealer's place of business, if the redemption center or dealer refuses to allow an audit to be conducted at the redemption center or dealer's place of business, if there is insufficient space to conduct an audit, or if an audit cannot be completed in a safe, secure location protected from weather conditions. The dealer or redemption center shall have the right to be present at [~~the count~~] an audit conducted at a location other than the redemption center or dealer's place of business.

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

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

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

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

12. No person shall [~~intentionally~~] program, tamper with, render inaccurate, or circumvent the proper operation of a reverse vending machine [~~to wrongfully elicit deposit monies when no valid, redeemable beverage container has been placed in and properly processed by the reverse vending machine~~].

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

14. a. Reverse vending machines shall be designed to prevent the fraudulent redemption of containers by utilizing the best available technology and provide an accurate report containing the following information:

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

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

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

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

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

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

§ 27-1009. Refusal of acceptance.

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

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

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

b. Such embossing or permanent imprinting on the beverage container shall be the responsibility of the person, firm or corporation which bottles, cans or otherwise fills or packages a beverage container or a brand owner for whose exclusive account private label beverages are bottled, canned or otherwise packaged; provided, however, that the duly authorized agent of any such person, firm or corporation may indicate such refund value by a label securely affixed on any beverage container containing beverages imported into the United States. Private label beverages shall be defined as beverages [~~purchased from a bottler~~] in beverage containers bearing a brand name or trademark for sale [~~at retail~~] **or distribution,** directly by the owner or licensee of such brand name or trademark; or through [~~retail~~] dealers affiliated with such owner or licensee by a cooperative [~~or~~]**,** franchise**, or other** agreement.

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

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

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

a. Quarterly payments. An amount equal to eighty percent of the balance outstanding in the refund value account at the close of each quarter shall be paid to the commissioner of taxation and finance at the time the report provided for in subdivision three of this section is required to be filed. **However, a deposit initiator who initiates deposits on beverage containers with a universal product code and label design that is unique to this state, or used only in this state and any other states that have a law substantially similar to this title, shall be entitled to pay an amount equal to only sixty percent of the balance outstanding in the refund value account attributable to such beverage containers at the close of each quarter to the commissioner of taxation and finance at the time the report provided for in subdivision three of this section is required to be filed.** The commissioner of taxation and finance may require that the payments be made electronically. The remaining twenty percent of the balance outstanding at the close of each quarter shall be the monies of the deposit initiator and may be withdrawn from such account by the deposit initiator. If the provisions of this section with respect to such account have not been fully complied with, each deposit initiator shall pay to such commissioner at such time, in lieu of the amount described in the preceding sentence, an amount equal to the balance which would have been outstanding on such date had such provisions been fully complied with. The commissioner of taxation and finance may require that the payments be made electronically.

b. Refund value account shortfall. In the event a deposit initiator pays out more in refund values than it collects in deposits of refund values during the course of a quarterly period as described in subdivision three of this section, the deposit initiator may apply to the commissioner of taxation and finance for a refund of the amount of such excess payment of refund values from sources other than the refund value account, in the manner as provided by the commissioner of taxation and finance. A deposit initiator must apply for a refund no later than twelve months after the due date for filing the quarterly report for the quarterly period for which the refund claim is made. No interest shall be payable for any refund paid pursuant to this paragraph. **However, a deposit initiator who initiates deposits on beverage containers that do not have a universal product code and label design that is unique to this state or used only in this state and any other states that have a law substantially similar to this title shall not be entitled to a refund pursuant to this subdivision.**

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

12. a. Each deposit initiator shall provide a report to the department describing all the types of beverage containers on which it initiates deposits. The report shall include the product name, type of beverage, size and composition of the beverage container, universal product code, **the ways in which the deposit initiator attempts to prevent the fraudulent sale and redemption of brands of beverage containers it sells,** and any other information the department may require. Upon request, a deposit initiator shall also provide to the department a copy of the container label or a picture of any beverage container sold or offered for sale in this state on which it initiates a deposit. Such information shall be provided in a form as prescribed by the department. The department may require that such forms be filed electronically.

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

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

d. The department may require the maintenance of such accounts, records or documents relating to the sale and redemption of beverage containers, by any deposit initiator, beverage manufacturer, distributor, dealer or redemption center as the department may deem appropriate for the administration of this title. The department may make examinations, including conducting facility inspections during regular business hours, with respect to the accounts, records or documents required to be maintained under this subdivision. Such accounts, records and documents shall be preserved for a period of three years, except that the department may consent to their destruction within that period or may require that they be kept longer. Such accounts, records and documents may be kept within the meaning of this subdivision when reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic or other process which actually reproduces the original accounts, records or documents.

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

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

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

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

§ 27-1015. Violations.

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

[~~2.~~] **b.** [~~Any~~] **In addition to any penalties imposed by the department of taxation and finance as provided in section 27-1012 of this title, any** distributor, deposit initiator, redemption center or dealer who violates any provision of this title, [~~except as provided in section 27-1012 of this title,~~] **or fails to perform a duty imposed by this title, or any rule or regulation promulgated pursuant thereto, or any term or condition of any registration or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this title** shall be liable [~~to the state of New York~~] for a civil penalty of not more than one thousand dollars **for each violation**, and an additional civil penalty of not more than one thousand dollars for each day during which each such violation continues. Any civil penalty may be assessed following a hearing or opportunity to be heard**, or by the court in any action or proceeding pursuant to section 71-2727 of this chapter. In addition, such deposit initiator or distributor may by similar process be enjoined from continuing such violation and any permit or registration issued to such person may be revoked or suspended or a pending renewal application denied.**

2. Criminal sanctions. a. Any person who, having any of the culpable mental states defined in section 15.05 of the penal law, violates any provision of or who fails to perform any duty imposed by this title, or any rule or regulation promulgated pursuant thereto, or any final determination or order of the commissioner made pursuant to this title shall be guilty of a violation and, upon conviction, shall be punished by a fine of not more than five hundred dollars for each violation; each day

on which such violation occurs shall constitute a separate violation; and for each such violation the person shall be subject, upon conviction, to imprisonment for not more than fifteen days or to a fine of not more than five hundred dollars, or to both imprisonment and fine.

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

[~~3.~~] c. It shall be unlawful for [~~a distributor or deposit initiator~~] any person, acting alone or aided by another, to return any empty beverage container to a dealer [~~or~~], redemption center, distributor or deposit initiator for its refund value if [~~the~~] a distributor or deposit initiator had previously accepted such beverage container from any dealer or operator of a redemption center or if such container was previously accepted by a reverse vending machine. A violation of this [~~subdivision~~] paragraph shall be a misdemeanor punishable by a fine of not less than five hundred dollars nor more than one thousand dollars and an amount equal to two times the amount of money received as a result of such violation, or imprisonment for not more than one year, or to both such imprisonment and such fines.

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

e. In addition to any other penalty provided by this title, any dealer, distributor or deposit initiator, who knowingly or intentionally violates any provision of or who fails to perform any duty imposed by section 27-1005 or 27-1012 of this title, or any rule or regulation promulgated pursuant thereto, or any final determination or order of the commissioner made pursuant to this title shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one thousand dollars per day of violation, or by imprisonment for not more than one year, or by both such fine and imprisonment.

3. Any product sold or distributed in the state that is not in compliance with the deposit initiator registration or the labeling requirements established in this title may be removed from sale by the department and the attorney general.

4. Any person who [~~willfully~~] tenders to a dealer, distributor, redemption center or deposit initiator more than forty-eight empty beverage containers for which such person knows or should reasonably know that no deposit was paid in New York state may be assessed [~~by the department~~] a civil penalty of up to one hundred dollars for each container or up to twenty-five thousand dollars for each such tender of

containers. At each location where a person tenders containers for redemption, dealers and redemption centers must conspicuously display a sign in letters that are at least one inch in height with the following information: "WARNING: Persons tendering for redemption containers on which a deposit was never paid in this state may be subject to a civil penalty of up to one hundred dollars per container or up to twenty-five thousand dollars for each such tender of containers." Any civil penalty may be assessed **by the commissioner** following a hearing or opportunity to be heard**, or by the court in any action or proceeding pursuant to section 71-2727 of this chapter. In addition, such person may by similar process be enjoined from continuing such violation and any permit or registration issued to such person may be revoked or suspended or a pending renewal application denied**.

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

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

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

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

(b) Any person, having previously been convicted of a violation of paragraph (a) of this section within the past three years, who willfully violates or directs another to violate the requirements to collect or charge the refund value imposed by section 27-1005 or paragraph a of subdivision nine of section 27-1012 of this title on five thousand or more beverage containers in one or more separate transactions within one year shall be guilty of a class A misdemeanor.

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

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

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

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

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

§ 9. 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", as amended by section 2-b of part JJ of chapter 58 of the laws of 2017, is amended to read as follows:

§ 12. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2013; provided, however, that the amendments to subdivision 5-a of section 27-1015 of the environmental conservation law, as added by section nine of this act, shall expire and be deemed repealed on April 1, [~~2019~~] **2021**.

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

PART G

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

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

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

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

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

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

(c) enter into cooperative agreements in furtherance of the department's mission with persons or entities to promote outdoor recreational activities and provide use of outdoor recreational equipment and opportunities for the public benefit on department owned lands; and

(d) seek investment from private philanthropic interest or not-for-profit corporations for capital improvements at department owned facilities.

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

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

(b) under investigation by the department;

(c) with a permit or license application pending before the department;

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

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

§ 2. This act shall take effect immediately.

PART H

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

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

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

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

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

§ 27-2705. Recycling program requirements.

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

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

~~2.~~] a collection bin that is visible, easily accessible to the consumer, and clearly marked that the collection bin is available for the purpose of collecting and recycling plastic carryout bags and film plastic. This subdivision shall apply to stores not within an enclosed shopping mall and stores of at least fifty thousand square feet within an enclosed shopping mall. In the case of an enclosed shopping mall, the owner of the enclosed mall shall place bins at reasonable intervals throughout the enclosed mall area;

[~~3~~] **2**. all plastic carryout bags and film plastic collected by the store to be collected, transported and recycled along with any other in-store plastic recycling, except for plastic bags that are not sufficiently free of foreign material to enter the recycling stream. Plastic carryout bags and film plastic collected by the store or the manufacturer, which are free of foreign material, shall not be disposed of in any solid waste disposal facility permitted or authorized pursuant to title seven of this article;

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

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

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

§ 27-2708. Plastic carryout bag prohibition.

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

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

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

§ 27-2713. Preemption.

Jurisdiction in all matters pertaining to plastic bag [~~and~~]**,** film plastic recycling**, and fees or other measures associated with reducing the use of single use bags** is by this article vested exclusively in the state. Any provision of any local law or ordinance, or any rule or regulation promulgated thereto, governing the recycling of plastic bags and film plastic **and fees or other measures associated with single use bags** shall, upon the effective date of this title, be preempted. Provided however, nothing in this section shall preclude a person from coordinating for recycling or reuse the collection of plastic bags or film plastic **and provided further that nothing in this section shall preclude any local law or ordinance, or any rule or regulation promulgated thereto, governing the establishment of fees on paper carryout bags**.

§ 5. This act shall take effect immediately.

PART I

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

a. The exploration, development and production of gas in state-owned lands, except state park lands**, the marine and coastal district as defined in section 13-0103 of this chapter,** and the lands under the waters of Lake Ontario or along its shoreline; and

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

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

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

1. Neither the department nor the office of general services shall enter into any new lease or other conveyance, or lease modification,

that authorizes or enables the installation of pipelines or support facilities or infrastructure directly or indirectly associated with exploration, development or production of oil or natural gas located in the north Atlantic planning area.

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

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

b. "Exploration" means any activity associated with the search of oil or natural gas, including geophysical tests or the drilling of stratigraphic wells.

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

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

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

3. The department is authorized to establish such rules and regulations as it shall deem necessary to implement this section.

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

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

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

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

§ 83. Condemnation of real property. In case such corporation is unable to agree for the purchase of any real property required for the purposes of its incorporation, and its route in the county in which such real property is situated has been finally located, it shall have the right to acquire title thereto by condemnation, but such corporation shall not locate its route or construct any line of pipe through or under any building, dooryard, lawn, garden or orchard, except by the consent of the owner thereof in writing duly acknowledged, nor through any cemetery or burial ground, nor within one hundred feet of any building except where such line is authorized by public officers to be laid across or upon any public highway, and shall not install pipelines that support facilities or infrastructure associated with exploration, development, or production of oil or natural gas in federal waters located in

the north Atlantic planning area. No such corporation shall lay or construct its line of pipe through or under a street in any city, unless it shall first obtain the consent of a majority of the owners of property abutting on that portion of the street in which its pipe line is to be laid. Such pipe line shall be laid with reasonable care and prudence.

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

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

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

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

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

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

(b) The department is prohibited from issuing or renewing any license for any major facility intended to transfer or store crude oil from any vessel which holds petroleum transported directly from any pipeline, support facility, or infrastructure associated with the production of crude oil from the north Atlantic planning area. For purposes of this subdivision, "development", "federal waters", "north Atlantic planning area" and "production" shall be defined as in section 23-1105 of the environmental conservation law.

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

§ 9. This act shall take effect immediately.

PART J

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

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

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

commissioner may post on the department's website a digital image that represents the final freshwater wetlands map.

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

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

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

§ 3. This act shall take effect immediately.

PART K

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

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

1. "[~~Household cleansing~~] **Cleansing** product" means any product, including but not limited to soaps and detergents, containing a surfactant as a wetting or dirt emulsifying agent and used primarily for domestic [~~or~~]**,** commercial**, or industrial** cleaning purposes, including

but not limited to, the cleansing of fabrics, dishes, food utensils and household and commercial premises. [~~Household cleansing~~] **Cleansing** product shall not mean foods, drugs, cosmetics, insecticides, fungicides and rodenticides or cleansing products used primarily in industrial manufacturing, production and assembling processes as provided by the commissioner by rule and regulation.

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

§ 35-0107. Powers and duties of commissioner.

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

2. [~~No later than February 1, 1973 the commissioner shall prepare and submit a comprehensive report to the governor and legislature on the status of progress made in research and development to provide a safe and effective substitute for phosphates in household cleansing products. 3.~~] Whenever the commissioner finds, after investigation, that any ingredient of [~~household~~] cleansing products distributed, sold, offered or exposed for sale in this state, other than an ingredient for which limitations are set forth in subdivision 2 of section 35-0105, will or is likely to materially affect adversely human health or the environment, he may, after public hearing, restrict or limit by regulation the use of such ingredient in such products.

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

TITLE 9

CONSUMER PRODUCT DISCLOSURE

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

§ 37-0901. Short title.

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

§ 37-0903. Definitions.

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

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

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

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

§ 37-0905. Product labeling.

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

§ 37-0907. Chemical disclosure.

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

§ 37-0909. Public education.

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

§ 37-0911. Rules and regulations.

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

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

§ 37-0913. Enforcement.

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

tional penalty of not more than five hundred dollars for each day during which such violation continues.

§ 37-0915. Severability.

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

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

ARTICLE 48-A

REGULATION OF PERSONAL CARE PRODUCTS

Section 4850. Declaration of legislative intent and findings.
4851. Definitions.
4852. Disclosure.
4853. Penalties.
4854. Severability.

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

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

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

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

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

tially harmful chemicals from their products, and encourage development of innovative methods including green chemistry to replace these ingredients with more environmentally-preferable alternatives.

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

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

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

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

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

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

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

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

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

5. "Manufacturer" shall mean any person, firm, association, partnership, limited liability company, or corporation which produces, prepares, formulates, or compounds a personal care product, or whose brand name is affixed to such product. In the case of a personal care product imported into the United States, "manufacturer" shall mean the importer or first domestic distributor of the product if the entity that

manufactures the product or whose brand name is affixed to the product does not have a presence in the United States.

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

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

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

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

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

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

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

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

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

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

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

PART L

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

ARTICLE 14-A
STUDENT LOAN SERVICERS

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

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

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

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

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

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

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

7. "Servicing" shall mean:

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

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

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

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

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

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

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

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

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

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

3. A license is not required to engage in the business of servicing federal student loans. A person, other than an exempt organization, that services federal student loans owed by one or more borrowers residing in this state, which is not otherwise required to be licensed pursuant to this section, shall notify the superintendent that it is servicing federal student loans in this state and comply with sections seven hundred seventeen, seven hundred nineteen, seven hundred twenty-one, seven hundred twenty-two, seven hundred twenty-three and seven hundred twenty-five of this article and any regulation applicable to student loan servicers promulgated by the superintendent. The provisions of

section thirty-three, thirty-nine, and forty-four of this chapter shall apply to a person required to notify the superintendent under this subdivision, as though they were a licensed student loan servicer.

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

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

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

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

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

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

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

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

2. The superintendent may refuse to issue a license pursuant to this article if he or she shall find that the applicant, or any person who is

a director, officer, partner, agent, employee, member, or substantial stockholder of the applicant:

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

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

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

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

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

§ 714. Changes in officers and directors. Upon any change of any of the executive officers, directors, partners or members of any student loan servicer required to be licensed under section seven hundred eleven of this article, the student loan servicer shall submit to the superintendent the name, address, and occupation of each new officer, director, partner or member, and provide such other information as the superintendent may require.

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

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

3. For a period of six months from the date of qualification thereof and for such additional period of time as the superintendent may prescribe, in writing, the provisions of subdivisions one and two of this section shall not apply to a transfer of control by operation of law to the legal representative, as hereinafter defined, of one who has control of a student loan servicer. Thereafter, such legal representative shall comply with the provisions of subdivisions one and two of

this section. The provisions of subdivisions one and two of this section shall be applicable to an application made under such section by a legal representative. The term "legal representative", for the purposes of this subdivision, shall mean one duly appointed by a court of competent jurisdiction to act as executor, administrator, trustee, committee, conservator or receiver, including one who succeeds a legal representative and one acting in an ancillary capacity thereto in accordance with the provisions of such court appointment.

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

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

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

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

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

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

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

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

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

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

2. The superintendent may, on good cause shown, or where there is a substantial risk of public harm, suspend any license for a period not

exceeding thirty days, pending investigation. "Good cause", as used in this subdivision, shall exist when a student loan servicer has defaulted or is likely to default in performing its financial engagements or engages in dishonest or inequitable practices which may cause substantial harm to the persons afforded the protection of this article.

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

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

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

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

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

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

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

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

servicer under the penalties of perjury and shall be in the form prescribed by the superintendent.

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

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

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

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

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

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

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

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

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

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

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

4. Provide inaccurate information to a consumer reporting agency;

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

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

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

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

accompanied by an explanation why such additional time is reasonable and necessary.

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

2. This section does not apply to exempt organizations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. This section shall not apply to exempt organizations. To the extent the superintendent is authorized by any other law to make an examination

into the affairs of any exempt organization, this subdivision shall not be construed to limit in any way the superintendent's authority, regarding the subjects of such an examination, or otherwise.

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

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

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

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

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

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

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

ize such disclosure. For the purposes of this subdivision, "reports of examinations and investigations, and any correspondence and memoranda concerning or arising out of such examinations and investigations", includes any such materials of a bank, insurance or securities regulatory agency or any unit of the federal government or that of this state any other state or that of any foreign government which are considered confidential by such agency or unit and which are in the possession of the department or which are otherwise confidential materials that have been shared by the department with any such agency or unit and are in the possession of such agency or unit.

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

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

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

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

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

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

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

books or accounts as he or she may, in his or her discretion, determine and prescribe for the purpose of keeping accurate and convenient records of its transactions and accounts.

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

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

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

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

PART M

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

§ 2. The commissioner of motor vehicles shall, in consultation with the superintendent of state police, submit a report to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the senate and assembly transportation committees on the demonstrations and tests authorized by section one of this act. Such report shall include, but not be limited to, a description of the parameters and purpose of such demonstrations and tests, the location or locations where demonstrations and tests were conducted, the demonstrations' and tests' impacts on safety, traffic control, traffic enforcement, emergency services, and such other areas as may be identified by such commissioner. Such commissioner shall submit such report [~~on or before June 1, 2018 and June 1, 2019~~] **June first of each year this section remains in effect**.

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

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

§ 3. a. The New York state commissioner of motor vehicles may approve demonstrations and tests consisting of the operation of a motor vehicle equipped with autonomous vehicle technology while such motor vehicle is engaged in the use of such technology on public highways within this

state for the purposes of demonstrating and assessing the current development of autonomous vehicle technology and to begin identifying potential impacts of such technology on safety, traffic control, traffic enforcement, emergency services, and such other areas as may be identified by such commissioner. Such demonstrations and tests shall take place in a manner and form prescribed by the commissioner of motor vehicles including, but not limited to: a requirement that the motor vehicle utilized in such demonstrations and tests complies with all applicable federal motor vehicle safety standards and New York state motor vehicle inspection standards; and a requirement that the motor vehicle utilized in such demonstrations and tests has in place, at a minimum, financial security in the amount of five million dollars. Nothing in this act shall authorize the motor vehicle utilized in such demonstrations and tests to operate in violation of article 22 or title 7 of the vehicle and traffic law, excluding section 1226 of such law.

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

§ 4. The commissioner of motor vehicles shall, in consultation with the superintendent of state police, submit a report to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the senate and assembly transportation committees on the demonstrations and tests authorized by section three of this act. Such report shall include, but not be limited to, a description of the parameters and purpose of such demonstrations and tests, the location or locations where demonstrations and tests were conducted, the demonstrations' and tests' impacts on safety, traffic control, traffic enforcement, emergency services, and such other areas as may be identified by such commissioner. The commissioner shall submit such report on or before June first of each year section three of this act remains in effect.

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

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

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

PART N

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

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

[~~2019~~] 2021 when upon such date the provisions of this act shall be deemed repealed.

§ 2. This act shall take effect immediately.

PART O

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

(p) The amendments to section 1809 of the vehicle and traffic law made by sections three hundred thirty-seven and three hundred thirty-eight of this act shall not apply to any offense committed prior to such effective date; provided, further, that section three hundred forty-one of this act shall take effect immediately and shall expire November 1, 1993 at which time it shall be deemed repealed; sections three hundred forty-five and three hundred forty-six of this act shall take effect July 1, 1991; sections three hundred fifty-five, three hundred fifty-six, three hundred fifty-seven and three hundred fifty-nine of this act shall take effect immediately and shall expire June 30, 1995 and shall revert to and be read as if this act had not been enacted; section three hundred fifty-eight of this act shall take effect immediately and shall expire June 30, 1998 and shall revert to and be read as if this act had not been enacted; section three hundred sixty-four through three hundred sixty-seven of this act shall apply to claims filed on or after such effective date; sections three hundred sixty-nine, three hundred seventy-two, three hundred seventy-three, three hundred seventy-four, three hundred seventy-five and three hundred seventy-six of this act shall remain in effect until September 1, [~~2019~~] 2021, at which time they shall be deemed repealed; provided, however, that the mandatory surcharge provided in section three hundred seventy-four of this act shall apply to parking violations occurring on or after said effective date; and provided further that the amendments made to section 235 of the vehicle and traffic law by section three hundred seventy-two of this act, the amendments made to section 1809 of the vehicle and traffic law by sections three hundred thirty-seven and three hundred thirty-eight of this act and the amendments made to section 215-a of the labor law by section three hundred seventy-five of this act shall expire on September 1, [~~2019~~] 2021 and upon such date the provisions of such subdivisions and sections shall revert to and be read as if the provisions of this act had not been enacted; the amendments to subdivisions 2 and 3 of section 400.05 of the penal law made by sections three hundred seventy-seven and three hundred seventy-eight of this act shall expire on July 1, 1992 and upon such date the provisions of such subdivisions shall revert and shall be read as if the provisions of this act had not been enacted; the state board of law examiners shall take such action as is necessary to assure that all applicants for examination for admission to practice as an attorney and counsellor at law shall pay the increased examination fee provided for by the amendment made to section 465 of the judiciary law by section three hundred eighty of this act for any examination given on or after the effective date of this act notwithstanding that an applicant for such examination may have prepaid a lesser fee for such examination as required by the provisions of such section 465 as of the date prior to the effective date of this act; the provisions of section 306-a of the civil practice law and rules as added by section three hundred eighty-one of this act shall apply to all actions pending

on or commenced on or after September 1, 1991, provided, however, that for the purposes of this section service of such summons made prior to such date shall be deemed to have been completed on September 1, 1991; the provisions of section three hundred eighty-three of this act shall apply to all money deposited in connection with a cash bail or a partially secured bail bond on or after such effective date; and the provisions of sections three hundred eighty-four and three hundred eighty-five of this act shall apply only to jury service commenced during a judicial term beginning on or after the effective date of this act; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law;

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

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

§ 3. This act shall take effect immediately.

PART P

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

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

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

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

§ 125. Motor vehicles. Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except (a) electrically-driven mobility assistance devices operated or driven by a person with a disability, (a-1) electric personal assistive mobility devices operated outside a city with a population of one million or more, (a-2) locally authorized scooters, (a-3) locally authorized motorcycles, (b) vehicles which run only upon rails or tracks, (c) snowmobiles as defined in article forty-seven of this chapter, and (d) all terrain vehicles as defined in article forty-eight-B of

this chapter. For the purposes of title four of this chapter, the term motor vehicle shall exclude fire and police vehicles other than ambulances. For the purposes of titles four and five of this chapter the term motor vehicles shall exclude farm type tractors and all terrain type vehicles used exclusively for agricultural purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

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

ARTICLE 34-D

OPERATION OF LOCALLY AUTHORIZED SCOOTERS

Section 1280. Effect of requirements.
1281. Traffic laws apply to persons operating locally authorized scooters; local laws.
1282. Operating locally authorized scooters.
1283. Clinging to vehicles.
1284. Riding on roadways, shoulders and lanes reserved for non-motorized vehicles and devices.
1285. Lamps and other equipment.
1286. Operators to wear protective headgear.
1287. Leaving the scene of an incident involving a locally authorized scooter without reporting.
1288. Operation of a locally authorized scooter while under the influence of alcohol or drugs.

§ 1280. Effect of requirements. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

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

2. Notwithstanding the provisions of subdivision one of this section the governing body of any county, city, town or village may, by local law, ordinance, order, rule or regulation, further regulate the maximum speed, time, place and manner of the operation of locally authorized scooters including authorizing the use of locally authorized scooters on sidewalks, and limiting or prohibiting the use thereof in specified areas under the jurisdiction of such county, city, town or village.

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

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

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

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

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

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

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

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

§ 1283. Clinging to vehicles. 1. No person operating a locally authorized scooter shall attach such scooter, or himself or herself to any vehicle being operated upon a roadway.

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

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

2. Persons operating locally authorized scooters upon a roadway shall ride single file. Persons operating locally authorized scooters upon a shoulder, bicycle or in-line skate lane, or bicycle or in-line skate path, intended for the use of bicycles, electric personal assistive mobility devices, locally authorized scooters, locally authorized motorcycles or in-line skates may ride two or more abreast if sufficient space is available, except that when passing a vehicle, bicycle, electric personal assistive mobility device, locally authorized scooter, person on in-line skates or pedestrian standing or proceeding along such shoulder, lane or path, persons operating locally authorized scooters shall operate such scooter in single file.

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

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

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

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

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

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

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

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

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

§ 1287. Leaving the scene of an incident involving a locally authorized scooter without reporting. 1. (a) Any person eighteen years of age or older operating a locally authorized scooter who, knowing or having cause to know, that physical injury, as defined in subdivision nine of section 10.00 of the penal law, has been caused to another person, due to the operation of such locally authorized scooter by such person shall, before leaving the place where such physical injury occurred, stop and provide his or her name and residence, including street and street number, to the injured party, if practical, and also to a police

officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer.

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

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

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

§ 1288. Operation of a locally authorized scooter while under the influence of alcohol or drugs. 1. Offenses; criminal penalties. (a) No person shall operate a locally authorized scooter while his or her ability to operate such locally authorized scooter is impaired by the consumption of alcohol.

(i) A violation of this subdivision shall be an offense and shall be punishable by a fine of not less than three hundred dollars nor more than five hundred dollars, or by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment.

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

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

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

(c) No such person shall operate a locally authorized scooter while he or she has .04 of one per centum or more by weight of alcohol in his or her blood, breath, urine, or saliva, as determined by the chemical test made pursuant to the provisions of subdivision five of this section.

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

(e) No person shall operate a locally authorized scooter while his or her ability to operate such locally authorized scooter is impaired by

the use of a drug as defined by section one hundred fourteen-a of the this chapter.

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

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

(ii) A person who operates a locally authorized scooter in violation of paragraph (b), (c), (d), (e) or (f) of this subdivision after having been convicted of a violation of paragraph (b), (c), (d), (e) or (f) of this subdivision, or of operating a locally authorized scooter while intoxicated or while under the influence of drugs, or while under the combined influence of drugs or of alcohol and any drug or drugs, within the preceding ten years, shall be guilty of a class E felony and shall be punished by a period of imprisonment as provided in the penal law, or by a fine of not less than one thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment.

(iii) A person who operates a locally authorized scooter in violation of paragraph (b), (c), (d), (e) or (f) of this subdivision after having been twice convicted of a violation of any of such paragraph (b), (c), (d), (e) or (f) of this subdivision or of operating a locally authorized scooter while intoxicated or under the influence of drugs, or while under the combined influence of drugs or of alcohol and any drug or drugs, within the preceding ten years, shall be guilty of a class D felony and shall be punished by a fine of not less than two thousand dollars nor more than ten thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

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

3. Sentencing; previous convictions. When sentencing a person for a violation of paragraph (b), (c), (d), (e) or (f) of subdivision one of this section pursuant to subparagraph (ii) of paragraph (g) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation paragraph (b), (c), (d), (e) or (f) of subdivision one of this section pursuant to subparagraph (iii) of paragraph (g) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of subparagraph (ii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding five years. When sentencing a person for a violation of subparagraph (iii) of paragraph (a) of subdivision one of

this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding ten years.

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

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

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

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

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

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

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

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

(iii) evidence that there was .07 of one per centum or more but less than .08 of one per centum by weight of alcohol in his or her blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be given prima facie effect in determining whether the ability of such person to operate a locally authorized scooter was impaired by the consumption of alcohol.

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

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

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

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

ARTICLE 34-E

OPERATION OF LOCALLY AUTHORIZED MOTORCYCLES

Section 1290. Effect of requirements.
1291. Traffic laws apply to persons operating locally authorized motorcycles; local laws.
1292. Operating locally authorized motorcycles.
1293. Clinging to vehicles.
1294. Riding on roadways, shoulders and lanes reserved for non-motorized vehicles and devices.
1295. Lamps and other equipment.
1296. Operators to wear protective headgear.

1297. Leaving the scene of an incident involving a locally authorized motorcycle without reporting.
1298. Operation of a locally authorized motorcycle while under the influence of alcohol or drugs.

§ 1290. Effect of requirements. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

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

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

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

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

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

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

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

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

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

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

§ 1293. Clinging to vehicles. 1. No person operating a locally authorized motorcycle shall attach such motorcycle, or himself or herself to any vehicle being operated upon a roadway.

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

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

2. Persons operating locally authorized motorcycles upon a roadway shall ride single file. Persons operating locally authorized motorcycles upon a shoulder, bicycle or in-line skate lane, or bicycle or in-line skate path, intended for the use of bicycles, electric personal assistive mobility devices, locally authorized scooter, locally authorized motorcycles or in-line skates may ride two or more abreast if sufficient space is available, except that when passing a vehicle, bicycle, electric personal assistive mobility device, locally authorized scooter, locally authorized motorcycles, person on in-line skates or pedestrian standing or proceeding along such shoulder, lane or path, persons operating locally authorized motorcycles shall operate such motorcycle in single file.

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

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

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

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

§ 1296. Operators to wear protective headgear. 1. No person shall ride upon, propel or otherwise operate a locally authorized motorcycle unless such person is wearing a helmet meeting standards established by the commissioner pursuant to the provisions of subdivision two-a of section twelve hundred thirty-eight of this title. As used in this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened.

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

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

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

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

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

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

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

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

§ 1298. Operation of a locally authorized motorcycle while under the influence of alcohol or drugs. 1. Offenses; criminal penalties. (a) No

person shall operate a locally authorized motorcycle while his or her ability to operate such locally authorized motorcycle is impaired by the consumption of alcohol.

(i) A violation of this subdivision shall be an offense and shall be punishable by a fine of not less than three hundred dollars nor more than five hundred dollars, or by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment.

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

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

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

(c) No such person shall operate a locally, authorized motorcycle while he or she has .04 of one per centum or more by weight of alcohol in his or her blood, breath, urine, or saliva, as determined by the chemical test made pursuant to the provisions of subdivision five of this section.

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

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

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

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

(ii) A person who operates a locally authorized motorcycle in violation of paragraph (b), (c), (d), (e) or (f) of this subdivision after having been convicted of a violation of paragraph (b), (c), (d), (e) or (f) of this subdivision, or of operating a locally authorized motorcycle while intoxicated or while under the influence of drugs, or while under the combined influence of drugs or of alcohol and any drug or drugs, within the preceding ten years, shall be guilty of a class E felony and shall be punished by a period of imprisonment as provided in

the penal law, or by a fine of not less than one thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment.

(iii) A person who operates a locally authorized motorcycle in violation of paragraph (b), (c), (d), (e) or (f) of this subdivision after having been twice convicted of a violation of any of such paragraph (b), (c), (d), (e) or (f) of this subdivision or of operating a locally authorized motorcycle while intoxicated or under the influence of drugs, or while under the combined influence of drugs or of alcohol and any drug or drugs, within the preceding ten years, shall be guilty of a class D felony and shall be punished by a fine of not less than two thousand dollars nor more than ten thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

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

3. Sentencing: previous convictions. When sentencing a person for a violation of paragraph (b), (c), (d), (e) or (f) of subdivision one of this section pursuant to subparagraph (ii) of paragraph (g) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of paragraph (b), (c), (d), (e) or (f) of subdivision one of this section pursuant to subparagraph (iii) of paragraph (g) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of subparagraph (ii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding five years. When sentencing a person for a violation of subparagraph (iii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding ten years.

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

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

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

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

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

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

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

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

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

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

shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be given prima facie effect in determining whether the ability of such person to operate a locally authorized motorcycle was impaired by the consumption of alcohol.

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

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

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

§ 5. This act shall take effect immediately.

PART Q

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

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

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

(a) In addition to such designation of the secretary of state, every domestic corporation or authorized foreign corporation may designate a registered agent in this state upon whom process against such corporation may be served. The agent shall be a natural person who is a resident of or has a business address in this state [~~or~~], a domestic corporation or foreign corporation of any type or kind formed, or authorized to do business in this state[~~,~~] under this chapter or under any other statute of this state, or a domestic limited liability company or foreign limited liability company formed or authorized to do business in this state.

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

(1) Service of process on the secretary of state as agent of a domestic or authorized foreign corporation**, or other business entity that has designated the secretary of state as agent for service of process pursuant to article nine of this chapter,** shall be made by [~~personally delivering to and leaving with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement~~] **mailing the process and notice of service thereof by certified mail, return receipt requested, to such corporation or other business entity, at the post office address on file in the department of state specified for this purpose. If a domestic or authorized foreign corporation has no such address on file in the department of state, the process and notice of service thereof shall be mailed, in the case of a domestic corporation, in care of any director named in its certificate of incorporation at the director's address stated therein or, in the case of an authorized foreign corporation, to such corporation at the address of its office within this state on file in the department. On the same day that such process is mailed, a duplicate copy of such process and proof of mailing together with the statutory fee, which fee shall be a taxable disbursement, shall be personally delivered to and left with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany. Proof of mailing shall be by affidavit of compliance with this section**. Service of process on such corporation **or other business entity** shall be complete when the secretary of state is so served. [~~The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose. If a domestic or authorized foreign corporation has no such address on file in the department of state, the secretary of state shall so mail such copy, in the case of a domestic corporation, in care of any director named in its certificate of incorporation at the director's address stated therein or, in the case of an authorized foreign corporation, to such corporation at the address of its office within this state on file in the department.~~]

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

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

(3) That **at least** sixty days prior to the filing of the certificate of resignation **for receipt of process** with the department of state the party has sent a copy of the certificate of resignation for receipt of process by registered or certified mail to the address of the registered agent of the designating corporation, if other than the party filing the certificate of resignation[~~,~~] for receipt of process, or if the [~~resigning~~] **designating** corporation has no registered agent, then to the last address of the designating corporation known to the party, specifying

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

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

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

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

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

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

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

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

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

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

(b) A certificate of change which changes only the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against a corporation served upon [~~him or~~] the secretary of state and/or the address of the registered agent, provided such address being changed is the address of a person, partnership, limited liability company or other corporation whose address, as agent, is the address to be changed or who has been designated as registered agent for such corporation, may be signed[~~, verified~~] and delivered to the department of state by such agent. The certificate of change shall set forth the statements required under subparagraphs [~~(a)~~] (1), (2) and (3) of paragraph (a) of this section; that a notice of the proposed change was mailed to the corporation by the party signing the certificate not less than thirty days prior to the date of delivery to the department and that such corporation has not objected thereto; and that the party signing the certificate is the agent of such corporation to whose address [~~the secretary of state~~] a person is required to mail copies of process served on the secretary of state or the registered agent, if such be the case. A certificate signed[~~, verified~~] and delivered under this paragraph shall not be deemed to effect a change of location of the office of the corporation in whose behalf such certificate is filed.

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

(8) If the surviving or resulting entity is a foreign corporation or other business entity, a designation of the secretary of state as its agent upon whom process against it may be served in the manner set forth in paragraph (b) of section three hundred six of this chapter, in any action or special proceeding, and a post office address, within or without this state, to which [~~the secretary of state~~] **a person** shall mail a copy of any process against it served upon [~~him~~] **the secretary of state**. Such post office address shall supersede any prior address designated as the address to which process shall be mailed;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1311. Termination of existence.

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

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

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

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

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

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

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

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

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

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

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

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

association as required by this article. Such address shall continue until the filing of a certificate under this chapter directing the mailing to a different post office address.

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

§ 22. Section 19 of the general associations law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

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

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

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

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

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

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

§ 686. Designation of secretary of state as agent for service of process; service of process. Any person who shall offer to sell or sell a franchise in this state as a franchisor, subfranchisor or franchise sales agent shall be deemed to have irrevocably appointed the secretary of state as his or [~~its~~] **her** agent upon whom may be served any summons, complaint, subpoena, subpoena duces tecum, notice, order or other process directed to such person, or any partner, principal, officer, salesman or director thereof, or his or [~~its~~] **her** successor, administrator or executor, in any action, investigation, or proceeding which arises under this article or a rule hereunder, with the same force and validity as if served personally on such person. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with [~~him or~~] **the secretary of state,** a deputy secretary of state**, or with any person authorized by the secretary of state to receive such service,** a copy thereof at the office of the department of state, and such service shall be sufficient provided that notice of such service and a copy of such process are sent forthwith by the department to such person, by registered or certified mail with return receipt requested, at [~~his~~] **the** address [~~as~~] set forth in the application for registration of his **or her** offering prospectus or in the registered offering prospectus itself filed with the department of law pursuant to this article, or in default of the filing of such application or prospectus, at the last address known to the department. Service of such process shall be complete upon receipt by the department of a return receipt purporting to be signed by the addressee or a person qualified to receive [~~his or its~~] registered or certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused or unclaimed by the addressee or his or [~~its~~] **her** agent, or if the addressee moved without leaving a forwarding address, upon return to the department of the original envelope bearing a notation by the postal authorities that receipt thereof was refused or that such mail was otherwise undeliverable.

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

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

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

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

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

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

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

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

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

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

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

(3) each change effected thereby.

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

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

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

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

(c) **Any designated post office address maintained by the secretary of state as agent of a domestic limited liability company or foreign limited liability company for the purpose of mailing process shall be the post office address, within or without the state, to which a person shall mail process against such limited liability company as required by this article.** Any designated post office address to which the secretary of state **or a person** shall mail a copy of process served upon [~~him or her~~] **the secretary of state** as agent of a domestic limited liability company or a foreign limited liability company shall continue until the filing of a certificate under this chapter directing the mailing to a different post office address.

[~~(c)~~] **(d)** (1) Except as otherwise provided in this subdivision, every limited liability company to which this chapter applies, shall biennially in the calendar month during which its articles of organization or application for authority were filed, or effective date thereof if stated, file on forms prescribed by the secretary of state, a statement setting forth the post office address within or without this state to which [~~the secretary of state~~] **a person** shall mail a copy of any process accepted against it served upon [~~him or her~~] **the secretary of state**. Such address shall supersede any previous address on file with the department of state for this purpose.

(2) The commissioner of taxation and finance and the secretary of state may agree to allow limited liability companies to include the statement specified in paragraph one of this subdivision on tax reports filed with the department of taxation and finance in lieu of biennial statements and in a manner prescribed by the commissioner of taxation and finance. If this agreement is made, starting with taxable years beginning on or after January first, two thousand sixteen, each limited liability company required to file the statement specified in paragraph one of this subdivision that is subject to the filing fee imposed by paragraph three of subsection (c) of section six hundred fifty-eight of the tax law shall provide such statement annually on its filing fee payment form filed with the department of taxation and finance in lieu of filing a statement under this section with the department of state. However, each limited liability company required to file a statement under this section must continue to file the biennial statement required by this section with the department of state until the limited liability company in fact has filed a filing fee payment form with the department of taxation and finance that includes all required information. After that time, the limited liability company shall continue to provide annually the statement specified in paragraph one of this subdivision on its filing fee payment form in lieu of the biennial statement required by this subdivision.

(3) If the agreement described in paragraph two of this subdivision is made, the department of taxation and finance shall deliver to the department of state the statement specified in paragraph one of this subdivision contained on filing fee payment forms. The department of taxation and finance must, to the extent feasible, also include the current name of the limited liability company, department of state identification number for such limited liability company, 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.

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

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

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

(ii) sent by or on behalf of the plaintiff to such limited **liability** company by registered or certified mail with return receipt requested to the last address of such limited liability company known to the plaintiff.

(ii) Where service of a copy of process was effected by mailing in accordance with this section, proof of service shall be by affidavit of compliance with this section filed, together with the process, within thirty days after receipt of the return receipt signed by the limited liability company or other official proof of delivery or of the original envelope mailed. If a copy of the process is mailed in accordance with this section, there shall be filed with the affidavit of compliance either the return receipt signed by such limited **liability** company or other official proof of delivery, if acceptance was refused by it, the original envelope with a notation by the postal authorities that acceptance was refused. If acceptance was refused a copy of the notice and process together with notice of the mailing by registered or certified mail and refusal to accept shall be promptly sent to such limited liability company at the same address by ordinary mail and the affidavit of compliance shall so state. Service of process shall be complete ten days after such papers are filed with the clerk of the court. The refusal to accept delivery of the registered or certified mail or to sign the return receipt shall not affect the validity of the service and such limited liability company refusing to accept such registered or certified mail shall be charged with knowledge of the contents thereof.

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

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

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

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

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

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

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

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

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

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

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

(3) each change effected thereby[~~;~~].

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

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

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

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

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

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

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

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

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

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

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

(d) Any designated post office address maintained by the secretary of state as agent of a domestic not-for-profit corporation or foreign not-for-profit corporation for the purpose of mailing process shall be the post office address, within or without the state, to which a person shall mail process against such corporation as required by this article. Any designated [~~post-office~~] post office address to which the secretary of state or a person shall mail a copy of process served upon [~~him or her~~] the secretary of state as agent of a domestic corporation formed under article four of this chapter or foreign corporation, shall continue until the filing of a certificate under this chapter directing the mailing to a different [~~post-office~~] post office address.

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

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

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

(b) Service of process on the secretary of state as agent of a domestic corporation formed under article four of this chapter or an authorized foreign corporation shall be made by mailing the process and notice of service thereof by certified mail, return receipt requested, to such corporation or other business entity, at the post office address on file in the department of state specified for this purpose. On the same day that such process is mailed, a duplicate copy of such process and proof of mailing shall be personally [~~delivering~~] delivered to and [~~leaving~~] left with the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, [~~duplicate copies of such process~~] together with the statutory fee, which fee shall be a taxable disbursement. Proof of mailing shall be by affidavit of compliance with this section. Service of process on such corporation or other business entity shall be complete when the secretary of state is so served. [~~The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose.~~] If a domestic corporation formed under article four of this chapter or an authorized foreign corporation has no such address on file in the department of state, the [~~secretary of state~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1312. Termination of existence.

When an authorized foreign corporation is dissolved or its authority or existence is otherwise terminated or cancelled in the jurisdiction of its incorporation or when such foreign corporation is merged into or consolidated with another foreign corporation, a certificate of the secretary of state, or official performing the equivalent function as to corporate records, of the jurisdiction of incorporation of such foreign corporation attesting to the occurrence of any such event or a certified copy of an order or decree of a court of such jurisdiction directing the dissolution of such foreign corporation, the termination of its existence or the cancellation of its authority shall be delivered to the department of state. The filing of the certificate, order or decree shall have the same effect as the filing of a certificate of surrender of authority under section 1311 (Surrender of authority). The secretary of state shall continue as agent of the foreign corporation upon whom process against it may be served in the manner set forth in paragraph (b) of section 306 (Service of process), in any action or special proceeding based upon any liability or obligation incurred by the foreign corporation within this state prior to the filing of such certificate, order or decree and [~~he~~] **the person serving such process** shall promptly cause a copy of any such process to be mailed by [~~registered~~] **certified** mail, return receipt requested, to such foreign corporation at the post office address on file [~~in his office~~] **with the department** specified for such purpose. The post office address may be changed by signing and delivering to the department of state a certificate of change setting forth the statements required under section 1310 (Certificate of change, contents) to effect a change in the post office address under subparagraph [~~(a) (4)~~] **(7) of paragraph (a)** of section 1308 (Amendments or changes).

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

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

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

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

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

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

(3) that at least sixty days prior to the filing of the certificate of resignation for receipt of process with the department of state the party has sent a copy of the certificate of resignation for receipt of process by registered or certified mail to the address of the registered agent of the [~~designated~~] designating limited partnership, if other than the party filing the certificate of resignation[~~,~~] for receipt of process, or if the [~~resigning~~] designating limited partnership has no registered agent, then to the last address of the [~~designated~~] designating limited partnership, known to the party, specifying the address to which the copy was sent. If there is no registered agent and no known address of the designating limited partnership the party shall attach an affidavit to the certificate stating that a diligent but unsuccessful search was made by the party to locate the limited partnership, specifying what efforts were made.

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

(a) In addition to the designation of the secretary of state, each limited partnership or authorized foreign limited partnership may designate a registered agent upon whom process against the limited partnership may be served. The agent must be (i) a natural person who is a resident of this state or has a business address in this state, [~~or~~] (ii) a domestic corporation or a foreign corporation authorized to do business in this state, or (iii) a domestic limited liability company or a foreign limited liability company authorized to do business in this state.

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

(a) Service of process on the secretary of state as agent of a domestic or authorized foreign limited partnership, or other business entity that has designated the secretary of state as agent for service of process pursuant to this chapter, shall be made [~~as follows:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) each change effected thereby.

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

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

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

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

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

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

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

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

(3) each change effected thereby.

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

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

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

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

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

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

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

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

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

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

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

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

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

(j-1) A certificate of change which changes only the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against a registered limited liability partnership served upon [~~him~~] the secretary of state and/or the address of the registered agent, provided such address being changed is the address of a person, partnership, limited liability company or corporation whose address, as agent, is the address to be changed or who has been designated as registered agent for such registered limited liability partnership shall be signed and delivered to the department of state by such agent. The certificate of change shall set forth: (i) the name of the registered limited liability partnership and, if it has been changed, the name under which it was originally filed with the department of state; (ii) the date of filing of its initial registration or notice statement; (iii) each change effected thereby; (iv) that a notice of the proposed change was mailed to the limited liability partnership by the party signing the certificate not less than thirty days prior to the date of delivery to the department of state and that such limited liability partnership has not objected thereto; and (v) that the party signing the certificate is the agent of such limited liability partnership to whose address [~~the secretary of state~~] a person is required to mail copies of process served on the secretary of state or the registered agent, if such be the case. A certificate signed and delivered under this subdivision shall not be deemed to effect a change of location of the office of the limited liability partnership in whose behalf such certificate is filed. The certificate of change shall be accompanied by a fee of five dollars.

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

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

(iii) the address, within this state, of the principal office of the foreign limited liability partnership; (iv) the profession or professions to be practiced by such foreign limited liability partnership and a statement that it is a foreign limited liability partnership eligible to file a notice under this chapter; (v) a designation of the secretary of state as agent of the foreign limited liability partnership upon whom process against it may be served and the post office address within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it [~~or~~] served upon [~~it~~] the secretary of state; (vi) if the foreign limited liability partnership is to have a registered agent, its name and address in this state and a statement that the registered agent is to be the agent of the foreign limited liability partnership upon whom process against it may be served; (vii) a statement that its registration as a limited liability partnership is effective in the jurisdiction in which it registered as a limited liability partnership at the time of the filing of such notice; (viii) a statement that the foreign limited liability partnership is filing a notice in order to obtain status as a New York registered foreign limited liability partnership; (ix) if the registration of the foreign limited liability partnership is to be effective on a date later than the time of filing, the date, not to exceed sixty days from the date of filing, of such proposed effectiveness; and (x) any other matters the foreign limited liability partnership determines to include in the notice. Such notice shall be accompanied by either (1) a copy of the last registration or renewal registration (or similar filing), if any, filed by the foreign limited liability partnership with the jurisdiction where it registered as a limited liability partnership or (2) a certificate, issued by the jurisdiction where it registered as a limited liability partnership, substantially to the effect that such foreign limited liability partnership has filed a registration as a limited liability partnership which is effective on the date of the certificate (if such registration, renewal registration or certificate is in a foreign language, a translation thereof under oath of the translator shall be attached thereto). Such notice shall also be accompanied by a fee of two hundred fifty dollars.

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

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

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

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

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

(i-1) A certificate of change which changes only the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against a New York registered foreign limited liability partnership served upon [~~him~~] the secretary of state and/or the address of the registered agent, provided such address being changed is the address of a person, partnership, limited liability company or corporation whose address, as agent, is the address to be changed or who has been designated as registered agent of such registered foreign limited liability partnership shall be signed and delivered to the department of state by such agent. The certificate of change shall set forth: (i) the name of the New York registered foreign limited liability partnership; (ii) the date of filing of its initial registration or notice statement; (iii) each change effected thereby; (iv) that a notice of the proposed change was mailed to the limited liability partnership by the party signing the certificate not less than thirty days prior to the date of delivery to the department of state and that such limited liability partnership has not objected thereto; and (v) that the party signing the certificate is the agent of such limited liability partnership to whose address [~~the secretary of state~~] a person is required to mail copies of process served on the secretary of state or the registered agent, if such be the case. A certificate signed and delivered under this subdivision shall not be deemed to effect a change of location of the office of the limited liability partnership in whose behalf such certificate is filed. The certificate of change shall be accompanied by a fee of five dollars.

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

(a) Service of process on the secretary of state as agent of a registered limited liability partnership or New York registered foreign limited liability partnership under this article shall be made by mailing the process and notice of service thereof by certified mail, return receipt requested, to such registered limited liability partnership or New York registered foreign limited liability partnership, at the post office address on file in the department of state specified for such purpose. On the same date that such process is mailed, a duplicate copy of such process and proof of mailing together with the statutory fee, which fee shall be a taxable disbursement, shall be personally [~~delivering~~] delivered to and [~~leaving~~] left with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, [~~duplicate copies of such process~~] together with the statutory fee, which fee shall be a taxable disbursement. Proof of mailing shall be by affidavit of compliance with this section. Service of process on such registered limited liability partnership or New York registered foreign limited liability partnership shall be complete when the secretary of state is so served. [~~The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such registered limited liability partnership, at the post office address on file in the department of state specified for such purpose.~~]

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

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

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

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

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

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

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

(3) That at least sixty days prior to the filing of the certificate of resignation for receipt of process with the department of state the party has sent a copy of the certificate of resignation for receipt of process by registered or certified mail to the address of the registered agent of the [~~designated~~] designating limited liability partnership, if other than the party filing the certificate of resignation, for receipt of process, or if the [~~resigning~~] designating limited liability partnership has no registered agent, then to the last address of the [~~designated~~] designating limited liability partnership, known to the party, specifying the address to which the copy was sent. If there is no registered agent and no known address of the designating limited liability partnership the party shall attach an affidavit to the certificate stating that a diligent but unsuccessful search was made by the party to locate the limited liability partnership, specifying what efforts were made.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Any designated post office address maintained by the secretary of state as agent of the board of managers for the purpose of mailing process shall be the post office address, within or without the state, to which a person shall mail process against such board as required by this article. Such address shall continue until the filing of a certificate under this chapter directing the mailing to a different post office address.

§ 78. Subdivisions 3 and 4 of section 442-g of the real property law, as amended by chapter 482 of the laws of 1963, are amended to read as follows:

3. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with [~~him or his~~] the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, [~~duplicate copies~~] a copy of such process and proof of mailing together with a fee of five dollars if the action is solely for the recovery of a sum of money not in excess of two hundred dollars and the process is so endorsed, and a fee of ten dollars in any other action or proceeding, which fee shall be a taxable disbursement. If such process is served upon behalf of a county, city, town or village, or other political subdivision of the state, the fee to be paid to the secretary of state shall be five dollars, irrespective of the amount involved or the nature of the action on account of which such service of process is made. [~~If the cost of registered mail for transmitting a copy of the process shall exceed two dollars, an additional fee equal to such excess shall be paid at the time of the service of such process.~~] Proof of mailing shall be by affidavit of compliance with this section. Proof of service shall be by affidavit of compliance with this subdivision filed by or on behalf of the plaintiff together with the process, within ten days after such service, with the clerk of the court in which the action or special proceeding is pending. Service made as provided in this section shall be complete ten days after such papers are filed with the clerk of the court and shall have the same force and validity as if served on him personally within the state and within the territorial jurisdiction of the court from which the process issues.

4. The [~~secretary of state~~] person serving such process shall [~~promptly~~] send [~~one of~~] such [~~copies~~] process by [~~registered~~] certified mail, return receipt requested, to the nonresident broker or nonresident salesman at the post office address of his main office as set forth in the last application filed by him.

§ 79. Subdivision 2 of section 203 of the tax law, as amended by chapter 100 of the laws of 1964, is amended to read as follows:

2. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this article, except a corporation having a certificate of authority [~~under section two hundred twelve of the general corporation law~~] or having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this article may be served within this state, and setting forth an address to which [~~the secretary of state~~] a person shall mail a copy of any such process against the corporation which may be served upon [~~him~~] the secretary of state. In case any such corporation shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed [~~the secretary of state~~] a person serving process to mail copies of process served upon [~~him~~] the secretary of state to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation [~~the secretary of state~~] a person serving process shall mail copies of process thereafter served upon [~~him~~] the secretary of state to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which [~~the secretary of state~~] a person is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having a certificate of authority [~~under section two hundred twelve of the general corporation law~~] or having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this article, may be made by either (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service [~~duplicate copies~~] a copy thereof at the office of the department of state in the city of Albany, in which event [~~the secretary of state~~] a person serving such process shall forthwith send by [~~registered~~] certified mail, return receipt requested, [~~one of such copies~~] a duplicate copy to the corporation at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in the city of Albany and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 80. Section 216 of the tax law, as added by chapter 415 of the laws of 1944, the opening paragraph as amended by chapter 100 of the laws of

1964 and redesignated by chapter 613 of the laws of 1976, is amended to read as follows:

§ 216. Collection of taxes. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this article, except a corporation having a certificate of authority [~~under section two hundred twelve of the general corporation law~~] or having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this article may be served within this state, and setting forth an address to which [~~the secretary of state~~] a person shall mail a copy of any such process against the corporation which may be served upon [~~him~~] the secretary of state. In case any such corporation shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed [~~the secretary of state~~] a person to mail [~~copies~~] a copy of process served upon [~~him~~] the secretary of state to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation [~~the secretary of state~~] a person serving such process shall mail [~~copies~~] a copy of process thereafter served upon [~~him~~] a person serving such process to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which [~~the secretary of state~~] a person is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having a certificate of authority [~~under section two hundred twelve of the general corporation law~~] or having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this article, may be made by either (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service [~~duplicate copies~~] a copy thereof at the office of the department of state in the city of Albany, in which event [~~the secretary of state~~] a person serving such process shall forthwith send by [~~registered~~] certified mail, return receipt requested, [~~one of such copies~~] a duplicate copy to the corporation at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in the city of Albany and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 81. Subdivisions (a) and (b) of section 310 of the tax law, as added by chapter 400 of the laws of 1983, are amended to read as follows:

(a) Designation for service of process.--Every petroleum business which is a corporation, except such a petroleum business having a certificate of authority [~~under section two hundred twelve of the general corporation law~~] or having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this article may be served within this state, and setting forth an address to which [~~the secretary of state~~] a person shall mail a copy of any such process against such petroleum business which may be served upon [~~him~~] the secretary of state. In case any such petroleum business shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed such a petroleum business shall be deemed to have directed [~~the secretary of state~~] a person to mail copies of process served upon [~~him~~] the secretary of state to such petroleum business at its last known office address within or without the state. When a certificate of designation has been filed by such a petroleum business [~~the secretary of state~~] a person serving process shall mail copies of process thereafter served upon [~~him~~] the secretary of state to the address set forth in such certificate. Any such petroleum business, from time to time, may change the address to which [~~the secretary of state~~] a person is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided.

(b) Service of process.--Service of process upon any petroleum business which is a corporation (including any such petroleum business having a certificate of authority [~~under section two hundred twelve of the general corporation law~~] or having authority to do business by virtue of section thirteen hundred five of the business corporation law), in any action commenced at any time pursuant to the provisions of this article, may be made by either (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service [~~duplicate copies~~] a copy thereof at the office of the department of state in the city of Albany, in which event [~~the secretary of state~~] a person serving process shall forthwith send by [~~registered~~] certified mail, return receipt requested, [~~one of such copies~~] a duplicate copy to such petroleum business at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in the city of Albany and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such petroleum business, or the officer performing corresponding functions under another name, or a director or managing agent of such petroleum business, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which

the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

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

PART R

Section 1. Section 2 of chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, as amended by section 1 of part S of chapter 58 of the laws of 2018, is amended to read as follows:

§ 2. This act shall take effect immediately, provided however, that section one of this act shall be deemed to have been in full force and effect on and after April 1, 2003 and shall expire March 31, [~~2019~~] **2020**.

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

PART S

Section 1. The first undesignated paragraph of subdivision 24-b of section 10 of the highway law, as amended by chapter 155 of laws of 1985, is amended to read as follows:

Have power, whenever such commissioner of transportation deems it is necessary as a result of work of construction, reconstruction or maintenance of state highways, to provide for the removal, relocation, replacement or reconstruction of privately, publicly or cooperatively owned water, storm and sewer lines and facilities, facilities for the transmission and/or distribution of communications, power, electricity, light, heat, gas, crude products, steam and other similar commodities, municipal utility facilities, or facilities of a corporation organized pursuant to the transportation corporations law that are located on privately owned property. **Notwithstanding any other provision of any law, the commissioner of transportation may enter into an agreement with a fiber optic utility for occupancy of the state right of way, provided however, any provider occupying a right of way in fulfillment of a state grant award through the New NY Broadband Program shall not be subject to a fee for such occupancy, and provided further, any fee for occupancy charged to a fiber optic utility shall be prohibited from being passed through in whole or in part as a fee, charge, increased service cost, or by any other means by a fiber optic utility to any person or entity that contracts with such fiber optic utility for service, and provided further that any compensation received by the state pursuant to such agreement shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law.** If such work requires additional property or if it is necessary that the relocation of such facilities be made to other property, he may acquire such property as may be necessary for the purposes of this subdivision, in the same manner as other property is acquired for state highway purposes pursuant to this chapter, and he and the owner of such facilities may enter into a written agreement to convey such property as deemed necessary for the purposes of this subdivision to such owner on terms beneficial to the state. The expense of such

removal, relocation, replacement or reconstruction and cost of property acquisition shall be a proper charge against funds available for the construction, reconstruction or maintenance of state highways. Except when such facilities are owned by a corporation organized pursuant to the transportation corporations law, the work of such removal, relocation, replacement or reconstruction shall be performed by contract in the same manner as provided for state highways in article three of this chapter, or, by the use of departmental forces and equipment and of materials purchased therefor, unless the commissioner of transportation consents to having the owner of such facilities provide for the work of such removal, relocation, replacement or reconstruction. In the case where such facilities are owned by a corporation organized pursuant to the transportation corporations law, the work of such removal, relocation, replacement or reconstruction shall be provided for by such corporation unless it consents to having the commissioner of transportation provide for such work to be performed by contract, in accordance with specifications provided by such corporation, in the same manner as provided for state highways in article three of this chapter, or, by the use of departmental forces and equipment and of materials purchased therefor. Upon the completion of the work, such facilities shall be maintained by the owners thereof.

§ 2. The transportation corporations law is amended by adding a new section 7 to read as follows:

§ 7. Agreement for fiber optic utility occupancy of state right of way. Notwithstanding any other provision of any law, the commissioner of transportation may enter into an agreement with a fiber optic utility for occupancy of the state right of way, provided however, any provider occupying a right of way in fulfillment of a state grant award through the New NY Broadband Program shall not be subject to a fee for such occupancy, and provided further, any fee for occupancy charged to a fiber optic utility shall be prohibited from being passed through in whole or in part as a fee, charge, increased service cost, or by any other means by a fiber optic utility to any person or entity that contracts with such fiber optic utility for service, and provided further that any compensation received by the state pursuant to such agreement shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law.

§ 3. This act shall take effect immediately.

PART T

Section 1. Items (a) and (b) of subparagraph (v) of paragraph c of subdivision 2 and subdivision 9 of section 140 of the transportation law, items (a) and (b) of subparagraph (v) of paragraph c of subdivision 2 as amended by section 10 of part K of chapter 59 of the laws of 2009 and such paragraph as relettered by section 6 of part G of chapter 58 of the laws of 2012 and subdivision 9 as amended by chapter 349 of the laws of 1993, are amended to read as follows:

(a) [~~A driver who is convicted of violating an out-of-service order as provided for in the department's safety rules and regulations shall be guilty of a traffic infraction which shall be punishable by a fine of not less than two thousand five hundred dollars nor more than four thousand dollars upon the first offense, and upon being found guilty of a second or subsequent offense within eighteen months by a fine of not~~

~~less than five thousand dollars nor more than six thousand dollars.~~] A person who knowingly and willfully violates an out-of-service order as provided for in the department's safety rules and regulations, or who knowingly and willfully removes an out-of-service sticker from a commercial motor vehicle as defined by section five hundred one-a of the vehicle and traffic law without the authority of the department, shall be guilty of a class D felony. Upon making an arrest for any violation of this subdivision, or pursuant to the authority of a warrant issued under article six hundred ninety of the criminal procedure law, an officer shall remove or arrange for the removal of the vehicle or vehicles used in the commission of the offense to a garage, automobile pound, or other place of safety where it shall remain impounded subject to the provisions of subdivisions two through seven of section five hundred eleven-b of the vehicle and traffic law and the vehicle shall be entered into the New York statewide police information network as an impounded vehicle and the impounding police department shall promptly notify the owner and the local authority that the vehicle has been impounded. Upon conviction as a second or subsequent offender as described herein the court may order forfeiture of any right, title or interest held by the defendant in any motor vehicle used in the commission of such offense. In the alternative, upon conviction as a second or subsequent offender as described herein, an action for forfeiture may be commenced by the attorney general on behalf of the commissioner or the corporation counsel or designee on behalf of the city in any superior court in the county of conviction. The defendant shall have a right to a trial by jury on any issue of fact. The plaintiff in the forfeiture action shall have the burden of proof by clear and convincing evidence on such issues of fact.

(b) No person, corporation, limited liability company or business entity, joint stock association, partnership, or any officer or agent thereof, shall knowingly allow, require, permit or authorize any person to operate a commercial motor vehicle as defined by section five hundred one-a of the vehicle and traffic law during any period in which such person, such commercial motor vehicle, or such motor carrier operation has been placed out of service as provided for in the department's safety rules and regulations and shall be [~~subject to a fine of not less than two thousand seven hundred fifty dollars and not more than twenty-five thousand dollars~~] guilty of a class D felony for any violation thereof. Upon making an arrest for any violation of this subdivision, or pursuant to the authority of a warrant issued under article six hundred ninety of the criminal procedure law, an officer shall remove or arrange for the removal of the vehicle or vehicles used in the commission of the offense to a garage, automobile pound, or other place of safety where it shall remain impounded subject to the provisions of subdivisions two through seven of section five hundred eleven-b of the vehicle and traffic law and the vehicle shall be entered into the New York statewide police information network as an impounded vehicle and the impounding police department shall promptly notify the owner and the local authority that the vehicle has been impounded. Upon conviction as a second or subsequent offender as described herein the court may order forfeiture of any right, title or interest held by the defendant in any motor vehicle used in the commission of such offense. In the alternative, upon conviction as a second or subsequent offender as described herein, an action for forfeiture may be commenced by the attorney general on behalf of the commissioner or the corporation counsel or designee on behalf of the city in any superior court in the county of conviction. The defendant shall have a right to a trial by jury on any issue of fact. The

plaintiff in the forfeiture action shall have the burden of proof by clear and convincing evidence on such issues of fact.

9. (a) If, after notice and opportunity to be heard, the commissioner shall find that any person is operating in violation of the provisions of this section, the commissioner may penalize such person pursuant to subdivision three of section one hundred forty-five of this article. The commissioner may also notify the commissioner of motor vehicles that such person is operating in violation of this section and the commissioner of motor vehicles shall thereupon suspend the registration of all motor vehicles owned or operated by such person, with the exception of private passenger automobiles, until such time as the commissioner may give notice that the violation has been satisfactorily adjusted. The commissioner of motor vehicles may direct any police officer to secure possession of the vehicle plates and to return the same to the commissioner of motor vehicles. Failure of the holder or of any person possessing the vehicle plates to deliver the vehicle plates to any police officer who requests the same pursuant to this subdivision shall be a class A misdemeanor. The commissioner of motor vehicles shall have the authority to suspend, revoke or deny a registration or renewal application to any other person for the same vehicle and may suspend, revoke or deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where it has been determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner of motor vehicles has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision. The procedure on any such suspension shall be the same as in the case of a suspension under the vehicle and traffic law. Operation of any motor vehicle while under suspension as herein provided by any person with knowledge of the suspension shall constitute a class [~~A misdemeanor~~] E felony. Upon making an arrest or upon issuing an appearance ticket for operating any motor vehicle while under suspension as herein provided by any person with knowledge of the suspension, or pursuant to the authority of a warrant issued under article six hundred ninety of the criminal procedure law, an officer shall remove or arrange for the removal of the vehicle or vehicles used in the commission of the offense to a garage, automobile pound, or other place of safety where it shall remain impounded subject to the provisions of subdivisions two through seven of section five hundred eleven-b of the vehicle and traffic law and the vehicle shall be entered into the New York statewide police information network as an impounded vehicle and the impounding police department shall promptly notify the owner and the local authority that the vehicle has been impounded. Upon conviction as a second or subsequent offender as described herein the court may order forfeiture of any right, title or interest held by the defendant in any motor vehicle used in the commission of such offense.

(b) Whenever the commissioner has reasonable grounds to believe that any person is operating in violation of this section under circumstances that endanger the health, safety, and welfare of the public, the commissioner may: (i) immediately secure possession of the vehicle plates and notify the commissioner of motor vehicles to that effect, or without securing possession of the vehicle plates, immediately notify the commissioner of motor vehicles to that effect, and the commissioner of motor vehicles shall thereupon suspend the registration or registrations of all motor vehicles owned or operated by such person, except private passenger automobiles, until such time as the commissioner gives notice

that the violation has been satisfactorily adjusted provided, however, that the commissioner give notice and opportunity to be heard within not more than thirty days of the suspension; and (ii) after notice and opportunity to be heard, penalize such person pursuant to subdivision three of section one hundred forty-five of this article. When the registration or registrations of any motor vehicle is suspended pursuant to this subdivision, the commissioner of motor vehicles may direct any police officer to secure possession of the vehicle plates and to return the same to the commissioner of motor vehicles. Failure of the holder or of any person possessing the vehicle plates to deliver to the commissioner or any police officer who requests the same pursuant to this subdivision shall be a class A misdemeanor. The commissioner of motor vehicles shall have the authority to suspend, revoke or deny a registration or renewal application to any other person for the same vehicle and may suspend, revoke or deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where it has been determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner of motor vehicles has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this section. The procedure on any such suspension of vehicle registration shall be the same as in the case of a suspension under the vehicle and traffic law. Operation of any motor vehicle while under suspension as herein provided by any person with knowledge of the suspension shall constitute a class E felony. Upon making an arrest or upon issuing an appearance ticket for any felony violation of this subdivision, or pursuant to the authority of a warrant issued under article six hundred ninety of the criminal procedure law, an officer shall remove or arrange for the removal of the vehicle or vehicles used in the commission of the offense to a garage, automobile pound, or other place of safety where it shall remain impounded subject to the provisions of subdivisions two through seven of section five hundred eleven-b of the vehicle and traffic law and the vehicle shall be entered into the New York statewide police information network as an impounded vehicle and the impounding police department shall promptly notify the owner and the local authority that the vehicle has been impounded. Upon conviction as a second or subsequent offender as described herein the court may order forfeiture of any right, title or interest held by the defendant in any motor vehicle used in the commission of such offense. In the alternative, upon conviction as a second or subsequent offender as described herein, an action for forfeiture may be commenced by the attorney general on behalf of the commissioner or the corporation counsel or designee on behalf of the city in any superior court in the county of conviction. The defendant shall have a right to a trial by jury on any issue of fact. The plaintiff in the forfeiture action shall have the burden of proof by clear and convincing evidence on such issues of fact.

§ 2. Section 145 of the transportation law, as added by chapter 635 of the laws of 1983, subdivision 4 as amended by chapter 349 of the laws of 1993, subdivision 6 as amended by chapter 444 of the laws of 1992, paragraph (a) of subdivision 7 as amended by chapter 475 of the laws of 1991, and subdivision 8 as added by section 6 of part C of chapter 57 of the laws of 2014, is amended to read as follows:

§ 145. Penalties and forfeitures for violations. 1. (a) Any certificate or permit may, after a hearing, be suspended, cancelled, revoked or modified, in whole or in part, for failure to comply with the provisions of this chapter or with any lawful rule, order or regulation

of the commissioner promulgated hereunder or with any term, condition, or limitation of such certificate or permit or for failure to render reasonably continuous service within the scope of the certificate or permit.

(b) Whenever the commissioner has reasonable grounds to believe that failure to comply with the provisions of this chapter or with any lawful rule, order or regulation of the commissioner promulgated hereunder or with any term, condition, or limitation of such certificate or permit endangers the health, safety, and welfare of the public, the commissioner may immediately suspend, cancel, revoke, or modify, in whole or in part, any certificate or permit issued pursuant to this chapter provided, however, that the commissioner shall give notice and opportunity to be heard within not more than thirty days of the suspension, cancellation, revocation, or modification of the certificate or permit.

2. The commissioner may upon complaint or upon the commissioner's initiative without complaint institute proceedings to revoke, cancel, suspend or modify any certificate or permit issued pursuant to this chapter after a hearing at which the holder of such certificate or permit and any person making such complaint shall be given an opportunity to be heard. Provided, however, that any order of the commissioner revoking, cancelling, suspending or modifying any certificate or permit shall not become effective until thirty days after the serving of notice thereof upon the holder of such certificate or permit, unless the commissioner determines that the continued holding of such certificate or permit for such period would be contrary to the public interest. Hearings shall be held in such manner and upon such notice as may be prescribed by rules of the commissioner, but such notice shall be of not less than ten days and shall state the nature of the complaint. The commissioner may, upon suspension, cancellation, revocation or modification, in whole or in part, of any certificate or permit pursuant to paragraph (a) of subdivision one of this section, notify the commissioner of motor vehicles to that effect and the commissioner of motor vehicles shall thereupon suspend the registration or registrations of all motor vehicles used in the commission of the offense or, upon suspension, cancellation, revocation or modification, in whole or in part, of any certificate or permit pursuant to paragraph (b) of subdivision one of this section, suspend the registration or registrations of all motor vehicles owned or operated by the holder of the revoked, cancelled, suspended or modified certificate or permit, except private passenger automobiles, until such time as the commissioner gives notice that the violation has been satisfactorily adjusted. The commissioner of motor vehicles may direct any police officer to secure possession of the vehicle plates and to return the same to the commissioner of motor vehicles. Failure of the holder or of any person possessing the vehicle plates to deliver to any police officer who requests the same pursuant to this subdivision shall be a class A misdemeanor. The commissioner of motor vehicles shall have the authority to suspend, revoke or deny a registration or renewal application to any other person for the same vehicle and may suspend, revoke or deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where it has been determined that such registrant's intent has been to evade the purposes of this section and where the commissioner of motor vehicles has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this section. The procedure on any such suspension of vehicle registration shall be the same as in the case of a suspension under the vehicle and traffic law. Operation of

any motor vehicle while under suspension as herein provided by any person with knowledge of the suspension shall constitute a class E felony. Upon making an arrest or upon issuing an appearance ticket for any felony violation of this subdivision, or pursuant to the authority of a warrant issued under article six hundred ninety of the criminal procedure law, an officer shall remove or arrange for the removal of the vehicle or vehicles used in the commission of the offense to a garage, automobile pound, or other place of safety where it shall remain impounded subject to the provisions of subdivisions two through seven of section five hundred eleven-b of the vehicle and traffic law and the vehicle shall be entered into the New York statewide police information network as an impounded vehicle and the impounding police department shall promptly notify the owner and the local authority that the vehicle has been impounded.

3. In addition to, or in lieu of, any sanctions set forth in this section and section one hundred forty of this article, the commissioner may, after [~~a hearing~~] notice and opportunity to be heard, impose a penalty not to exceed a maximum of [~~five thousand~~] twenty-five thousand dollars [~~in~~] for any one [~~proceeding~~] violation upon any person if the commissioner finds that such person or officer, agent or employee thereof has failed to comply with the requirements of this chapter or any rule, regulation or order of the commissioner promulgated thereunder. If such penalty is not paid within [~~four months~~] thirty days, the amount thereof may be entered as a judgment in the office of the clerk of the county of Albany and in any other county in which the person resides, has a place of business or through which it operates. Thereafter, if said judgment has not been satisfied within ninety days, any certificate or permit held by any such person may be revoked upon notice but without a further hearing[~~. Provided, however, that if a person shall apply for a rehearing of the determination of the penalty pursuant to the provisions of section eighty-nine of this chapter, judgment shall not be entered until a determination has been made on the application for a rehearing. Further provided however, that if after a rehearing a penalty is imposed and such penalty is not paid within four months of the date of service of the rehearing decision, the amount of such penalty may be entered as a judgment in the office of the clerk of the county of Albany and in any other county in which the person resides, has a place of business or through which it operates. Thereafter, if said judgment has not been satisfied within ninety days, any certificate or permit held by any such person may be revoked upon notice but without a further hearing.~~] and the commissioner may notify the commissioner of motor vehicles to that effect and the commissioner of motor vehicles shall thereupon suspend the registration or registrations of the motor vehicle or vehicles used in the commission of the underlying offense, and the commissioner may direct any police officer to secure possession of the vehicle plates and to return the same to the commissioner of motor vehicles. Failure of the holder or of any person possessing the vehicle plates to deliver to any police officer who requests the same pursuant to this subdivision shall be a class A misdemeanor. The commissioner of motor vehicles shall have the authority to suspend, revoke or deny a registration or renewal application to any other person for the same vehicle and may suspend, revoke or deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where it has been determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner of motor vehicles has reasonable grounds to believe that such registration

or renewal will have the effect of defeating the purposes of this section. The procedure on any such suspension of vehicle registration shall be the same as in the case of a suspension under the vehicle and traffic law. Operation of any motor vehicle while under suspension as herein provided by any person with knowledge of the suspension shall constitute a class E felony. Upon making an arrest or upon issuing an appearance ticket for operation of any motor vehicle while under suspension as herein provided by any person with knowledge of the suspension, or pursuant to the authority of a warrant issued under article six hundred ninety of the criminal procedure law, an officer shall remove or arrange for the removal of the vehicle or vehicles used in the commission of the offense to a garage, automobile pound, or other place of safety where it shall remain impounded subject to the provisions of subdivisions two through seven of section five hundred eleven-b of the vehicle and traffic law and the vehicle shall be entered into the New York statewide police information network as an impounded vehicle and the impounding police department shall promptly notify the owner and the local authority that the vehicle has been impounded.

4. (a) If after notice and opportunity to be heard, the commissioner shall find that any person or persons is or are providing transportation subject to regulation under this chapter without having any certificate or permit, or is or are holding themselves out to the public by advertising or any other means to provide such transportation without having any certificate or permit or approval from a city having jurisdiction pursuant to section eighty of this chapter, the commissioner may notify the commissioner of motor vehicles to that effect and the commissioner of motor vehicles shall thereupon suspend the registration or registrations of all motor vehicles owned or operated by such person or persons except private passenger automobiles until such time as the commissioner [~~of transportation~~] may give notice that the violation has been satisfactorily adjusted. The commissioner of motor vehicles may direct any police officer to secure possession of the vehicle plates and to return the same to the commissioner of motor vehicles. Failure of the holder or of any person possessing the vehicle plates to deliver to any police officer who requests the same pursuant to this subdivision shall be a class A misdemeanor. The commissioner of motor vehicles shall have the authority to suspend, revoke or deny a registration or renewal application to any other person for the same vehicle and may suspend, revoke or deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where it has been determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner of motor vehicles has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision. The procedure on any such suspension shall be the same as in the case of a suspension under the vehicle and traffic law. Operation of any motor vehicle while under suspension as herein provided by any person with knowledge of the suspension shall constitute a class [~~A misdemeanor~~] E felony. Upon making an arrest or upon issuing an appearance ticket for any felony violation of this subdivision, or pursuant to the authority of a warrant issued under article six hundred ninety of the criminal procedure law, an officer shall remove or arrange for the removal of the vehicle or vehicles used in the commission of the offense to a garage, automobile pound, or other place of safety where it shall remain impounded subject to the provisions of subdivisions two through seven of section five hundred eleven-b of the vehicle and traffic law and the vehicle shall be

entered into the New York statewide police information network as an impounded vehicle and the impounding police department shall promptly notify the owner and the local authority that the vehicle has been impounded.

(b) Whenever the commissioner has reasonable grounds to believe that any person or persons is or are providing transportation subject to regulation under this chapter without having any certificate or permit, or is or are holding themselves out to the public by advertising or any other means to provide such transportation without having any certificate or permit or approval from a city having jurisdiction pursuant to section eighty of this chapter, under circumstances that endanger the health, safety, and welfare of the public, the commissioner may secure possession of vehicle plates and immediately notify the commissioner of motor vehicles to that effect or without securing possession of the vehicle plates, immediately notify the commissioner of motor vehicles to that effect and the commissioner of motor vehicles shall thereupon suspend the registration or registrations of all motor vehicles owned or operated by such person or persons as described in paragraph (a) of this subdivision provided, however, that the commissioner provide the person or persons with notice and opportunity to be heard within not more than thirty days. When the registration of any motor vehicle is suspended pursuant to this subdivision, the commissioner of motor vehicles may direct any police officer to secure possession of the vehicle plates and return the same to the commissioner of motor vehicles. Failure of the holder or of any person possessing the vehicle plates to deliver the vehicle plates to the commissioner or any police officer who requests the same shall be a class A misdemeanor.

5. Any person, whether carrier, passenger, shipper, consignee, or broker, or any officer, employee, agent or representative thereof, who shall knowingly offer, grant or give or solicit, accept, or receive any rebate, concession or discrimination in violation of this chapter, or who by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease or bill of sale, or by any other means or device, shall knowingly and willfully assist, suffer or permit any person or persons to obtain transportation of property or passengers subject to this chapter for less than the applicable rate, toll or charge, or who, with respect to the transportation of household goods, shall knowingly or willfully misrepresent the applicable rate for transportation or the weight of a shipment or the cost of transportation to the shipper, or who shall knowingly and willfully by any such means or otherwise fraudulently seek to evade or defeat regulation as provided for in this chapter, shall be guilty of a misdemeanor and upon conviction thereof be fined not more than [~~five hundred~~] twenty-five thousand dollars [~~for the first offense and not more than two thousand dollars for any subsequent~~] per offense.

6. Any person who shall provide transportation for compensation within the state, or hold himself or herself out to the public by advertising or any other means to provide such transportation, when such transportation requires either the permission or approval of the commissioner, or the permission, approval or franchise of any city having regulatory jurisdiction over such transportation and who does not possess a valid permit, certificate or approval for such transportation, from the commissioner or from such city, or attempts to do so, shall be guilty of a [~~traffic infraction punishable by a fine of not less than five hundred and not more than one thousand dollars for the first offense~~] misdemea-

nor punishable by a fine of not less than twenty-five thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment. A violation of this subdivision by a person who has previously been convicted of such offense within five years of the violation shall be a [~~misdemeanor and shall be punishable by a fine of not less than one thousand and not more than twenty-five hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment~~] class E felony. [~~Upon conviction as a second or subsequent offender as described herein the court may order forfeiture of any right, title or interest held by the defendant in any motor vehicle used in the commission of such offense pursuant to the provisions of subdivision seven of this section.~~] Upon making an arrest or upon issuing an appearance ticket for any felony violation of this subdivision, or pursuant to the authority of a warrant issued under article six hundred ninety of the criminal procedure law, an officer shall remove or arrange for the removal of the vehicle or vehicles used in the commission of the offense to a garage, automobile pound, or other place of safety where it shall remain impounded subject to the provisions of subdivisions two through seven of section five hundred eleven-b of the vehicle and traffic law and the vehicle shall be entered into the New York statewide police information network as an impounded vehicle and the impounding police department shall promptly notify the owner and the local authority that the vehicle has been impounded. In addition to, or in lieu of, any sanction set forth in this subdivision, the commissioner may, after a hearing, impose a penalty equal to the gain or profit derived from transportation services conducted in violation of this subdivision. Any person holding regulatory authority or a franchise from either the commissioner or any city having regulatory jurisdiction over such transportation, or any public transportation authority created pursuant to title nine, eleven, eleven-A, eleven-B, eleven-C or eleven-D of article five of the public authorities law, who is being adversely affected by a person providing transportation without having the necessary regulatory authority or franchise from the commissioner or any such city, may bring suit in his, her or its own behalf to restrain such person and recover damages resulting from the actions of such person.

7. (a) Whenever it appears that any person is violating the provisions of subdivision six of this section, the commissioner acting by the attorney general, or the city acting by its corporation counsel, or designee, may bring suit against such person in any court of competent jurisdiction to restrain such person from continuing such violation. In any such suit, the court shall have jurisdiction to grant to the commissioner or city without bond or other undertaking, such prohibitory or mandatory injunctions as the facts may warrant, including temporary restraining orders and preliminary or permanent injunctions, and to levy upon the gain or profit that may be subject to a penalty pursuant to subdivision six of this section. [~~In cities with a population of one million or more, the police department shall have the power to issue summonses for violations of subdivision six of this section and those summonses shall be adjudicated according to the rules and regulations set forth in article two-A of the vehicle and traffic law. The hearing officer responsible for adjudication of any violation of such subdivision six shall review the record of any person found guilty of violating such subdivision six to determine whether or not that person has a prior conviction under such subdivision six. After a review of the record, if it is found that there has been a prior conviction, the hearing officer~~

~~shall refer the matter to the appropriate local criminal court for prosecution under this article.~~]

(b) [~~Any person convicted~~] **Upon conviction** as a [~~third~~] **second** or subsequent **criminal** offender [~~as described in~~] **under** subdivision **two, three, four, or** six [~~shall be subject to a court order divesting him~~] **of this section the court may order forfeiture** of any right, title or interest **held by the defendant** in any motor vehicle used in the commission of the offense. [~~An~~] **In the alternative, upon conviction as a second or subsequent criminal offender under subdivision two, three, four, or six of this section, an** action for forfeiture may be commenced by the attorney general on behalf of the commissioner or the corporation counsel or designee on behalf of the city in any superior court in the county of conviction. The defendant shall have a right to a trial by jury on any issue of fact. The plaintiff in the forfeiture action shall have the burden of proof by clear and convincing evidence on such issues of fact.

(c) Any order of forfeiture issued pursuant to this subdivision shall include provisions for the disposal of the property found to have been forfeited. Such provisions shall be directed to the attorney general or corporation counsel or designee as the case may be, and may include, but are not limited to, an order directing that the property be sold in accordance with provisions of article fifty-one of the civil practice law and rules. Net proceeds of the sale shall be paid into the general fund of the state or city, as the case may be, less all costs and attendant expenses of seizure, storage and forfeiture, as the case may be, which shall be paid to the office of the attorney general or corporation counsel in the appropriate case notwithstanding any other provisions of law.

8. All penalties charged and collected by the commissioner pursuant to this section shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section [~~eight-nine-b~~] **eighty-nine-b** of the state finance law.

§ 3. Subparagraph (iii) of paragraph b of subdivision 2 of section 510 of the vehicle and traffic law, as amended by section 1 of part A of chapter 58 of the laws of 2018, is amended to read as follows:

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

§ 4. The penal law is amended by adding a new section 170.72 to read as follows:

§ 170.72 Tampering with a federal motor vehicle safety standard certification label.

A person is guilty of tampering with a federal motor vehicle safety standard certification label when:

(1) He or she, with intent to defraud, knowingly removes, defaces, destroys, covers, alters, or otherwise changes the form or appearance of a federal motor vehicle safety standard certification label issued in accordance with 49 U.S.C.S. § 30115 and regulations promulgated thereunder; or

(2) He or she, with intent to defraud, affixes a federal motor vehicle safety standard certification label to a vehicle, except in accordance with 49 U.S.C.S. § 30115 and regulations promulgated thereunder.

(3) Upon making an arrest for any violation of this section, an officer shall remove or arrange for the removal of the vehicle or vehicles used in the commission of the offense to a garage, automobile pound, or other place of safety where it shall remain impounded subject to the provisions of subdivisions two through seven of section five hundred eleven-b of the vehicle and traffic law and the vehicle shall be entered into the New York statewide police information network as an impounded vehicle and the impounding police department shall promptly notify the owner and the local authority that the vehicle has been impounded. Upon conviction as a second or subsequent offender as described herein the court may order forfeiture of any right, title or interest held by the defendant in any motor vehicle used in the commission of such offense. An action for forfeiture may be commenced by the attorney general on behalf of the commissioner of motor vehicles or the corporation counsel or designee on behalf of the city in any superior court in the county of conviction. The defendant shall have a right to a trial by jury on any issue of fact. The plaintiff in the forfeiture action shall have the burden of proof by clear and convincing evidence on such issues of fact.

Tampering with a federal motor vehicle safety standard certification label is a class D felony.

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

§ 144. Fees and charges. The commissioner or authorized officer or employee of the department shall charge and collect one hundred twenty dollars for the inspection or reinspection of all for-hire motor vehicles transporting passengers subject to the department's inspection requirements pursuant to section one hundred forty of this article, except such motor vehicles operated under contract with a municipality to provide statewide mass transportation operating assistance eligible service; vehicles operated under contract with a municipality or school district to provide school-related transportation services; or motor vehicles authorized by the commissioner of health to provide non-emergency medical transportation services. The department may deny inspection of any motor vehicle transporting passengers subject to the department's inspection requirements if such fee is not paid within ninety days of the date noted on the department invoice.

§ 6. The vehicle and traffic law is amended by adding a new section 121-dd to read as follows:

§ 121-dd. Large livery. A livery vehicle or taxi designed or used to transport at least eight but fewer than fifteen passengers, in addition to the driver, irrespective of the motor vehicle registration class in which such vehicle is registered.

§ 7. Paragraph b of subdivision 1 of section 401 of the vehicle and traffic law, as amended by chapter 222 of the laws of 1996, is amended to read as follows:

b. Every owner of a motor vehicle which shall be operated or driven upon the public highways of this state shall, except as otherwise expressly provided, cause to be presented, by mail or otherwise, to the office or a branch office of the commissioner, or to any agent of the commissioner, constituted as provided in this chapter, an application for registration addressed to the commissioner, and on a blank to be prepared under the direction of and furnished by the commissioner for that purpose, containing: (a) a brief description of the motor vehicle to be registered, including the name and factory number of such vehicle, and such other facts as the commissioner shall require; (b) the weight of the vehicle upon which the registration fee is based if the fee is based on weight; (c) the name and residence, including county of the owner of such motor vehicle; (d) provided that, if such motor vehicle is used or to be used as an omnibus, the applicant also shall so certify, and in the case of an omnibus also certify as to the seating capacity, and if the omnibus is to be operated wholly within a municipality pursuant to a franchise other than a franchise express or implied in articles of incorporation upon certain streets designated in such franchise, those facts shall also be certified, and a certified copy of such franchise furnished to the commissioner; **and** (e) [~~**provided, that, if such motor vehicle is an altered livery, the applicant shall so furnish a certified copy of the length of the center panel of such vehicle, provided, however, that the commissioner shall require such proof, as he may determine is necessary, in the application for registration and provided further, if the center panel of such vehicle exceeds one hundred inches, the commissioner shall require proof that such vehicle is in compliance with all applicable federal and state motor vehicle safety standards; and (f)**~~] such additional facts or evidence as the commissioner may require in connection with the application for registration. Every owner of a trailer shall also make application for the registration thereof in the manner herein provided for an application to register a motor vehicle, but shall contain a statement showing the manufacturer's number or other identification satisfactory to the commissioner and no number plate for a trailer issued under the provisions of subdivision three of section four hundred two of this [~~**chapter**~~] **article** shall be transferred to or used upon any other trailer than the one for which number plate is issued. The commissioner shall require proof, in the application for registration, or otherwise, as such commissioner may determine, that the motor vehicle for which registration is applied for is equipped with lights conforming in all respects to the requirements of this chapter, and no motor vehicle shall be registered unless it shall appear by such proofs that such motor vehicle is equipped with proper lights as aforesaid. The said application shall contain or be accompanied by such evidence of the ownership of the motor vehicle described in the application as may be required by the commissioner or his agent and which, with respect to new vehicles, shall include, unless otherwise specifically provided by the commissioner, the manufacturer's statement of origin. Applications received by an agent of the commissioner shall be forwarded to the commissioner as he shall direct for filing. No application for registration shall be accepted unless the applicant is at least sixteen years of age.

§ 8. Section 401 of the vehicle and traffic law is amended by adding two new subdivisions 22 and 23 to read as follows:

22. The commissioner shall not register any motor vehicle that has been altered, a vehicle commonly referred to as a "stretch limousine", so as to add seating capacity beyond that provided by the original manufacturer by way of an extended chassis, lengthened wheel base, or an elongated seating area, and in the case of a truck, has been modified to transport passengers. Owners of such vehicles that are registered shall surrender the registration to the commissioner, and the commissioner shall revoke any such registration upon discovery thereof, so that in no way shall such a motor vehicle be registered for operation.

23. The commissioner shall refund to or credit the account of any person who paid a registration fee for an altered vehicle, the pro rata unused portion of such registration fee.

§ 9. The vehicle and traffic law is amended by adding a new section 308-a to read as follows:

§ 308-a. Mandatory reporting. If any motor vehicle is presented for inspection at a licensed official inspection station, and such vehicle has been altered, a vehicle commonly referred to as a "stretch limousine", so as to add seating capacity beyond that provided by the original manufacturer by way of an extended chassis, lengthened wheel base, or an elongated seating area, and in the case of a truck, has been modified to transport passengers, such licensed official inspection station shall refuse inspection for such vehicle and promptly report such vehicle to the commissioner in the form and manner prescribed by the commissioner.

§ 10. Section 306 of the vehicle and traffic law is amended by adding a new subdivision (g) to read as follows:

(g) Any person who shall issue a certificate of inspection provided for in this article for a motor vehicle that is required to obtain approval to operate in the state as a common or contract carrier of passengers by motor vehicle from the commissioner of transportation shall be guilty of a misdemeanor.

§ 11. Subparagraph (iv) of paragraph (b) of subdivision 2 of section 501 of the vehicle and traffic law, as amended by section 4 of part E of chapter 58 of the laws of 2016, is amended to read as follows:

(iv) P endorsement. Shall be required to operate a bus as defined in sections one hundred four and five hundred nine-a of this chapter, or a large livery as defined in section one hundred twenty-one-dd of this chapter, or any motor vehicle with a gross vehicle weight or gross vehicle weight rating of more than twenty-six thousand pounds which is designed to transport passengers in commerce. For the purposes of this subparagraph the gross vehicle weight of a vehicle shall mean the actual weight of the vehicle and the load.

§ 12. Subparagraph (iv) of paragraph (a) of subdivision 4 of section 501-a of the vehicle traffic law, as added by chapter 173 of the laws of 1990, is amended to read as follows:

(iv) defined as a bus in subdivision one of section five hundred nine-a of this chapter, or as a large livery in section one hundred twenty-one-dd of this chapter; or

§ 13. The vehicle and traffic law is amended by adding a new section 1161-a to read as follows:

§ 1161-a. U-turns by certain motor vehicles prohibited. (1) Notwithstanding any other provision of law, no U-turn shall be performed by a vehicle having an overall length of eighteen feet or more, a bus as defined in section one hundred four of this chapter, or a large livery as defined in section one hundred twenty-one-dd of this chapter.

(2) The provisions of this section shall apply upon public highways and privately owned roads open to motor vehicle traffic. In addition, the provisions of this section shall apply irrespective of: (a) whether the bus or large livery is carrying any passengers; and (b) the motor vehicle registration class in which the bus or large livery is registered.

(3) Any violation of the provisions of this section which results in serious physical injury as defined in section 10.00 of the penal law, shall be a class A misdemeanor, punishable by a fine of not less than five hundred dollars nor more than one thousand dollars in addition to any other penalties provided by law. Any violation of this section which results in death shall be a class E felony punishable by a fine of not less than one thousand dollars nor more than five thousand dollars in addition to any other penalties provided by law.

§ 14. Paragraph (a) of subdivision 4 and subdivision 9 of section 1229-c of the vehicle and traffic law, paragraph (a) of subdivision 4 as amended by chapter 448 of the laws of 2015 and subdivision 9 as amended by chapter 340 of the laws of 2017, are amended to read as follows:

(a) "motor vehicle" shall include all motor vehicles which are required by section three hundred eighty-three of this chapter or regulation or would be required if such motor vehicle were registered in New York state to be equipped by a safety belt but shall not include those vehicles which are [~~used as school buses, as such term is defined in section one hundred forty-two of this chapter and those vehicles which are~~] authorized emergency vehicles, as such term is defined in section one hundred one of this chapter, provided, however, that for purposes of this section, "motor vehicle" shall also include fire vehicles owned and/or operated by a fire company as defined by subdivision two of section one hundred of the general municipal law and ambulances owned and/or operated by a voluntary ambulance service as defined by subdivision three of section one hundred of the general municipal law;

[~~9. Notwithstanding the provisions of subdivision four of this section, the provisions of this section shall not apply to buses other than school buses and the provisions of subdivisions one, two, three and three-a of this section shall not apply to taxis and liveries.~~]

§ 15. Subdivision 7 of section 510 of the vehicle and traffic law, as amended by section 5 of part K of chapter 59 of the laws of 2010, is amended to read as follows:

7. Miscellaneous provisions. Except as expressly provided, a court conviction shall not be necessary to sustain a revocation or suspension. Revocation or suspension hereunder shall be deemed an administrative act reviewable by the supreme court as such. Notice of revocation or suspension, as well as any required notice of hearing, where the holder is not present, may be given by mailing the same in writing to him or her at the address contained in his or her license, certificate of registration or at the current address provided by the United States postal service, as the case may be. Proof of such mailing by certified mail to the holder shall be presumptive evidence of the holder's receipt and actual knowledge of such notice. Attendance of witnesses may be compelled by subpoena. Failure of the holder or any other person possessing the license card or number plates, to deliver the same to the suspending or revoking officer is a misdemeanor. Suspending or revoking officers shall place such license cards and number plates in the custody of the commissioner except where the commissioner shall otherwise direct. [~~If any person shall fail to deliver a license card or number plates as provided herein, any~~] Any police officer, bridge and tunnel officer of the

Triborough bridge and tunnel authority, **the commissioner, the commissioner of transportation** or agent of [~~the commissioner~~] **such commissioners** having knowledge of such facts shall have the power to secure possession thereof and return the same to the commissioner[~~, and the commissioner may forthwith direct any police officer, bridge and tunnel officer of the Triborough bridge and tunnel authority, acting pursuant to his or her special duties, or agent of the commissioner to secure possession thereof and to return the same to the commissioner~~]. Failure of the holder or of any person possessing the license card or number plates to deliver to any police officer, bridge and tunnel officer of the Triborough bridge and tunnel authority, or agent of the commissioner **of transportation, or agent of the commissioner** who requests the same pursuant to this subdivision shall be a misdemeanor. [~~Notice of revocation or suspension of any license or registration shall be transmitted forthwith by the commissioner to the chief of police of the city or prosecuting officer of the locality in which the person whose license or registration so revoked or suspended resides.~~] In case any license or registration shall expire before the end of any period for which it has been revoked or suspended, and before it shall have been restored as provided in this chapter, then and in that event any renewal thereof may be withheld until the end of such period of suspension or until restoration, as the case may be.

The revocation of a learner's permit shall automatically cancel the application for a license of the holder of such permit.

No suspension or revocation of a license or registration shall be made because of a judgment of conviction if the suspending or revoking officer is satisfied that the magistrate who pronounced the judgment failed to comply with subdivision one of section eighteen hundred seven of this chapter. In case a suspension or revocation has been made and the commissioner is satisfied that there was such failure, the commissioner shall restore the license or registration or both as the case may be.

§ 16. This act shall take effect immediately; provided, however, section five of this act shall take effect October 1, 2019; and provided further, however, that sections eleven and twelve of this act shall take effect on the ninetieth day after they shall have become a law.

PART U

Section 1. Expenditures of moneys appropriated in a chapter of the laws of 2019 to the department of agriculture and markets from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the department of agriculture and markets' participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2020, the commissioner of the department of agriculture and markets shall submit an accounting of such expenses, including, but not limited to, expenses in the 2019--2020 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law. No later than August 15, 2021, the commissioner of the department of agriculture and

markets shall submit an accounting of such expenses, including, but not limited to, expenses in the 2020--2021 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 2. Expenditures of moneys appropriated in a chapter of the laws of 2019 to the department of state from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the activities of the department of state's utility intervention unit pursuant to subdivision 4 of section 94-a of the executive law, including, but not limited to participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2020, the secretary of state shall submit an accounting of such expenses, including, but not limited to, expenses in the 2019--2020 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law. No later than August 15, 2021, the secretary of state shall submit an accounting of such expenses, including, but not limited to, expenses in the 2020--2021 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 3. Expenditures of moneys appropriated in a chapter of the laws of 2019 to the office of parks, recreation and historic preservation from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the office of parks, recreation and historic preservation's participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2020, the commissioner of the office of parks, recreation and historic preservation shall submit an accounting of such expenses, including, but not limited to, expenses in the 2019--2020 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law. No later than August 15, 2021, the commissioner of the office of parks, recreation and historic preservation shall submit an accounting of such expenses, including, but not limited to, expenses in the 2020--2021 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 4. Expenditures of moneys appropriated in a chapter of the laws of 2019 to the department of environmental conservation from the special revenue funds-other/state operations, environmental conservation special revenue fund-301, utility environmental regulation account shall be

subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the department of environmental conservation's participation in state energy policy proceedings, or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2020, the commissioner of the department of environmental conservation shall submit an accounting of such expenses, including, but not limited to, expenses in the 2019--2020 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law. No later than August 15, 2021, the commissioner of the department of environmental conservation shall submit an accounting of such expenses, including, but not limited to, expenses in the 2020--2021 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 5. Funding for services and expenses of the electric generation facility cessation mitigation fund for state fiscal year 2019--2020, and for each state fiscal year thereafter, shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, funding provided to the electric generation facility cessation mitigation fund administered by the urban development corporation for payment to eligible municipalities shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. For the 2019--2020 state fiscal year, and for each state fiscal year thereafter, the electric businesses of public utilities subject to the commission's regulation, other than municipalities, shall pay a total amount not to exceed $10,000,000 to the urban development corporation for deposit to the electric generation facility cessation mitigation fund. The bill to each such public utility shall be $10,000,000 multiplied by the proportion which compares: (1) the gross operating revenues, over and above five hundred thousand dollars, for the electric business of such public utility derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman, to: (2) the total of the gross operating revenues, derived from intrastate utility operations for the electric businesses of all such public utilities in the state. No later than August 15, 2020, and August 15 of each year thereafter, the chair of the public service commission will review an accounting of the electric generation facility cessation mitigation fund pursuant to provisions of section 18-a of the public service law.

§ 6. Notwithstanding any other law, rule or regulation to the contrary, expenses of the department of health public service education program incurred pursuant to appropriations from the cable television account of the state miscellaneous special revenue funds shall be deemed expenses of the department of public service. No later than August 15, 2020, the commissioner of the department of health shall submit an accounting of expenses in the 2019--2020 state fiscal year to the chair of the public service commission for the chair's review pursuant to the provisions of section 217 of the public service law. No later than August 15, 2021, the commissioner of the department of health shall submit an accounting of such expenses, including, but not limited to, expenses in the 2020--2021 state fiscal year for personal and non-per-

sonal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

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

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

PART V

Section 1. The state finance law is amended by adding a new section 169 to read as follows:

§ 169. Net neutrality. 1. As used herein, "net neutrality" shall mean that an internet service provider will not block, throttle, or prioritize internet content or applications or require that end users pay different or higher rates to access specific types of content or applications.

2. Each state agency shall enter into contracts with only those internet service providers that adhere to net neutrality principles. Each contract for internet services provided to a state agency shall specifically state that the internet service provider may not block lawful content, applications, services, non-harmful devices, or applications that compete with other services provided by the internet service provider. Any contract or contract renewal entered into by a state agency shall include a binding agreement consistent with the foregoing provisions, and no state agency shall enter into a contract with an internet service provider, an agent therefor, or other entity offering to or procuring on behalf of the state agency internet services unless the contract contains such a binding agreement.

§ 2. Subdivision 9 of section 160 of the state finance law, as amended by chapter 106 of the laws of 2012, is amended to read as follows:

9. "State agency" or "state agencies" means all state departments, boards, commissions, offices or institutions but excludes, however, for the purposes of subdivision five of section three hundred fifty-five of the education law, the state university of New York and excludes, for the purposes of subdivision a of section sixty-two hundred eighteen of the education law, the city university of New York; provided, however, that the state university of New York and the city university of New York shall be subject to the provisions of section one hundred sixty-five-a **and section one hundred sixty-nine** of this article. Furthermore, such term shall not include the legislature or the judiciary.

§ 3. The public authorities law is amended by adding a new section 2878-c to read as follows:

§ 2878-c. Net neutrality. 1. As used herein, "net neutrality" shall mean that an internet service provider will not block, throttle, or prioritize internet content or applications or require that end users pay different or higher rates to access specific types of content or applications.

2. Each state authority shall enter into contracts with only those internet service providers that adhere to net neutrality principles. Each contract for internet services provided to a state authority shall specifically state that the internet service provider may not block

lawful content, applications, services, non-harmful devices, or applications that compete with other services provided by the internet service provider. Any contract or contract renewal entered into by a state authority shall include a binding agreement consistent with the foregoing provisions, and no state authority shall enter into a contract with an internet service provider, an agent therefor, or other entity offering to or procuring on behalf of the state authority internet services unless the contract contains such a binding agreement.

§ 4. This act shall take effect immediately.

PART W

Section 1. Expenditures of moneys by the New York state energy research and development authority for services and expenses of the energy research, development and demonstration program, including grants, the energy policy and planning program, the zero emissions vehicle and electric vehicle rebate program, and the Fuel NY program shall be subject to the provisions of this section. Notwithstanding the provisions of subdivision 4-a of section 18-a of the public service law, all moneys committed or expended in an amount not to exceed $19,700,000 shall be reimbursed by assessment against gas corporations, as defined in subdivision 11 of section 2 of the public service law and electric corporations as defined in subdivision 13 of section 2 of the public service law, where such gas corporations and electric corporations have gross revenues from intrastate utility operations in excess of $500,000 in the preceding calendar year, and the total amount which may be charged to any gas corporation and any electric corporation shall not exceed one cent per one thousand cubic feet of gas sold and .010 cent per kilowatt-hour of electricity sold by such corporations in their intrastate utility operations in calendar year 2017. Such amounts shall be excluded from the general assessment provisions of subdivision 2 of section 18-a of the public service law. The chair of the public service commission shall bill such gas and/or electric corporations for such amounts on or before August 10, 2019 and such amounts shall be paid to the New York state energy research and development authority on or before September 10, 2019. Upon receipt, the New York state energy research and development authority shall deposit such funds in the energy research and development operating fund established pursuant to section 1859 of the public authorities law. The New York state energy research and development authority is authorized and directed to: (1) transfer $1 million to the state general fund for services and expenses of the department of environmental conservation, $150,000 to the state general fund for services and expenses of the department of agriculture and markets, and $825,000 to the University of Rochester laboratory for laser energetics from the funds received; and (2) commencing in 2016, provide to the chair of the public service commission and the director of the budget and the chairs and secretaries of the legislative fiscal committees, on or before August first of each year, an itemized record, certified by the president and chief executive officer of the authority, or his or her designee, detailing any and all expenditures and commitments ascribable to moneys received as a result of this assessment by the chair of the department of public service pursuant to section 18-a of the public service law. This itemized record shall include an itemized breakdown of the programs being funded by this section and the amount committed to each program. The authority shall not commit for any expenditure, any moneys derived from the assessment provided for in

this section, until the chair of such authority shall have submitted, and the director of the budget shall have approved, a comprehensive financial plan encompassing all moneys available to and all anticipated commitments and expenditures by such authority from any source for the operations of such authority. Copies of the approved comprehensive financial plan shall be immediately submitted by the chair to the chairs and secretaries of the legislative fiscal committees. Any such amount not committed by such authority to contracts or contracts to be awarded or otherwise expended by the authority during the fiscal year shall be refunded by such authority on a pro-rata basis to such gas and/or electric corporations, in a manner to be determined by the department of public service, and any refund amounts must be explicitly lined out in the itemized record described above.

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

PART X

Section 1. Short title. This act shall be known and may be cited as the "climate leadership act".

§ 2. Legislative findings. The legislature finds and declares that:

1. New York state is on the front lines of the battle against climate change, recognizing the moral imperative for this generation to protect the next.

2. New York state has already experienced firsthand the damaging consequences of a changing climate along with the economic impacts of increasingly frequent and violent weather.

3. New York state accepts its responsibility to lead the fight to address climate change, and as the world's thirteenth largest economy, embraces this responsibility and the need for greater climate action and leadership.

4. New York state accepts the findings of the United Nations Intergovernmental Panel on Climate Change and the international scientific community that global temperature must not increase by more than 2 degrees Celsius above preindustrial levels in order to avert the most damaging effects of a changing climate.

5. New York state is mindful of the federal government's fourth National Climate Assessment, which predicts that if significant steps are not taken, the damage from climate change will reduce the size of the U.S. economy by century's end as a result of severe weather and natural disasters.

6. New York state is a national and international leader in addressing climate change and has adopted ambitious policies and initiatives to dramatically reduce greenhouse gas emissions, including a target to reduce greenhouse gas emissions by 40% from 1990 levels by 2030, and 80% from 1990 levels by 2050.

7. New York state is a founding participant in the U.S. Climate Alliance, Regional Greenhouse Gas Initiative, and Zero Emissions Vehicles Initiative.

8. New York state's Reforming the Energy Vision is a nationally recognized initiative to fundamentally transform the state's energy economy into one that is increasingly clean, resilient and affordable.

9. New York state's Clean Energy Standard was one of the first programs in the nation to mandate that 50% of electricity come from renewable energy sources by 2030.

10. New York state's offshore wind, solar, energy storage, and energy efficiency targets and programs are leading the nation in propelling the rapid growth of clean energy industries across the state.

11. New York state is committed to achieving carbon neutrality as soon as practicable and to ensuring that the transition to a carbon neutral economy is equitable for all New Yorkers and a transitioning workforce.

12. New York state acknowledges that worsening climate impacts will disproportionately affect low-income and disadvantaged communities, and is committed to making systemic changes to address the unequal impacts of negative environmental burdens on distressed communities and sharing the burdens and benefits of addressing climate change equitably and fairly.

13. New York state is committed to ensuring that by the year 2040 one hundred percent of its electricity is generated by clean sources, that by 2030 seventy percent of its electricity is generated by renewable sources and that the state is on a path to becoming carbon neutral economy-wide as soon as practicable.

§ 3. The energy law is amended by adding a new section 6-105 to read as follows:

§ 6-105. Climate action council and roadmap for statewide carbon neutrality. 1. It is hereby established as state policy that, as soon as practicable, the state must sequester or offset a greater quantity of atmospheric greenhouse gases than are emitted within the state, and that in the consideration of carbon neutrality, the state must take into account both atmospheric carbon and greenhouse gas emissions as well as offsets from the local sequestration of atmospheric carbon and greenhouse gases through long-term sinks and reservoirs.

2. In furtherance of state policy provided in subdivision one of this section, there is hereby established a climate action council, which shall consist of the following members or their designees:

(a) the commissioner of the state department of environmental conservation;

(b) the president of the energy research and development authority;

(c) the chair of the public service commission;

(d) the commissioner of labor of the state of New York;

(e) the commissioner of the state department of transportation;

(f) the commissioner of agriculture and markets;

(g) one representative of clean energy associations;

(h) one member of an organization dedicated to environmental justice issues;

(i) one representative of labor organizations; and

(j) any others as may be necessary to carry out the duties and responsibilities under this section.

The members specified in paragraphs (g), (h), (i) and (j) of this subdivision shall be promptly appointed by the governor, each for a term of two years, provided that such person's membership shall continue after such two year term if reappointed or until a successor is appointed.

3. The climate action council will be co-chaired by the commissioners of the department of environmental conservation and the president of the energy research and development authority. It shall meet as often as is necessary, but no less than three times per year, and under circumstances as are appropriate to fulfilling its duties under this section. All members shall be provided with written notice reasonably in advance of each meeting with date, time and location of such meeting.

4. The climate action council shall develop a roadmap of recommendations for attaining the statewide greenhouse gas emission goals of forty percent reduction from 1990 levels by two thousand thirty and carbon neutrality in all sectors of the economy which shall inform the state energy planning council's adoption of a state energy plan in accordance with section 6-104 of this article. To accommodate the work of the climate action council, the state energy planning council shall complete the next state energy plan required by this article no later than December thirty-first, two thousand twenty.

5. The roadmap required by subdivision four of this section shall identify and make recommendations on regulatory measures, clean energy programs, and other state actions and policies that will ensure the attainment of statewide emission reduction and carbon neutrality goals. In developing the roadmap required by subdivision four of this section the council shall:

(a) recognize the global nature of anthropogenic climate change and prioritize regional, multistate and international collaboration and action to deliver maximum impact;

(b) engage the states in the U.S. Climate Alliance on pathways to achieving a proportional share of the United Nations Paris Agreement objective to keep global anthropogenic temperature increase to well below 2 degrees Celsius while striving to limit the increase to 1.5 degrees Celsius;

(c) explore with U.S. Climate Alliance states regional market-based programs and initiatives that can deliver environmental sustainability and carbon neutrality in support of the Paris Agreement;

(d) consider all relevant information pertaining to greenhouse gas emissions reduction programs among states in the U.S. Climate Alliance as well as in other states, regions and nations;

(e) evaluate, using economic models, emission estimation techniques and other scientific methods, the potential costs and potential economic and non-economic benefits of transitioning to a carbon-neutral economy on a statewide and multistate basis, taking into account the impact on consumers and any regional variations and make such evaluation publicly available;

(f) evaluate, using economic models, emission estimation techniques and other scientific methods the economic, environmental, and public health benefits and co-benefits of greenhouse gas emissions reductions on a statewide and multistate basis, taking into account the value of carbon, established by the department of environmental conservation pursuant to section 75-0107 of the environmental conservation law, and using any other tools that the council deems useful and pertinent for this analysis; and

(g) consult with the environmental justice and just transition working group established pursuant to this section, and other stakeholders identified by the council.

6. The programs and measures considered the roadmap as required by subdivision four of this section may include:

(a) performance-based standards for sources of greenhouse gas emissions, including but not limited to sources in the electricity, transportation, building, industrial, commercial, and agricultural sectors;

(b) market-based mechanisms to reduce statewide greenhouse gas emissions on a statewide and multistate basis or emissions from a particular source category or categories, including an examination of the imposition of fees per ton of carbon dioxide equivalent emitted and the impo-

sition of emissions caps accompanied by a system of tradable emission allowances;

(c) programs to reduce emissions from the electricity sector by transitioning from fossil fuel-based generation to generation powered by clean resources or energy efficiency measures to the extent practicable, including an analysis of technologies and other measures that should be developed to facilitate such transition;

(d) land use and transportation planning measures aimed at reducing greenhouse gas emissions on a statewide and multistate basis;

(e) measures to promote the beneficial electrification of personal and freight transport, and other strategies to reduce greenhouse gas emissions from the transportation sector;

(f) measures to achieve reductions in energy use in existing residential or commercial buildings, including the beneficial electrification of water and space heating in buildings, establishing appliance efficiency standards, strengthening building energy codes, requiring annual building energy benchmarking, disclosing energy efficiency in home sales, and expanding the ability of state facilities to utilize performance contracting;

(g) recommendations to aid in the transition of the New York state workforce and the rapidly emerging clean energy industry;

(h) measures to achieve long-term carbon sequestration and/or promote best management practices in land use, agriculture and forestry;

(i) measures to limit the use of chemicals, substances or products that contribute to global climate change when released to the atmosphere, but are not intended for end-use combustion;

(j) mechanisms to limit emission leakage as defined in subdivision eleven of section 75-0101 of the environmental conservation law; and

(k) verifiable, enforceable and voluntary emissions reduction measures.

7. The council shall provide meaningful opportunities for public comment from all persons who will be impacted by the roadmap required by subdivision four of this section, including public hearing opportunities in all regions of the state, and shall allow at least one hundred twenty days for the submission of public comment. The council is authorized to conduct any public hearings associated with the roadmap in conjunction with public hearings required for the state energy plan.

8. The council shall transmit the roadmap required by subdivision four of this section to the governor, the speaker of the assembly, and the temporary president of the senate. The council shall prepare and submit a report, by December thirty-first, two thousand nineteen, and annually thereafter, until completion of the roadmap required by subdivision four of this section, detailing the progress of the council and identify any interim recommendations on regulatory measures, clean energy programs, and other state actions and policies that will ensure the attainment of statewide emission reduction and carbon neutrality goals.

9. The council may consult with the Long Island power authority and the power authority of the state of New York, and such authorities as are authorized to cooperate with the council and provide input as requested.

10. The Long Island power authority and the power authority of the state of New York are authorized, as deemed feasible and advisable by their respective governing boards, to make a voluntary contribution of funds to mitigate part of the cost of development of the roadmap required by subdivision four of this section.

11. Staff services shall be performed by the departments of public service, environmental conservation, transportation, agriculture and markets, labor, and the New York state energy research and development authority, as directed by the council. Assistance shall also be made available, as requested by the council, from other agencies, departments and public authorities of the state. The council may provide for its own representation in all actions or proceedings in which it is a party.

§ 4. The energy law is amended by adding a new section 6-110 to read as follows:

§ 6-110. Environmental justice and just transition working group. 1. There is hereby established an environmental justice and just transition working group which shall consist of advocates for environmental justice and community leaders and representatives of New York's workforce, and have equal representation from New York city communities, rural communities, and upstate urban communities.

2. The working group shall advise the department of environmental conservation, the energy research and development authority, the department of public service, the department of labor, the climate action council, and other agencies as appropriate, on:

(a) the development of statewide greenhouse gas emissions limits established pursuant to section 75-0103 of the environmental conservation law;

(b) the preparation of a roadmap for reducing greenhouse gas emissions, pursuant to the procedures set forth in section 6-105 of the energy law that shall identify existing climate change mitigation and adaptation efforts at the federal, state, and local levels and may make recommendations regarding how such policies may improve the state's efforts;

(c) the preparation of a roadmap for addressing issues and opportunities related to the transition of the New York state workforce and the rapidly emerging clean energy industry; and

(d) the transition of communities away from conventional energy industries and towards new opportunities in the clean energy economy.

§ 5. The energy law is amended by adding a new section 6-112 to read as follows:

§ 6-112. Supplemental analysis for one hundred percent clean electricity. 1. The board shall undertake the following assessment to supplement information for future energy planning: on or before December thirty-first, two thousand twenty-four, and every four years thereafter, the board shall incorporate:

(a) analysis and recommendations into each plan supporting policies and actions that would meet the state's objective of ensuring that the state's electricity demand is supplied from one hundred percent clean energy resources by the year two thousand forty in an economical and technically feasible manner; and

(b) analysis and recommendations into each plan supporting policies and actions that would advance the state toward the objective of meeting the greenhouse gas emission reduction limits established by the department of environmental conservation pursuant to section 75-0103 of the environmental conservation law.

2. The board may consult with the Long Island power authority, the power authority of the state of New York, any other state agency or authority, and the bulk system operator as deemed necessary by the board, and all state agencies and authorities are authorized to cooperate with the board and provide input as requested with respect to such assessment.

§ 6. The public service law is amended by adding a new section 77-a to read as follows:

§ 77-a. New York state clean energy program. 1. The term "renewable energy sources" when used in this section shall be defined by the commission, and shall include but not be limited to, at a minimum, solar photovoltaic generation, wind generation, existing hydroelectric generation as well as new hydroelectric generation subject to and compliant with rules established by the commission and generators that use biogas or other biofuels to generate electricity subject to and compliant with rules established by the commission.

2. The term "clean energy sources" when used in this section shall be defined by the commission, in consultation with the department of environmental conservation, and shall include electric generation that releases zero or de minimis net greenhouse gas emissions to the atmosphere as a byproduct of generating electricity, including electricity generated by biofuels that are determined by the department of environmental conservation to be carbon neutral.

3. Within one hundred twenty days of the effective date of this section, the commission shall commence a proceeding or modify an existing proceeding to establish a clean energy program that shall require that New York state load serving entities:

(a) meet one hundred percent of statewide electrical energy demand with clean energy sources by the year two thousand forty;

(b) meet seventy percent of statewide electrical energy demand with renewable energy sources by the year two thousand thirty; and

(c) demonstrate each year that the required percentage of their electric energy demand was met with clean and renewable energy sources through methods or mechanisms established by the commission.

4. The commission may establish minimum annual percentage target requirements for load serving entities for each year, or period of years, of the program. In establishing such program, the commission shall consult with the Long Island power authority, the department of environmental conservation, the power authority of the state of New York and the New York energy research and development authority.

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

26. To cooperate with the public service commission, the Long Island power authority and the New York state energy research and development authority to meet New York state's climate change and environmental goals including those established pursuant to and consistent with section seventy-seven-a of the public service law, section 75-0103 of the environmental conservation law and section 6-105 of the energy law.

§ 8. Paragraph 1 of subdivision (gg) of section 1020-f of the public authorities law, as added by section 7 of part A of chapter 173 of the laws of 2013, is amended to read as follows:

1. The authority in coordination with the service provider, the power authority of the state of New York and the New York state energy research and development authority shall, to the extent the authority's rates are sufficient to provide safe and adequate transmission and distribution service, and the measures herein, undertake actions to design and administer renewable energy and energy efficiency measures in the service area, with the goal of continuing and expanding such measures that cost-effectively reduce system-wide peak demand, minimize long-term fuel price risk to rate payers, lower emissions, improve environmental quality, **including the requirements established pursuant to and consistent with section seventy-seven-a of the public service law,**

section 75-0103 of the environmental conservation law and section 6-105 of the energy law and seek to meet New York state climate change and environmental goals. Such actions shall also include implementation of any renewable energy competitive procurement or feed-in-tariff programs that were approved by the authority as of the effective date of the chapter of the laws of two thousand thirteen which added this subdivision.

§ 9. The environmental conservation law is amended by adding a new article 75 to read as follows:

ARTICLE 75
CLIMATE CHANGE

Section 75-0101. Definitions.
75-0103. Statewide greenhouse gas emissions limits.
75-0105. Regulations to achieve statewide greenhouse gas emissions reductions.
75-0107. Value of carbon.

§ 75-0101. Definitions.

For the purposes of this article, the following definitions apply:

1. "Council" means the climate action council established pursuant to section 6-105 of the energy law.

2. "Carbon dioxide equivalent" means the amount of carbon dioxide by mass that would produce the same integrated radiative forcing as a given mass of another greenhouse gas over a one hundred year or other appropriate time frame after emission, as determined by the department.

3. "Carbon neutrality policy" means the state policy established pursuant to subdivision one of section 6-105 of the energy law.

4. "Carbon neutrality roadmap" means the roadmap for statewide carbon neutrality prepared by the climate action council pursuant to section 6-105 of the energy law.

5. "Climate action council" means the board established pursuant to subdivision two of section 6-105 of the energy law.

6. "Emissions reduction measures" means programs, measures and standards, including those authorized pursuant to this chapter, applicable to sources or categories of sources that are designed to reduce emissions of greenhouse gases.

7. "Environmental justice and just transition working group" means the group established pursuant to section 6-110 of the energy law.

8. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other substance emitted into the air that may be reasonably anticipated to cause or contribute to anthropogenic climate change, as determined by the department.

9. "Greenhouse gas emission limit" means an authorization, during a specified year, for a greenhouse gas emission source to emit up to a level or rate of greenhouse gases specified by the department, expressed in tons of carbon dioxide equivalent.

10. "Greenhouse gas emission source" or "source" means any anthropogenic source or category of anthropogenic sources of greenhouse gas emissions including prime suppliers, with the exception of agricultural emissions from livestock, that the department determines:

(a) will enable the state to effectively reduce greenhouse gas emissions through the source's participation in a program or mechanism; and

(b) is capable of being monitored for compliance.

11. "Leakage" means a reduction in emissions of greenhouse gases within the state that is offset by an increase in emissions of greenhouse gases outside of the state.

12. "State energy plan" means the plan issued by the state energy planning board pursuant to article six of the energy law.

13. "Statewide greenhouse gas emissions" means the total annual emissions of greenhouse gases produced within the state from sources. Statewide greenhouse gas emissions shall be expressed in short tons of carbon dioxide equivalents.

14. "Statewide greenhouse gas emissions limit" or "statewide emissions limit" means the maximum allowable level of statewide greenhouse gas emissions in a specified year.

§ 75-0103. Statewide greenhouse gas emissions limits.

Within two years of the effective date of this article, the department shall promulgate a statewide greenhouse gas emissions limit measured in units of carbon dioxide equivalent for the year two thousand thirty, at which statewide greenhouse gas emissions would achieve a forty percent reduction from nineteen hundred ninety emission levels based on an inventory of statewide emissions developed or approved by the department. The department may periodically revise the limit based on new information.

§ 75-0105. Regulations to achieve statewide greenhouse gas emissions reductions.

1. In addition to regulations promulgated by the department pursuant to existing authority established by this chapter, no later than four years after the effective date of this article, the department shall promulgate rules and regulations consistent with measures recommended in the carbon neutrality roadmap issued by the climate action council to support compliance with the statewide greenhouse gas emission limits established by the department pursuant to section 75-0103 of this article.

2. The regulations promulgated by the department pursuant to this section may include, as appropriate:

(a) legally enforceable emissions reduction measures or greenhouse gas emission limits, which may include performance standards or measures or other requirements to control emissions from greenhouse gas emission sources;

(b) measures to reduce emissions from greenhouse gas emission sources or source categories that have a cumulatively significant impact on statewide greenhouse gas emissions;

(c) measures, as determined by the department, to limit or preclude the use of certain chemicals or substances, including hydrofluorocarbons, perfluorinated compounds, sulfur hexafluoride, and nitrous oxide, that contribute to global climate change when released to the atmosphere, but are not intended for end-use combustion; and

(d) mechanisms to minimize leakage.

§ 75-0107. Value of carbon.

1. No later than one year after the effective date of this article, the department, in consultation with the energy research and development authority, shall establish a social cost of carbon for use by New York state agencies, expressed in terms of dollars per ton of carbon dioxide equivalent.

2. The social cost of carbon shall serve as a monetary estimate of the value of not emitting a ton of greenhouse gas emissions. As determined by the department, the social cost of carbon may be based on marginal greenhouse gas abatement costs or on the global economic, environmental, and social impacts of emitting a marginal ton of greenhouse gas emissions into the atmosphere, utilizing a range of appropriate discount rates, including a rate of zero.

3. In developing the social cost of carbon, the department shall consider prior or existing estimates of the social cost of carbon issued or adopted by the federal government, appropriate international bodies, or other appropriate and reputable scientific organizations.

§ 10. This act shall take effect immediately.

PART Y

Section 1. Section 2 of chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, as amended by section 1 of part P of chapter 58 of the laws of 2018, is amended to read as follows:

§ 2. This act shall take effect immediately provided, however, that section one of this act shall expire on July 1, [~~2019~~] **2020**, at which time the provisions of subdivision 26 of section 5 of the New York state urban development corporation act shall be deemed repealed; provided, however, that neither the expiration nor the repeal of such subdivision as provided for herein shall be deemed to affect or impair in any manner any loan made pursuant to the authority of such subdivision prior to such expiration and repeal.

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

PART Z

Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, as amended by section 1 of part O of chapter 58 of the laws of 2018, is amended to read as follows:

3. The provisions of this section shall expire, notwithstanding any inconsistent provision of subdivision 4 of section 469 of chapter 309 of the laws of 1996 or of any other law, on July 1, [~~2019~~] **2020**.

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

PART AA

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

2. "Contracting agency" shall mean a state agency **or state funded entity** which is a party or a proposed party to a state contract or, in the case of a state contract described in paragraph (c) of subdivision thirteen of this section, shall mean the New York state housing finance agency, housing trust fund corporation or affordable housing corporation, whichever has made or proposes to make the grant or loan for the state assisted housing project.

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

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

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

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

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

19. "Personal net worth" shall mean the aggregate adjusted net value of the assets of an individual remaining after total liabilities are deducted. Personal net worth includes the individual's share of assets held jointly with said individual's spouse and does not include the individual's ownership interest in the certified minority and women-owned business enterprise, the individual's [~~equity in his or her primary residence~~] **ownership interest in any holding company that leases real property, machinery, equipment, or vehicles exclusively to the certified minority or women-owned business enterprise, the value of up to two hundred percent of the median value of owner-occupied housing units in the municipality in which the individual resides**, or up to five hundred thousand dollars of the present cash value of any qualified retirement savings plan or individual retirement account held by the individual less any penalties for early withdrawal.

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

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

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

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

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

24. "State-funded entity" shall mean any unit of local government, including, but not limited to a county, city, town, village or school district that is paid pursuant to an appropriation in a state fiscal year.

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

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

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

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

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

the commissioner. The advocate **shall have the resources necessary to perform its functions, and, as such,** may request and the director may appoint staff and employees of the division of minority and women business development to support the administration of the office of the statewide advocate.

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

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

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

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

§ 312-a. Study of minority and women-owned business [~~enterprise programs~~] **enterprises**. 1. The director of the division of minority and women-owned business development [~~in the department of economic development~~] is authorized and directed to recommission a statewide disparity study regarding the participation of minority and women-owned business enterprises in state contracts since the amendment of this article to be delivered to the governor and legislature [~~no later than August fifteenth, two thousand sixteen~~]. The study shall be prepared by an entity independent of the department and selected through a request for proposal process. The purpose of such study is:

(a) to determine whether there is a disparity between the number of qualified minority and women-owned businesses ready, willing and able to perform state contracts for commodities, services and construction, and the number of such contractors actually engaged to perform such contracts, and to determine what changes, if any, should be made to state policies affecting minority and women-owned business enterprises; and (b) to determine whether there is a disparity between the number of qualified minorities and women ready, willing and able, with respect to labor markets, qualifications and other relevant factors, to participate in contractor employment, management level bodies, including boards of directors, and as senior executive officers within contracting entities and the number of such group members actually employed or affiliated with state contractors in the aforementioned capacities, and to determine what changes, if any, should be made to state policies affecting minority and women group populations with regard to state contractors' employment and appointment practices relative to diverse group members.

Such study shall include, but not be limited to, an analysis of the history of minority and women-owned business enterprise programs and their effectiveness as a means of securing and ensuring participation by minorities and women, and a disparity analysis by market area and region of the state. Such study shall distinguish between minority males, minority females and non-minority females in the statistical analysis.

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

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

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

~~(a) construction industry for certified minority-owned business enterprises: fourteen and thirty-four hundredths percent;~~

~~(b) construction industry for certified women-owned business enterprises: eight and forty-one hundredths percent;~~

~~(c) construction related professional services industry for certified minority-owned business enterprises: thirteen and twenty-one hundredths percent;~~

~~(d) construction related professional services industry for certified women-owned business enterprises: eleven and thirty-two hundredths percent;~~

~~(e) non-construction related services industry for certified minority-owned business enterprises: nineteen and sixty hundredths percent;~~

~~(f) non-construction related services industry for certified women-owned business enterprises: seventeen and forty-four hundredths percent;~~

~~(g) commodities industry for certified minority-owned business enterprises: sixteen and eleven hundredths percent;~~

~~(h) commodities industry for certified women-owned business enterprises: ten and ninety-three hundredths percent;~~

~~(i) overall agency total dollar value of procurement for certified minority-owned business enterprises: sixteen and fifty-three hundredths percent;~~

~~(j) overall agency total dollar value of procurement for certified women-owned business enterprises: twelve and thirty-nine hundredths percent; and~~

~~(k) overall agency total dollar value of procurement for certified minority, women-owned business enterprises: twenty-eight and ninety-two hundredths percent~~] **goals as specified by the director**.

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

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

2. The director shall promulgate rules and regulations [~~pursuant to~~] **based on** the [~~goals established in subdivision one of this section~~] **findings of the most recent disparity study** that provide measures and

procedures to ensure that certified minority and women-owned businesses shall be given the opportunity for maximum feasible participation in the performance of state contracts and to assist in the agency's identification of those state contracts for which minority and women-owned certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of state contracts [~~so as to facilitate the agency's achievement of the maximum feasible portion of the goals for state contracts to such businesses~~].

2-a. The director shall promulgate rules and regulations that will accomplish the following:

(a) provide for the certification and decertification of minority and women-owned business enterprises for all agencies through a single process that meets applicable requirements;

(b) require that each contract solicitation document accompanying each solicitation set forth the expected degree of minority and women-owned business enterprise participation based, in part, on:

(i) the potential subcontract opportunities available in the prime procurement contract; [~~and~~]

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

(iii) the findings of the disparity study;

(c) require that each agency provide a current list of certified minority business enterprises to each prospective contractor **or direct them to the division's directory of certified minority and women-owned business enterprises for such purpose**;

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

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

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

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

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

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

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

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

3. Solely for the purpose of providing the opportunity for meaningful participation by certified businesses in the performance of state contracts as provided in this section, state contracts shall include leases of real property by a state agency to a lessee where: the terms of such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements thereon by such lessee; and the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements thereon shall exceed the sum of one hundred thousand dollars. Reports to the director pursuant to section three hundred fifteen of this article shall include activities with respect to all such state contracts. Contracting agencies shall include or require to be included with respect to state contracts for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, such provisions as may be necessary to effectuate the provisions of this section in every bid specification and state contract, including, but not limited to: (a) provisions requiring contractors to make a good faith effort to solicit active participation by enterprises identified in the directory of certified businesses [~~provided to the contracting agency by the office~~]; (b) requiring the parties to agree as a condition of entering into such contract, to be bound by the provisions of section three hundred sixteen of this article; and (c) requiring the contractor to include the provisions set forth in paragraphs (a) and (b) of this subdivision in every subcontract in a manner that the provisions will be binding upon each subcontractor as to work in connection with such contract. Provided, however, that no such provisions shall be binding upon contractors or subcontractors in the performance of work or the provision of services that are unrelated, separate or distinct from the state contract as expressed by its terms, and nothing in this section shall authorize the director or any contracting agency to impose any requirement on a contractor or subcontractor except with respect to a state contract.

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

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

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

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

5. (a) Contracting agencies shall administer the rules and regulations promulgated by the director in a good faith effort to [~~meet~~] **achieve** the maximum feasible [~~portion of the agency's goals~~] **participation by minority and women owned business enterprises** adopted pursuant to this arti-

cle and the regulations of the director. Such rules and regulations: shall require a contractor to submit a utilization plan after bids are opened, when bids are required, but prior to the award of a state contract; shall require the contracting agency to review the utilization plan submitted by the contractor and to post the utilization plan and any waivers of compliance issued pursuant to subdivision six of this section on the website of the contracting agency within a reasonable period of time as established by the director; shall require the contracting agency to notify the contractor in writing within a period of time specified by the director as to any deficiencies contained in the contractor's utilization plan; shall require remedy thereof within a period of time specified by the director; shall require the contractor to submit periodic compliance reports relating to the operation and implementation of any utilization plan; shall not allow any automatic waivers but shall allow a contractor to apply for a partial or total waiver of the minority and women-owned business enterprise participation requirements pursuant to subdivisions six and seven of this section; shall allow a contractor to file a complaint with the director pursuant to subdivision eight of this section in the event a contracting agency has failed or refused to issue a waiver of the minority and women-owned business enterprise participation requirements or has denied such request for a waiver; and shall allow a contracting agency to file a complaint with the director pursuant to subdivision nine of this section in the event a contractor is failing or has failed to comply with the minority and women-owned business enterprise participation requirements set forth in the state contract where no waiver has been granted.

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

(c) Without limiting other grounds for the disqualification of bids or proposals on the basis of non-responsibility, a contracting agency may disqualify the bid or proposal of a contractor as being non-responsible for failure to remedy notified deficiencies contained in the contractor's utilization plan within a period of time specified in regulations promulgated by the director after receiving notification of such deficiencies from the contracting agency. Where failure to remedy any notified deficiency in the utilization plan is a ground for disqualification, that issue and all other grounds for disqualification shall be stated in writing by the contracting agency. Where the contracting agency states that a failure to remedy any notified deficiency in the utilization plan is a ground for disqualification the contractor shall be entitled to an administrative hearing, on a record, involving all grounds stated by the contracting agency. Such hearing shall be conducted by the appropriate authority of the contracting agency to review the determination of disqualification. A final administrative determination made following such hearing shall be reviewable in a proceeding commenced under article seventy-eight of the civil practice law and rules, provided that such proceeding is commenced within thirty days of the notice given by certified mail return receipt requested

rendering such final administrative determination. Such proceeding shall be commenced in the supreme court, appellate division, third department and such proceeding shall be preferred over all other civil causes except election causes, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Appeals taken to the court of appeals of the state of New York shall be subject to the same preference.

6. Where it appears that a contractor cannot, after a good faith effort, comply with the minority and women-owned business enterprise participation requirements set forth in a particular state contract, a contractor may file a written application with the contracting agency requesting a partial or total waiver of such requirements setting forth the reasons for such contractor's inability to meet any or all of the participation requirements together with an explanation of the efforts undertaken by the contractor to obtain the required minority and women-owned business enterprise participation. In implementing the provisions of this section, the contracting agency shall consider the number and types of minority and women-owned business enterprises [~~located~~] **available to provide goals or services required under the contract** in the region in which the state contract is to be performed, the total dollar value of the state contract, the scope of work to be performed and the project size and term. If, based on such considerations, the contracting agency determines there is not a reasonable availability of contractors on the list of certified business to furnish services for the project, it shall issue a waiver of compliance to the contractor. In making such determination, the contracting agency shall first consider the availability of other business enterprises located in the region and shall thereafter consider the financial ability of minority and women-owned businesses located outside the region in which the contract is to be performed to perform the state contract.

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

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

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

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

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

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

9. If, after the review of a contractor's minority and [~~women-owned~~] **women-owned** business utilization plan or review of a periodic compliance report and after such contractor has been afforded an opportunity to respond to a notice of deficiency issued by the contracting agency in connection therewith, it appears that a contractor is failing or refusing to comply with the minority and women-owned business participation requirements as set forth in the state contract and where no waiver from such requirements has been granted, the contracting agency may file a written complaint with the director pursuant to section three hundred sixteen of this article setting forth the facts and circumstances giving rise to the contracting agency's complaint together with a demand for relief. The contracting agency shall serve a copy of such complaint upon the contractor by personal service or by certified mail, return receipt requested. The contractor shall be afforded an opportunity to respond to such complaint in writing.

§ 6. Section 314 of the executive law, as added by chapter 216 of the laws of 1988, subdivision 2-a as amended by chapter 175 of the laws of 2010, subdivision 2-b as added by chapter 409 of the laws of 2018, subdivision 4 as amended and subdivision 5 as added by chapter 399 of the laws of 2014, is amended to read as follows:

§ 314. Statewide certification program. 1. The director shall promulgate rules and regulations providing for the establishment of a statewide certification program including rules and regulations governing the approval, denial or revocation of any such certification **including revocations for felony convictions for fraudulently misrepresenting the status of minority or women-owned business enterprises. Such rules shall set forth the maximum personal net worth of a minority group member or woman who may be relied upon to certify a business as a minority-owned business enterprise or women-owned business enterprise, and may establish different maximum levels of personal net worth for minority group members and women on an industry-by-industry basis for such industries as the director shall determine**. Such rules and regulations shall include, but not be limited to, such matters as may be required to ensure that the established procedures thereunder shall at least be in compliance with the code of fair procedure set forth in section seventy-three of the civil rights law **and consistent with the provisions of article twenty-three of the correction law**.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. The director may, after performing an availability analysis and upon a finding that industry-specific factors coupled with personal net worth or small business eligibility requirements pursuant to subdivisions nineteen and twenty of section three hundred ten of this article, respectively, have led to the significant exclusion of businesses owned by minority group members or women in that industry, grant provisional MWBE certification status to applicants from that designated industry, provided, however, that all other eligibility requirements pursuant to subdivision seven or fifteen of section three hundred ten of this article, as applicable, are satisfied. Any industry-based determination made under this section by the director shall be made widely available to the public and posted on the division's website.

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

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

§ 315. Responsibilities of contracting agencies. 1. Each contracting agency shall be responsible for monitoring state contracts under its jurisdiction, and recommending matters to the office respecting non-compliance with the provisions of this article so that the office may take such action as is appropriate to insure compliance with the provisions of this article, the rules and regulations of the director issued hereunder and the contractual provisions required pursuant to this article.

All contracting agencies shall comply with the rules and regulations of the office and are directed to cooperate with the office and to furnish to the office such information and assistance as may be required in the performance of its functions under this article.

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

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

[~~4.~~] **3.** The division of minority and women's business development shall issue an annual report which: (a) summarizes the report submitted by each contracting agency pursuant to subdivision [~~three~~] **two** of this section; (b) contains such comparative or other information as the director deems appropriate, including but not limited to goals compared to actual participation of minority and women-owned business enterprises in state contracting, to evaluate the effectiveness of the activities undertaken by each such contracting agency to promote increased participation by certified minority or women-owned businesses with respect to state contracts and subcontracts; (c) contains a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by each contracting agency during the period covered by the report, [~~including a description of the basis of the waiver request and the contracting agency's rationale for granting any such waiver~~] **and**; (d) [~~describes any efforts to create a database or other information storage and retrieval system containing information relevant to contracting with minority and women-owned business enterprises; and (e)~~] contains a summary of (i) all determinations of violations of this article by a contractor or a contracting agency made during the period covered by the annual report pursuant to section three hundred sixteen-a of this article and (ii) the penalties or sanctions, if any, assessed in connection with such determinations and the rationale for such penalties or sanctions. Copies of the annual report shall be provided to the commissioner, the governor, the comptroller, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly and shall also be made widely available to the public via, among other

things, publication on a website maintained by the division of minority and women's business development.

[~~5.~~] 4. Each agency shall include in its annual report to the governor and legislature pursuant to section one hundred sixty-four of [~~the executive law~~] this chapter its annual goals for contracts with minority-owned and women-owned business enterprises, the number of actual contracts issued to minority-owned and women-owned business enterprises; and a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by the reporting agency during the preceding year, including a description of the basis of the waiver request and the rationale for granting such waiver. Each agency shall also include in such annual report whether or not it has been required to prepare a remedial plan, and, if so, the plan and the extent to which the agency has complied with each element of the plan.

[~~6.~~] 5. Each contracting agency that substantially fails to [~~meet the goals supported by the disparity study,~~] make good faith effort as defined by regulation of the director, to achieve the maximum feasible participation of minority and women-owned business enterprises in such agency's contracting shall be required to submit to the director a remedial action plan to remedy such failure.

[~~7.~~] 6. If it is determined by the director that any agency has failed to act in good faith to implement the remedial action plan, pursuant to subdivision [~~six~~] five of this section within one year, the director shall provide written notice of such a finding, which shall be publicly available, and direct implementation of remedial actions to:

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

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

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

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

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

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

§ 316-a. Prohibitions in contracts; violations. Every contracting agency shall include a provision in its state contracts expressly providing that any contractor who willfully and intentionally fails to make a good faith effort to comply with the minority and women-owned participation requirements of this article as set forth in such state contract shall be liable to the contracting agency for liquidated or other appropriate damages and shall provide for other appropriate remedies on account of such breach. A contracting agency that elects to proceed against a contractor for breach of contract as provided in this section shall be precluded from seeking enforcement pursuant to section

three hundred sixteen of this article; provided however, that the contracting agency shall include a summary of all enforcement actions undertaken pursuant to this section in its annual report submitted pursuant to [~~subdivision three of~~] section three hundred fifteen of this article.

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

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

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

(i) for the selection of such contractors on a competitive basis, and provisions relating to the circumstances under which the board may by resolution waive competition, including, notwithstanding any other provision of law requiring competition, the purchase of goods or services from small business concerns [~~or~~] those certified as minority or women-owned business enterprises, or goods or technology that are recycled or remanufactured, in an amount not to exceed [~~two~~] **four** hundred thousand dollars without a formal competitive process;

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

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

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

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

6. All contracts for amounts in excess of five thousand dollars for the work of construction, reconstruction, alteration, repair or improvement of any state building, whether constructed or to be constructed must be offered for public bidding and may be awarded to the lowest responsible and reliable bidder, as will best promote the public interest, by the said department or other agency with the approval of the comptroller for the whole or any part of the work to be performed, and, in the discretion of the said department or other agency, such contracts

may be sublet; provided, however, that no such contract shall be awarded to a bidder other than the lowest responsible and reliable bidder, except for certain contracts awarded to minority or women-owned business enterprises as provided herein, without the written approval of the comptroller. When a proposal consists of unit prices of items specified to be performed, except for certain contracts awarded to minority or women-owned business enterprises as provided herein, the lowest bid shall be deemed to be that which specifically states the lowest gross sum for which the entire work will be performed, including all the items specified in the proposal thereof. The lowest bid shall be determined by the commissioner of general services on the basis of the gross sum for which the entire work will be performed, arrived at by a correct computation of all the items specified in the proposal therefor at the unit prices contained in the bid. Provided, however, that where a responsible and reliable bidder certified as a minority-owned business enterprise or women-owned business enterprise pursuant to article fifteen-A of the executive law submits a bid of one million four hundred thousand dollars or less, as adjusted annually for inflation beginning January first, two thousand twenty, the bid of the minority or women-owned business enterprise shall be deemed the lowest bid unless it exceeds the bid of any other bidder by more than ten percent.

§ 13. The penal law is amended by adding a new article 181 to read as follows:

ARTICLE 181
MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISE FRAUD

Section 181.00 Definitions.
181.10 Minority or women-owned business enterprise fraud in the third degree.
181.20 Minority or women-owned business enterprise fraud in the second degree.
181.30 Minority or women-owned business enterprise fraud in the first degree.

§ 181.00 Definitions.

1. "Minority-owned business enterprise" means a business enterprise certified as such pursuant to article fifteen-A of the executive law.

2. "State contract" shall have the same meaning as in article fifteen-A of the executive law.

3. "Women-owned business enterprise" means a business enterprise certified as such pursuant to article fifteen-A of the executive law.

§ 181.10 Minority or women-owned business enterprise fraud in the third degree.

A person is guilty of minority or women-owned business enterprise fraud in the third degree when he or she knowingly provides materially false information or omits material information concerning the use or identification of a minority or women-owned business enterprise for the purpose of being awarded, or demonstrating compliance with the minority and women-owned business participation requirements of a state contract.

Minority or women-owned business enterprise fraud in the third degree is a class A misdemeanor.

§ 181.20 Minority or women-owned business enterprise fraud in the second degree.

A person is guilty of minority or women-owned business enterprise fraud in the second degree when he or she knowingly provides materially false information or omits material information concerning the use or

identification of a minority or women-owned business enterprise for the purpose of being awarded, or demonstrating compliance with the minority and women-owned business participation requirements of, a state contract, and the state contract is valued in excess of fifty thousand dollars.

Minority or women-owned business enterprise fraud in the second degree is a class E felony.

§ 181.30 Minority or women-owned business enterprise fraud in the first degree.

A person is guilty of minority or women-owned business enterprise fraud in the first degree when he or she knowingly provides materially false information or omits material information concerning the use or identification of a minority or women-owned business enterprise for the purpose of being awarded, or demonstrating compliance with the minority and women-owned business enterprise participation requirements of a state contract, and the state contract is valued in excess of one million dollars.

Minority or women-owned business enterprise fraud in the first degree is a class D felony.

§ 14. The opening paragraph of subdivision (h) of section 121 of chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure trust fund, as amended by section 1 of part OOO of chapter 59 of the laws of 2018, is amended to read as follows:

The provisions of sections sixty-two through sixty-six of this act shall expire and be deemed repealed on December thirty-first, two thousand [~~nineteen~~] twenty-four, except that:

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

ARTICLE 28
WORKFORCE DIVERSITY PROGRAM

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

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

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

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

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

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

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

6. "List of non-compliant contractors" shall mean a list of contractors and subcontractors, maintained by the division and published on the website of the division, that are ineligible to participate as contractors or subcontractors in the performance of state contracts for a term determined by the director.

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

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

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

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

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

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

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

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

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

New York State Thruway Authority;
Niagara Falls Public Water Authority;
Niagara Falls Water Board;
Port of Oswego Authority;
Power Authority of the State of New York;
Roosevelt Island Operating Corporation;
Schenectady Metroplex Development Authority;
State Insurance Fund;
Staten Island Rapid Transit Operating Authority;
State University Construction Fund;
Syracuse Regional Airport Authority;
Triborough Bridge and Tunnel Authority;
Upper Mohawk Valley Regional Water Board;
Upper Mohawk Valley Regional Water Finance Authority;
Upper Mohawk Valley Memorial Auditorium Authority;
Urban Development Corporation and its subsidiary corporations.

(c) the following only to the extent of state contracts entered into for its own account or for the benefit of a state agency as defined in paragraph (a) or (b) of this subdivision:
Dormitory Authority of the State of New York;
Facilities Development Corporation;
New York State Energy Research and Development Authority;
New York State Science and Technology Foundation.

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

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

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

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

(i) The aspirational goals shall set forth separate levels of expected participation by men and women for each minority group, and for Cauca-

sian women, in each trade, profession, and occupation of categories thereof.

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

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

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

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

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

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

(i) Black men;

(ii) Black women;

(iii) Hispanic men;

(iv) Hispanic women;

(v) Native American men;

(vi) Native American women;

(vii) Asian men;

(viii) Asian women;

(ix) Caucasian women.

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

(i) the findings of the disparity study;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) In the event that a contractor submits a certification or waiver request that is accepted by the state agency, the state agency shall

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

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

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

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

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

facilities, books, and records for inspection, upon reasonable notice, by the director or the director's designee.

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

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

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

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

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

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

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

5. Upon receipt of a recommendation from a state agency that a contractor or subcontractor should be deemed a non-compliant contractor, the director shall, with the assistance of the department, review the facts and circumstances forming the basis of the recommendation and issue a determination as to whether or not the contractor or subcontractor should be deemed a non-compliant contractor and, if so, the duration

of such status as a non-compliant contractor. In determining the duration of a contractor's or subcontractor's status as a non-compliant contractor, the director shall consider:

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

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

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

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

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

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

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

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

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

§ 16. This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after April 1, 2019; provided, however, that:

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

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

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

(d) subdivision 2-b of section 314 of the executive law shall take effect on the same date and in the same manner as section 1 of chapter 409 of the laws of 2018 takes effect; and

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

PART BB

Section 1. The vehicle and traffic law is amended by adding a new article 44-C to read as follows:

ARTICLE 44-C

CONGESTION TOLLING PROGRAM

Section 1701. Legislative findings and declaration.
1702. Short title.
1703. Definitions.
1704. Establishment of congestion tolling program.
1704-a. Congestion toll.
1705. Disposition of revenue and penalties.
1706. Reporting.

§ 1701. Legislative findings and declaration. The ongoing failures of the tracks, signals, switches and other transportation infrastructure throughout the subway system in the city of New York continue to pose an imminent threat and have a vast and deleterious impact on the health, safety, and livelihood of commuters, tourists, resident New Yorkers, as well as business and commerce in the metropolitan commuter transportation district, which is the recognized economic engine of the state of New York, and thereby have adversely affected the economy of the state of New York. Temporary actions have been taken to address the safety of subway riders short term including an emergency declaration and increased capital funding for the subways in the most recently adopted state budget. The legislature, however, determines that a long-term and sustainable solution is necessary in order to ensure stable and reliable funding to repair and revitalize this significantly important mass transit asset.

The legislature further finds and declares that traffic congestion in the city of New York ranks second worst among cities in the United States and third worst among cities in the world, and results in significant cost to the New York metropolitan area economy and in turn the state's economy at estimates exceeding one hundred million dollars over the next five years. Travel speeds in the city of New York's central business district have dropped more than seventeen percent in two thousand sixteen to an average of 6.8 miles per hour and in Midtown Manhattan, the most congested area of the city-the area from fifty-ninth street to thirty-fifth street and from ninth avenue to the east river-the average vehicular speed is 4.7 miles per hour. Congestion in these areas is crippling and impacts the everyday lives of residents, commuters, taxi and for-hire vehicle traffic, bus transit and emergency services.

These issues have been recognized by both the Fix NYC Advisory Panel and the MTA Sustainability Advisory Workgroup as significant impediments to everyday New Yorkers.

In order to ensure a safe and efficient mass transit system within the city of New York and to protect the public health and safety of New York's residents, a program to establish fees for vehicles entering or remaining in the most congested area of the state is found to be necessary and to be a matter of substantial state concern.

§ 1702. Short title. This act shall be known as and may be cited as "the congestion tolling program".

§ 1703. Definitions. For the purposes of this article, unless the context otherwise requires:

1. "City" means the city of New York.

2. "Congestion toll" means a toll charged for entry into or remaining in the congestion tolling zone as described in section seventeen hundred four of this article.

3. "Congestion tolling program" means the program for charging tolls for vehicles that enter or remain in the congestion tolling zone and includes the congestion tolling infrastructure, the congestion tolling collection system and the congestion tolling customer service center.

4. "Congestion tolling zone" means the area described in section seventeen hundred four of this article for which tolls shall be charged for a vehicle's entry into such zone.

5. "Congestion tolling infrastructure" means the devices and structures including but not limited to gantries and power and communication lines that the Triborough bridge and tunnel authority will plan, design and construct as part of the congestion tolling program.

6. "Congestion tolling collection system" means the electronic system of collecting tolls or other charges using electronic data and/or images that the Triborough bridge and tunnel authority will plan, design, install and operate as part of the congestion tolling program.

7. "Congestion tolling customer service center" means the customer contact and back-office system and operation services for the collection of congestion tolls and enforcement of congestion toll violations that the Triborough bridge and tunnel authority will plan, design, implement and operate as part of the congestion tolling program.

8. "Operation date" means the date determined by the metropolitan transportation authority and the Triborough bridge and tunnel authority, which shall not be earlier than December thirty-first, two thousand twenty, for the beginning of the operation and enforcement of the congestion tolling program.

9. "Triborough bridge and tunnel authority" means the corporation organized pursuant to section five hundred fifty-two of the public authorities law as consolidated pursuant to section five hundred fifty-two-a of the public authorities law or any successor corporation or corporation into which it may be consolidated.

§ 1704. Establishment of congestion tolling program. 1. The metropolitan transportation authority shall establish the congestion tolling program.

2. The congestion tolling program will operate in the congestion tolling zone. The congestion tolling zone shall include any roadways, bridges, tunnels, approaches or ramps that are located within, or enter into, the geographic area in the borough of Manhattan south of and inclusive of sixtieth street to the extent practicable but shall not include the FDR Drive.

3. (a) The Triborough bridge and tunnel authority shall plan, design and construct the congestion tolling infrastructure at points of vehicle ingress to the congestion toll zone. The Triborough bridge and tunnel authority may occupy the sidewalks, roadways, streets, highways, bridges, tunnels, approaches or highways of the city of New York for the purpose of doing any work over or under the same in connection with installing, operating or maintaining the congestion tolling infrastructure without the consent of or payment to the city of New York. The city of New York shall cooperate fully with the Triborough bridge and tunnel authority in the planning, designing and constructing of the congestion tolling infrastructure and shall not require that the Triborough bridge and tunnel authority or any of its contractors to seek or obtain from the city of New York any sidewalk or roadway construction activity permit, license, or other approval in connection with installing, operating or maintaining the congestion tolling infrastructure.

(b) The Triborough bridge and tunnel authority shall plan, design, install, implement and operate a congestion toll collection system to collect the congestion toll.

(c) The Triborough bridge and tunnel authority shall plan, design, implement and operate a congestion toll customer service center.

(d) The congestion tolling collection system shall be planned, designed, implemented and operated to facilitate payment of congestion tolls by various methods including but not limited to cash, credit or debit card, check or automated clearing house payment, by telephone or over the internet or any other method of payment that the Triborough bridge or tunnel authority may implement.

(e) All procurements of goods, services or construction of any kind by the Triborough bridge and tunnel authority for the congestion tolling program shall be deemed to be subject only to the same requirements that otherwise apply to procurements by the Triborough bridge and tunnel authority.

4. The congestion tolling infrastructure, the congestion toll collection system and the congestion tolling customer service center shall be completed by the operation date.

5. Responsibility for maintenance of the congestion tolling infrastructure after the operation date shall be performed by the Triborough bridge and tunnel authority.

6. The planning, designing, constructing, installing or maintaining of the congestion tolling program and the planning, designing, installing, operating or maintaining of the congestion toll collection system by the Triborough bridge and tunnel authority including the establishment by such authority of congestion tolls, and any other fees or rentals for the use of its projects and any changes thereafter shall not be subject to the provisions of article eight of the environmental conservation law, the provisions of chapter six of article forty-three or chapter five of title sixty-two of the rules of the city of New York, or the provisions of section one hundred ninety-seven-c of the New York city charter, relating to a uniform land use review procedure, nor the provisions of any other local law of the city of New York of like or similar effect including approvals or charges associated with the use of property owned and maintained by the city of New York necessary for the installation of congestion tolling infrastructure.

§ 1704-a. Congestion toll. 1. The Triborough bridge and tunnel authority shall have the power, subject to agreements with its bondholders, to charge tolls and fees for vehicles entering or remaining in the congestion tolling zone at any time and shall have the power, subject to

agreements with bondholders, to make rules and regulations for the collection of congestion tolls and the establishment of fees. For purposes of establishing a congestion tolling program, the Triborough bridge and tunnel authority shall, at minimum, ensure that annual revenues and fees collected under such program, less costs of operation of the same, provide for revenues into the congestion tolling fund, established pursuant to section twelve hundred seventy-j of the public authorities law, necessary to fund fifteen billion dollars for capital projects.

2. No owner of a for-hire vehicle that is subject to a surcharge imposed by article twenty-nine-C of the tax law for a for-hire transportation trip shall also be charged a congestion toll if it enters or remains in the congestion toll zone as part of such trip.

3. No owner of an emergency vehicle as defined pursuant to section one hundred one of this chapter shall be charged a congestion toll if it enters or remains in the congestion tolling zone.

4. Any vehicle entering the congestion tolling zone using a vehicular crossing known as the Queens Midtown Tunnel, the Hugh Carey Tunnel, the Holland Tunnel, the Lincoln Tunnel, or the Henry Hudson Bridge shall be credited an amount equal to the toll charged to such vehicle for the use of such crossing immediately prior to entry into such zone from the amount of the congestion toll charged to such vehicle for purposes of entering the congestion tolling zone.

§ 1705. Disposition of revenue and penalties. The Triborough bridge and tunnel authority shall establish and collect congestion tolls and fees and other charges as provided in subdivision twelve-a of section five hundred fifty-three of the public authorities law.

§ 1706. Reporting. Beginning one year after the operation date and every two years thereafter, the Triborough bridge and tunnel authority and the metropolitan transportation authority shall report on the effect of the congestion tolling program on congestion in the congestion zone and on mass transit use including the vehicle-miles traveled for each trip within the congestion tolling zone for taxis and for-hire vehicles; the volume and type of vehicles entering the congestion tolling zone; and transit ridership and average bus speeds within the congestion tolling zone, and on all receipts and expenditures relating to the congestion tolling program. The department of transportation of the city of New York shall be required to assist in gathering and providing to the Triborough bridge and tunnel authority congestion data and other related data as directed by the Triborough bridge and tunnel authority for purposes of compiling such report. The report shall be readily available to the public, and shall be posted on the authority's website and be submitted to the governor, the director of the budget, the temporary president of the senate, the speaker of the assembly, the mayor and council speaker of the city of New York, and the metropolitan transportation authority capital program review board.

§ 2. Subdivision 1 of section 402 of the vehicle and traffic law is amended by adding a new paragraph (c) to read as follows:

(c) It shall be unlawful for any person to operate, drive or park a motor vehicle on a toll highway, bridge and/or tunnel facility or enter a congestion tolling zone, under the jurisdiction of the tolling authority, if such number plate is not easily readable, nor shall any number plate be covered by glass or any plastic material, and shall not be knowingly covered or coated with any artificial or synthetic material or substance that conceals or obscures such number plates or that distorts a recorded or photographic image of such number plates, and the view of

such number plates shall not be obstructed by any part of the vehicle or by anything carried thereon, except for a receiver-transmitter issued by a publicly owned tolling facility in connection with electronic toll collection when such receiver-transmitter is affixed to the exterior of a vehicle in accordance with mounting instructions provided by the tolling facility. For purposes of this paragraph, "tolling authority" shall mean every public authority which operates a toll highway, bridge and/or tunnel facility or which charges and collects congestion tolls as well as the port authority of New York and New Jersey, a bi-state agency created by compact set forth in chapter one hundred fifty-four of the laws of nineteen hundred twenty-one, as amended.

§ 3. Subdivision 8 of section 402 of the vehicle and traffic law, as amended by chapter 61 of the laws of 1989 and as renumbered by chapter 648 of the laws of 2006, is amended to read as follows:

8. The violation of this section shall be punishable by a fine of not less than twenty-five nor more than two hundred dollars except for violations of paragraph (c) of subdivision one of this section which shall be punishable by a fine of not less than one hundred nor more than five hundred dollars.

§ 4. Subdivision 4 of section 1630 of the vehicle and traffic law is amended to read as follows:

4. Charging of tolls, taxes, fees, licenses or permits for the use of the highway or any of its parts or entry into or remaining within the congestion tolling zone established by article forty-four-C of this chapter, where the imposition thereof is authorized by law.

§ 5. Subdivision 9 of section 553 of the public authorities law is amended by adding a new paragraph (s) to read as follows:

(s) The congestion tolling program to the extent specified in article forty-four-C of the vehicle and traffic law and in this title, and as directed by the metropolitan transportation authority.

§ 6. Section 553 of the public authorities law is amended by adding a new subdivision 12-a to read as follows:

12-a. To charge tolls and fees for vehicles entering or remaining within the congestion tolling zone and to make rules and regulations for the collection of such tolls and fees, subject to and in accordance with such agreement with bondholders as may be made as hereinafter provided. Subject to contracts with bondholders, all tolls, fees and other revenues derived from the congestion tolling program shall be applied to the payment of operating, administration, and other necessary expenses of the authority properly allocable to such program and thereafter to the payment of interest or principal of bonds for such program and if not so used all remaining congestion tolling funds shall be transferred to the metropolitan transportation authority and deposited into the fund established by section twelve hundred seventy-j of this chapter and shall not be subject to distribution under section five hundred sixty-nine-c or section twelve hundred nineteen-a of this chapter.

§ 7. The public authorities law is amended by adding a new section 1270-j to read as follows:

§ 1270-j. Congestion tolling fund. 1. The authority shall establish a fund to be known as the congestion tolling fund which shall be kept separate from and shall not be commingled with any other moneys of the authority. The fund shall consist of all moneys transferred to the authority by the Triborough bridge and tunnel authority pursuant to article forty-four-C of the vehicle and traffic law and subdivision twelve-a of section five hundred fifty-three of this chapter.

2. Moneys in the fund may be pledged by the authority to secure bonds, notes or other obligations of the authority and related reserves, fees, costs and expenses, for any metropolitan transportation authority capital projects included within the 2020 to 2024 MTA capital program or any successor programs. Subject to the provisions of any such pledge, or in the event there is no such pledge, any moneys in the congestion tolling fund may be used by the authority for payment of capital costs, including debt service and reserve requirements, if any, for any metropolitan transportation authority capital projects included within the 2020 to 2024 MTA capital program or any successor programs. Such revenues shall only supplement and shall not supplant any federal, state, or local funds expended by the metropolitan transportation authority, such authority's affiliates or subsidiaries for such respective purposes.

3. The authority shall report annually on all receipts and expenditures of the fund. The report shall detail operating expenses of the congestion tolling program and all fund expenditures including capital projects. The report shall be readily available to the public, and shall be posted on the authority's website and be submitted to the governor, the temporary president of the senate, the speaker of the assembly, the mayor and council of the city of New York, and the metropolitan transportation authority capital program review board.

§ 8. Subdivision 3 of section 165.15 of the penal law is amended to read as follows:

3. With intent to obtain railroad, subway, bus, air, taxi or any other public transportation service **or use of any highway, parkway, road, bridge or tunnel or enter a congestion tolling zone** without payment of the lawful charge **or toll** therefor, or to avoid payment of the lawful charge **or toll** for such transportation service which has been rendered to him **or for such use of any highway, parkway, road, bridge or tunnel or entry into a congestion tolling zone**, he obtains or attempts to obtain such service**, use or entry** or avoids or attempts to avoid payment therefor by force, intimidation, stealth, deception or mechanical tampering, or by unjustifiable failure or refusal to pay; or

§ 9. Subdivision 2 of section 87 of the public officers law is amended by adding a new paragraph (p) to read as follows:

(p) are data or images produced by an electronic toll collection system under authority of article forty-four-C of the vehicle and traffic law and in title three of article three of the public authorities law.

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

§ 11. This act shall take effect immediately.

PART CC

Section 1. Paragraph 1 of subdivision (a) of section 1180-b of the vehicle and traffic law, as amended by chapter 43 of the laws of 2014, is amended to read as follows:

1. Notwithstanding any other provision of law, the city of New York is hereby authorized to establish a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with posted maximum speed limits in a school speed zone within [~~the~~] **such** city (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. Such demonstration program shall empower the city **of New York** to install photo speed violation monitoring systems within no more than [~~one hundred forty~~] **two hundred ninety** school speed zones within [~~the~~] **such** city at any one time and to operate such systems within such zones (iii) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (iv) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. In selecting a school speed zone in which to install and operate a photo speed violation monitoring system, the city **of New York** shall consider criteria including, but not limited to the speed data, crash history, and the roadway geometry applicable to such school speed zone. **Such city shall prioritize the placement of photo speed violation monitoring systems in school speed zones based upon speed data or the crash history of a school speed zone. A photo speed violation monitoring system shall not be installed or operated on a controlled-access highway exit ramp or within three hundred feet along a highway that continues from the end of a controlled-access highway exit ramp.**

§ 2. Paragraph 2 of subdivision (a) of section 1180-b of the vehicle and traffic law, as added by chapter 189 of the laws of 2013, is amended to read as follows:

2. No photo speed violation monitoring system shall be used in a school speed zone unless (i) on the day it is to be used it has successfully passed a self-test of its functions; and (ii) it has undergone an annual calibration check performed pursuant to paragraph four of this subdivision. The city [~~may~~] **shall** install signs giving notice that a photo speed violation monitoring system is in use to be mounted on advance warning signs notifying **approaching** motor vehicle operators of such upcoming school speed zone and/or on speed limit signs applicable within such school speed zone, in conformance with standards established in the MUTCD. **Such advance warning signs shall also, to the extent authorized by the MUTCD, contain words "speed camera ahead" and be no more than three hundred feet from such photo speed violation monitoring system.**

§ 3. Paragraph 4 of subdivision (c) of section 1180-b of the vehicle and traffic law, as added by chapter 189 of the laws of 2013, is amended to read as follows:

4. "school speed zone" shall mean a **radial** distance not to exceed one thousand three hundred twenty feet [~~on a highway passing~~] **from** a school building, entrance**,** or exit [~~of a school abutting on the highway~~].

§ 4. Subdivision (n) of section 1180-b of the vehicle and traffic law, as added by chapter 189 of the laws of 2013, is amended to read as follows:

(n) If the city adopts a demonstration program pursuant to subdivision [~~one~~] **(a)** of this section it shall conduct [~~a~~] **an annual** study and submit a report on the results of the use of photo devices to the governor, the temporary president of the senate and the speaker of the assembly **on or before June first, two thousand nineteen and on the same date in each succeeding year in which the demonstratable program is operable**. Such report shall include:

1. the locations where and dates when photo speed violation monitoring systems were used;

2. the aggregate number, type and severity of crashes, fatalities, injuries and property damage reported within all school speed zones within the city, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of crashes, fatalities, injuries and property damage reported within school speed zones where photo speed violation monitoring systems were used, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of violations recorded within all school speed zones within the city, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each school speed zone where a photo speed violation monitoring system is used, in the aggregate on a daily, weekly and monthly basis;

6. the number of violations recorded within all school speed zones within the city that were:

(i) more than ten but not more than twenty miles per hour over the posted speed limit;

(ii) more than twenty but not more than thirty miles per hour over the posted speed limit;

(iii) more than thirty but not more than forty miles per hour over the posted speed limit; and

(iv) more than forty miles per hour over the posted speed limit;

7. the number of violations recorded within each school speed zone where a photo speed violation monitoring system is used that were:

(i) more than ten but not more than twenty miles per hour over the posted speed limit;

(ii) more than twenty but not more than thirty miles per hour over the posted speed limit;

(iii) more than thirty but not more than forty miles per hour over the posted speed limit; and

(iv) more than forty miles per hour over the posted speed limit;

8. the total number of notices of liability issued for violations recorded by such systems;

9. the number of fines and total amount of fines paid after the first notice of liability issued for violations recorded by such systems;

10. the number of violations adjudicated and the results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;

11. the total amount of revenue realized by the city in connection with the program;

12. the expenses incurred by the city in connection with the program; [~~and~~]

13. the quality of the adjudication process and its results[~~.~~]**; and**

14. the effectiveness and adequacy of the hours of operation for such program to determine the impact on speeding violations and prevention of crashes.

§ 5. The opening paragraph of section 12 of chapter 43 of the laws of 2014, amending the vehicle and traffic law, the public officers law and the general municipal law relating to photo speed violation monitoring systems in school speed zones in the city of New York, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law [~~and~~]**; provided that sections one through ten of this act** shall expire 4 years after such effective date when upon such date the provisions of **such sections of** this act shall be deemed repealed; and provided further that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such effective date, provided that:

§ 6. The opening paragraph of section 15 of chapter 189 of the laws of 2013, amending the vehicle and traffic law and the public officers law relating to establishing in a city with a population of one million or more a demonstration program implementing speed violation monitoring systems in school speed zones by means of photo devices, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire [~~5 years after such effective date when upon such date the provisions of this act shall~~] **and** be deemed repealed **July 1, 2022**; and provided further that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such effective date, provided that:

§ 7. Photo speed violation monitoring systems within the additional 150 school speed zones authorized for the city of New York by paragraph 1 of subdivision (a) of section 1180-b of the vehicle and traffic law, as amended by section one of this act, shall be authorized to be installed over the 3 year period following the effective date of this act as follows:

(a) in no more than 50 school speed zones during the first such year;

(b) in no more than 50 additional school speed zones during the second such year; and

(c) in no more than 50 additional school speed zones during the third such year.

§ 8. Subdivision (m) of section 1180-b of the vehicle and traffic law, as added by chapter 189 of the laws of 2013, is amended as follows:

(m) **(i)** Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of subdivision (c) or (d) of section eleven hundred eighty of this article.

(ii) Any penalties, monetary fines, or interest collected pursuant to this section, attributable to zones in excess of one hundred forty, shall be paid over by the fifteenth business day of each succeeding month to the New York city transit authority to support capital initiatives for improvements to system safety.

§ 9. Notwithstanding the provisions of article 5 of the general construction law, the provisions of:

(a) paragraph (1) of subdivision (a) of section 1180-b of the vehicle and traffic law, as amended by section one of this act, is hereby

revived and shall be deemed to have been in full force and effect on and after July 25, 2018; and

(b) section 1180-b of the vehicle and traffic law, as amended by sections two, three, four and eight of this act, is hereby revived and shall be deemed to have been in full force and effect on and after August 30, 2018.

§ 10. This act shall take effect immediately; provided that the amendments to section 1180-b of the vehicle and traffic law made by sections one, two, three, four and eight of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and provided further that the amendments to paragraph 2 of subdivision (a) of section 1180-b of the vehicle and traffic law made by section two of this act shall take effect on the ninetieth day after it shall have become a law.

PART DD

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

§ 2. Gateway Development Commission. 1. Legislative findings and intent. The legislature finds and declares: that the states of New Jersey and New York and their respective citizens share a common concern to preserve the functionality and strengthen the resiliency of long-distance and commuter rail infrastructure between New Jersey and New York, including passenger rail infrastructure owned, controlled or utilized by the National Railroad Passenger Corporation, also known as "Amtrak"; that the two states and their respective citizens share the benefits of existing interstate passenger rail infrastructure between the two states, including the existing North River tunnel; that interstate passenger rail service and infrastructure is vital to the economies of New Jersey and New York; that, because of the passage of time and damage caused by natural disasters, both states recognize the existing interstate passenger rail infrastructure, including the existing North River tunnel, is at risk of system failures that could result in prolonged service disruptions that would severely damage the economies of the two states and many other participants in the economy of the northeast corridor; that both states recognize the urgent need to undertake projects necessary to create passenger rail capacity under the Hudson River, rehabilitate passenger rail infrastructure, maintain current levels of long-distance and commuter rail service between the two states and provide additional reliability, safety and security; that the citizens of both states will share the benefits of expanded capacity and rehabilitated passenger rail infrastructure between the two states; and that there has been a long history of cooperation among state and local governmental entities, Amtrak and various private organizations and individuals in the two states to ensure the preservation of a variety of passenger rail service options. The legislature therefore determines that there is a need to endorse and formalize that bi-state cooperative effort to help ensure that the functionality of long-distance and commuter rail infrastructure between New Jersey and New York and thence throughout the northeast corridor, is preserved and maintained for the benefit of the economy of New Jersey and New York and for the well-being of present and future generations of citizens in both states; and that the creation of a bi-state commission that shall be a body corporate and politic established by the states of New Jersey and New York, acting in the public interest and exercising essential governmental functions, is an appropriate means to accomplish these very important goals. It is the

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

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

(a) "Act" shall mean the Gateway Development Commission act.

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

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

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

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

(f) "Full Funding" shall mean the date on which the sum of commitments to fund, from sources deemed by the commission to be creditworthy, plus commission cash-on-hand, plus any institution of a tariff or an agreement to impose user fees not subject to further approvals (if any), plus such other sources of funding deemed certain to be available as and when required, by the commission as at the date first so considered, is sufficient to facilitate the project.

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

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

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

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

(a) facilitate the project;

(b) coordinate activities of governmental entities, Amtrak and private entities providing assistance to the project or otherwise regulating the

project, with a view to achieving full funding, and encourage and enable such parties to participate in the effectuation of the project;

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

(d) pursue efforts with Amtrak and other third parties to: (i) achieve greater coordination between intercity and commuter rail passenger transportation; (ii) identify sources of funding to share the cost of providing rail passenger transportation developed in connection with the project, including the cost of operating facilities; and (iii) carry out strategies to achieve safe and efficient intercity and commuter rail passenger transportation;

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

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

4. Board of commissioners. (a) The commission shall act through a vote of its three commissioners: one of which will be directly appointed by the commissioner of the New York state department of transportation; one of which will be directly appointed by the board of directors of the New Jersey transit corporation; and one of which will be directly

appointed by Amtrak. The commissioner appointed by Amtrak will serve to represent Amtrak's interest, as owner-operator or user of the northeast corridor, in the work to be undertaken by the commission.

(b) The commission's initial commissioners shall be the individuals serving as trustees of the Gateway Program Development Corporation, a New Jersey non-profit corporation, at the time of the effective date of this act. The Gateway Program Development Corporation trustees appointed by New Jersey and New York shall each serve an initial term as commissioners of the commission expiring on December 31, 2019. The Gateway Program Development Corporation trustee appointed by Amtrak shall serve an initial term as commissioner of the commission expiring on December 31, 2021. Aside from the commission's initial commissioners, all other commissioners shall serve for a term of three years.

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

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

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

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

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

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

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

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

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

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

(g) The commission shall adopt and promulgate appropriate bylaws, rules and regulations concerning the right of the public to be present at meetings of the commission and to obtain records of the commission's activities or public business. Any rules or regulations adopted hereunder shall become a part of the minutes of the commission and be posted on its website.

6. Duties of the commission. The duties of the commission shall be to use its efforts to accomplish, at such times as it is appropriate to do so, the following actions, provided that the commission shall not be in dereliction of its duties so long as it acts in good faith to accomplish such:

(a) make appropriate application for, and act as a coordinating, distributing, or recipient agency for, federal, state, or private funding and authorizations necessary or appropriate to facilitate the project;

(b) cooperate with other agencies or authorities or departments (federal, state, local, and bi-state), Amtrak and private parties to

facilitate the project, including entering into agreements specifying a party's rights and obligations with respect to the project, to create a project capable of achieving long-term stability and full funding, without obligating the full faith and credit of the federal government, either state or any local government thereof or any other party, except as explicitly authorized by any party empowered by law to do so;

(c) adopt bylaws to govern the conduct of its affairs, and adopt rules and regulations, including a conflict of interest policy and code of ethics for commissioners and officers of the commission, and make appropriate orders to carry out and discharge its powers, duties and functions;

(d) expend such funds as are required to effectuate the purposes set forth above and, until expenditure is required, to hold and invest funds as a prudent fiduciary under the laws of the states;

(e) recommend appropriate federal, state and local government legislation and agency administrative action pertaining to the project;

(f) within 18 months of the date the commission organizes and not less than annually thereafter, prepare a progress report on its activities, and submit it, together with any recommendations for state or local government legislation or agency administrative action to the governor, the temporary president of the senate and the speaker of the assembly; and

(g) take such other action as may be necessary or appropriate to further the purposes of this act.

7. Powers of the commission. The commission shall have the power to undertake the following:

(a) facilitate the project, including, but not limited to, through contracts and agreements and other documents and instruments which the commission is otherwise authorized to make, enter into, execute and deliver, provided, however, that the commission shall not have the authority to operate or directly engage in transportation services such that the commission would be subject to the jurisdiction of the federal surface transportation board;

(b) sue and be sued in its own name in federal and state courts in Mercer county, New Jersey and New York county, New York, it being understood that the commissioners shall have no obligation or liability for the acts or omissions of the commission;

(c) accept, receive, disburse, encumber and expend funds from whatever source derived, including, without limitation, federal assistance, grants and loans; state and local government assistance, grants and loans; single state or bi-state agency assistance, grants and loans; private sources, grants and loans; and Amtrak grants and loans, in each case as may be necessary to accomplish any lawful purpose which the commissioners determine will facilitate the project and achieve long-term stability and full funding;

(d) acquire, including, without limitation, by gift, purchase, exchange or condemnation in accordance with the requirements of this act, subdivide, lease, license, take and hold property of every description and to manage such property and develop any undeveloped property owned, leased or controlled by it in a manner necessary or appropriate to facilitate the project;

(e) make, procure, enter into, execute and deliver contracts and agreements and other documents and instruments as may be necessary or appropriate to carry out any power of the commission under this act and to otherwise accomplish any lawful purpose which the commissioners determine will facilitate the project, including, without limitation,

with the federal government, the states of New Jersey and New York, with any local government thereof, with any agency, instrumentality, department, commission or authority of any one or more of the foregoing, any bi-state agency, Amtrak, any individual or private firm, entity or corporation, or with any one or more of them;

(f) make applications for and accept funding, permits, authorizations and approvals as may be necessary or appropriate to accomplish any lawful purpose which the commissioners determine will facilitate the project, including, without limitation, with the federal government, the states of New Jersey and New York, with any local government thereof, with any agency, instrumentality, department, commission or authority of any one or more of the foregoing, any bi-state agency, Amtrak, any individual or private firm, entity or corporation, or with any one or more of them;

(g) grant public and private entities the use of the project or a portion thereof by way of franchise, license, lease or otherwise, provide for payments to and accept payments from such entities in exchange for value received from such use, work or services performed or otherwise and to establish or agree with project users on tolls, fees, rates, charges, revenue sharing and rentals for the use thereof, provided that such tolls, fees, rates, charges, revenue sharing and rentals do not conflict with applicable federal law and the laws of the states of New Jersey and New York, and provided further that the commission shall not have the authority to set passenger fares for Amtrak or any publicly owned and operated passenger service utilizing the project;

(h) adopt its own public procurement rules and guidelines that the commission deems necessary or appropriate to facilitate the project through any combination of means and methods otherwise available to the commission under this act, regardless of whether such combination is generally available to the states of New Jersey and New York, any local government thereof, any agency, instrumentality, department, commission or authority of any one or more of the foregoing, or any bi-state agency, and engage and contract with third parties in accordance with such procurement rules and guidelines;

(i) dispose of, convey or transfer all or any portion of the project for value as may be expeditious for the facilitation of the project, so long as it has determined that the transferee has or is provided with a sufficient source of financing to acquire, operate, maintain and own the project;

(j) issue and guarantee bonds, notes or other evidence of indebtedness, enter into loan agreements and otherwise borrow funds, or incur indebtedness or other future payment obligations for any corporate purpose, including to effectuate full funding, and to assign, pledge, mortgage, secure, encumber and use its funds, assets, property and revenues for repayment thereof, to be payable out of the funds, assets, properties and revenues of the commission without recourse to taxation, provided that the commission shall have no power to pledge the full faith and credit of the federal government, either state or any local government thereof, or of Amtrak or the Port Authority of New York and New Jersey in connection with the project, or to impose any obligation for payment of the bonds upon the federal government, either state or any local government thereof, or of Amtrak or the Port Authority of New York and New Jersey, in each case except as set forth in a binding agreement, or to otherwise commit any party to incur any liability in excess of its contractual obligations in connection with the project, and provided further that neither the commissioners nor any person

executing any bonds issued or guaranteed by the Commission shall be liable personally on such bonds or be subject to any personal liability or accountability by reason of the issuance thereof;

(k) acquire and hold securities for investment purposes or in connection with the facilitation of the project;

(l) appoint, employ, contract with and compensate such officers, employees and agents, including engineers, attorneys, consultants, financial advisors and such other persons or entities as the business of the commission may require and to engage and dismiss such officers, employees and agents at will, and fix and provide for the qualification, appointment, removal, term, tenure, compensation, pension and retirement rights of its officers and employees;

(m) obtain insurance as the commission may deem advisable and to create a captive insurer to self-insure risk as deemed appropriate by the commission;

(n) cooperate with the federal government, the states of New Jersey and New York, with any local government thereof, with any agency, instrumentality, department, commission or authority of any one or more of the foregoing, any bi-state agency, Amtrak, any individual or private firm, entity or corporation, or with any one or more of them, in connection with the project, and to enter into an agreement or agreements, notwithstanding any other provision of law of the states, general, special, charter or local, with the federal government, with the states of New Jersey and New York, with any local government thereof, with any agency, instrumentality, department, commission or authority of any one or more of the foregoing, any bi-state agency, Amtrak, any individual or private firm, entity or corporation, or with any one or more of the same for or relating to the project;

(o) indemnify individuals and entities to the extent required to facilitate the project;

(p) establish or acquire subsidiaries as required to facilitate the project;

(q) utilize the existing labor force in the states and foster labor harmony in allowing for adoption of efficient labor work rules and practices during construction of the project; and

(r) exercise all other powers as may be necessary or appropriate in furtherance of, and consistent with, the purposes of this act.

8. Exemption from taxes, local laws. (a) The commission shall be performing essential governmental functions in exercising its powers and functions and in carrying out the provisions of this act and of any law relating thereto, and shall not be required to pay any taxes or assessments of any character, levied by either state or any local government thereof, upon any of the property used by it or its agents or contractors for the facilitation of the project, or any income or revenue therefrom, including any profit from a sale, lease or exchange, or in connection with the transfer thereof or of any real property interest therein. Any bonds or other securities or obligations issued by the commission, their transfer and the interest paid thereon or income therefrom, including any profit from a sale or exchange, shall at all times be free from taxation by either state or any subdivision thereof.

(b) The commission shall, as a matter of policy, conform to the enactments, ordinances, resolutions and regulations of the respective states and local governments where the project is located in regard to the construction and maintenance of the project and in regard to health and fire protection which would be applicable if the commission were a private corporation, to the extent that the commission finds it practi-

cable so to do, without interfering with, impairing or affecting the efficiency of its purposes under this act, or its ability to effectuate the project upon a self-supporting basis, or its obligations, duties and responsibilities to the two states, its bondholders, if any, and the general public, but the decision of the commission as to whether it is practicable so to do shall be controlling. To that end, the commission shall submit copies of plans and specifications for buildings and structures to the appropriate state and local government officials and shall consult with them with respect thereto, and shall receive their comments and suggestions thereon, but the commission shall make the final determination as to which comments and suggestions to accept in effectuating the project.

(c) The commission is hereby authorized and empowered, in its discretion, to enter into a voluntary agreement or agreements with any local government whereby the commission may undertake to pay in lieu of taxes a fair and reasonable sum, if any, annually in connection with any real property acquired and owned by the commission for any of the purposes of this act, and to provide for the payment as a rental or additional rental charge by any person occupying any portion of such real property as lessee, vendee or otherwise of such fair and reasonable sum, provided that in no event shall any voluntary agreement entered into by the commission provide for the payment of an amount in lieu of taxes in excess of the amount last paid as taxes upon such real property prior to the time of its acquisition by the commission.

(d) Notwithstanding any other provision of law, general, special, charter or local, each local government is hereby authorized and empowered to enter into such agreement or agreements with the commission, and to accept the payment or payments which the commission is hereby authorized and empowered to make, and the sums so received by such local government shall be devoted to purposes to which taxes may be applied in all affected taxing jurisdictions unless and until otherwise directed by law of the state in which such local government is located.

§ 3. Subdivisions 1, 2 and 3 of section 14-c of the transportation law, as added by chapter 639 of the laws of 1971, are amended to read as follows:

1. The department of transportation may cooperate and contract with the national railroad passenger corporation **or the gateway development commission** for any intercity rail passenger services deemed necessary, convenient or desirable by the commissioner, within the amounts available by appropriation therefor, as such services are made available pursuant to the provisions of the rail passenger service act of nineteen hundred seventy and any acts amendatory or supplemental thereto, subject to the approval of the director of the budget **or pursuant to reimbursement available from the gateway development commission, any railroad company, any other state or agency, the federal government, any public authority of this state or any other state or two or more states, or any political subdivision or municipality of the state**. Notwithstanding any inconsistent law, general, special or local, the commissioner, as funds are made available for the purposes hereof, is hereby empowered to contract with such corporation **or the gateway development commission** and to do all other things necessary, convenient or desirable on behalf of the state to secure the full benefits available under and pursuant to such act **and any other federal act which provides funding for intercity rail passenger services**, and to contract and do all other things necessary as hereinafter provided on behalf of the state to effect [~~the~~] **and facilitate** intercity rail passenger [~~service program~~] **services** which he

determines is necessary, convenient or desirable**; provided that activities with the gateway development commission shall be limited to those which advance the purposes described in the chapter of the laws of two thousand nineteen that created the gateway development commission and shall be contingent on the commissioner entering into an agreement with the gateway development commission, approved in accordance with the chapter of the laws of two thousand nineteen that created such commission**.

2. The commissioner shall coordinate the intercity rail passenger activities of the state and other interested public and private organizations and persons to effectuate the purposes of this section and shall have the responsibility for negotiating with the federal government with respect to intercity rail passenger service programs**, except to the extent responsibility is delegated by legislation to another agency, instrumentality, any public authority of this state or any other state or two or more states, or any political subdivision or municipality of the state for one or more of such activities**. The commissioner is authorized to enter into joint service agreements between the state and any railroad company, any other state department or agency, the federal government, the Canadian government, any other state, or agency or instrumentality thereof, any public authority of this state or any other state **or two or more states**, or any political subdivision or municipality of the state, relating to property, buildings, structures, facilities, services, rates, fares, classifications, dividends, allowances or charges (including charges between intercity rail passenger service facilities), or rules or regulations pertaining thereto, for or in connection with or incidental to transportation in part upon intercity rail passenger service facilities. Intercity rail passenger service facilities include the right of way and related trackage, rails, cars, locomotives, or other rolling stock, signal, power, fuel, communication and ventilation systems, power plants, stations, terminals, **tunnels,** storage yards, repair and maintenance shops, yards, equipment and parts, offices and other real estate or personnel used or held for or incidental to the operation, rehabilitation or improvement of any railroad operating intercity rail passenger service or to operate such service, including but not limited to buildings, structures, and rail property.

3. [~~The~~] **Notwithstanding any other provision of law, general, special, charter or local, the** commissioner may on such terms and conditions as he may determine necessary, convenient or desirable, establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any such intercity rail passenger service facility or any related services and activities, or may provide for such by contract, lease or other arrangement on such terms as the commissioner may deem necessary, convenient or desirable with any agency, corporation or person, including but not limited to any railroad company, any state agency, the federal government, the Canadian government, any other state or agency or instrumentality thereof, any public authority of this or any other state **or two or more states**, or any political subdivision or municipality of the state.

§ 4. Notwithstanding any other provision of law of New York or New Jersey, general, special, charter or local, each state and local government, any agency, instrumentality, department, commission or authority thereof and any bi-state agency are hereby authorized and empowered to cooperate with, aid and assist the commission in effectuating the provisions of this act, as it may be amended or supplemented hereafter.

§ 5. Upon the concurrence of the state of New Jersey, the states of New Jersey and New York consent to suits, actions or proceedings of any form or nature at law, in equity or otherwise including proceedings to enforce arbitration agreements, against the Gateway Development Commission, and to appeals therefrom and reviews thereof, except as hereinafter provided. The foregoing consent does not extend to (a) suits, actions or proceedings upon any causes of action whatsoever accruing before the effective date of this act; (b) suits, actions or proceedings upon any causes of action whatsoever, upon, in connection with, or arising out of any contract, express or implied, entered into or assumed by or assigned to the Gateway Development Commission before the effective date of this act (including any supplement to, or amendment, extension or renewal of any such contract, even if such supplement, amendment, extension or renewal is made on or after the effective date of this act), regardless of whether such cause of action accrued before or after that date; (c) civil suits, actions or proceedings for the recovery of statutory penalties; and (d) suits, actions or proceedings for judgments, orders or decrees restraining, enjoining or preventing the Gateway Development Commission from committing or continuing to commit any act or acts, other than suits, actions or proceedings by the attorney general of New Jersey or by the attorney general of New York, each of whom is hereby authorized to bring such suits, actions or proceedings in his or her discretion on behalf of any person or persons whatsoever who requests him or her to do so, except in the cases otherwise excluded by this act; provided, that in any such suit, action or proceeding, no judgment, order or decree shall be entered except upon at least two days' prior written notice to the Gateway Development Commission of the proposed entry thereof.

The Gateway Development Commission shall be immune from liability as though it were the state of New York, except to the extent that such immunity is waived by the state of New York under section 8 of the New York Court of Claims Act.

§ 6. Severability. (a) If any provision of this act or the application thereof to any person or circumstance is held invalid, including as not in accordance with federal law or federal constitutional requirements, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

(b) The provisions of this act, and the powers vested in the Gateway Development Commission, shall be liberally construed to give effect to the purposes of this act.

§ 7. (a) This act shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect with this act, but if the state of New Jersey shall have already enacted such legislation, this act shall take effect immediately; provided that the state of New Jersey shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law; and

(b) the Gateway Development Commission shall dissolve following a joint determination by the governors of New Jersey and New York that the transportation project has been completed or should be transferred to

another agency, instrumentality or entity and (i) any bonds or other securities issued and any other debt incurred for such project purposes have been repaid or arrangements have been made to ensure such repayment in full and (ii) Amtrak is not unduly prejudiced by such dissolution; provided that the Gateway Development Commission shall notify the legislative bill drafting commission upon the occurrence of the intended dissolution in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART EE

Section 1. The public authorities law is amended by adding a new section 1279-e to read as follows:

§ 1279-e. Assignment, transfer, sharing or consolidating powers, functions or activities. 1. Notwithstanding any provision of this title or any other provision of law, general, special or local, the authority may, in whole or in part, assign, transfer, share, or consolidate any one or more of its powers, duties, functions or activities or any department, division or office established therewith, or any of those of its subsidiaries, or affiliates or their subsidiaries, within or between itself, its subsidiaries or affiliates or their subidiaries, in a manner consistent with the provisions of this section.

2. Any such assignment, transfer, sharing, or consolidation pursuant to this section shall occur only if approved by resolution of the board of the authority, serving on behalf of the authority and any affected subsidiary or affiliate or their subsidiary, adopted by not less than a majority vote of the whole number of members of the authority then in office, with the chairman having one additional vote in the event of a tie vote.

3. Pursuant to this section, any such assigning, transferring, sharing, or consolidating of powers, duties, functions or activities shall not be authorized where it would impair any rights and remedies of any holders of notes, bonds or other obligations issued by or violate any duly executed labor agreements entered into by the authority, its subsidiaries, or affiliates or their subsidiaries.

§ 2. This act shall take effect immediately.

PART FF

Section 1. Paragraphs (b-1) and (c-3) of subdivision 2 of section 503 of the vehicle and traffic law, paragraph (b-1) as added by section 1 and paragraph (c-3) as added by section 2 of part A of chapter 25 of the laws of 2009, are amended to read as follows:

(b-1) Supplemental learner permit/license fee in the metropolitan commuter transportation district. (i) Upon passage of the knowledge test required to obtain a learner's permit, an applicant for a driver's license who resides in the metropolitan commuter transportation district established by section one thousand two hundred sixty-two of the public authorities law shall be required to pay a supplemental fee of one dollar for each six months or portion thereof of the period of validity of a learner's permit or license which is or may be issued pursuant to the provisions of subparagraph (i) or (ii) of paragraph (b) of this subdivision.

(ii) The commissioner shall deposit daily all funds collected pursuant to subparagraph (i) of this paragraph with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, [~~to the credit of the comptroller~~] **in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller**. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to subparagraph (i) of this paragraph during the prior month as a result of the supplemental fee imposed, including any interest and penalties thereon. The revenues so certified **over the prior three months in total** shall be [~~deposited by the state comptroller in the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established pursuant to section ninety-two-ff of the state finance law for deposit, subject to~~] **paid over by the fifteenth day of the last month of each calendar quarter from such account, without** appropriation, [~~in~~] **into** the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to this section that is deposited by the comptroller in the [~~metropolitan transportation authority aid trust account~~] **corporate transportation account** of the metropolitan transportation authority [~~financial~~] **special** assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

(c-3) (i) Supplemental renewal fee in the metropolitan commuter transportation district. In addition to the fees required to be paid pursuant to paragraph (c) of this subdivision, a supplemental fee of one dollar for each six months or portion thereof of the validity of the license shall be paid for renewal of a license of a person who resides in the metropolitan commuter transportation district established by section one thousand two hundred sixty-two of the public authorities law issued by the commissioner.

(ii) The commissioner shall deposit daily all funds collected pursuant to this paragraph with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, [~~to the credit of the comptroller~~] **in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller**. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to this paragraph during the prior month as a result of the supplemental fees imposed, including any interest and penalties thereon. The revenues so certified **over the prior three months in total** shall be [~~deposited by the state comptroller in the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established pursuant to section ninety-two-ff of the state finance law for deposit, subject to~~] **paid over by the fifteenth day of the last month of each calendar quarter from such account, without**

appropriation, [~~in~~] **into** the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to this section that is deposited by the comptroller in the [~~metropolitan transportation authority aid trust account~~] **corporate transportation account** of the metropolitan transportation authority [~~financial~~] **special** assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

§ 2. Section 499-d of the vehicle and traffic law, as added by section 1 of part B of chapter 25 of the laws of 2009, is amended to read as follows:

§ 499-d. Deposit and disposition of revenue from supplemental fee. The commissioner shall deposit daily all funds derived from the collection of the supplemental fee established pursuant to this article with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, [~~to the credit of the comptroller~~] **in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller**. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to this article during the prior month as a result of the supplemental fee imposed, including any interest and penalties thereon. The revenues so certified **over the prior three months in total** shall be [~~deposited by the state comptroller in the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established pursuant to section ninety-two-ff of the state finance law for deposit, subject to~~] **paid over by the fifteenth day of the last month of each calendar quarter from such account, without** appropriation, [~~in~~] **into** the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to this section that is deposited by the comptroller in the [~~metropolitan transportation authority aid trust account~~] **corporate transportation account** of the metropolitan transportation authority [~~financial~~] **special** assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

§ 3. Section 1288 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

§ 1288. Deposit and disposition of revenue. Notwithstanding any provision of law to the contrary: (a) All taxes, interest and penalties collected or received by the commissioner pursuant to this article shall be deposited daily with such responsible banks, banking houses or trust companies, as may be designated by the comptroller, [~~to the credit of the comptroller~~] **in trust for the credit of the metropolitan transporta-**

tion authority. [~~Such an~~] An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under this section, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds under this article. The commissioner is authorized and directed to deduct from such amounts collected or received under this article, before deposit into the accounts specified by the comptroller, a reasonable amount necessary to effectuate refunds of appropriations of the department to reimburse the department for the costs to administer, collect and distribute the taxes imposed by this article.

(b) On or before the twelfth day following the end of each month, after reserving such amount for such refunds and such costs, the commissioner shall certify to the comptroller the amount of all revenues so received pursuant to this article during the prior month as a result of the taxes, interest and penalties so imposed.

(c) [~~The~~] By the fifteenth day of the last month of each calendar quarter the comptroller shall pay over the amount of revenues from the prior three months in total so certified by the commissioner [~~to the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established by section ninety-two-ff of the state finance law for deposit, subject to~~], without appropriation, [~~in~~] into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law to be applied as provided in paragraph (e) of subdivision four of such section twelve hundred seventy-a. Any money collected pursuant to this article that is deposited by the comptroller in the [~~metropolitan transportation authority aid trust account~~] corporate transportation account of the metropolitan transportation authority [~~financial~~] special assistance fund shall be held in such fund free and clear of any claim by any person or entity paying the tax pursuant to this article, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

§ 4. Section 1167 of the tax law, as amended by section 3 of part F of chapter 25 of the laws of 2009, is amended to read as follows:

§ 1167. Deposit and disposition of revenue. 1. All taxes, interest and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter, except that after reserving amounts in accordance with such section one hundred seventy-one-a of this chapter, the remainder shall be paid by the comptroller to the credit of the highway and bridge trust fund established by section eighty-nine-b of the state finance law, provided, however, taxes, interest and penalties collected or received pursuant to section eleven hundred sixty-six-a of this article shall be [~~paid to the credit of the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established by section ninety-two-ff of the state finance law~~] deposited and disposed of pursuant to subdivision two of this section.

2. All taxes, interest, and penalties collected or received by the commissioner pursuant to section eleven hundred sixty-six-a of this

article shall be deposited daily with such responsible banks, banking houses or trust companies, as may be designated by the comptroller, in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits will be kept separate and apart from all other money in the possession of the comptroller. Of the total revenue collected or received under this article, the comptroller shall retain such amount as the commissioner may determine to be necessary for refunds under this article. On or before the twelfth day of each month, after reserving such amount for such refunds and deducting such amounts for such costs, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to this article during the prior month as a result of the tax imposed, including any interest and penalties thereon. The amount of revenues so certified over the prior three months in total shall be paid over by the fifteenth day of the last month of each calendar quarter from such account, without appropriation, into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section.

§ 5. Subdivision 3 and paragraph (a) of subdivision 6 of section 92-ff of the state finance law, subdivision 3 as amended by section 14 of part UU of chapter 59 of the laws of 2018 and paragraph (a) of subdivision 6 as added by section 1 of part G of chapter 25 of the laws of 2009, are amended to read as follows:

3. Such fund shall consist of all moneys collected therefor or credited or transferred thereto from any other fund, account or source[~~, including, without limitation, the revenues derived from the special supplemental tax on passenger car rentals imposed by section eleven hundred sixty-six-a of the tax law; revenues derived from the transportation surcharge imposed by article twenty-nine-A of the tax law; the supplemental registration fees imposed by article seventeen-C of the vehicle and traffic law; and the supplemental metropolitan commuter transportation district license fees imposed by section five hundred three of the vehicle and traffic law~~]. Any interest received by the comptroller on moneys on deposit in the metropolitan transportation authority financial assistance fund shall be retained in and become a part of such fund.

(a) The "metropolitan transportation authority aid trust account" shall consist of [~~revenues required to be deposited therein pursuant to the provisions of section eleven hundred sixty-six-a of the tax law; article twenty-nine-A of the tax law; article seventeen-C of the vehicle and traffic law; and section five hundred three of the vehicle and traffic law, and all other~~] moneys credited or transferred thereto from any other [~~fund or~~] source pursuant to law.

§ 6. Section 4 of the state finance law is amended by adding a new subdivision 13 to read as follows:

13. Notwithstanding subdivision one of this section and any other law to the contrary, the revenue (including fees, taxes, interest and penalties) from the metropolitan commuter transportation district supplemental fees and taxes imposed pursuant to paragraph (b-1) of subdivision two of section five hundred three of the vehicle and traffic law, paragraph (c-3) of subdivision two of section five hundred three of the vehicle and traffic law, article seventeen-C of the vehicle and traffic law, article twenty-nine-A of the tax law and section eleven hundred sixty-six-a of the tax law which are paid in accordance with subpara-

graph (ii) of paragraph (b-1) of subdivision two of section five hundred three of the vehicle and traffic law, subparagraph (ii) of paragraph (c-3) of subdivision two of section five hundred three of the vehicle and traffic law, section twelve hundred eighty-eight of the tax law and section eleven hundred sixty-seven of the tax law into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law shall be made pursuant to statute but without an appropriation.

§ 7. Subdivision 1 and paragraph (e) of subdivision 4 of section 1270-a of the public authorities law, subdivision 1 as amended by section 14 and paragraph (e) of subdivision 4 as added by section 15 of part H of chapter 25 of the laws of 2009, are amended to read as follows:

1. The authority shall create and establish a fund to be known as the "metropolitan transportation authority special assistance fund" which shall be kept separate from and shall not be commingled with any other moneys of the authority. The special assistance fund shall consist of three separate accounts: (i) the "transit account", (ii) the "commuter railroad account" and (iii) the "corporate transportation account".

The authority shall make deposits in the transit account and the commuter railroad account of the moneys received by it pursuant to the provisions of subdivision one of section two hundred sixty-one of the tax law in accordance with the provisions thereof, and shall make deposits in the corporate transportation account of the moneys received by it pursuant to the provisions of subdivision two of section two hundred sixty-one of the tax law and section ninety-two-ff of the state finance law. The comptroller shall deposit, without appropriation, into the corporate transportation account the revenue fees, taxes, interest and penalties collected in accordance with paragraph (b-1) of subdivision two of section five hundred three of the vehicle and traffic law, paragraph (c-3) of subdivision two of section five hundred three of the vehicle and traffic law, article seventeen-C of the vehicle and traffic law, article twenty-nine-A of the tax law and section eleven hundred sixty-six-a of the tax law.

(e) Notwithstanding the foregoing provisions of this subdivision, any moneys in the corporate transportation account that are received by the authority: (i) without appropriation pursuant to subdivision one of this section, or (ii) pursuant to the provisions of section ninety-two-ff of the state finance law may be pledged by the authority, or pledged to the Triborough bridge and tunnel authority, to secure bonds, notes or other obligations of the authority or the Triborough bridge and tunnel authority, as the case may be, and, if so pledged to the Triborough bridge and tunnel authority, shall be paid to the Triborough bridge and tunnel authority in such amounts and at such times as necessary to pay or to reimburse that authority for its payment of debt service and reserve requirements, if any, on that portion of special Triborough bridge and tunnel authority bonds and notes issued by that authority pursuant to section five hundred fifty-three-d of this chapter. Subject to the provisions of any such pledge, or in the event there is no such pledge, any moneys in the corporate transportation account received by the authority: (i) without appropriation pursuant to subdivision one of this section, or (ii) pursuant to the provisions of section ninety-two-ff of the state finance law may be used by the authority for payment of operating costs of, and capital costs, including debt service and reserve requirements, if any, of or for the authority, the New York city transit

authority and their subsidiaries as the authority shall determine. No moneys in the corporate transportation account that are reserved by the authority: (i) without appropriation pursuant to subdivision one of this section; or (ii) pursuant to the provisions of section ninety-two-ff of the state finance law may be used for making any payment to the Dutchess, Orange and Rockland fund created by section twelve hundred seventy-b of this title or considered in calculating the amounts required to be paid into such fund.

§ 8. This act shall take effect immediately.

PART GG

Section 1. Paragraph 5 of subdivision (c) and subdivision (e) of section 1111-c of the vehicle and traffic law, as amended by section 6 of part NNN of chapter 59 of the laws of 2018, are amended and a new subdivision (n) is added to read as follows:

5. "bus rapid transit program" shall mean [~~up to ten routes~~] any route designated by the New York city department of transportation in consultation with the applicable mass transit agency, in addition to the Bus Rapid Transit Phase I plan routes, that operate on designated bus lanes and that may include upgraded signage, enhanced road markings, minimum bus stop spacing, off-board fare payment, traffic signal priority for buses, and any other enhancement that increases bus speed or reliability.

(e) An owner liable for a violation of a bus lane restriction imposed on any route within a bus rapid transit program shall be liable for monetary penalties in accordance with a schedule of fines and penalties promulgated by the parking violations bureau of the city of New York; provided, however, that the monetary penalty for violating a bus lane restriction shall not exceed one hundred [~~fifteen~~] twenty-five dollars, one hundred fifty dollars for a second offense within a twelve-month period, two hundred dollars for a third offense within a twelve-month period, two hundred fifty dollars for a fourth offense within a twelve-month period, and three hundred fifty dollars for each subsequent offense within a twelve-month period; provided, further, that an owner shall be liable for an additional penalty not to exceed twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

(n) 1. Notwithstanding any other provision of law, in accordance with the provisions of this subdivision, the city of New York is hereby authorized and empowered to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with the applicable local laws and regulations of the city of New York relating to stopping, standing, parking and turning movements as defined herein, while operating a vehicle within the congestion toll zone or along designated bus corridors. The department of transportation of the city of New York and/or an applicable mass transit agency, shall operate photo devices that may be stationary or mobile and shall be activated at locations determined by such department of transportation and/or on buses selected by such department of transportation in consultation with the applicable mass transit agency. Locations of such photo devices shall be within the congestion toll zone in the borough of Manhattan or along designated bus corridors to be determined jointly by the department of transportation and the applicable mass transit agency.

2. Any image or images captured by photo devices shall be inadmissible in any disciplinary proceeding convened by the applicable mass transit

agency or any subsidiary thereof and any proceeding initiated by the department involving licensure privileges of bus operators. Any mobile bus lane photo device mounted on a bus shall be directed outwardly from such bus to capture images of vehicles operated in violation of the local laws relating to stopping, standing, parking and turning, or in violation of bus lane restrictions, and images produced by such device shall not be used for any other purpose in the absence of a court order requiring such images to be produced.

3. The city of New York shall adopt and enforce measures to protect the privacy of drivers, passengers, pedestrians and cyclists whose identity and identifying information may be captured by a photo device. Such measures shall include:

(i) utilization of necessary technologies to ensure, to the extent practicable, that images produced by such photo devices shall not include images that identify the driver, the passengers, or the contents of the vehicle, provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because an image allows for the identification of the driver, the passengers or other contents of a vehicle;

(ii) a prohibition on the use or dissemination of vehicles' license plate information and other information and images captured by photo devices except: (A) as required to establish liability under this section or collect payment of penalties; (B) as required by court order; (C) as required pursuant to a search warrant issued in accordance with the criminal procedure law or a subpoena; or (D) as otherwise required by law;

(iii) the installation of signage at regular intervals in the congestion toll zone and along the designated bus corridors stating that photo devices are used to enforce restrictions on stopping, standing, parking and turning movements; and

(iv) oversight procedures to ensure compliance with the aforementioned privacy protection measures.

4. Photo devices authorized by this subdivision shall only be operated from 6:00 a.m. to 10:00 p.m. Warning notices of violation will be issued during the first sixty days that photo device enforcement is active in the congestion toll zone or along a designated bus corridor.

5. The owner of a vehicle shall be liable for a penalty imposed pursuant to this subdivision if such vehicle was used or operated with the permission of the owner, express or implied, in violation of any applicable local law or regulation defined herein, while operated within the congestion toll zone or along a designated bus corridor, and such violation is evidenced by information obtained from a photo device; provided however that no owner of a vehicle shall be liable for a penalty imposed pursuant to this subdivision where the operator of such vehicle has been convicted of the underlying violation of such applicable local law or regulation.

6. For purposes of this subdivision the following terms shall have the following meanings:

(i) "owner" shall have the meaning provided in article two-B of this chapter.

(ii) "photo device" shall mean a device that is capable of operating independently of an enforcement officer and produces one or more images of each vehicle at the time it is in violation of an applicable local law or regulation.

(iii) "applicable local law or regulation" shall mean Chapter 4 of Title 34 of the Rules of the City of New York relating to stopping,

standing, parking, and turning movements, including but not limited to the following:

§ 4-08(f)(4) and § 4-12(m): General no standing zones, Bus lanes

§ 4-08(c)(3): Violation of posted no standing rules prohibited, Bus stop

§ 4-08(f)(1): General no standing zones, Double parking

§ 4-08(k)(2): Special rules for commercial vehicles, No standing except trucks loading and unloading

§ 4-08(a)(3): Standing prohibited

§ 4-07(b)(1) and § 4-08(e)(11): Stopping prohibited

§ 4-07(e)(4): General no stopping zones, Intersections

§ 4-08 (e)(5): General no stopping zones, Crosswalks

§ 4-08(e)(12: General no stopping zones, Obstructing traffic at intersection.

§ 4-05, § 4-07(h)(2): Turns

(iv) "congestion toll zone" shall include any roadways, bridges, tunnels or ramps that are located within, or enter into, the geographic area in the borough of Manhattan established pursuant to article forty-four-C of this chapter.

7. A certificate, sworn to or affirmed by a technician employed by the city in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a photo device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to this subdivision.

8. An owner liable for a violation shall be liable for monetary penalties in accordance with a schedule of fines and penalties promulgated by the parking violations bureau of the city of New York; provided, however, that the monetary penalty for a first offense of a provision of local law or regulation of the city of New York relating to stopping, standing, parking and turning movement violations pursuant to this subdivision shall not exceed one hundred twenty-five dollars, one hundred fifty dollars for a second offense within a twelve-month period, two hundred dollars for a third offense within a twelve-month period, two hundred fifty dollars for a fourth offense within a twelve-month period, and three hundred fifty dollars for each subsequent offense within a twelve-month period; and provided, further, that an owner shall be liable for an additional penalty not to exceed twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period set forth in the notice of violation.

9. An imposition of liability pursuant to this subdivision shall not be deemed a conviction of an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

10. (i) A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation under this section. Personal delivery to the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein.

(ii) A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation, the registration number of the vehicle involved in such violation, the location where such violation took place including the street address or cross

streets, one or more images identifying the violation, the date and time of such violation and the identification number of the photo device which recorded the violation or other document locator number.

(iii) The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

(iv) The notice of liability shall be prepared and mailed by the agency or agencies designated by the city of New York, or any other entity authorized by such city to prepare and mail such notification of violation.

11. Adjudication of the liability imposed upon owners by this section shall be by the New York city parking violations bureau.

12. If an owner of a vehicle receives a notice of liability pursuant to this subdivision for any time period during which such vehicle was reported to the police department as having been stolen, it shall be a valid defense to an allegation of liability that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the parking violations bureau of such city.

13. (i) An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to this subdivision shall not be liable for the violation of a local law or regulation defined herein, provided that:

(A) prior to the violation, the lessor has filed with such parking violations bureau in accordance with the provisions of section two hundred thirty-nine of this chapter; and

(B) within thirty-seven days after receiving notice from such bureau of the date and time of a liability, together with the other information contained in the original notice of liability, the lessor submits to such bureau the correct name and address of the lessee of the vehicle identified in the notice of liability at the time of such violation, together with such other additional information contained in the rental, lease or other contract document, as may be reasonably required by such bureau pursuant to regulations that may be promulgated for such purpose. Failure to timely submit such information shall render the lessor liable for the penalty prescribed in this subdivision.

(ii) Where the lessor complies with the provisions of clause (A) of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this subdivision, shall be subject to liability for such violation pursuant to this subdivision and shall be sent a notice of liability pursuant to paragraph ten of this subdivision.

14. If the owner liable for a violation was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

15. Nothing in this subdivision shall be construed to limit the liability of an operator of a vehicle for any violation of an applicable local law or regulation.

16. The city of New York and the applicable mass transit agency shall submit a report on the results of the use of photo devices to the gover-

nor, the temporary president of the senate and the speaker of the assembly by April first, within twelve months of operation of such photo devices and every two years thereafter. Such report shall include, but not be limited to:

(i) a description of the locations and/or buses where photo devices were used;

(ii) the total number of violations recorded on a monthly and annual basis;

(iii) the total number of notices of liability issued;

(iv) the number of fines and total amount of fines paid after the first notice of liability;

(v) the number of violations adjudicated and results of such adjudications including breakdowns of dispositions made;

(vi) the total amount of revenue realized by such city and any participating mass transit agency;

(vii) the quality of the adjudication process and its results;

(viii) the total number of cameras by type of camera; and

(ix) the total cost to the city and the total cost to any participating mass transit agency.

17. Any revenue from fines and penalties collected pursuant to this subdivision from mobile bus photo devices shall be remitted by the city of New York to the applicable mass transit agency on a quarterly basis to be deposited in the general transportation account of the New York city transportation assistance fund established pursuant to section twelve hundred seventy of the public authorities law.

§ 2. The opening paragraph of section 14 of part II of chapter 59 of the laws of 2010, amending the vehicle and traffic law and the public officers law relating to establishing a bus rapid transit demonstration program to restrict the use of bus lanes by means of bus lane photo devices, as amended by chapter 239 of the laws of 2015, is amended to read as follows:

This act shall take effect on the ninetieth day after it shall have become a law [~~and shall expire 10 years after such effective date when upon such date the provisions of this act shall be deemed repealed; and~~] provided that any rules and regulations related to this act shall be promulgated on or before such effective date, provided that:

§ 3. This act shall take effect immediately. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART HH

Section 1. Section 45 of chapter 929 of the laws of 1986 amending the tax law and other laws relating to the metropolitan transportation authority, as amended by chapter 63 of the laws of 2017, is amended to read as follows:

§ 45. This act shall take effect immediately; except that: (a) paragraph (d) of subdivision 3 of section 1263 of the public authorities law, as added by section twenty-six of this act, shall be deemed to have been in full force and effect on and after August 5, 1986; (b) sections thirty-three and thirty-four of this act shall not apply to a certified or recognized public employee organization which represents any public employees described in subdivision 16 of section 1204 of the public authorities law and such sections shall expire on July 1, [~~2019~~] 2021 and nothing contained within these sections shall be construed to divest

the public employment relations board or any court of competent jurisdiction of the full power or authority to enforce any order made by the board or such court prior to the effective date of this act; (c) the provisions of section thirty-five of this act shall expire on March 31, 1987; and (d) provided, however, the commissioner of taxation and finance shall have the power to enforce the provisions of sections two through nine of this act beyond December 31, 1990 to enable such commissioner to collect any liabilities incurred prior to January 1, 1991.

§ 2. This act shall take effect immediately.

PART II

Section 1. Subdivisions 3 and 11 of section 120.05 of the penal law, subdivision 3 as amended by chapter 267 of the laws of 2016 and subdivision 11 as separately amended by chapters 268 and 281 of the laws of 2016, are amended to read as follows:

3. With intent to prevent a peace officer, a police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, a firefighter, including a firefighter acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such firefighter, an emergency medical service paramedic or emergency medical service technician, or medical or related personnel in a hospital emergency department, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer, traffic enforcement agent**, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law,** or employee of any entity governed by the public service law in the course of performing an essential service, from performing a lawful duty, by means including releasing or failing to control an animal under circumstances evincing the actor's intent that the animal obstruct the lawful activity of such peace officer, police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, firefighter, paramedic, technician, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement agent**, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law,** or employee of an entity governed by the public service law, he or she causes physical injury to such peace officer, police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, firefighter, paramedic, technician or medical or related personnel in a hospital emergency department, city marshal, school crossing guard, traffic enforcement officer, traffic enforcement agent**, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier**

investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, or employee of an entity governed by the public service law; or

11. With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner [~~or~~], terminal cleaner, station customer assistant, person whose official duties include the sale or collection of tickets, passes, vouchers or other fare payment media for use on a train or bus, person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of a transit signal system, elevated or underground subway tracks, transit station structure, train yard, revenue train in passenger service, or a train or bus station or terminal, or a supervisor of such personnel employed by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer, traffic enforcement agent, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, sanitation enforcement agent, New York city sanitation worker, public health sanitarian, New York city public health sanitarian, registered nurse, licensed practical nurse, emergency medical service paramedic, or emergency medical service technician, he or she causes physical injury to such train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner [~~or~~], terminal cleaner, station customer assistant, person whose official duties include the sale or collection of tickets, passes, vouchers or other fare payment media for use on a train or bus, person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of a transit signal system, elevated or underground subway tracks, transit station structure, train yard, revenue train in passenger service, or a train or bus station or terminal, or a supervisor of such personnel, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement agent, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, or emergency medical service technician, while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus, [~~including the cleaning of a train or bus station or terminal~~] cleaning of a train or bus station or terminal or maintenance of a train or bus station or terminal, signal system, elevated or underground subway tracks, transit station structure, train yard or revenue train in passenger service, or such city marshal, school crossing guard, traffic enforcement officer, traffic enforcement agent, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, prose-

cutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, or emergency medical service technician is performing an assigned duty; or

§ 2. The vehicle and traffic law is amended by adding two new sections 118-a and 118-b to read as follows:

§ 118-a. Highway worker. Any person employed by or on behalf of the state, a county, city, town or village, a public authority, a local authority, or a public utility company, or the agent or contractor of any such entity, who has been assigned to perform work on a highway, including maintenance, repair, flagging, utility work, construction, reconstruction or operation of equipment on public highway infrastructure and associated rights-of-way in highway work areas, and shall also include any flagperson as defined in section one hundred fifteen-b of this article.

§ 118-b. Motor vehicle inspector and motor carrier investigator. Any person employed by the New York State department of transportation who has been assigned to perform inspections of any motor vehicles or investigation of any carriers regulated by the commissioner of transportation.

§ 3. The vehicle and traffic law is amended by adding a new section 1221-a to read as follows:

§ 1221-a. Intrusion into an active work zone. 1. No driver of a vehicle shall enter or intrude into an active work zone except upon direction from a flagperson, police officer or other visibly designated person in charge of traffic control or direction from a traffic control device regulating entry therein. For purposes of this section, the term "active work zone" shall mean the physical area of a highway, street or private road on which construction, maintenance or utility work is being conducted, which area is marked by any signs, channeling devices, barriers, pavement markings, or work vehicles, and where workers are physically present.

2. A violation of subdivision one of this section shall constitute a class B misdemeanor punishable by a fine of not less than two hundred fifty dollars nor more than five hundred dollars, or by a period of imprisonment not to exceed three months, or by both such fine and imprisonment.

§ 4. The vehicle and traffic law is amended by adding a new section 1221-b to read as follows:

§ 1221-b. Work zone safety and outreach. The governor's traffic safety committee, upon consultation with the commissioner of transportation, the superintendent of state police, the commissioner, the chairman of the New York state thruway authority, local law enforcement agencies, and representatives for contractors and laborers, shall design and implement a public education and outreach program to increase motorist awareness of the importance of highway work zone safety, to reduce the number of work zone incidents, including speeding, unauthorized intrusions into work zones, and any conduct resulting in threats or injuries to highway workers, and to increase and promote work zone safety.

§ 5. Section 120.05 of the penal law is amended by adding a new subdivision 11-d to read as follows:

11-d. With intent to cause physical injury to a terminal cleaner, cabin cleaner, facilities cleaner, wheelchair assist employee, baggage handler, skycap, ticket agent, customer services employee, security

guard, queue management employee, shuttle bus driver, or any employee whose duties require him or her to work on the tarmac, employed by any airport, airport authority or company, public or private, that performs such services at an airport, he or she causes physical injury to such terminal cleaner, cabin cleaner, facilities cleaner, wheelchair assist employee, baggage handler, skycap, ticket agent, customer services employee, security guard, queue management employee, shuttle bus driver, or any employee whose duties require him or her to work on the tarmac, while such employee is performing an assigned duty of, or directly related to, such services at an airport in the state of New York; or

§ 6. This act shall take effect immediately.

PART JJ

Section 1. The public authorities law is amended by adding a new section 2985-a to read as follows:

§ 2985-a. Payment of tolls under the Tolls by Mail program. 1. For purposes of this section the following terms shall have the following meanings:

(a) "cashless tolling facility" shall mean a toll highway, bridge or tunnel facility that does not provide for the immediate on-site payment in cash of a toll owed for the use of such facility;

(b) "owner" shall mean any person, corporation, partnership, firm, agency, association, lessor or organization who, at the time of incurring an obligation to pay a toll at a cashless tolling facility, and with respect to the vehicle identified in the toll bill or notice of violation: (i) is the beneficial or equitable owner of such vehicle; or (ii) has title to such vehicle; or (iii) the registrant or co-registrant of such vehicle which is registered with the department of motor vehicles of this state or any other state, territory, district, province, nation or other jurisdiction; or (iv) is subject to the limitations set forth in subdivision ten of section twenty-nine hundred eighty-five of this title, uses such vehicle in its vehicle renting and/or leasing business; or (v) is a person entitled to the use and possession of a vehicle subject to a security interest in another person;

(c) "toll bill" shall mean a notice sent to an owner notifying such owner that the owner's vehicle has been used or operated in or upon a cashless tolling facility and the owner has incurred an obligation to pay a toll;

(d) "notice of violation" shall mean a notice sent to an owner notifying such owner that a toll incurred at a cashless tolling facility by the owner has not been paid at the place and time and in the manner established for collection of such toll in the toll bill and that an administrative violation fee is being imposed for each such unpaid toll;

(e) "billing cycle" shall mean a period not to exceed thirty calendar days for purposes of consolidated toll billing;

(f) "initial billing cycle" shall mean a period not to exceed fifteen calendar days after identifying the owner or other party responsible for paying the toll for the purpose of consolidated toll billing for an obligation to pay a toll for the first time at a cashless tolling facility in a six-month period; and

(g) "tolls by mail program" shall mean any program operated by or on behalf of a public authority to send a toll bill to an owner whose vehicle crosses a cashless tolling facility without an electronic device that successfully transmits information through an electronic toll

collection system as defined in subdivision twelve of section twenty-nine hundred eighty-five of this title.

2. In the case of an owner who incurs an obligation to pay a toll under the Tolls by Mail program at a cashless tolling facility, a toll bill shall be sent within six calendar days of the end of the initial billing cycle and each subsequent billing cycle. Unless the owner consents to have toll bills sent by electronic means of communication, toll bills shall be sent to the owner by first class mail by or on behalf of the public authority which operates such cashless tolling facility. The owner shall have thirty days from the date of the toll bill to pay the incurred toll. The toll bill shall include: (i) the total amount of the incurred tolls due, (ii) the date by which payment of the incurred tolls is due, (iii) an image of the license plate of the vehicle being used or operated on the toll facility, (iv) notice of how to dispute the tolls and the grounds for doing so, and (v) any other information required by law or by the public authority. Each toll bill shall identify the date, time, location, license plate number, and state, territory, district, province, nation or other jurisdiction of the license plate for each toll that has been incurred.

3. Any toll bill required to be sent pursuant to this section by first class mail may instead be sent, with consent, by electronic means of communication by or on behalf of the public authority, which consent can be revoked at any time by the owner with notice to the public authority or its agent. Such consent shall be deemed to be revoked when any toll bill is unable to be delivered by electronic means of communication. It shall be the sole responsibility of the owner to update the address used for electronic means of communication to the owner. A manual or automatic record of electronic communications prepared in the ordinary course of business shall be adequate record of electronic notice.

4. In the case of an owner who does not pay a toll incurred under the Tolls by Mail program on a cashless facility at the place and time and in the manner established for collection of such toll in the toll bill, a notice of violation shall be sent notifying the owner that the toll is unpaid and an administrative violation fee is being imposed for each such unpaid toll. The notice of violation shall be sent to the owner by first class mail by or on behalf of the public authority which operates such cashless tolling facility to an address supplied by the applicable department of motor vehicles, the United States Postal Service National Change of Address Service or the owner. The notice of violation shall include: (i) the total amount of unpaid tolls and administrative violation fees due, (ii) the date by which payment of the tolls and administrative violation fees is due, and (iii) any other information required by law or by the public authority. Each notice of violation shall identify the date, time, location, license plate number, and state, territory, district, province, nation or other jurisdiction of the license plate for each unpaid toll that has been incurred.

5. Nothing in this section shall prohibit a public authority from collecting any toll, fee, or penalty in the event that an owner does not properly register a vehicle pursuant to the laws, rules and regulations of this state, or any other state, territory, district, province, nation or other jurisdiction.

6. Any owner or responsible party who incurs an obligation to pay a toll under the Tolls by Mail program at a public authority's cashless tolling facility shall have an option to receive text message or electronic mail alerts that a toll has been incurred. Such alerts shall be provided to the owner no more than seventy-two hours after the owner or

responsible party is identified. Each public authority shall create an online registration for text message or electronic mail alerts that a toll has been incurred under the Tolls by Mail program at a cashless tolling facility. In the event an owner chooses to receive text message or electronic mail alerts of a toll incurred, it shall be the owner's sole responsibility to provide and then update any mobile numbers and any electronic mail addresses to which alerts are sent. A manual or automatic record of electronic communications prepared in the ordinary course of business shall be adequate record of electronic notice.

7. Any public authority that operates a cashless tolling facility shall maintain a website and toll-free phone number for any person to receive updated information on any tolls or fees which are outstanding. Such website and phone number shall be included on any toll bill or notice of violation sent by or on behalf of a public authority.

8. Any public authority which operates a cashless tolling facility shall establish procedures for owners to dispute any tolls and violation fees incurred in connection with toll bills. Such procedures shall be prominently displayed on such public authority's toll bills, notices of violation and website.

9. Any public authority which operates a cashless tolling facility shall conspicuously and prominently display the amount of tolls for passenger vehicles and violation fees at that facility on signage of a reasonable size in a manner reasonably calculated to provide ample and adequate notice.

10. Nothing in this section shall require a public authority to perform any action or forebear from performing an action that would in the public authority's sole discretion impair any covenant with the holders of any of the public authority's bonds, notes or other obligations.

11. This section shall not apply to the payment of the tolls by means of an electronic toll device that transmits information through an electronic toll collection system as defined in subdivision twelve of section twenty-nine hundred eighty-five of this title.

12. Every public authority which operates a cashless tolling facility shall undertake a public awareness campaign regarding the use of and process involved with the payment of tolls under the Tolls by Mail program at cashless tolling facilities. Each public authority shall provide for sufficient methods to obtain an electronic device for the charging of tolls through an electronic toll collection system as defined in subdivision twelve of section twenty-nine hundred eighty-five of this title, including, in the New York state thruway authority's discretion, making such devices available at service areas owned or operated by the thruway authority.

§ 2. This act shall take effect immediately.

PART KK

Section 1. Paragraph (a) of subdivision 17 of section 1005 of the public authorities law, as amended by chapter 494 of the laws of 2011, is amended to read as follows:

(a) As deemed feasible and advisable by the trustees, to (i) finance [~~and~~], design, develop, construct, implement, provide and administer energy-related projects, programs and services for itself, for any other public entity, any independent not-for-profit institution of higher education within the state, [~~and~~] any recipient of [~~the~~] economic development power, expansion power, replacement power, preservation power,

high load factor power, municipal distribution agency power, [~~power for jobs, and~~] or recharge New York power [~~programs administered~~] allocated by the authority and any party located within the state under contract with the authority to purchase power from the authority pursuant to this title or any other law, and (ii) provide energy supply services for any public entity. In establishing and providing high performance and sustainable building programs and services authorized by this subdivision, the authority is authorized to consult standards, guidelines, rating systems, and/or criteria established or adopted by other organizations, including but not limited to the United States green building council under its leadership in energy and environmental design (LEED) programs, the green building initiative's green globes rating system, and the American National Standards Institute. The source of any financing and/or loans provided by the authority for the purposes of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

§ 2. Subparagraphs 2 and 3 of paragraph (b) of subdivision 17 of section 1005 of the public authorities law, as added by chapter 477 of the laws of 2009 and such subdivision as renumbered by section 16 of part CC of chapter 60 of the laws of 2011, are amended to read as follows:

(2) "Energy-related projects, programs and services" means projects, programs and services related to energy efficiency and conservation [~~projects and services~~], energy management, energy supply reliability, clean energy technology [~~projects and services~~], and high performance and sustainable building [~~programs and services~~], and the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services.

(3) "Energy services contract" or "contract" means a contract pursuant to which the authority provides energy-related projects, programs and services or energy supply services.

§ 3. Paragraph (b) of subdivision 17 of section 1005 of the public authorities law is amended by adding a new subparagraph 2-a to read as follows:

(2-a) "Energy supply services" means services pursuant to which the authority supplies energy, power and/or related credits or attributes to a public entity, and includes the supply of any such energy products for the purpose of meeting the energy-related needs of any municipal corporation and/or the residents of a municipal corporation under a community choice aggregation program approved by the public service commission.

§ 4. Paragraph (c) of subdivision 17 of section 1005 of the public authorities law, as added by chapter 477 of the laws of 2009 and such subdivision as renumbered by section 16 of part CC of chapter 60 of the laws of 2011, is amended to read as follows:

(c) Any public entity is authorized to [~~enter into an energy services~~] contract with the authority for energy-related projects, programs and services and contract with the authority for energy supply services that are authorized by this subdivision, provided that (i) the authority issues and advertises written requests for proposals from third party providers of goods and services in accordance with the authority's procurement policies, procedures and/or guidelines, and (ii) the authority shall not contract with a third party provider of goods and services if such person is listed on a debarment list maintained and published in accordance with New York law, as being ineligible to submit a bid on or

be awarded any public contract or subcontract with the state, any municipal corporation or public body. **For the purpose of meeting the energy needs of any municipal corporation and its residents under a community choice aggregation program approved by the public service commission, the authority is authorized to contract with any entity that has entered into a written agreement with such municipal corporation to administer a community choice aggregation program or to procure energy or related products for such municipal corporation and/or its residents under the community choice aggregation program.**

§ 5. Subparagraph (i) of paragraph (d) of subdivision 17 of section 1005 of the public authorities law, as added by chapter 477 of the laws of 2009 and such subdivision as renumbered by section 16 of part CC of chapter 60 of the laws of 2011, is amended to read as follows:

(d)(i) Notwithstanding any other provision of law to the contrary, any energy services contract entered into by the authority with any public entity: (1) may have a term of up to thirty-five years duration, provided, however, that the duration of any such contract shall not exceed the reasonably expected useful life of any facilities or equipment constructed, installed or operated as part of such energy-related projects, programs and services subject to such contract; and (2) **in the case of an energy services contract with any municipal corporation or agency,** shall contain the following clause: "This contract shall be deemed executory only to the extent of the monies appropriated and available for the purpose of the contract, and no liability on account therefor shall be incurred beyond the amount of such monies. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the contract." A school district or board of cooperative educational services may only enter into an energy services contract with the authority for such maximum term as is prescribed in the regulations promulgated by the commissioner of education or the useful life of the facilities or equipment being constructed, installed or operated, whichever is less.

§ 6. Section 1005 of the public authorities law is amended by adding a new subdivision 9-a to read as follows:

9-a. To design, finance, develop, construct, install, lease, operate and maintain electric vehicle charging stations throughout the state for use by the public.

§ 7. This act shall take effect immediately.

PART LL

Section 1. Section 1005 of the public authorities law is amended by adding a new subdivision 26 to read as follows:

26. (a) The authority is authorized, as deemed feasible and advisable by the trustees, to plan, finance, construct, acquire, operate, improve and maintain, either alone or jointly with one or more other entities, transmission facilities for the purpose of transmitting power and energy generated by renewable generation projects that are located in whole or in part outside state jurisdictional waters which supplies electric power and energy to the state of New York that the authority deems necessary and desirable in order to: (i) provide, support and maintain an adequate and reliable supply of electric power and energy in the state of New York, and/or (ii) assist the state in meeting state energy-related goals and standards.

(b) The source of any financing and/or loans provided by the authority for any of the actions authorized in paragraph (a) of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

§ 2. Section 1005 of the public authorities law is amended by adding a new subdivision 27 to read as follows:

27. (a) Notwithstanding any other provision of this title, as deemed feasible and advisable by the trustees, the authority is authorized to undertake the following actions when it deems it necessary or desirable to address the energy-related needs of any (i) authority customer, (ii) public entity, or (iii) CCA community:

(1) supply power, energy, or related credits or attributes procured through a competitive process, from competitive market sources, or through negotiation on terms and conditions determined by the authority to be reasonable, to any authority customer, public entity, or CCA community; and

(2) (A) alone or jointly with one or more other entities, finance the development of renewable energy generating projects that are located in the state, including its territorial waters, and/or on property or in waters under the jurisdiction or regulatory authority of the United States, (B) purchase power, energy or related credits or attributes produced from such renewable energy generating projects, and (C) allocate and sell any such products to any authority customer, to any public entity, and, for the purpose of meeting the energy-related needs of any CCA community, to any municipal corporation that supplies electricity to a CCA community or any other entity that has entered into a written agreement with a CCA community to administer a CCA program or supply electricity to a CCA community.

(b) Any public entity is hereby authorized to contract with the authority for the purchase of power, energy, or related credits or attributes which the authority is authorized to supply under paragraph (a) of this subdivision.

(c) The source of any financing and/or loans provided by the authority for any of the actions authorized in paragraph (a) of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

(d) The authority shall complete and submit a report, on or before January thirty-first, two thousand twenty, and annually thereafter on those actions undertaken pursuant to this subdivision to the governor, the speaker of the assembly, the temporary president of the senate, the chair of the assembly ways and means committee, the chair of the senate finance committee, the chair of the assembly energy committee and the chair of the senate energy and telecommunications committee. Such report, at a minimum, shall include: (i) a description of all renewable energy generating projects developed in connection with the authorization provided in this subdivision, including the total number of projects developed, the renewable energy resource for each project, the location of each project, and the nameplate generating capacity of each project; (ii) identification of all public entities that have purchased renewable power, energy, or related credits or attributes from the authority that are derived from renewable energy generating projects developed in connection with the authorization provided in this subdivision, including the projects from which such products were derived; (iii) identification of all authority customers that have purchased

renewable power, energy, or related credits or attributes from the authority that are derived from renewable energy generating projects developed in connection with the authorization provided in this subdivision, including the projects from which such products were derived; and (iv) the aggregate amount of increased renewable power and energy generation developed in connection with the authorization in this subdivision.

(e) For purposes of this subdivision, the following terms shall have the meanings indicated in this paragraph unless the context indicates another meaning or intent:

(i) "Authority customer" means an entity located in the state to which the authority sells or is under contract to sell power or energy under the authority in this title or any other law.

(ii) "CCA community" means one or more municipal corporations located within the state that have provided for the purchase of power, energy, or related credits or other attributes under a CCA program.

(iii) "CCA program" means a community choice aggregation program approved by the public service commission.

(iv) "Public entity" has the meaning ascribed to that term by subparagraph five of paragraph (b) of subdivision seventeen of this section.

(v) "Renewable energy resources" means solar power, wind power, hydroelectric, and any other generation resource authorized by any renewable energy standard adopted by the state for the purpose of implementing any state clean energy standard.

(vi) "Renewable energy generating project" means a project that generates power and energy by means of renewable energy resources, or that stores and supplies power and energy generated by means of renewable energy resources, and includes the construction, installation and/or operation of ancillary facilities or equipment done in connection with any such renewable energy generating projects, provided, however, that such term shall not include the authority's Saint Lawrence hydroelectric project or Niagara hydroelectric project.

(vii) "State" means the state of New York.

§ 3. Nothing in this act is intended to limit, impair, or affect the legal authority of the Power Authority of the State of New York under any other provision of this title.

§ 4. This act shall take effect immediately.

PART MM

Section 1. The state finance law is amended by adding a new section 99-ff to read as follows:

§ 99-ff. Parks retail stores fund. 1. Notwithstanding sections eight, eight-a and seventy of this chapter and any other provision of law, rule, regulation or practice to the contrary, there is hereby established in the joint custody of the state comptroller and the commissioner of tax and finance a parks retail stores fund, which shall be classified by the state comptroller as an enterprise fund, and which shall consist of all moneys received from private entities and individuals from retail operations at state parks, recreational facilities and historic sites operated by the office of parks, recreation and historic preservation.

2. Moneys within the parks retail stores fund shall be made available to the commissioner of parks, recreation and historic preservation for services and expenses relating to the operation of retail stores and in

support of the sale of retail goods at state parks, recreational facilities and historic sites.

§ 2. The state finance law is amended by adding a new section 99-gg to read as follows:

§ 99-gg. Golf fund. 1. Notwithstanding sections eight, eight-a and seventy of this chapter and any other provision of law, rule, regulation or practice to the contrary, there is hereby established in the joint custody of the state comptroller and the commissioner of tax and finance a golf fund, which shall be classified by the state comptroller as an enterprise fund, and which shall consist of all moneys collected from private entities and individuals for the use of state-owned golf courses, any other miscellaneous fees associated with the use of such golf courses, and sale of retail goods and services at state owned golf courses.

2. Moneys within the golf fund shall be made available to the commissioner of parks, recreation and historic preservation for services and expenses of the office of parks, recreation and historic preservation relating to the direct maintenance and operation of state owned golf courses, and in support of the sale of retail goods and services at state owned golf courses.

§ 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2019.

PART NN

Section 1. Subdivision 7 of section 2611 of the public authorities law, as amended by section 3 of part C of chapter 60 of the laws of 2012, is amended to read as follows:

7. To enter into contracts, leases and subleases and to execute all instruments necessary or convenient for the conduct of authority business, including agreements with the park district and any state agency which administers, owns or supervises any olympic facility or Belleayre Mountain ski center, as provided in sections twenty-six hundred twelve and twenty-six hundred fourteen of this title, and including contracts or other agreements to plan, prepare for and host olympic or other national or international games or events where such contracts or agreements would obligate the authority to defend, indemnify and/or insure third parties in connection with, arising out of, or relating to such games or events, such authority to be limited by the amount of any lawful appropriation for that purpose. With respect to the two thousand twenty-three world university games, the amount of such appropriation shall be no less than sixteen million dollars;

§ 2. This act shall take effect immediately.

PART OO

Section 1. Clauses 6 and 7 of subparagraph (B) of paragraph (i) of subdivision (b) of section 349-g of the highway law, as added by chapter 78 of the laws of 2018, are amended to read as follows:

6. Within the waters of Flushing Bay South 45°-38'-00" East, a distance of 1092.05' to a point in the waters of Flushing Bay, said point also being the westerly line of Tax Map Lot 65 Block [~~789~~] 1789, thence;

7. Along the westerly line of same South 05°-02'-52" East, a distance of 456.35' to a point in the westerly line of Tax Map Lot 65 Block [~~789~~] 1789, thence;

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after chapter 78 of the laws of 2018 took effect; and, provided, however, that the amendments made to section 349-g of the social services law by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through OO of this act shall be as specifically set forth in the last section of such Parts.