

STATE OF NEW YORK

1508--B

IN SENATE

January 18, 2019

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

AN ACT to amend the public authorities law, in relation to clarifying the dormitory authority's authorization to finance certain health care facilities (Part A); to amend chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements, in relation to extending the effectiveness of such authorization (Part B); to amend the public authorities law, in relation to the transfer and conveyance of certain real property (Part C); to amend chapter 60 of the laws of 2015, constituting the infrastructure investment act, in relation to project delivery and extending the effectiveness thereof; and to amend chapter 59 of the laws of 2018, constituting the New York city BQE Design-Build act, in relation to public work authorization and extending the effectiveness thereof and repealing certain provisions of such chapter relating thereto (Part D); to amend the environmental conservation law, in relation to waste tire management and recycling fees (Part E); intentionally omitted (Part F); intentionally omitted (Part G); to amend the environmental conservation law, the alcoholic beverage control law and the state finance law, in relation to establishing guidelines for carryout bag waste reduction (Part H); intentionally omitted (Part I); to amend the environmental conservation law, in relation to freshwater wetlands maps and tidal wetlands boundary maps (Part J); to amend the environmental conservation law and the public health law, in relation to the disclosure of cleansing products, labeling of consumer products, and requiring manufacturer disclosure of the ingredients in personal care products (Part K); to amend the banking law, in relation to student loan servicers (Part L); to amend part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, in relation to the submission of reports and in relation to extending the effectiveness thereof; to authorize the commissioner of motor vehicles to approve demonstrations and tests consisting of the

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

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operation of motor vehicles equipped with autonomous vehicle technology; and to amend the vehicle and traffic law, in relation to permitting a driver to not have a hand on the steering mechanism of a vehicle while a driving automation system is engaged (Part M); to amend chapter 713 of the laws of 1988, amending the vehicle and traffic law relating to the ignition interlock device program, in relation to extending the provisions thereof (Part N); to amend chapter 166 of the laws of 1991, amending the tax law and other laws relating to taxes, in relation to extending the expiration of certain provisions of such chapter and to amend the vehicle and traffic law, in relation to extending the expiration of the mandatory surcharge and victim assistance fee (Part O); intentionally omitted (Part P); intentionally omitted (Part Q); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending the effectiveness thereof (Part R); intentionally omitted (Part S); to amend the transportation law, in relation to authorizing the commissioner of transportation to charge and collect a fee for the inspection or reinspection of certain for-hire motor vehicles; and to amend the vehicle and traffic law, in relation to passengers in front seat of a motor vehicle (Part T); authorizing utility and cable television assessments to provide funds to the department of health from cable television assessment revenues and to the departments of agriculture and markets, environmental conservation, office of parks, recreation and historic preservation; and providing for the repeal of certain provisions upon expiration thereof (Part U); to amend the public service law and the state finance law, in relation to requiring state agencies and authorities to enter contracts only with service providers that adhere to net neutrality principles (Part V); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY programs, as well as the department of environmental conservation's climate change program and the department of agriculture and markets' Fuel NY program, from an assessment on gas and electric corporations (Part W); intentionally omitted (Part X); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part Y); to amend the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part Z); to amend the executive law, the public buildings law, the state finance law, and the public authorities law, in relation to the reauthorization of the minority and women-owned business enterprise program and to amend chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure trust fund, in relation to the effectiveness thereof; and providing for the repeal of certain provisions upon expiration thereof (Part AA); intentionally omitted (Part BB); intentionally omitted (Part CC); establishing the "Gateway Development Commission Act"; and to amend the transportation law, in relation to creating the gateway development commission (Part DD); to amend the public authorities law, in relation to directing the metropolitan transportation authority to contract for the provision of an independent forensic audit of such authority; and providing for the

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

(Part UU); and to amend the transportation law, in relation to requiring the department of transportation to maintain a website or webpage where users may report defects on state highways and bridges (Part VV)

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

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

12 PART A

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

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

21 § 2. This act shall take effect immediately.

22 PART B

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

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

30 § 2. Within 90 days of the effective date of this act, the dormitory
31 authority of the state of New York shall provide a report providing
32 information regarding any project undertaken pursuant to a design and
33 construction management agreement, as authorized by part BB of chapter
34 58 of the laws of 2012, between the dormitory authority of the state of
35 New York and the department of environmental conservation and/or the
36 office of parks, recreation and historic preservation to the governor,
37 the temporary president of the senate and speaker of the assembly. Such
38 report shall include but not be limited to a description of each such
39 project, the project identification number of each such project, if
40 applicable, the projected date of completion, the status of the project,
41 the total cost or projected cost of each such project, and the location,
42 including the names of any county, town, village or city, where each
43 such project is located or proposed. In addition, such a report shall be
44 provided to the aforementioned parties by the first day of March of each

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

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

PART C

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

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

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

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

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

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

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

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

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

PART D

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

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

§ 2. Intentionally omitted.

§ 3. Intentionally omitted.

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

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

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

4 Notwithstanding any provision of law to the contrary, all rights or
5 benefits, including terms and conditions of employment, and protection
6 of civil service and collective bargaining status of all existing
7 employees of authorized state entities solely in connection with the
8 authorized projects listed above, shall be preserved and protected.

9 Nothing in this section shall result in the: (1) displacement of any
10 currently employed worker or loss of position (including partial
11 displacement such as a reduction in the hours of non-overtime work,
12 wages, or employment benefits) or result in the impairment of existing
13 collective bargaining agreements; and (2) transfer of existing duties
14 and functions related to maintenance and operations currently performed
15 by existing employees of authorized state entities to a contracting
16 entity. Nothing contained herein shall be construed to affect (A) the
17 existing rights of employees pursuant to an existing collective bargain-
18 ing agreement, and (B) the existing representational relationships among
19 employee organizations or the bargaining relationships between the
20 employer and an employee organization.

21 § 5. Intentionally omitted.

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

24 § 7. If otherwise applicable, capital projects undertaken by the
25 authorized state entity pursuant to this act shall be subject to section
26 135 of the state finance law and section 222 of the labor law. A
27 project labor agreement, as defined in section 222 of the labor law,
28 shall be included in the request for proposals for the project, provided
29 that, based upon a study done by or for the authorized state entity, the
30 authorized state entity determines that its interest in obtaining the
31 best work at the lowest possible price, preventing favoritism, fraud,
32 and corruption, and other considerations such as the impact of delay,
33 the possibility of cost savings advantages, and any local history of
34 labor unrest, are best met by requiring a project labor agreement. The
35 authorized entity shall contract for an independent study to determine
36 the feasibility of a project labor agreement. If a project agreement is
37 not utilized on the project, then the authorized state entity shall not
38 utilize a design-build contract for the project.

39 § 6-a. Section 6 of part F of chapter 60 of the laws of 2015, consti-
40 tuting the infrastructure investment act, is amended to read as follows:

41 § 6. Construction for each capital project undertaken by the author-
42 ized state entity pursuant to this act shall be deemed a "public work"
43 to be performed in accordance with the provisions of article 8 of the
44 labor law, as well as subject to sections 200, 240, 241 and 242 of the
45 labor law and compliance with all such provisions shall be required of
46 any lessee, sublessee, contractor, or subcontractor on the project
47 including enforcement of prevailing wage requirements by the New York
48 state department of labor.

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

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

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

3 § 8. Intentionally omitted.

4 § 9. Intentionally omitted.

5 § 10. Intentionally omitted.

6 § 10-a. Section 16 of part F of chapter 60 of the laws of 2015,
7 constituting the infrastructure investment act, is amended to read as
8 follows:

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

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

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

29 § 11-a. Section 1 of part QQQ of chapter 59 of the laws of 2018,
30 constituting the New York city BQE Design-Build act, is amended to read
31 as follows:

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

34 § 11-b. Section 2 of part QQQ of chapter 59 of the laws of 2018,
35 constituting the New York city BQE Design-Build act, is amended to read
36 as follows:

37 § 2. For the purposes of this act:

38 (a) "Authorized entity" shall mean the New York city department of
39 design and construction, [and] the New York city department of transpor-
40 tation, the New York city department of environmental protection, the
41 New York city school construction authority, the New York city depart-
42 ment of housing preservation, the New York city department of parks and
43 recreation, the New York city health and hospitals corporation, and New
44 York city housing authority.

45 (b) "Best value" shall mean the basis for awarding contracts for
46 services to a proposer that optimizes quality, cost and efficiency,
47 price and performance criteria, which may include, but is not limited
48 to:

- 49 (1) The quality of the proposer's performance on previous projects;
- 50 (2) The timeliness of the proposer's performance on previous projects;
- 51 (3) The level of customer satisfaction with the proposer's performance
- 52 on previous projects;
- 53 (4) The proposer's record of performing previous projects on budget
- 54 and ability to minimize cost overruns;
- 55 (5) The proposer's ability to limit change orders;
- 56 (6) The proposer's ability to prepare appropriate project plans;

(7) The proposer's technical capacities;
(8) The individual qualifications of the proposer's key personnel;
(9) The proposer's ability to assess and manage risk and minimize risk impact;

(10) The proposer's financial capability;

(11) The proposer's ability to comply with applicable requirements, including the provisions of articles 145, 147 and 148 of the education law;

(12) The proposer's past record of compliance with federal, state and local laws, rules, licensing requirements, where applicable, and executive orders, including but not limited to compliance with the labor law and other applicable labor and prevailing wage laws, article 15-A of the executive law, and any other applicable laws concerning minority- and women-owned business enterprise participation;

(13) The proposer's record of complying with existing labor standards, maintaining harmonious labor relations, and protecting the health and safety of workers and payment of wages above any locally-defined living wage; and

(14) A quantitative factor to be used in evaluation of bids or offers for awarding of contracts for bidders or offerers that are certified as minority- or women-owned business enterprises pursuant to article 15-A of the executive law, and certified pursuant to local law as minority- or women-owned business enterprises. Where an agency identifies a quantitative factor pursuant to this paragraph, the agency must specify that businesses certified as minority- or women-owned business enterprises pursuant to article 15-A of the executive law as well as those certified as minority- or women-owned business enterprises or pursuant to section 1304 of the New York City charter are eligible to qualify for such factor. Nothing in this paragraph shall be construed as a requirement that such businesses be concurrently certified as minority- or women-owned business enterprises under both article 15-A of the executive law and section 1304 of the New York City charter to qualify for such quantitative factors. In addition, where the New York city school construction authority acts as the authorized entity, businesses certified as minority- or women-owned business enterprises pursuant to section 1743 of the public authorities law shall be eligible to qualify for such factor. Such basis shall reflect, wherever possible, objective and quantifiable analysis.

(c) "Cost plus" shall mean compensating a contractor for the cost to complete a contract by reimbursing actual costs for labor, equipment and materials plus an additional amount for overhead and profit.

(d) "Design-build contract" shall mean a contract for the design and construction of a public work with a single entity, which may be a team comprised of separate entities.

(e) "Project labor agreement" shall have the meaning set forth in subdivision 1 of section 222 of the labor law. A project labor agreement shall require participation in apprentice training programs in accordance with paragraph (e) of subdivision 2 of such section.

~~[(f) "Public work" shall mean a public work in the city of New York related to the following, and shall refer to this public work; Brooklyn Queens Expressway, from the vicinity of Atlantic avenue to the vicinity of Sands street in Kings county.]~~

§ 11-c. Section 4 of part QQQ of chapter 59 of the laws of 2018, constituting the New York city BQE Design-Build act, is amended to read as follows:

§ 4. Notwithstanding any general, special or local law, rule or regulation to the contrary, including but not limited to article 5-A of the general municipal law and sections 1734 and 1735 of the public authorities law and article 8 of the public housing law, section 7210 of the education law, and section 8 of the New York city health and hospitals corporation act, and in conformity with the requirements of this act, for any public work that has an estimated cost of not less than ten million dollars and is undertaken pursuant to a project labor agreement in accordance with section 222 of the labor law, an authorized entity charged with awarding a contract for public work may use the alternative delivery method referred to as design-build contracts.

(a) A contractor selected by such authorized entity to enter into a design-build contract shall be selected through a two-step method, as follows:

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

(2) Step two. Selection of the proposal which is the best value to the authorized entity. The authorized entity shall issue a request for proposals to the responding entities listed pursuant to paragraph one of this subdivision. If such a responding entity consists of a team of separate entities, the entities that comprise such a team must remain unchanged from the responding entity as listed pursuant to paragraph one of this subdivision unless otherwise approved by the authorized entity. The request for proposals shall set forth the public work's scope of work, and other requirements, as determined by the authorized entity, which may include separate goals for work under the contract to be performed by businesses certified as minority- or women-owned business enterprises pursuant to article 15-A of the executive law or section 1743 of the public authorities law, or certified pursuant to local law

1 as minority- or women-owned business enterprises. The request for
2 proposals shall also specify the criteria to be used to evaluate the
3 responses and the relative weight of each of such criteria. Such crite-
4 ria shall include the proposal's cost, the quality of the proposal's
5 solution, the qualifications and experience of the proposer, and other
6 factors deemed pertinent by the authorized entity, which may include,
7 but shall not be limited to, the proposal's manner and schedule of
8 project implementation, the proposer's ability to complete the work in a
9 timely and satisfactory manner, maintenance costs of the completed
10 public work, maintenance of traffic approach, and community impact. Any
11 contract awarded pursuant to this act shall be awarded to a responsive
12 and responsible proposer, which, in consideration of these and other
13 specified criteria deemed pertinent, offers the best value, as deter-
14 mined by the authorized entity. The request for proposals shall include
15 a statement that proposers shall designate in writing those portions of
16 the proposal that contain trade secrets or other proprietary information
17 that are to remain confidential; that the material designated as confi-
18 dential shall be readily separable from the proposal. Nothing in this
19 subdivision shall be construed to prohibit the authorized entity from
20 negotiating final contract terms and conditions including cost. All
21 proposals submitted shall be scored according to the criteria listed in
22 the request for proposals and such final scores shall be published on
23 the authorized entity's website.

24 (b) An authorized entity awarding a design-build contract to a
25 contractor offering the best value may but shall not be required to use
26 the following types of contracts:

27 (1) A cost-plus not to exceed guaranteed maximum price form of
28 contract in which the authorized entity shall be entitled to monitor and
29 audit all costs. In establishing the schedule and process for determin-
30 ing a guaranteed maximum price, the contract between the authorized
31 entity and the contractor shall:

32 (i) Describe the scope of the work and the cost of performing such
33 work,

34 (ii) Include a detailed line item cost breakdown,

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

37 (iv) Include the dates of substantial and final completion on which
38 the guaranteed maximum price is based, and

39 (v) Include a schedule of unit prices; or

40 (2) A lump sum contract in which the contractor agrees to accept a set
41 dollar amount for a contract which comprises a single bid without
42 providing a cost breakdown for all costs such as for equipment, labor,
43 materials, as well as such contractor's profit for completing all items
44 of work comprising the public work.

45 § 11-d. Section 7 of part QQQ of chapter 59 of the laws of 2018,
46 constituting the New York city BQE Design-Build act, is amended to read
47 as follows:

48 § 7. Each contract entered into by an authorized entity pursuant to
49 this act shall comply with the objectives and goals with regard to
50 minority- and women-owned business enterprises pursuant to, as applica-
51 ble, section 6-129 of the administrative code of the city of New York,
52 subdivision 6 of section 8 of the New York city health and hospitals
53 corporation act, section 1743 of the public authorities law or, for
54 projects or public works receiving federal aid, applicable federal
55 requirements for disadvantaged business enterprises or minority- and
56 women-owned business enterprises.

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

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

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

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

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

PART E

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

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

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

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

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

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

(a) recapped or resold tires;

(b) mail-order sales; or

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

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

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

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

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

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

18 (a) Each return shall include:

19 (i) the name of the tire service;

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

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

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

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

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

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

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

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

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

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

55 (c) administration and enforcement of the requirements of this arti-
56 cle, exclusive of titles thirteen and fourteen~~[-]~~; and

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

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

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

(a) funding of demonstration and other projects;

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

(c) administration of requirements of this section.

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

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

§ 6. This act shall take effect immediately.

PART F

Intentionally Omitted

PART G

Intentionally Omitted

PART H

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

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

TITLE 28

CARRYOUT BAG WASTE REDUCTION

Section 27-2801. Definitions.

27-2802. Charges.

27-2803. Additional obligations for stores.

27-2804. Deposit and disposition of fees.

27-2805. Violations.

27-2806. Preemption of local law.

§ 27-2801. Definitions.

As used in this article:

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

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

1 3. "Store" means a general vendor, or a retail or wholesale establish-
2 ment engaged in the sale of personal, consumer or household items
3 including but not limited to drug stores, pharmacies, grocery stores,
4 supermarkets, convenience food stores or foodmarts that provide carryout
5 bags to consumers in which to place items purchased or obtained at such
6 establishments. Such term shall not include food service establishments,
7 mobile food service establishments, or emergency food providers or
8 501(c)(3) organizations;

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

17 5. "Mobile food vendor" means a self-contained food service operation,
18 located in a readily movable pushcart, motorized wheeled or towed vehi-
19 cle, used to store, prepare, display or serve food intended for individ-
20 ual portion service.

21 § 27-2802. Charges.

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

28 (b) The store collecting fees pursuant to paragraph (a) of this subdi-
29 vision shall retain twenty percent of all such fees and shall remit the
30 remaining eighty percent of all such fees to the commissioner of taxa-
31 tion and finance in accordance with the provisions of section 27-2804 of
32 this title for deposit to the credit of the environmental protection
33 fund established pursuant to section ninety-two-s of the state finance
34 law. All such funds shall be made available to localities for the
35 purpose of pollution reduction, cleanup, and education, and purchasing
36 and distributing reusable bags, with priority given to low and fixed-in-
37 come communities.

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

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

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

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

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

55 § 27-2803. Additional obligations for stores.

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

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

9 3. A store may not charge a fee pursuant to subdivision one of section
10 27-2802 of this title, for a reusable grocery bag that meets the
11 requirements of subdivision four of section 27-2801 of this title and
12 which is distributed to a customer without charge during a limited dura-
13 tion promotional event, not to exceed fourteen days per year.

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

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

19 § 27-2804. Deposit and disposition of fees.

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

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

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

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

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

51 d. the balance in the carryout bag account at the close of such quar-
52 ter.

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

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

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

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

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

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

1 may be issued for a specified term of not less than three years and
2 shall be subject to renewal in accordance with procedures specified by
3 the commissioner of taxation and finance. The commissioner of taxation
4 and finance shall furnish to the commissioner a complete list of regis-
5 tered stores and shall continually update such list as warranted. The
6 commissioner shall share any information with the commissioner of taxa-
7 tion and finance that is necessary for the administration of this subdi-
8 vision.

9 b. The commissioner of taxation and finance shall have the authority
10 to revoke or refuse to renew any registration issued pursuant to this
11 subdivision when he or she has determined or has been informed by the
12 commissioner that any of the provisions of this title or rules and regu-
13 lations promulgated thereunder have been violated. Such violations shall
14 include, but not be limited to, the failure to file quarterly reports,
15 the failure to make payments pursuant to this subdivision, the providing
16 of false or fraudulent information to either the department of taxation
17 and finance or the department, or knowingly aiding or abetting another
18 person in violating any of the provisions of this title. A notice of
19 proposed revocation or non-renewal shall be given to the store in the
20 manner prescribed for a notice of deficiency of tax and all the
21 provisions applicable to a notice of deficiency under article twenty-
22 seven of the tax law shall apply to a notice issued pursuant to this
23 paragraph, insofar as such provisions can be made applicable to a notice
24 authorized by this paragraph, with such modifications as may be neces-
25 sary in order to adapt the language of such provisions to the notice
26 authorized by this paragraph. All such notices issued by the commis-
27 sioner of taxation and finance pursuant to this paragraph shall contain a
28 statement advising the store that the revocation or non-renewal of
29 registration may be challenged through a hearing process and the peti-
30 tion for such a challenge must be filed with the commissioner of taxa-
31 tion and finance within ninety days after such notice is issued. A store
32 whose registration has been so revoked or not renewed shall cease to do
33 business in this state, until this title has been complied with and a
34 new registration has been issued.

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

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

55 § 27-2805. Violations.

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

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

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

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

21 4. Any fines that are collected by the state during proceedings by the
22 state to enforce the provisions of this title shall be retained by the
23 state. Any fines that are collected by a municipality during proceedings
24 by the municipality to enforce the provisions of this title against a
25 retailer located in the municipality shall be retained by the munici-
26 pality.

27 § 27-2806. Preemption of local law.

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

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

39 4. No licensee under this section shall be engaged in any other busi-
40 ness on the licensed premises. The sale of lottery tickets, when duly
41 authorized and lawfully conducted, the sale of carryout bags as defined
42 in subdivision one of section 27-2801 of the environmental conservation
43 law and reusable grocery bags as defined in subdivision four of section
44 27-2801 of the environmental conservation law, the sale of corkscrews or
45 the sale of ice or the sale of publications, including prerecorded video
46 and/or audio cassette tapes, or educational seminars, designed to help
47 educate consumers in their knowledge and appreciation of alcoholic
48 beverages, as defined in section three of this chapter and allowed
49 pursuant to their license, or the sale of non-carbonated, non-flavored
50 mineral waters, spring waters and drinking waters or the sale of glasses
51 designed for the consumption of wine, racks designed for the storage of
52 wine, and devices designed to minimize oxidation in bottles of wine
53 which have been uncorked, or the sale of gift bags, gift boxes, or wrap-
54 ping, for alcoholic beverages purchased at the licensed premises shall
55 not constitute engaging in another business within the meaning of this
56 subdivision. Any fee obtained from the sale of an educational seminar

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

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

10 3. Such fund shall consist of the amount of revenue collected within
11 the state from the amount of revenue, interest and penalties deposited
12 pursuant to section fourteen hundred twenty-one of the tax law, the
13 amount of fees and penalties received from easements or leases pursuant
14 to subdivision fourteen of section seventy-five of the public lands law
15 and the money received as annual service charges pursuant to section
16 four hundred four-n of the vehicle and traffic law, all moneys required
17 to be deposited therein from the contingency reserve fund pursuant to
18 section two hundred ninety-four of chapter fifty-seven of the laws of
19 nineteen hundred ninety-three, all moneys required to be deposited
20 pursuant to section thirteen of chapter six hundred ten of the laws of
21 nineteen hundred ninety-three, repayments of loans made pursuant to
22 section 54-0511 of the environmental conservation law, all moneys to be
23 deposited from the Northville settlement pursuant to section one hundred
24 twenty-four of chapter three hundred nine of the laws of nineteen
25 hundred ninety-six, provided however, that such moneys shall only be
26 used for the cost of the purchase of private lands in the core area of
27 the central Suffolk pine barrens pursuant to a consent order with the
28 Northville industries signed on October thirteenth, nineteen hundred
29 ninety-four and the related resource restoration and replacement plan,
30 the amount of penalties required to be deposited therein by section
31 71-2724 of the environmental conservation law, all moneys required to be
32 deposited pursuant to article thirty-three of the environmental conser-
33 vation law, all fees collected pursuant to subdivision eight of section
34 70-0117 of the environmental conservation law, all moneys collected
35 pursuant to title thirty-three of article fifteen of the environmental
36 conservation law, beginning with the fiscal year commencing on April
37 first, two thousand thirteen, nineteen million dollars, and all fiscal
38 years thereafter, twenty-three million dollars plus all funds received
39 by the state each fiscal year in excess of the greater of the amount
40 received from April first, two thousand twelve through March thirty-
41 first, two thousand thirteen or one hundred twenty-two million two
42 hundred thousand dollars, from the payments collected pursuant to subdi-
43 vision four of section 27-1012 of the environmental conservation law and
44 all funds collected pursuant to section 27-1015 of the environmental
45 conservation law, all moneys required to be deposited pursuant to
46 section 27-2804 of the environmental conservation law, and all other
47 moneys credited or transferred thereto from any other fund or source
48 pursuant to law. All such revenue shall be initially deposited into the
49 environmental protection fund, for application as provided in subdivi-
50 sion five of this section.

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

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

§ 5. This act shall take effect on the two hundred seventieth day after it shall have become a law. Effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made on or before such date.

PART I

Intentionally Omitted

PART J

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

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

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

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

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

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

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

55 § 3. This act shall take effect immediately.

1

PART K

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

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

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

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

28 § 35-0107. Powers and duties of commissioner.

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

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

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

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

54

TITLE IX

55

CONSUMER PRODUCT DISCLOSURE

Section 37-0901. Short title.

37-0903. Definitions.

37-0905. Product labeling.

37-0907. Chemical disclosure.

37-0909. Initial chemical exposure list.

37-0911. Public education.

37-0913. Rules and regulations.

37-0915. Enforcement.

37-0917. Severability.

§ 37-0901. Short title.

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

§ 37-0903. Definitions.

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

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

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

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

§ 37-0905. Product labeling.

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

§ 37-0907. Chemical disclosure.

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

§ 37-0909. Initial chemical disclosure list.

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

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

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

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

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

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

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

(g) on the lists of substances hazardous or acutely hazardous to public health established by the department pursuant to this article. § 37-0911. Public education.

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

§ 37-0913. Rules and regulations.

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

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

§ 37-0915. Enforcement.

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

§ 37-0917. Severability.

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

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

ARTICLE 48-A

REGULATION OF PERSONAL CARE PRODUCTS

Section 4850. Declaration of legislative intent and findings.

4851. Definitions.

4852. Disclosure.

4853. Penalties.4854. Severability.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 3. "nonfunctional byproduct" shall mean any element or compound which
17 has no functional or technical effect in the finished product which (a)
18 was intentionally added during the manufacturing process for a personal
19 care product at any point in a product's, a raw material's or ingredi-
20 ent's supply chain or (b) was created for formed during the manufactur-
21 ing process as an intentional or unintentional consequence of the manu-
22 facturing process at any point in a product's, a raw material's, or an
23 ingredient's supply chain. This shall include, but is not limited to, an
24 unreacted raw material, a breakdown product of an intentionally added
25 ingredient, or a byproduct of the manufacturing process.

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

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

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

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

54 § 4852. Disclosure. 1. Manufacturers of personal care products
55 distributed, sold or offered for sale in this state, whether at retail
56 or wholesale, for personal or commercial use, or distributed for promo-

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

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

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

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

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

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

39 § 4853. Penalties. A manufacturer in violation of this article is
40 subject to a civil penalty not to exceed five thousand dollars for each
41 violation in the case of a first offense. Manufacturers who are repeat
42 violators are subject to a civil penalty not to exceed ten thousand
43 dollars for each repeat offense.

44 § 4854. Severability. The provisions of this article shall be severa-
45 ble and if any phrase, clause, sentence or provision of this article, or
46 the applicability thereof to any person or circumstance shall be held
47 invalid, the remainder of this article and the application thereof shall
48 not be affected thereby.

49 § 6. This act shall take effect on the sixtieth day after it shall
50 have become a law, provided, however, that any rule or regulation
51 promulgated pursuant to this act shall not take effect prior to April 1,
52 2021; provided, however, that section five of this act shall take effect
53 on January 1, 2020, provided that, effective immediately, the commis-
54 sioner of health shall be authorized to promulgate any and all rules and
55 regulations necessary to implement the provisions of section five on its
56 effective date.

PART L

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

ARTICLE 14-A
STUDENT LOAN SERVICERS

Section 710. Definitions.

711. Licensing.

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

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

714. Changes in officers and directors.

715. Changes in control.

716. Grounds for suspension or revocation of license.

717. Books and records; reports and electronic filing.

718. Rules and regulations.

719. Prohibited practices.

720. Servicing student loans without a license.

721. Responsibilities.

722. Examinations.

723. Penalties for violations of this article.

724. Severability of provisions.

725. Compliance with other laws.

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

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

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

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

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

6. "Servicer" or "student loan servicer" shall mean a person licensed pursuant to section seven hundred eleven of this article to engage in the business of servicing student loans owed by one or more borrowers residing in this state.

7. "Servicing" shall mean:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 713. Application process to receive license to engage in the business of student loan servicing. 1. Upon the filing of an application for

1 a license, if the superintendent shall find that the financial responsi-
2 bility, experience, character, and general fitness of the applicant and,
3 if applicable, the members, officers, partners, directors and principals
4 of the applicant are such as to command the confidence of the community
5 and to warrant belief that the business will be operated honestly, fair-
6 ly, and efficiently within the purpose of this article, the superinten-
7 dent shall thereupon issue a license in duplicate to engage in the busi-
8 ness of servicing student loans described in section seven hundred ten
9 of this article in accordance with the provisions of this article. If
10 the superintendent shall not so find, the superintendent shall not issue
11 a license, and the superintendent shall so notify the applicant. The
12 superintendent shall transmit one copy of a license to the applicant and
13 file another in the office of the department of financial services. Upon
14 receipt of such license, a student loan servicer shall be authorized to
15 engage in the business of servicing student loans in accordance with the
16 provisions of this article. Such license shall remain in full force and
17 effect until it is surrendered by the servicer or revoked or suspended
18 as hereinafter provided.

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

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

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

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

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

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

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

47 § 714. Changes in officers and directors. Upon any change of any of
48 the executive officers, directors, partners or members of any student
49 loan servicer required to be licensed under section seven hundred eleven
50 of this article, the student loan servicer shall submit to the super-
51 intendent the name, address, and occupation of each new officer, direc-
52 tor, partner or member, and provide such other information as the super-
53 intendent may require.

54 § 715. Changes in control. 1. It shall be unlawful except with the
55 prior approval of the superintendent for any action to be taken which
56 results in a change of control of the business of a student loan servi-

1 cer required to be licensed under section seven hundred eleven of this
2 article. Prior to any change of control, the person desirous of acquir-
3 ing control of the business of a student loan servicer shall make writ-
4 ten application to the superintendent and pay an investigation fee as
5 prescribed pursuant to section eighteen-a of this chapter to the super-
6 intendent. The application shall contain such information as the super-
7 intendent, by rule or regulation, may prescribe as necessary or appro-
8 priate for the purpose of making the determination required by
9 subdivision two of this section. This information shall include but not
10 be limited to the information and other material required for a student
11 loan servicer by subdivision one of section seven hundred twelve of this
12 article.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

53 6. Every license issued pursuant to this article shall remain in force
54 and effect until the same shall have been surrendered, revoked or
55 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;

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

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

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

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

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

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

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

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

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

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

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

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

54 3. (a) If the sale, assignment, or other transfer of the servicing of
55 a student loan results in a change in the identity of the person to whom
56 the borrower is required to send subsequent payments or direct any

1 communications concerning the student loan, a student loan servicer
2 shall transfer all information regarding a borrower, a borrower's
3 account, and a borrower's student loan, including but not limited to the
4 borrower's repayment status and any borrower benefits associated with
5 the borrower's student loan, to the new student loan servicer servicing
6 the borrower's student loan within forty-five days.

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

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

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

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

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

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

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

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

54 3. The expenses incurred in making any examination pursuant to this
55 section shall be assessed against and paid by the student loan servicer
56 so examined, except that travelling and subsistence expenses so incurred

1 shall be charged against and paid by servicers in such proportions as
2 the superintendent shall deem just and reasonable, and such propor-
3 tionate charges shall be added to the assessment of the other expenses
4 incurred upon each examination. Upon written notice by the superinten-
5 dent of the total amount of such assessment, the servicer shall become
6 liable for and shall pay such assessment to the superintendent.

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

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

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

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

37 § 724. Severability of provisions. If any provision of this article,
38 or the application of such provision to any person or circumstance,
39 shall be held invalid, illegal or unenforceable, the remainder of the
40 article, and the application of such provision to persons or circum-
41 stances other than those as to which it is held invalid, illegal or
42 unenforceable, shall not be affected thereby.

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

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

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

53 10. All reports of examinations and investigations, correspondence and
54 memoranda concerning or arising out of such examination and investi-
55 gations, including any duly authenticated copy or copies thereof in the
56 possession of any banking organization, bank holding company or any

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

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

35 § 39. Orders of superintendent. 1. To appear and explain an apparent
36 violation. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker,
37 licensed mortgage banker, licensed student loan servicer, registered
38 mortgage loan servicer, licensed mortgage loan originator, licensed
39 lender, licensed cashier of checks, licensed sales finance company,
40 licensed insurance premium finance agency, licensed transmitter of
41 money, licensed budget planner, out-of-state state bank that maintains a
42 branch or branches or representative or other offices in this state, or
43 foreign banking corporation licensed by the superintendent to do business or maintain a representative office in this state has violated any
44 law or regulation, he or she may, in his or her discretion, issue an
45 order describing such apparent violation and requiring such banking
46 organization, bank holding company, registered mortgage broker, licensed
47 mortgage banker, licensed student loan servicer, licensed mortgage loan
48 originator, licensed lender, licensed cashier of checks, licensed sales
49 finance company, licensed insurance premium finance agency, licensed
50 transmitter of money, licensed budget planner, out-of-state state bank
51 that maintains a branch or branches or representative or other offices
52 in this state, or foreign banking corporation to appear before him or
53 her, at a time and place fixed in said order, to present an explanation
54 of such apparent violation.
55
56

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

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

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

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

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

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

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

46 PART M

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

51 § 2. The commissioner of motor vehicles shall, in consultation with
52 the superintendent of state police, submit a report to the governor, the
53 temporary president of the senate, the speaker of the assembly, and the
54 chairs of the senate and assembly transportation committees on the

demonstrations and tests authorized by section one of this act. Such report shall include, but not be limited to, a description of the parameters and purpose of such demonstrations and tests, the location or locations where demonstrations and tests were conducted, the demonstrations' and tests' impacts on safety, traffic control, traffic enforcement, emergency services, and such other areas as may be identified by such commissioner. Such commissioner shall submit such report ~~[on or before June 1, 2018 and June 1, 2019]~~ June first of each year this section remains in effect.

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

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

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

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

§ 4. The commissioner of motor vehicles shall, in consultation with the superintendent of state police, submit a report to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the senate and assembly transportation committees on the demonstrations and tests authorized by section three of this act. Such report shall include, but not be limited to, a description of the parameters and purpose of such demonstrations and tests, the location or locations where demonstrations and tests were conducted, the demonstrations' and tests' impacts on safety, traffic control, traffic enforcement, emergency services, the commissioner's plan for ensuring enforcement of driving regulations on motor vehicles when engaged in the use of autonomous vehicle technology, a record of all private sector

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

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

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

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

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

PART N

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

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

§ 2. This act shall take effect immediately.

PART O

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

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

1 revert to and be read as if this act had not been enacted; section three
2 hundred fifty-eight of this act shall take effect immediately and shall
3 expire June 30, 1998 and shall revert to and be read as if this act had
4 not been enacted; section three hundred sixty-four through three hundred
5 sixty-seven of this act shall apply to claims filed on or after such
6 effective date; sections three hundred sixty-nine, three hundred seven-
7 ty-two, three hundred seventy-three, three hundred seventy-four, three
8 hundred seventy-five and three hundred seventy-six of this act shall
9 remain in effect until September 1, ~~2019~~ 2021, at which time they
10 shall be deemed repealed; provided, however, that the mandatory
11 surcharge provided in section three hundred seventy-four of this act
12 shall apply to parking violations occurring on or after said effective
13 date; and provided further that the amendments made to section 235 of
14 the vehicle and traffic law by section three hundred seventy-two of this
15 act, the amendments made to section 1809 of the vehicle and traffic law
16 by sections three hundred thirty-seven and three hundred thirty-eight of
17 this act and the amendments made to section 215-a of the labor law by
18 section three hundred seventy-five of this act shall expire on September
19 1, ~~2019~~ 2021 and upon such date the provisions of such subdivisions
20 and sections shall revert to and be read as if the provisions of this
21 act had not been enacted; the amendments to subdivisions 2 and 3 of
22 section 400.05 of the penal law made by sections three hundred seventy-
23 seven and three hundred seventy-eight of this act shall expire on July
24 1, 1992 and upon such date the provisions of such subdivisions shall
25 revert and shall be read as if the provisions of this act had not been
26 enacted; the state board of law examiners shall take such action as is
27 necessary to assure that all applicants for examination for admission to
28 practice as an attorney and counsellor at law shall pay the increased
29 examination fee provided for by the amendment made to section 465 of the
30 judiciary law by section three hundred eighty of this act for any exam-
31 ination given on or after the effective date of this act notwithstanding
32 that an applicant for such examination may have prepaid a lesser fee for
33 such examination as required by the provisions of such section 465 as of
34 the date prior to the effective date of this act; the provisions of
35 section 306-a of the civil practice law and rules as added by section
36 three hundred eighty-one of this act shall apply to all actions pending
37 on or commenced on or after September 1, 1991, provided, however, that
38 for the purposes of this section service of such summons made prior to
39 such date shall be deemed to have been completed on September 1, 1991;
40 the provisions of section three hundred eighty-three of this act shall
41 apply to all money deposited in connection with a cash bail or a
42 partially secured bail bond on or after such effective date; and the
43 provisions of sections three hundred eighty-four and three hundred
44 eighty-five of this act shall apply only to jury service commenced
45 during a judicial term beginning on or after the effective date of this
46 act; provided, however, that nothing contained herein shall be deemed to
47 affect the application, qualification, expiration or repeal of any
48 provision of law amended by any section of this act and such provisions
49 shall be applied or qualified or shall expire or be deemed repealed in
50 the same manner, to the same extent and on the same date as the case may
51 be as otherwise provided by law;

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

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

1 § 3. This act shall take effect immediately.

2 PART P

3 Intentionally Omitted

4 PART Q

5 Intentionally Omitted

6 PART R

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

13 § 2. This act shall take effect immediately, provided however, that
14 section one of this act shall be deemed to have been in full force and
15 effect on and after April 1, 2003 and shall expire March 31, [~~2019~~]
16 2020.

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

19 PART S

20 Intentionally Omitted

21 PART T

22 Section 1. Intentionally omitted.

23 § 2. Intentionally omitted.

24 § 3. Intentionally omitted.

25 § 4. Intentionally omitted.

26 § 5. The transportation law is amended by adding a new section 144 to
27 read as follows:

28 § 144. Fees and charges. The commissioner or authorized officer or
29 employee of the department shall charge and collect one hundred twenty
30 dollars for the inspection or reinspection of all for-hire motor vehi-
31 cles transporting passengers subject to the department's inspection
32 requirements pursuant to section one hundred forty of this article,
33 except such motor vehicles operated under contract with a municipality
34 to provide statewide mass transportation operating assistance eligible
35 service; vehicles operated under contract with a municipality or school
36 district to provide school-related transportation services; or motor
37 vehicles authorized by the commissioner of health to provide non-emer-
38 gency medical transportation services. The department may deny
39 inspection of any motor vehicle transporting passengers subject to the
40 department's inspection requirements if such fee is not paid within
41 ninety days of the date noted on the department invoice.

42 § 6. Intentionally omitted.

43 § 7. Intentionally omitted.

44 § 8. Intentionally omitted.

45 § 9. Intentionally omitted.

46 § 10. Intentionally omitted.

1 § 11. Intentionally omitted.
2 § 12. Intentionally omitted.
3 § 13. Intentionally omitted.
4 § 14. Intentionally omitted.
5 § 15. Intentionally omitted.

6 § 16. Subdivision 3 of section 1229-c of the vehicle and traffic law,
7 as added by chapter 365 of the laws of 1984, is amended to read as
8 follows:

9 3. No person shall operate a motor vehicle unless such person is
10 restrained by a safety belt approved by the commissioner. No person
11 sixteen years of age or over shall be a passenger in [~~the front seat of~~]
12 a motor vehicle unless such person is restrained by a safety belt
13 approved by the commissioner.

14 § 17. Intentionally omitted.

15 § 18. This act shall take effect immediately; provided, however,
16 section five of this act shall take effect October 1, 2019.

17 PART U

18 Section 1. Expenditures of moneys appropriated in a chapter of the
19 laws of 2019 to the department of agriculture and markets from the
20 special revenue funds-other/state operations, miscellaneous special
21 revenue fund-339, public service account shall be subject to the
22 provisions of this section. Notwithstanding any other provision of law
23 to the contrary, direct and indirect expenses relating to the department
24 of agriculture and markets' participation in general ratemaking
25 proceedings pursuant to section 65 of the public service law or certif-
26 ication proceedings pursuant to article 7 or 10 of the public service
27 law, shall be deemed expenses of the department of public service within
28 the meaning of section 18-a of the public service law. No later than
29 August 15, 2020, the commissioner of the department of agriculture and
30 markets shall submit an accounting of such expenses, including, but not
31 limited to, expenses in the 2019--2020 state fiscal year for personal
32 and non-personal services and fringe benefits, to the chair of the
33 public service commission for the chair's review pursuant to the
34 provisions of section 18-a of the public service law. No later than
35 August 15, 2021, the commissioner of the department of agriculture and
36 markets shall submit an accounting of such expenses, including, but not
37 limited to, expenses in the 2020--2021 state fiscal year for personal
38 and non-personal services and fringe benefits, to the chair of the
39 public service commission for the chair's review pursuant to the
40 provisions of section 18-a of the public service law.

41 § 2. Expenditures of moneys appropriated in a chapter of the laws of
42 2019 to the department of state from the special revenue funds-
43 other/state operations, miscellaneous special revenue fund-339, public
44 service account shall be subject to the provisions of this section.
45 Notwithstanding any other provision of law to the contrary, direct and
46 indirect expenses relating to the activities of the department of
47 state's utility intervention unit pursuant to subdivision 4 of section
48 94-a of the executive law, including, but not limited to participation
49 in general ratemaking proceedings pursuant to section 65 of the public
50 service law or certification proceedings pursuant to article 7 or 10 of
51 the public service law, shall be deemed expenses of the department of
52 public service within the meaning of section 18-a of the public service
53 law. No later than August 15, 2020, the secretary of state shall submit
54 an accounting of such expenses, including, but not limited to, expenses

1 in the 2019--2020 state fiscal year for personal and non-personal
2 services and fringe benefits, to the chair of the public service commis-
3 sion for the chair's review pursuant to the provisions of section 18-a
4 of the public service law. No later than August 15, 2021, the secretary
5 of state shall submit an accounting of such expenses, including, but not
6 limited to, expenses in the 2020--2021 state fiscal year for personal
7 and non-personal services and fringe benefits, to the chair of the
8 public service commission for the chair's review pursuant to the
9 provisions of section 18-a of the public service law.

10 § 3. Expenditures of moneys appropriated in a chapter of the laws of
11 2019 to the office of parks, recreation and historic preservation from
12 the special revenue funds-other/state operations, miscellaneous special
13 revenue fund-339, public service account shall be subject to the
14 provisions of this section. Notwithstanding any other provision of law
15 to the contrary, direct and indirect expenses relating to the office of
16 parks, recreation and historic preservation's participation in general
17 ratemaking proceedings pursuant to section 65 of the public service law
18 or certification proceedings pursuant to article 7 or 10 of the public
19 service law, shall be deemed expenses of the department of public
20 service within the meaning of section 18-a of the public service law. No
21 later than August 15, 2020, the commissioner of the office of parks,
22 recreation and historic preservation shall submit an accounting of such
23 expenses, including, but not limited to, expenses in the 2019--2020
24 state fiscal year for personal and non-personal services and fringe
25 benefits, to the chair of the public service commission for the chair's
26 review pursuant to the provisions of section 18-a of the public service
27 law. No later than August 15, 2021, the commissioner of the office of
28 parks, recreation and historic preservation shall submit an accounting
29 of such expenses, including, but not limited to, expenses in the
30 2020--2021 state fiscal year for personal and non-personal services and
31 fringe benefits, to the chair of the public service commission for the
32 chair's review pursuant to the provisions of section 18-a of the public
33 service law.

34 § 4. Expenditures of moneys appropriated in a chapter of the laws of
35 2019 to the department of environmental conservation from the special
36 revenue funds-other/state operations, environmental conservation special
37 revenue fund-301, utility environmental regulation account shall be
38 subject to the provisions of this section. Notwithstanding any other
39 provision of law to the contrary, direct and indirect expenses relating
40 to the department of environmental conservation's participation in state
41 energy policy proceedings, or certification proceedings pursuant to
42 article 7 or 10 of the public service law, shall be deemed expenses of
43 the department of public service within the meaning of section 18-a of
44 the public service law. No later than August 15, 2020, the commissioner
45 of the department of environmental conservation shall submit an account-
46 ing of such expenses, including, but not limited to, expenses in the
47 2019--2020 state fiscal year for personal and non-personal services and
48 fringe benefits, to the chair of the public service commission for the
49 chair's review pursuant to the provisions of section 18-a of the public
50 service law. No later than August 15, 2021, the commissioner of the
51 department of environmental conservation shall submit an accounting of
52 such expenses, including, but not limited to, expenses in the 2020--2021
53 state fiscal year for personal and non-personal services and fringe
54 benefits, to the chair of the public service commission for the chair's
55 review pursuant to the provisions of section 18-a of the public service
56 law.

§ 5. Intentionally omitted.

§ 6. Notwithstanding any other law, rule or regulation to the contrary, expenses of the department of health public service education program incurred pursuant to appropriations from the cable television account of the state miscellaneous special revenue funds shall be deemed expenses of the department of public service. No later than August 15, 2020, the commissioner of the department of health shall submit an accounting of expenses in the 2019--2020 state fiscal year to the chair of the public service commission for the chair's review pursuant to the provisions of section 217 of the public service law. No later than August 15, 2021, the commissioner of the department of health shall submit an accounting of such expenses, including, but not limited to, expenses in the 2020--2021 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

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

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

PART V

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

PROVISIONS RELATING TO CABLE TELEVISION COMPANIES AND BROADBAND INTERNET SERVICE PROVIDERS

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

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

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

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

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

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

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

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

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

8 § 148. Internet service neutrality requirements in certain procurement
9 contracts. 1. Notwithstanding any other provision of law to the contra-
10 ry, where a contract that includes broadband internet access services is
11 to be awarded by a state agency as defined in section one hundred sixty
12 of this chapter or any state or local authority as such terms are
13 defined in section two of the public authorities law, municipal corpo-
14 ration as defined in section two of the general municipal law, public
15 library or association library, as such terms are defined in section two
16 hundred fifty-three of the education law, the legislature, judiciary,
17 state university of New York, or city university of New York pursuant to
18 a competitive bidding process or a request for proposal process, such
19 competitive bidding process or request for proposal and the subsequent
20 awarded contract shall require that such broadband internet access
21 services are compliant with the internet service neutrality requirements
22 established in section two hundred thirty-one of the public service law.
23 Provided, however, the entity awarding such contract may award such
24 contract to any broadband internet service provider that is not certi-
25 fied by the public service commission pursuant to subdivision two of
26 section two hundred thirty-one of the public service law only if such
27 entity demonstrates to the public service commission that either (i)
28 there are no other broadband internet service providers available to
29 contract with, or (ii) awarding such contract to a certified broadband
30 internet service provider would result in a significant financial hard-
31 ship when compared to awarding the contract to a broadband internet
32 service provider not certified by the public service commission.

33 2. In addition to the authority granted to the commission pursuant to
34 this chapter, the attorney general may enforce the provisions of this
35 section to the extent permitted under section sixty-three of the execu-
36 tive law.

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

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

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

52 § 7. The public service law is amended by adding three new sections
53 231, 232 and 233 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Section 1. Expenditures of moneys by the New York state energy
2 research and development authority for services and expenses of the
3 energy research, development and demonstration program, including
4 grants, the energy policy and planning program, the zero emissions vehi-
5 cle and electric vehicle rebate program, and the Fuel NY program shall
6 be subject to the provisions of this section. Notwithstanding the
7 provisions of subdivision 4-a of section 18-a of the public service law,
8 all moneys committed or expended in an amount not to exceed \$19,700,000
9 shall be reimbursed by assessment against gas corporations, as defined
10 in subdivision 11 of section 2 of the public service law and electric
11 corporations as defined in subdivision 13 of section 2 of the public
12 service law, where such gas corporations and electric corporations have
13 gross revenues from intrastate utility operations in excess of \$500,000
14 in the preceding calendar year, and the total amount which may be
15 charged to any gas corporation and any electric corporation shall not
16 exceed one cent per one thousand cubic feet of gas sold and .010 cent
17 per kilowatt-hour of electricity sold by such corporations in their
18 intrastate utility operations in calendar year 2017. Such amounts shall
19 be excluded from the general assessment provisions of subdivision 2 of
20 section 18-a of the public service law. The chair of the public service
21 commission shall bill such gas and/or electric corporations for such
22 amounts on or before August 10, 2019 and such amounts shall be paid to
23 the New York state energy research and development authority on or
24 before September 10, 2019. Upon receipt, the New York state energy
25 research and development authority shall deposit such funds in the ener-
26 gy research and development operating fund established pursuant to
27 section 1859 of the public authorities law. The New York state energy
28 research and development authority is authorized and directed to: (1)
29 transfer \$1 million to the state general fund for services and expenses
30 of the department of environmental conservation, \$150,000 to the state
31 general fund for services and expenses of the department of agriculture
32 and markets, and \$825,000 to the University of Rochester laboratory for
33 laser energetics from the funds received; and (2) commencing in 2016,
34 provide to the chair of the public service commission and the director
35 of the budget and the chairs and secretaries of the legislative fiscal
36 committees, on or before August first of each year, an itemized record,
37 certified by the president and chief executive officer of the authority,
38 or his or her designee, detailing any and all expenditures and commit-
39 ments ascribable to moneys received as a result of this assessment by
40 the chair of the department of public service pursuant to section 18-a
41 of the public service law. This itemized record shall include an item-
42 ized breakdown of the programs being funded by this section and the
43 amount committed to each program. The authority shall not commit for
44 any expenditure, any moneys derived from the assessment provided for in
45 this section, until the chair of such authority shall have submitted,
46 and the director of the budget shall have approved, a comprehensive
47 financial plan encompassing all moneys available to and all anticipated
48 commitments and expenditures by such authority from any source for the
49 operations of such authority. Copies of the approved comprehensive
50 financial plan shall be immediately submitted by the chair to the chairs
51 and secretaries of the legislative fiscal committees. Any such amount
52 not committed by such authority to contracts or contracts to be awarded
53 or otherwise expended by the authority during the fiscal year shall be
54 refunded by such authority on a pro-rata basis to such gas and/or elec-
55 tric corporations, in a manner to be determined by the department of

1 public service, and any refund amounts must be explicitly lined out in
2 the itemized record described above.

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

5 PART X

6 Intentionally Omitted

7 PART Y

8 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
9 New York state urban development corporation act, relating to the powers
10 of the New York state urban development corporation to make loans, as
11 amended by section 1 of part P of chapter 58 of the laws of 2018, is
12 amended to read as follows:

13 § 2. This act shall take effect immediately provided, however, that
14 section one of this act shall expire on July 1, [~~2019~~] 2020, at which
15 time the provisions of subdivision 26 of section 5 of the New York state
16 urban development corporation act shall be deemed repealed; provided,
17 however, that neither the expiration nor the repeal of such subdivision
18 as provided for herein shall be deemed to affect or impair in any manner
19 any loan made pursuant to the authority of such subdivision prior to
20 such expiration and repeal.

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

23 PART Z

24 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
25 of the laws of 1968 constituting the New York state urban development
26 corporation act, as amended by section 1 of part O of chapter 58 of the
27 laws of 2018, is amended to read as follows:

28 3. The provisions of this section shall expire, notwithstanding any
29 inconsistent provision of subdivision 4 of section 469 of chapter 309 of
30 the laws of 1996 or of any other law, on July 1, [~~2019~~] 2020.

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

33 PART AA

34 Section 1. Paragraph (b) of subdivision 8, subdivisions 16, 19, 21 and
35 22 of section 310 of the executive law, as added by chapter 261 of the
36 laws of 1988, subdivision 16 as added by section 3 of part BB of chapter
37 59 of the laws of 2006, and subdivisions 19, 21 and 22 as added by chap-
38 ter 175 of the laws of 2010, are amended to read as follows:

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

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

46 19. "Personal net worth" shall mean the aggregate adjusted net value
47 of the assets of an individual remaining after total liabilities are
48 deducted. Personal net worth includes the individual's share of assets

held jointly with said individual's spouse and does not include the individual's ownership interest in the certified minority and women-owned business enterprise, the individual's equity in his or her primary residence, ownership interest in a holding company that leases real property, machinery, equipment, or vehicles exclusively to the certified minority or women-owned business enterprise that is majority owned by the minority group members or women relied upon for certification, or up to ~~[five hundred]~~ seven hundred fifty thousand dollars of the present cash value of any qualified retirement savings plan or individual retirement account held by the individual less any penalties for early withdrawal.

21. "The ~~[2010]~~ 2016 disparity study" shall refer to the disparity study commissioned by the ~~[empire state development corporation]~~ department of economic development, pursuant to section three hundred twelve-a of this article, and published on ~~[April twenty nine, two thousand ten]~~ June thirtieth, two thousand seventeen.

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

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

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

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

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

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

(f) to prepare and update ~~[periodically]~~ quarterly a directory of certified minority and women-owned business enterprises which shall, wherever practicable, be divided into categories of labor, services, supplies, equipment, materials and recognized construction trades and which shall indicate areas or locations of the state where such enterprises are available to perform services;

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

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

(i) to streamline the state certification process to accept federal and municipal corporation certifications~~[-]~~; ~~and~~

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

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

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

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

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

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

1 perform its functions, and, as such, may request and the director may
2 appoint staff and employees of the division of minority and women busi-
3 ness development to support the administration of the office of the
4 statewide advocate.

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

16 4. The statewide advocate shall investigate complaints by minority-
17 owned business enterprises or women-owned business enterprises, certi-
18 fied as such by the division of minority and women's business develop-
19 ment, concerning a procuring governmental entity's failure to comply
20 with the requirements of section three hundred fifteen of this article.

21 5. The statewide advocate shall report to the director and commission-
22 er by November fifteenth on an annual basis on all activities related to
23 fulfilling the obligations of the office of the statewide advocate,
24 including but not limited to (a) the number of complaints investigated;
25 (b) the resolution of said complaints; and (c) details about audits
26 conducted pursuant to subdivision three of this section. The commission-
27 er shall include the unedited text of the statewide advocate's report
28 within the reports submitted by the department of economic development
29 to the governor and the legislature.

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

32 § 312-a. Study of minority and women-owned business [~~enterprise~~
33 ~~programs~~] enterprises. 1. The director of the division of minority and
34 women-owned business development [~~in the department of economic develop-~~
35 ~~ment~~] is authorized and directed to recommission a statewide disparity
36 study regarding the participation of minority and women-owned business
37 enterprises in state contracts since the amendment of this article to be
38 delivered to the governor and legislature no later than August
39 fifteenth, two thousand [~~sixteen~~] twenty-three. The study shall be
40 prepared by an entity independent of the department and selected through
41 a request for proposal process. The purpose of such study is:

42 (a) to determine whether there is a disparity between the number of
43 qualified minority and women-owned businesses ready, willing and able to
44 perform state contracts for commodities, services and construction, and
45 the number of such contractors actually engaged to perform such
46 contracts, and to determine what changes, if any, should be made to
47 state policies affecting minority and women-owned business enterprises;
48 and (b) to determine whether there is a disparity between the number of
49 qualified minorities and women ready, willing and able, with respect to
50 labor markets, qualifications and other relevant factors, to participate
51 in contractor employment, management level bodies, including boards of
52 directors, and as senior executive officers within contracting entities
53 and the number of such group members actually employed or affiliated
54 with state contractors in the aforementioned capacities, and to deter-
55 mine what changes, if any, should be made to state policies affecting
56 minority and women group populations with regard to state contractors'

1 employment and appointment practices relative to diverse group members.
2 Such study shall include, but not be limited to, an analysis of the
3 history of minority and women-owned business enterprise programs and
4 their effectiveness as a means of securing and ensuring participation by
5 minorities and women, and a disparity analysis by market area and region
6 of the state. Such study shall distinguish between minority males,
7 minority females and non-minority females in the statistical analysis.

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

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

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

23 (a) construction industry for certified minority-owned business enter-
24 prises[~~:- fourteen and thirty-four hundredths percent~~];

25 (b) construction industry for certified women-owned business enter-
26 prises[~~:- eight and forty-one hundredths percent~~];

27 (c) construction related professional services industry for certified
28 minority-owned business enterprises[~~:- thirteen and twenty-one hundredths~~
29 ~~percent~~];

30 (d) construction related professional services industry for certified
31 women-owned business enterprises[~~:- eleven and thirty-two hundredths~~
32 ~~percent~~];

33 (e) non-construction related services industry for certified minori-
34 ty-owned business enterprises[~~:- nineteen and sixty hundredths percent~~];

35 (f) non-construction related services industry for certified women-
36 owned business enterprises[~~:- seventeen and forty-four hundredths~~
37 ~~percent~~];

38 (g) commodities industry for certified minority-owned business enter-
39 prises[~~:- sixteen and eleven hundredths percent~~];

40 (h) commodities industry for certified women-owned business enter-
41 prises[~~:- ten and ninety-three hundredths percent~~];

42 (i) overall agency total dollar value of procurement for certified
43 minority-owned business enterprises[~~:- sixteen and fifty-three hundredths~~
44 ~~percent~~];

45 (j) overall agency total dollar value of procurement for certified
46 women-owned business enterprises[~~:- twelve and thirty-nine hundredths~~
47 ~~percent~~]; and

48 (k) overall agency total dollar value of procurement for certified
49 minority, women-owned business enterprises[~~:- twenty-eight and ninety-two~~
50 ~~hundredths percent~~].

51 1-a. The director shall ensure that each state agency has been
52 provided with a copy of the two thousand ~~[ten]~~ sixteen disparity study.

53 1-b. Each agency shall develop and adopt agency-specific goals based
54 on the findings of the two thousand ~~[ten]~~ sixteen disparity study.

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

4 2. The director shall promulgate rules and regulations pursuant to the
5 goals established in subdivision one of this section and findings of the
6 two thousand sixteen disparity study that provide measures and proce-
7 dures to ensure that certified minority and women-owned businesses shall
8 be given the opportunity for maximum feasible participation in the
9 performance of state contracts and to assist in the agency's identifica-
10 tion of those state contracts for which minority and women-owned certi-
11 fied businesses may best bid to actively and affirmatively promote and
12 assist their participation in the performance of state contracts so as
13 to facilitate the agency's achievement of the maximum feasible portion
14 of the goals for state contracts to such businesses.

15 2-a. The director shall promulgate rules and regulations that will
16 accomplish the following:

17 (a) provide for the certification and decertification of minority and
18 women-owned business enterprises for all agencies through a single proc-
19 ess that meets applicable requirements;

20 (b) require that each contract solicitation document accompanying each
21 solicitation set forth the expected degree of minority and women-owned
22 business enterprise participation based, in part, on:

23 (i) the potential subcontract opportunities available in the prime
24 procurement contract; and

25 (ii) the availability, as contained within the study, of certified
26 minority and women-owned business enterprises to respond competitively
27 to the potential subcontract opportunities;

28 (iii) the findings of the two thousand sixteen disparity study;

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

31 (d) allow a contractor that is a certified minority-owned or women-
32 owned business enterprise to use the work it performs to meet require-
33 ments for use of certified minority-owned or women-owned business enter-
34 prises as subcontractors;

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

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

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

46 [~~(g)~~] (h) require that an agency verify that minority and women-owned
47 business enterprises listed in a successful bid are actually participat-
48 ing to the extent listed in the project for which the bid was submitted;

49 [~~(h)~~] (i) provide for the collection of statistical data by each agen-
50 cy concerning actual minority and women-owned business enterprise
51 participation; and

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

55 3. Solely for the purpose of providing the opportunity for meaningful
56 participation by certified businesses in the performance of state

1 contracts as provided in this section, state contracts shall include
2 leases of real property by a state agency to a lessee where: the terms
3 of such leases provide for the construction, demolition, replacement,
4 major repair or renovation of real property and improvements thereon by
5 such lessee; and the cost of such construction, demolition, replacement,
6 major repair or renovation of real property and improvements thereon
7 shall exceed the sum of one hundred thousand dollars. Reports to the
8 director pursuant to section three hundred fifteen of this article shall
9 include activities with respect to all such state contracts. Contracting
10 agencies shall include or require to be included with respect to state
11 contracts for the acquisition, construction, demolition, replacement,
12 major repair or renovation of real property and improvements thereon,
13 such provisions as may be necessary to effectuate the provisions of this
14 section in every bid specification and state contract, including, but
15 not limited to: (a) provisions requiring contractors to make a good
16 faith effort to solicit active participation by enterprises identified
17 in the directory of certified businesses [~~provided to the contracting~~
18 ~~agency by the office~~]; (b) requiring the parties to agree as a condition
19 of entering into such contract, to be bound by the provisions of section
20 three hundred sixteen of this article; and (c) requiring the contractor
21 to include the provisions set forth in paragraphs (a) and (b) of this
22 subdivision in every subcontract in a manner that the provisions will be
23 binding upon each subcontractor as to work in connection with such
24 contract. Provided, however, that no such provisions shall be binding
25 upon contractors or subcontractors in the performance of work or the
26 provision of services that are unrelated, separate or distinct from the
27 state contract as expressed by its terms, and nothing in this section
28 shall authorize the director or any contracting agency to impose any
29 requirement on a contractor or subcontractor except with respect to a
30 state contract.

31 4. In the implementation of this section, the contracting agency shall
32 (a) consult the findings contained within the disparity study evidencing
33 relevant industry specific availability of certified businesses;

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

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

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

48 5. (a) Contracting agencies shall administer the rules and regulations
49 promulgated by the director in a good faith effort to meet the maximum
50 feasible portion of the agency's goals adopted pursuant to this article
51 and the regulations of the director. Such rules and regulations: shall
52 require a contractor to submit a utilization plan after bids are opened,
53 when bids are required, but prior to the award of a state contract;
54 shall require the contracting agency to review the utilization plan
55 submitted by the contractor and to post the utilization plan and any
56 waivers of compliance issued pursuant to subdivision six of this section

1 on the website of the contracting agency [~~within a reasonable period of~~
2 ~~time as established by the director~~]; shall require the contracting
3 agency to notify the contractor in writing within a period of time spec-
4 ified by the director as to any deficiencies contained in the contrac-
5 tor's utilization plan; shall require remedy thereof within a period of
6 time specified by the director; shall require the contractor to submit
7 periodic compliance reports relating to the operation and implementation
8 of any utilization plan; shall not allow any automatic waivers but shall
9 allow a contractor to apply for a partial or total waiver of the minority
10 ty and women-owned business enterprise participation requirements pursu-
11 ant to subdivisions six and seven of this section; shall allow a
12 contractor to file a complaint with the director pursuant to subdivision
13 eight of this section in the event a contracting agency has failed or
14 refused to issue a waiver of the minority and women-owned business
15 enterprise participation requirements or has denied such request for a
16 waiver; and shall allow a contracting agency to file a complaint with
17 the director pursuant to subdivision nine of this section in the event a
18 contractor is failing or has failed to comply with the minority and
19 women-owned business enterprise participation requirements set forth in
20 the state contract where no waiver has been granted.

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

31 (c) Without limiting other grounds for the disqualification of bids or
32 proposals on the basis of non-responsibility, a contracting agency may
33 disqualify the bid or proposal of a contractor as being non-responsible
34 for failure to remedy notified deficiencies contained in the contrac-
35 tor's utilization plan within a period of time specified in regulations
36 promulgated by the director after receiving notification of such defi-
37 ciencies from the contracting agency. Where failure to remedy any noti-
38 fied deficiency in the utilization plan is a ground for disqualifica-
39 tion, that issue and all other grounds for disqualification shall be
40 stated in writing by the contracting agency. Where the contracting agen-
41 cy states that a failure to remedy any notified deficiency in the utili-
42 zation plan is a ground for disqualification the contractor shall be
43 entitled to an administrative hearing, on a record, involving all
44 grounds stated by the contracting agency. Such hearing shall be
45 conducted by the appropriate authority of the contracting agency to
46 review the determination of disqualification. A final administrative
47 determination made following such hearing shall be reviewable in a
48 proceeding commenced under article seventy-eight of the civil practice
49 law and rules, provided that such proceeding is commenced within thirty
50 days of the notice given by certified mail return receipt requested
51 rendering such final administrative determination. Such proceeding shall
52 be commenced in the supreme court, appellate division, third department
53 and such proceeding shall be preferred over all other civil causes
54 except election causes, and shall be heard and determined in preference
55 to all other civil business pending therein, except election matters,
56 irrespective of position on the calendar. Appeals taken to the court of

1 appeals of the state of New York shall be subject to the same prefer-
2 ence.

3 6. (a) Where it appears that a contractor cannot, after a good faith
4 effort, comply with the minority and women-owned business enterprise
5 participation requirements set forth in a particular state contract, a
6 contractor may file a written application with the contracting agency
7 requesting a partial or total waiver of such requirements setting forth
8 the reasons for such contractor's inability to meet any or all of the
9 participation requirements together with an explanation of the efforts
10 undertaken by the contractor to obtain the required minority and women-
11 owned business enterprise participation. In implementing the provisions
12 of this section, the contracting agency shall consider the number and
13 types of minority and women-owned business enterprises located in the
14 region in which the state contract is to be performed, the total dollar
15 value of the state contract, the scope of work to be performed and the
16 project size and term. If, based on such considerations, the contracting
17 agency determines there is not a reasonable availability of contractors
18 on the list of certified business to furnish services for the project,
19 it shall issue a waiver of compliance to the contractor. In making such
20 determination, the contracting agency shall first consider the avail-
21 ability of other business enterprises located in the region and shall
22 thereafter consider the financial ability of minority and women-owned
23 businesses located outside the region in which the contract is to be
24 performed to perform the state contract.

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

28 (i) report the issuance of the waiver to the director; and
29 (ii) publish on the contracting agency's website: a searchable list of
30 (A) information identifying the contract, including the value of the
31 contract; (B) the name of the contractor receiving the waiver; (C) the
32 date of the waiver; (D) whether the waiver was a total or partial waiv-
33 er; and (E) the specific contract provisions to which the waiver
34 applies.

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

38 (a) whether the contractor has advertised in general circulation
39 media, trade association publications, and minority-focus and women-fo-
40 cus media and, in such event, (i) whether or not certified minority or
41 women-owned businesses which have been solicited by the contractor
42 exhibited interest in submitting proposals for a particular project by
43 attending a pre-bid conference; and

44 (ii) whether certified businesses which have been solicited by the
45 contractor have responded in a timely fashion to the contractor's solici-
46 tations for timely competitive bid quotations prior to the contracting
47 agency's bid date; and

48 (b) whether there has been written notification to appropriate certi-
49 fied businesses that appear in the directory of certified businesses
50 prepared pursuant to paragraph (f) of subdivision three of section three
51 hundred eleven of this article; and

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

55 8. In the event that a contracting agency fails or refuses to issue a
56 waiver to a contractor as requested within twenty days after having made

1 application therefor pursuant to subdivision six of this section or if
2 the contracting agency denies such application, in whole or in part, the
3 contractor may file a complaint with the director pursuant to section
4 three hundred sixteen of this article setting forth the facts and
5 circumstances giving rise to the contractor's complaint together with a
6 demand for relief. The contractor shall serve a copy of such complaint
7 upon the contracting agency by personal service or by certified mail,
8 return receipt requested. The contracting agency shall be afforded an
9 opportunity to respond to such complaint in writing.

10 9. If, after the review of a contractor's minority and ~~women-owned~~
11 women-owned business utilization plan or review of a periodic compliance
12 report and after such contractor has been afforded an opportunity to
13 respond to a notice of deficiency issued by the contracting agency in
14 connection therewith, it appears that a contractor is failing or refus-
15 ing to comply with the minority and women-owned business participation
16 requirements as set forth in the state contract and where no waiver from
17 such requirements has been granted, the contracting agency may file a
18 written complaint with the director pursuant to section three hundred
19 sixteen of this article setting forth the facts and circumstances giving
20 rise to the contracting agency's complaint together with a demand for
21 relief. The contracting agency shall serve a copy of such complaint
22 upon the contractor by personal service or by certified mail, return
23 receipt requested. The contractor shall be afforded an opportunity to
24 respond to such complaint in writing.

25 § 6. Section 314 of the executive law, as added by chapter 261 of the
26 laws of 1988, subdivision 2-a as amended by chapter 175 of the laws of
27 2010, subdivision 2-b as added by chapter 409 of the laws of 2018,
28 subdivision 4 as amended and subdivision 5 as added by chapter 399 of
29 the laws of 2014, is amended to read as follows:

30 § 314. Statewide certification program. 1. The director shall promul-
31 gate rules and regulations providing for the establishment of a state-
32 wide certification program including rules and regulations governing the
33 approval, denial or revocation of any such certification including revo-
34 cations for convictions for fraudulently misrepresenting the status of
35 minority or women-owned business enterprises. Such rules and regu-
36 lations shall include, but not be limited to, such matters as may be
37 required to ensure that the established procedures thereunder shall at
38 least be in compliance with the code of fair procedure set forth in
39 section seventy-three of the civil rights law and consistent with the
40 provisions of article twenty-three of the correction law.

41 2. For the purposes of this article, the office shall be responsible
42 for verifying businesses as being owned, operated, and controlled by
43 minority group members or women and for certifying such verified busi-
44 nesses. The director shall prepare a directory of certified businesses
45 for use by contracting agencies and contractors in carrying out the
46 provisions of this article. The director shall ~~periodically~~ quarterly
47 update the directory.

48 2-a. (a) The director shall establish a procedure enabling the office
49 to accept New York municipal corporation certification verification for
50 minority and women-owned business enterprise applicants in lieu of
51 requiring the applicant to complete the state certification process. The
52 director shall promulgate rules and regulations to set forth criteria
53 for the acceptance of municipal corporation certification. All eligible
54 municipal corporation certifications shall require business enterprises
55 seeking certification to meet the following standards:

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

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

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

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

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

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

17 (vii) be an enterprise that is a small business pursuant to subdivi-
18 sion twenty of section three hundred ten of this article.

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

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

31 2-b. The director shall establish a procedure enabling an applicant
32 who was a military service member to prove his or her race or ethnicity,
33 date of birth, place of birth and verification of address for purposes
34 of certification of the applicant's business as a minority-owned busi-
35 ness by submission of the DD Form 214 issued to the applicant by the
36 United States department of defense upon such applicant's retirement,
37 separation, or discharge from active duty in the armed forces of the
38 United States, provided the DD Form 214 contains such information, in
39 lieu of requiring the applicant to otherwise prove his or her race or
40 ethnicity. The director shall promulgate rules and regulations to set
41 forth criteria for the acceptance of the DD Form 214 by the office.

42 3. Following application for certification pursuant to this section,
43 the director shall provide the applicant with written notice of the
44 status of the application, including notice of any outstanding deficien-
45 cies, within [~~thirty~~] **fifteen** days. Within [~~sixty~~] **thirty** days of
46 submission of a final completed application, the director shall provide
47 the applicant with written notice of a determination by the office
48 approving or denying such certification and, in the event of a denial a
49 statement setting forth the reasons for such denial. Upon a determi-
50 nation denying or revoking certification, the business enterprise for
51 which certification has been so denied or revoked shall, upon written
52 request made within thirty days from receipt of notice of such determi-
53 nation, be entitled to a hearing before an independent hearing officer
54 designated for such purpose by the director. In the event that a request
55 for a hearing is not made within such thirty day period, such determi-
56 nation shall be deemed to be final. The independent hearing officer

1 shall conduct a hearing and upon the conclusion of such hearing, issue a
2 written recommendation to the director to affirm, reverse or modify such
3 determination of the director. Such written recommendation shall be
4 issued to the parties. The director, within thirty days, by order, must
5 accept, reject or modify such recommendation of the hearing officer and
6 set forth in writing the reasons therefor. The director shall serve a
7 copy of such order and reasons therefor upon the business enterprise by
8 personal service or by certified mail return receipt requested. The
9 order of the director shall be subject to review pursuant to article
10 seventy-eight of the civil practice law and rules.

11 4. The director may, after performing an availability analysis and
12 upon a finding that industry-specific factors coupled with personal net
13 worth or small business eligibility requirements pursuant to subdivi-
14 sions nineteen and twenty of section three hundred ten of this article,
15 respectively, have led to the significant exclusion of businesses owned
16 by minority group members or women in that industry, grant provisional
17 MWBE certification status to applicants from that designated industry,
18 provided, however, that all other eligibility requirements pursuant to
19 subdivision seven or fifteen of section three hundred ten of this arti-
20 cle, as applicable, are satisfied. Any industry-based determination made
21 under this section by the director shall be made widely available to the
22 public and posted on the division's website.

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

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

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

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

47 2-a. Each contracting agency when notifying a contractor of a winning
48 bid award shall also notify any minority or women-owned business enter-
49 prises affiliated with such contractor, per the contractor's submitted
50 utilization plan, of such contractor's receipt of the winning bid award.

51 3. Each contracting agency shall report to the director with respect
52 to activities undertaken to promote employment of minority group members
53 and women and promote and increase participation by certified businesses
54 with respect to state contracts and subcontracts. Such reports shall be
55 submitted [~~periodically, but not less frequently than annually, as~~
56 ~~required by the director,~~] no later than January fifteenth of every year

1 and shall include such information as is necessary for the director to
2 determine whether the contracting agency and any contractor to the
3 contracting agency have complied with the purposes of this article,
4 including, without limitation, a summary of all waivers of the require-
5 ments of subdivisions six and seven of section three hundred thirteen of
6 this article allowed by the contracting agency during the period covered
7 by the report, including a description of the basis of the waiver
8 request ~~[and]~~, the rationale for granting any such waiver and any
9 instances in which the contracting agency has deemed a contractor to
10 have committed a violation pursuant to section three hundred sixteen of
11 this article and such other information as the director shall require.

12 Each agency shall also include in such annual report whether or not it
13 has been required to prepare a remedial plan, and, if so, the plan and
14 the extent to which the agency has complied with each element of the
15 plan.

16 4. The division of minority and women's business development shall
17 issue an annual report which: (a) summarizes the report submitted by
18 each contracting agency pursuant to subdivision three of this section;
19 (b) contains such comparative or other information as the director deems
20 appropriate, including but not limited to goals compared to actual
21 participation of minority and women-owned business enterprises in state
22 contracting and a listing of annual goals compared to actual partic-
23 ipation for each agency, the total number of certified minority and
24 women-owned businesses for that reporting year as well as the total
25 number reported in each of the previous five years, and the total dollar
26 value of state expenditures on certified minority and women-owned busi-
27 ness contracts and subcontract for the previous five years, to evaluate
28 the effectiveness of the activities undertaken by each such contracting
29 agency to promote increased participation by certified minority or
30 women-owned businesses with respect to state contracts and subcontracts;
31 (c) contains a summary of all waivers of the requirements of subdivi-
32 sions six and seven of section three hundred thirteen of this article
33 allowed by each contracting agency during the period covered by the
34 report, including a description of the basis of the waiver request and
35 the contracting agency's rationale for granting any such waiver; (d)
36 describes any efforts to create a database or other information storage
37 and retrieval system containing information relevant to contracting with
38 minority and women-owned business enterprises; ~~[and]~~ (e) contains a
39 summary of (i) all determinations of violations of this article by a
40 contractor or a contracting agency made during the period covered by the
41 annual report pursuant to section three hundred sixteen-a of this arti-
42 cle and (ii) the penalties or sanctions, if any, assessed in connection
43 with such determinations and the rationale for such penalties or sanc-
44 tions; (f) provides a written rationale for instances where an agency's
45 participation goals or remedial plans do not meet the goals supported by
46 the two thousand sixteen disparity study; and (g) provides a written
47 explanation of the reason that agency expenditures are exempt from
48 complying with participation goals. Copies of the annual report shall be
49 provided to the commissioner, the governor, the comptroller, the tempo-
50 rary president of the senate, the speaker of the assembly, the minority
51 leader of the senate, the minority leader of the assembly and shall also
52 be made widely available to the public via, among other things, publica-
53 tion on a website maintained by the division of minority and women's
54 business development.

55 5. Each agency shall include in its annual report to the governor and
56 legislature pursuant to section one hundred sixty-four of ~~[the executive~~

1 ~~law~~ this chapter: (a) its annual goals for contracts with minority-
2 owned and women-owned business enterprises~~7~~; (b) the number of actual
3 contracts issued to minority-owned and women-owned business enterprises;
4 ~~[and]~~ (c) a summary of all waivers of the requirements of subdivisions
5 six and seven of section three hundred thirteen of this article allowed
6 by the reporting agency during the preceding year, including a
7 description of the basis of the waiver request and the rationale for
8 granting such waiver~~Each agency shall also include in such annual~~
9 ~~report~~; (d) whether or not it has been required to prepare a remedial
10 plan, and, if so, the plan and the extent to which the agency has
11 complied with each element of the plan; and (e) which expenditures are
12 exempt from participation goals and the rationale for such exemption.
13 Such report shall also itemize the total value of design-build contracts
14 used by each contracting agency when applicable, and each contracting
15 agency authorized to enter into design-build contracts shall itemize the
16 rate of minority and women-owned business enterprises participation on
17 design-build contracts, design-bid-build contracts, as well as the agen-
18 cy's overall participation rate.

19 6. Each contracting agency that substantially fails to meet the goals
20 supported by the disparity study, as defined by regulation of the direc-
21 tor, shall be required to submit to the director a remedial action plan
22 to remedy such failure.

23 7. If it is determined by the director that any agency has failed to
24 act in good faith to implement the remedial action plan, pursuant to
25 subdivision six of this section within one year, the director shall
26 provide written notice of such a finding, which shall be publicly avail-
27 able, and direct implementation of remedial actions to:

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

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

33 (c) eliminate extended experience or capitalization requirements, when
34 programmatic and economically feasible, that will expand partic-
35 ipation by women and minority-owned business enterprises;

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

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

46 § 8. Intentionally Omitted.

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

49 6. Discretionary buying thresholds. Pursuant to guidelines established
50 by the state procurement council: the commissioner may purchase services
51 and commodities in an amount not exceeding eighty-five thousand dollars
52 without a formal competitive process; state agencies may purchase
53 services and commodities in an amount not exceeding fifty thousand
54 dollars without a formal competitive process; and state agencies may
55 purchase commodities or services from small business concerns or those
56 certified pursuant to articles fifteen-A and seventeen-B of the execu-

tive law, or commodities or technology that are recycled or remanufactured, or commodities that are food, including milk and milk products, grown, produced or harvested in New York state in an amount not exceeding ~~two~~ four hundred thousand dollars without a formal competitive process.

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

(i) for the selection of such contractors on a competitive basis, and provisions relating to the circumstances under which the board may by resolution waive competition, including, notwithstanding any other provision of law requiring competition, the purchase of goods or services from small business concerns ~~or~~ those certified as minority or women-owned business enterprises, or goods or technology that are recycled or remanufactured, in an amount not to exceed ~~two~~ four hundred thousand dollars without a formal competitive process;

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

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

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

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

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

prise or women-owned business enterprise pursuant to article fifteen-A of the executive law submits a bid of one million four hundred thousand dollars or less, as adjusted annually for inflation beginning January first, two thousand twenty, the bid of the minority or women-owned business enterprise shall be deemed the lowest bid unless it exceeds the bid of any other bidder by more than ten percent.

§ 13. Intentionally Omitted.

§ 14. The opening paragraph of subdivision (h) of section 121 of chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure trust fund, as amended by section 1 of part 000 of chapter 59 of the laws of 2018, is amended to read as follows:

The provisions of sections sixty-two through sixty-six of this act shall expire April fifteenth, two thousand twenty-four, provided, however, that if the statewide disparity study regarding the participation of minority and women-owned business enterprises in state contracts required pursuant to subdivision 1 of section 312-a of the executive law is completed and delivered to the governor and the legislature on or before August fifteenth two thousand twenty-three, then the provisions of sections sixty-two through sixty-six of this act shall expire and be deemed repealed on December thirty-first, two thousand [~~nineteen~~] twenty-four, except that:

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

ARTICLE 28

WORKFORCE DIVERSITY PROGRAM

Section 821. Definitions.

822. Workforce participation goals.

823. Reporting.

824. Enforcement.

825. Powers and responsibilities of the division.

826. Severability.

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

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

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

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

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

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

6. "List of non-compliant contractors" shall mean a list of contractors and subcontractors, maintained by the division and published on the website of the division, that are ineligible to participate as contractors or subcontractors in the performance of state contracts for a term determined by the director.

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

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

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

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

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

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

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

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

31 Albany County Airport Authority;

32 Albany Port District Commission;

33 Alfred, Almond, Hornellsville Sewer Authority;

34 Battery Park City Authority;

35 Cayuga County Water and Sewer Authority;

36 (Nelson A. Rockefeller) Empire State Plaza Performing Arts Center
37 Corporation;

38 Industrial Exhibit Authority;

39 Livingston County Water and Sewer Authority;

40 Long Island Power Authority;

41 Long Island Rail Road;

42 Long Island Market Authority;

43 Manhattan and Bronx Surface Transit Operating Authority;

44 Metro-North Commuter Railroad;

45 Metropolitan Suburban Bus Authority;

46 Metropolitan Transportation Authority;

47 Natural Heritage Trust;

48 New York City Transit Authority;

49 New York Convention Center Operating Corporation;

50 New York State Bridge Authority;

51 New York State Olympic Regional Development Authority;

52 New York State Thruway Authority;

53 Niagara Falls Public Water Authority;

54 Niagara Falls Water Board;

55 Port of Oswego Authority;

56 Power Authority of the State of New York;

Roosevelt Island Operating Corporation;
Schenectady Metroplex Development Authority;
State Insurance Fund;
Staten Island Rapid Transit Operating Authority;
State University Construction Fund;
Syracuse Regional Airport Authority;
Triborough Bridge and Tunnel Authority;
Upper Mohawk Valley Regional Water Board;
Upper Mohawk Valley Regional Water Finance Authority;
Upper Mohawk Valley Memorial Auditorium Authority;
Urban Development Corporation and its subsidiary corporations.

(c) the following only to the extent of state contracts entered into for its own account or for the benefit of a state agency as defined in paragraph (a) or (b) of this subdivision:

Dormitory Authority of the State of New York;
Facilities Development Corporation;
New York State Energy Research and Development Authority;
New York State Science and Technology Foundation.

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

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

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

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

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

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

1 participation of minority group members and women for municipalities
2 where the director deems feasible and appropriate.

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

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

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

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

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

19 (i) Black men;

20 (ii) Black women;

21 (iii) Hispanic men;

22 (iv) Hispanic women;

23 (v) Native American men;

24 (vi) Native American women;

25 (vii) Asian men;

26 (viii) Asian women;

27 (ix) Caucasian women.

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

30 (i) the findings of the disparity study;

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

33 (iii) if applicable, any aspirational goal established by the divi-
34 sion.

35 (d) In any case where a state agency establishes a workforce partic-
36 ipation goal on an invitation for bids, request for proposals, or other
37 solicitation that will result in the award of a state contract that
38 deviates from the aspirational goal for work or service in the county or
39 municipality in which the work or service will be performed, the state
40 agency shall document numerical evidence demonstrating that the applica-
41 tion of the aspirational goal would not be practical, feasible, or
42 appropriate.

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

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

52 (i) A certification stating that the contractor will make a good faith
53 effort to achieve the applicable workforce participation goal and will
54 contractually require any subcontractors to the contractor to make a
55 good faith effort to achieve the applicable workforce participation goal
56 in any subcontracted work, which certification shall acknowledge that

1 failure by the contractor or any of its subcontractors to make a good
2 faith effort to achieve the applicable workforce participation goal may
3 result in a determination by the contracting state agency that the
4 contractor or its subcontractor is a non-compliant contractor;

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

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

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

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

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

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

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

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

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

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

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

50 (a) In the event that a contractor submits a certification or waiver
51 request that is accepted by the state agency, the state agency shall
52 establish in the state contract the expected level of participation by
53 minority group members and women in each of the trades, professions, and
54 occupations required in performance of the work of the state contract,
55 require that the contractor make good faith efforts to achieve such
56 workforce participation goals, require that the contractor require any

1 subcontractors to make a good faith effort to achieve the applicable
2 workforce participation goal in any subcontracted work, and indicate
3 that the failure of the contractor or any of its subcontractors to make
4 a good faith effort to achieve the workforce participation goal may
5 result in the contractor or subcontractor being deemed a non-compliant
6 contractor.

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

17 (i) Where failure to remedy any notified deficiency in the workforce
18 utilization plan is a ground for disqualification, that issue and all
19 other grounds for disqualification shall be stated in writing by the
20 contracting state agency. The contractor shall be entitled to an admin-
21 istrative hearing, on the record, involving all grounds stated by the
22 contracting state agency in its notice of the contractor's disqualifica-
23 tion. Such hearing shall be conducted by the appropriate authority of
24 the contracting agency to review the determination of disqualification.
25 A final administrative determination made following such hearing shall
26 be reviewable in a proceeding commenced under article seventy-eight of
27 the civil practice law and rules, provided that such proceeding is
28 commenced within thirty days of the notice given by certified mail
29 return receipt requested rendering such final administrative determi-
30 nation. Such proceeding shall be commenced in the supreme court, appel-
31 late division, third department and such proceeding shall be preferred
32 over all other civil causes except election causes, and shall be heard
33 and determined in preference to all other civil business pending there-
34 in, except election matters, irrespective of position on the calendar.
35 Appeals taken to the court of appeals of the state of New York shall be
36 subject to the same preference.

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

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

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

1 § 824. Enforcement. 1. Where it appears that a contractor cannot,
2 after a good faith effort, meet the workforce participation goals set
3 forth in a particular state contract, a contractor may file a written
4 application with the contracting state agency requesting a partial or
5 total waiver of such requirements. Such request shall set forth the
6 reasons for such contractor's inability to meet the workforce partic-
7 ipation goal, specifically describe the reasons for any deviations from
8 the anticipated workforce participation goal set forth in the contrac-
9 tor's bid or proposal leading to the award of the state contract, and
10 describe the efforts by the contractor and any subcontractors to achieve
11 the maximum feasible participation of minority group members and women
12 in the performance of the work of the state contract. Where the contrac-
13 tor's inability to achieve the workforce participation goal on a state
14 contract is attributable to the failure of one or more subcontractors to
15 make good faith efforts to achieve the maximum feasible participation of
16 minority group members and women in the performance of the work of the
17 state contract, the contractor shall identify such subcontractor or
18 subcontractors to the contracting state agency.

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

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

26 (b) The contractor contractually required each of its subcontractors
27 to make a good faith effort to achieve the maximum feasible partic-
28 ipation of minority group members and women in the performance of the
29 subcontracted work, periodically monitored such subcontractors' deploy-
30 ment of minority group members and women in the performance of the
31 subcontracted work, provided notice to such subcontractors of any defi-
32 ciencies in their deployment of minority group members and women in the
33 performance of such subcontracted work, and could not achieve the work-
34 force participation goal for one or more trades, professions, or occupa-
35 tions without the good faith efforts of such subcontractors.

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

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

47 5. Upon receipt of a recommendation from a state agency that a
48 contractor or subcontractor should be deemed a non-compliant contractor,
49 the director shall, with the assistance of the department, review the
50 facts and circumstances forming the basis of the recommendation and
51 issue a determination as to whether or not the contractor or subcontrac-
52 tor should be deemed a non-compliant contractor and, if so, the duration
53 of such status as a non-compliant contractor. In determining the dura-
54 tion of a contractor's or subcontractor's status as a non-compliant
55 contractor, the director shall consider:

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

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

7 (iii) whether the contractor or subcontractor has offered to provide
8 employment opportunities, training, or other remedial benefits to minor-
9 ity group members or women in relevant trades, professions, or occupa-
10 tions.

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

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

24 § 825. Powers and responsibilities of the division. 1. The director
25 shall post to the website of the division on or before October first of
26 each year the aspirational goals for the utilization of minority group
27 members and women in certain trades, professions and/or occupations as
28 required pursuant to section eight hundred twenty-two of this article.

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

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

40 § 826. Severability. If any clause, sentence, paragraph, section or
41 part of this article shall be adjudged by any court of competent juris-
42 isdiction to be invalid, the judgment shall not affect, impair or invali-
43 date the remainder thereof, but shall be confined in its operation to
44 the clause, sentence, paragraph, section or part of this article direct-
45 ly involved in the controversy in which the judgment shall have been
46 rendered.

47 § 16. This act shall take effect immediately, and shall be deemed to
48 have been in full force and effect on and after April 1, 2019; provided,
49 however, that:

50 (a) the amendments to article 15-A of the executive law, made by
51 sections one, one-a, one-b, two, three, four, five, six and seven of
52 this act, shall not affect the expiration of such article and shall
53 expire and be deemed expired therewith;

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

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

(d) subdivision 2-b of section 314 of the executive law, as amended by section six of this act, shall take effect on the same date and in the same manner as section 1 of chapter 409 of the laws of 2018 takes effect;

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

(f) provided that the division of minority and women's business development shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in section fourteen of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART BB

Intentionally Omitted

PART CC

Intentionally Omitted

PART DD

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

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

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

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

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

25 2. Definitions. Except where different meanings are expressly speci-
26 fied in subsequent provisions of this section, the following terms shall
27 have the following meanings:

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

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

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

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

35 (e) "Facilitate" means the planning, designing, financing, acquisi-
36 tion, development, redevelopment, expansion, construction, recon-
37 struction, replacement, approval of works, lease, leaseback, licensing,
38 cosigning, asset management, optimization, rehabilitation, repair,
39 alteration, improvement, extension, management, ownership, use and
40 effectuation of the matters described in this act. "Facilitation" shall
41 have a concomitant meaning.

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

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

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

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

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

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

17 (a) Facilitate the project;

18 (b) Coordinate activities of governmental entities, Amtrak, and
19 private entities providing assistance to the project or otherwise regu-
20 lating the Project, with a view to achieving Full funding, and encourage
21 and enable such parties to participate in the effectuation of the
22 Project;

23 (c) act as a coordinating agency to arrange for cooperation among the
24 federal government, the State of New Jersey, any local government there-
25 of, the state of New York, any local government thereof, any agency,
26 instrumentality, department, commission, or authority of any one or more
27 of the foregoing, any bi-state agency, Amtrak, any individual or private
28 firm, entity or corporation, or with any one or more of them (including
29 by contract among the parties), for and in connection with the Facili-
30 tation of the Project for any of the purposes of this act, and to enter
31 into an agreement or agreements (and from time to time to enter into
32 agreements amending or supplementing the same) with the federal govern-
33 ment, the State of New Jersey, any local government thereof, the state
34 of New York, any local government thereof, any agency, instrumentality,
35 department, commission, or authority of any one or more of the forego-
36 ing, any bi-state agency, Amtrak, any individual or private firm, entity
37 or corporation, or with any one or more of them, for or relating to such
38 purposes, including but not limited to agreements with respect to finan-
39 cial assistance, loans, grants or any other funding as may be available
40 for the Project. The Commission is hereby intended to qualify for,
41 authorized, and empowered to apply for and accept, financial assistance,
42 loans, grants, or any other funding for such purposes under federal,
43 state, or local laws, and to make application directly to the appropri-
44 ate officials or agencies for the application for and receipt of feder-
45 al, state or local assistance, loans, grants or any other funding in aid
46 of any of the purposes of this act;

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

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

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

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

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

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

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

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

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

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

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

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

17 (c) The powers of the Commission may be exercised by the commissioners
18 at a meeting duly called and held where a quorum of all three commis-
19 sioners are present; provided, however, that in the event a vacancy
20 remains for ninety days, the powers of the Commission may be exercised
21 by the commissioners at a meeting duly called and held where all remain-
22 ing commissioners are present. Action may be taken and motions and
23 resolutions adopted by the Commission at any meeting thereof by unani-
24 mous affirmative vote of the commissioners. The commissioners shall
25 adopt bylaws providing for attendance protocols, voting procedures, and
26 other matters related to the conduct of the business of the Commission.

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

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

42 (f) The legislature finds and declares that the right of the public to
43 be present at meetings of the Commission, and to witness the deliber-
44 ation, policy formulation, and decision making of the Commission, is
45 vital to the enhancement and proper functioning of the democratic proc-
46 ess, and that secrecy in public affairs undermines the faith of the
47 public in government and the public's effectiveness in fulfilling its
48 role in a democratic society; and declares it to be the public policy of
49 the state of New Jersey and the state of New York to ensure the right of
50 its citizens to have adequate advance notice of and the right to attend
51 all meetings of the Commission at which any public business is acted
52 upon in any way, except only in those circumstances where the public
53 interest would be clearly endangered, the relevant matters are made
54 confidential by federal or state law, or the personal privacy of indi-
55 viduals would be clearly in danger of unwarranted invasion.

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

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

12 (a) Make appropriate application for, and act as a coordinating,
13 distributing, or recipient agency for, federal, state, or private fund-
14 ing and authorizations necessary or appropriate to Facilitate the
15 project;

16 (b) Cooperate with other agencies or authorities or departments
17 (federal, state, local, and bi-state), Amtrak, and private parties to
18 Facilitate the Project, including entering into agreements specifying a
19 party's rights and obligations with respect to the Project, to create a
20 Project capable of achieving long-term stability and Full Funding, with-
21 out obligating the full faith and credit of the federal government,
22 either state or any local government thereof, or any other party, except
23 as explicitly authorized by any party empowered by law to do so;

24 (c) Adopt bylaws to govern the conduct of its affairs, and adopt rules
25 and regulations, including a conflict of interest policy and code of
26 ethics for commissioners and officers of the Commission, and make appro-
27 priate orders to carry out and discharge its powers, duties, and func-
28 tions;

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

32 (e) Recommend appropriate federal, state, and local government legis-
33 lation and agency administrative action pertaining to the Project;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (n) Cooperate with the federal government, the state of New Jersey,
43 any local government thereof, the state of New York, any local govern-
44 ment thereof with any local government thereof, with any agency, instru-
45 mentality, department, commission or authority of any one or more of the
46 foregoing, any bi-state agency, Amtrak, any individual or private firm,
47 entity or corporation, or with any one or more of them, in connection
48 with the Project, and to enter into an agreement or agreements, notwith-
49 standing any other provision of law of the states, general, special,
50 charter or local, with the federal government, with the state of New
51 Jersey, any local government thereof, the state of New York, any local
52 government thereof any agency, instrumentality, department, commission,
53 or authority of any one or more of the foregoing, any bi-state agency,
54 Amtrak, any individual or private firm, entity, or corporation, or with
55 any one or more of the same for or relating to the Project;

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

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

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

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

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

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

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

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

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

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

9 1. The department of transportation may cooperate and contract with
10 the national railroad passenger corporation or if deemed necessary,
11 desirable or convenient by the commissioner to facilitate the purposes
12 of this section with the gateway development commission to the extent
13 that commission is so authorized to act under its authorizing statute,
14 for any intercity rail passenger services deemed necessary, convenient
15 or desirable by the commissioner, within the amounts available by appro-
16 priation therefor, as such services are made available pursuant to the
17 provisions of the rail passenger service act of nineteen hundred seventy
18 and any acts amendatory or supplemental thereto, subject to the approval
19 of the director of the budget or pursuant to reimbursement available
20 from the gateway development commission, any railroad company, any other
21 state or agency, the federal government, any public authority of this
22 state or any other state or two or more states, or any political subdi-
23 vision or municipality of the state. Notwithstanding any inconsistent
24 law, general, special or local, the commissioner, as funds are made
25 available for the purposes hereof, is hereby empowered to contract with
26 such corporation or Commission and to do all other things necessary,
27 convenient or desirable on behalf of the state to secure the full bene-
28 fits available under and pursuant to such act and any other federal act
29 which provides funding for intercity rail passenger services, and to
30 contract and do all other things necessary as hereinafter provided on
31 behalf of the state to effect ~~[the]~~ and facilitate intercity rail
32 passenger ~~[service-program]~~ services which he determines is necessary,
33 convenient or desirable and the department of transportation may cooper-
34 ate and contract with the gateway development commission for passenger
35 rail activities, to the extent that the gateway development commission
36 is so authorized to act under its authorizing statute, provided, howev-
37 er, that the department of transportation shall only contract with the
38 gateway development commission if such contract is approved by that
39 commission's board of commissioners in accordance with its authorizing
40 statute.

41 2. The commissioner shall coordinate the intercity rail passenger
42 activities of the state and other interested public and private organ-
43 izations and persons to effectuate the purposes of this section and
44 shall have the responsibility for negotiating with the federal govern-
45 ment with respect to intercity rail passenger service programs. The
46 commissioner is authorized to enter into joint service agreements and
47 other agreements between the state and any railroad company, any other
48 state department or agency, the federal government, the Canadian govern-
49 ment, any other state, or agency or instrumentality thereof, any public
50 authority of this state or any other state or two or more states, or any
51 political subdivision or municipality of the state, relating to proper-
52 ty, buildings, structures, facilities, services, rates, fares, classi-
53 fications, dividends, allowances or charges (including charges between
54 intercity rail passenger service facilities), or rules or regulations
55 pertaining thereto, for or in connection with or incidental to transpor-
56 tation in part upon intercity rail passenger service facilities. Inter-

1 city rail passenger service facilities include the right of way and
2 related trackage, rails, cars, locomotives, or other rolling stock,
3 signal, power, fuel, communication and ventilation systems, power
4 plants, stations, terminals, tunnels, storage yards, repair and mainte-
5 nance shops, yards, equipment and parts, offices and other real estate
6 or personnel used or held for or incidental to the operation, rehabili-
7 tation or improvement of any railroad operating intercity rail passenger
8 service or to operate such service, including but not limited to build-
9 ings, structures, and rail property.

10 3. The commissioner may on such terms and conditions as he may deter-
11 mine necessary, convenient or desirable, establish, construct, effectu-
12 ate, operate, maintain, renovate, improve, extend or repair any such
13 intercity rail passenger service facility or any related services and
14 activities, or may provide for such by contract, lease or other arrange-
15 ment on such terms as the commissioner may deem necessary, convenient or
16 desirable with any agency, corporation or person, including but not
17 limited to any railroad company, any state agency, the federal govern-
18 ment, the Canadian government, any other state or agency or instrumen-
19 tality thereof, any public authority of this or any other state or two
20 or more states, or any political subdivision or municipality of the
21 state.

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

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

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

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

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

15 § 7. (a) This act shall take effect upon the enactment into law by the
16 state of New Jersey of legislation having an identical effect with this
17 act, but if the state of New Jersey shall have already enacted such
18 legislation, this act shall take effect immediately; provided that the
19 state of New Jersey shall notify the legislative bill drafting commis-
20 sion upon the occurrence of the enactment of the legislation provided
21 for in this act in order that the commission may maintain an accurate
22 and timely effective data base of the official text of the laws of the
23 state of New York in furtherance of effectuating the provisions of
24 section 44 of the legislative law and section 70-b of the public offi-
25 cers law; and

26 (b) the Commission shall dissolve following a joint determination by
27 the Governor of New Jersey and the Governor of New York that the Project
28 has been completed or should be transferred to another agency, instru-
29 mentality or entity and: (i) any bonds or other securities issued and
30 any other debt incurred for such Project purposes have been repaid or
31 arrangements have been made to ensure such repayment in full, without
32 impairment of credit worthiness and; (ii) Amtrak is not unduly preju-
33 diced by such dissolution; provided that the Gateway Development Commis-
34 sion shall notify the legislative bill drafting commission upon the
35 occurrence of the intended dissolution in order that the commission may
36 maintain an accurate and timely effective data base of the official text
37 of the laws of the state of New York in furtherance of effectuating the
38 provisions of section 44 of the legislative law and section 70-b of the
39 public officers law.

40 PART EE

41 Section 1. This Part, which shall be known and may be cited as the
42 "MTA Revitalization, Accountability, Improvement and Legitimization Act"
43 or the "MTA RAIL Act", enacts into law major components of legislation
44 which are necessary to improve the metropolitan transportation authori-
45 ty. Each component is wholly contained within a Subpart identified as
46 Subparts A through F. The effective date for each particular provision
47 contained within such Subpart is set forth in the last section of such
48 Subpart. Any provision in any section contained within a Subpart,
49 including the effective date of the Subpart, which makes a reference to
50 a section "of this act", when used in connection with that particular
51 component, shall be deemed to mean and refer to the corresponding
52 section of the Subpart in which it is found.

53 SUBPART A

1 Section 1. The public authorities law is amended by adding a new
2 section 1265-c to read as follows:

3 § 1265-c. Independent forensic audit. 1. The authority shall, within
4 sixty days of the effective date of this section, contract with a certi-
5 fied public accounting firm for the provision of an independent, compre-
6 hensive, forensic audit of the authority. Such audit shall be performed
7 in accordance with generally accepted government auditing standards.
8 Such audit shall be independent of and in addition to the independent
9 audit of the authority conducted pursuant to section twenty-eight
10 hundred two of this chapter.

11 2. The certified independent public accounting firm providing the
12 authority's independent, comprehensive, forensic audit shall be prohib-
13 ited from providing audit services if the lead (or coordinating) audit
14 partner (having primary responsibility for the audit), or the audit
15 partner responsible for reviewing the audit, has performed audit
16 services for the authority within any of the ten previous fiscal years
17 of the authority.

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

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

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

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

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

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

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

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

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

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

1

SUBPART B

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

4 c. On or before October first, two thousand twenty-three, and on or
5 before October first of every fifth year thereafter, the authority shall
6 submit to the metropolitan transportation authority capital program
7 review board a twenty-year capital needs assessment. Such assessment
8 shall begin with the period commencing January first, two thousand twen-
9 ty-five, and begin each assessment with every fifth year thereafter, and
10 describe capital investments over the succeeding twenty years. Such
11 assessment shall: (1) set forth broad long-term capital investments to
12 be made throughout the district; and (2) establish a non-binding basis
13 to be used by the authority in the planning of strategic investments
14 involving capital elements in its five-year capital plans. Such assess-
15 ment shall not require a vote of the metropolitan transportation author-
16 ity capital program review board and shall be for informational purposes
17 only. For purposes of this section, "broad long-term capital invest-
18 ments" shall include but not be limited to: system rebuilding, enhance-
19 ment, and expansion needs; agency needs broken down by capital element
20 or investment category; and projected future trends and network impli-
21 cations. Such assessment shall be certified by the chairman of the
22 authority and shall be entered into the permanent record of the minutes
23 of the review board.

24 § 2. This act shall take effect immediately.

25

SUBPART C

26 Section 1. Subdivision 4 of section 2976 of the public authorities
27 law, as added by section 12 of part E of chapter 494 of the laws of
28 2009, is amended to read as follows:

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

36 § 2. This act shall take effect immediately.

37

SUBPART D

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

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

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

1 other person shall each serve for a term ending June thirtieth, nineteen
2 hundred eighty-two, two shall each serve for a term ending June thirti-
3 eth, nineteen hundred eighty and one shall serve for a term ending June
4 thirtieth, nineteen hundred eighty-five; the member appointed by the
5 governor on recommendation of the New York city transit authority advi-
6 sory council shall serve for a term ending June thirtieth, two thousand
7 twenty-three; the member appointed by the governor on recommendation of
8 the Metro-North rail commuter council shall serve for a term ending June
9 thirtieth, two thousand twenty-three; the member appointed by the gover-
10 nor on recommendation of the Long Island rail road commuter's council
11 shall serve for a term ending June thirtieth, two thousand twenty-three;
12 and the member appointed by the governor on recommendation of the MTA
13 New York city transit's paratransit advisory committee selection commit-
14 tee shall serve for a term ending June thirtieth, two thousand twenty-
15 three. ~~[The two non-voting and four alternate non-voting members shall~~
16 ~~serve until January first, two thousand one.]~~ The members from the coun-
17 ties of Dutchess, Orange, Putnam and Rockland shall cast one collective
18 vote.

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

22 The first non-voting member shall be [~~a regular mass transit user of~~
23 ~~the facilities of the authority and be recommended to the governor by~~
24 ~~the New York city transit authority advisory council. The first alter-~~
25 ~~nate non-voting member shall be a regular mass transit user of the~~
26 ~~facilities of the authority and be recommended to the governor by the~~
27 ~~Metro North commuter council. The second alternate non-voting member~~
28 ~~shall be a regular mass transit user of the facilities of the authority~~
29 ~~and be recommended to the governor by the Long Island Rail Road~~
30 ~~commuter's council.~~

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

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

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

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

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

1 provided, further, that such [~~chairman~~] chairperson may continue to
2 discharge the duties of his or her office until the position of [~~chair-~~
3 ~~man~~] chairperson is filled by appointment by the governor upon the
4 advice and consent of the senate and the term of such new [~~chairman~~]
5 chairperson shall terminate June thirtieth, two thousand fifteen. The
6 [~~sixteen~~] twenty other members first appointed shall serve for the
7 following terms: The members from the counties of Nassau and Westchester
8 shall each serve for a term ending June thirtieth, nineteen hundred
9 eighty-five; the members from the county of Suffolk and from the coun-
10 ties of Dutchess, Orange, Putnam and Rockland shall each serve for a
11 term ending June thirtieth, nineteen hundred ninety-two; two of the
12 members appointed on recommendation of the mayor of the city of New York
13 shall each serve for a term ending June thirtieth, nineteen hundred
14 eighty-four and, two shall each serve for a term ending June thirtieth,
15 nineteen hundred eighty-one; two of the members appointed by the gover-
16 nor without the recommendation of any other person shall each serve for
17 a term ending June thirtieth, nineteen hundred eighty-two, two shall
18 each serve for a term ending June thirtieth, nineteen hundred eighty and
19 one shall serve for a term ending June thirtieth, nineteen hundred
20 eighty-five the member appointed by the governor on recommendation of
21 the New York city transit authority advisory council shall serve for a
22 term ending June thirtieth, two thousand twenty-three; the member
23 appointed by the governor on recommendation of the Metro-North rail
24 commuter council shall serve for a term ending June thirtieth, two thou-
25 sand twenty-three; the member appointed by the governor on recommenda-
26 tion of the Long Island rail road commuter's council shall serve for a
27 term ending June thirtieth, two thousand twenty-three; and the member
28 appointed by the governor on recommendation of the MTA New York city
29 transit's paratransit advisory committee selection committee shall serve
30 for a term ending June thirtieth, two thousand twenty-three. The members
31 from the counties of Dutchess, Orange, Putnam and Rockland shall cast
32 one collective vote.

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

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

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

46 (a) Notwithstanding any provision of law to the contrary, the [~~chair-~~
47 ~~man~~] chairperson shall be the chief executive officer of the authority
48 and shall be responsible for the discharge of the executive and adminis-
49 trative functions and powers of the authority. The [~~chairman~~] chair-
50 person may appoint an executive director and such other officials and
51 employees as shall in his or her judgment be needed to discharge the
52 executive and administrative functions and powers of the authority.

53 § 5. Paragraph (b) of subdivision 4 of section 1263 of the public
54 authorities law, as amended by section 1 of chapter 425 of the laws of
55 2018, is amended to read as follows:

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

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

13 § 6. Paragraph (b) of subdivision 4 of section 1263 of the public
14 authorities law, as amended by section 2 of chapter 425 of the laws of
15 2018, is amended to read as follows:

16 (b) The [~~chairman~~] chairperson shall establish committees to assist
17 him or her in the performance of his or her duties and shall appoint
18 members of the authority to such committees. Among such committees,
19 there shall be a committee on operations of the New York city transit
20 authority, the Manhattan and Bronx surface transit operating authority
21 and the Staten Island rapid transit operating authority; a committee on
22 operations of the Long Island Rail Road and the metropolitan suburban
23 bus authority; a committee on operations of the Metro-North commuter
24 railroad; a committee on operations of the Triborough bridge and tunnel
25 authority; a committee on finance; a committee on capital program over-
26 sight; and a committee on safety. The committee on capital program over-
27 sight shall include not less than four members, and shall include the
28 chairpersons of the committee on operations of the New York city transit
29 authority, the Manhattan and Bronx surface transit operating authority
30 and the Staten Island rapid transit operating authority, the committee
31 on operations of the Long Island Rail Road and the metropolitan suburban
32 bus authority, the committee on operations of the Metro-North commuter
33 railroad, and the committee on safety. The committee on safety shall
34 convene at least once annually and each committee chairperson, that is a
35 member of the committee on safety, shall report to the committee on
36 safety any and all initiatives, concerns, improvements, or failures
37 involving the safety of: (1) customers; (2) employees; and (3) the
38 public at large, in relation to authority facilities and services. The
39 capital program committee shall, with respect to any approved or
40 proposed capital program plans, (i) monitor the current and future
41 availability of funds to be utilized for such plans approved or proposed
42 to be submitted to the metropolitan transportation capital program
43 review board as provided in section twelve hundred sixty-nine-b of this
44 title; (ii) monitor the contract awards of the metropolitan transpor-
45 tation authority and the New York city transit authority to insure that
46 such awards are consistent with (A) provisions of law authorizing United
47 States content and New York state content; (B) collective bargaining
48 agreements; (C) provisions of law providing for participation by minori-
49 ty and women-owned businesses; (D) New York state labor laws; (E)
50 competitive bidding requirements including those regarding sole source
51 contracts; and (F) any other relevant requirements established by law;
52 (iii) monitor the award of contracts to determine if such awards are
53 consistent with the manner in which the work was traditionally performed
54 in the past provided, however, that any such determination shall not be
55 admissible as evidence in any arbitration or judicial proceeding; (iv)
56 review the relationship between capital expenditures pursuant to each

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

19 § 7. Paragraphs (c) and (d) of subdivision 4 of section 1263 of the
20 public authorities law, paragraph (c) as added by chapter 247 of the
21 laws of 1990, paragraph (d) as added by section 5 of part H of chapter
22 25 of the laws of 2009, are amended to read as follows:

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

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

36 § 8. This act shall take effect immediately; provided that the amend-
37 ments to paragraph (a) of subdivision 1 of section 1263 of the public
38 authorities law made by section one of this act shall be subject to the
39 expiration and reversion of such paragraph pursuant to section 3 of
40 chapter 549 of the laws of 1994, as amended, when upon such date the
41 provisions of section two of this act shall take effect; and provided
42 further that the amendments to paragraph (b) of subdivision 4 of section
43 1263 of the public authorities law made by section five of this act
44 shall be subject to the expiration and reversion of such subdivision
45 pursuant to section 3 of chapter 549 of the laws of 1994, as amended,
46 when upon such date the provisions of section six of this act shall take
47 effect.

48 SUBPART E

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

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

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

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

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

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

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

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

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

SUBPART F

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (a) additional platform time;

24 (b) additional train time;

25 (c) customer journey time performance;

26 (d) elevator availability;

27 (e) escalator availability;

28 (f) excess journey time;

29 (g) journey time metric;

30 (h) major incidents metric;

31 (i) staff hours lost to accidents; and

32 (j) terminal on-time performance.

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

37 (i) total operating cost per car per mile;

38 (ii) maintenance cost per car per km;

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

40 (iv) staff hours lost to accidents.

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

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

49 § 2. If any clause, sentence, paragraph, subdivision, section or
50 subpart of this act shall be adjudged by any court of competent juris-
51 isdiction to be invalid, such judgment shall not affect, impair, or inval-
52 idate the remainder thereof, but shall be confined in its operation to
53 the clause, sentence, paragraph, subdivision, section or subpart thereof
54 directly involved in the controversy in which such judgment shall have
55 been rendered. It is hereby declared to be the intent of the legislature

1 that this act would have been enacted even if such invalid provisions
2 had not been included herein.

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

6 PART FF

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

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

21 (ii) The commissioner shall deposit daily all funds collected pursuant
22 to subparagraph (i) of this paragraph with such responsible banks, bank-
23 ing houses or trust companies as may be designated by the state comp-
24 troller, ~~[to the credit of the comptroller]~~ in trust for the credit of
25 the metropolitan transportation authority. An account may be established
26 in one or more of such depositories. Such deposits shall be kept sepa-
27 rate and apart from all other money in the possession of the
28 comptroller. On or before the twelfth day of each month, the commission-
29 er shall certify to the comptroller the amount of all revenues received
30 pursuant to subparagraph (i) of this paragraph during the prior month as
31 a result of the supplemental fee imposed, including any interest and
32 penalties thereon. The revenues so certified over the prior three months
33 in total shall be ~~[deposited by the state comptroller in the metropol-~~
34 ~~itan transportation authority aid trust account of the metropolitan~~
35 ~~transportation authority financial assistance fund established pursuant~~
36 ~~to section ninety-two ff of the state finance law for deposit, subject~~
37 ~~to]~~ paid over by the fifteenth day of the last month of each calendar
38 quarter from such account, without appropriation, ~~[in]~~ into the corpo-
39 rate transportation account of the metropolitan transportation authority
40 special assistance fund established by section twelve hundred seventy-a
41 of the public authorities law, to be applied as provided in paragraph
42 (e) of subdivision four of such section. Any money collected pursuant to
43 this section that is deposited by the comptroller in the ~~[metropolitan~~
44 ~~transportation authority aid trust account]~~ corporate transportation
45 account of the metropolitan transportation authority ~~[financial]~~ special
46 assistance fund shall be held in such fund free and clear of any claim
47 by any person or entity paying an additional fee pursuant to this
48 section, including, without limiting the generality of the foregoing,
49 any right or claim against the metropolitan transportation authority,
50 any of its bondholders, or any subsidiary or affiliate of the metropol-
51 itan transportation authority.

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

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

6 (ii) The commissioner shall deposit daily all funds collected pursuant
7 to this paragraph with such responsible banks, banking houses or trust
8 companies as may be designated by the state comptroller, ~~[to the credit~~
9 ~~of the comptroller]~~ in trust for the credit of the metropolitan trans-
10 portation authority. An account may be established in one or more of
11 such depositories. Such deposits shall be kept separate and apart from
12 all other money in the possession of the comptroller. On or before the
13 twelfth day of each month, the commissioner shall certify to the comp-
14 troller the amount of all revenues received pursuant to this paragraph
15 during the prior month as a result of the supplemental fees imposed,
16 including any interest and penalties thereon. The revenues so certified
17 over the prior three months in total shall be ~~[deposited by the state~~
18 ~~comptroller in the metropolitan transportation authority aid trust~~
19 ~~account of the metropolitan transportation authority financial assist-~~
20 ~~ance fund established pursuant to section ninety-two ff of the state~~
21 ~~finance law for deposit, subject to]~~ paid over by the fifteenth day of
22 the last month of each calendar quarter from such account, without
23 appropriation, [in] into the corporate transportation account of the
24 metropolitan transportation authority special assistance fund estab-
25 lished by section twelve hundred seventy-a of the public authorities
26 law, to be applied as provided in paragraph (e) of subdivision four of
27 such section. Any money collected pursuant to this section that is
28 deposited by the comptroller in the ~~[metropolitan transportation author-~~
29 ~~ity aid trust account]~~ corporate transportation account of the metropol-
30 itan transportation authority ~~[financial]~~ special assistance fund shall
31 be held in such fund free and clear of any claim by any person or entity
32 paying an additional fee pursuant to this section, including, without
33 limiting the generality of the foregoing, any right or claim against the
34 metropolitan transportation authority, any of its bondholders, or any
35 subsidiary or affiliate of the metropolitan transportation authority.

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

39 § 499-d. Deposit and disposition of revenue from supplemental fee. The
40 commissioner shall deposit daily all funds derived from the collection
41 of the supplemental fee established pursuant to this article with such
42 responsible banks, banking houses or trust companies as may be desig-
43 nated by the state comptroller, ~~[to the credit of the comptroller]~~ in
44 trust for the credit of the metropolitan transportation authority. An
45 account may be established in one or more of such depositories. Such
46 deposits shall be kept separate and apart from all other money in the
47 possession of the comptroller. On or before the twelfth day of each
48 month, the commissioner shall certify to the comptroller the amount of
49 all revenues received pursuant to this article during the prior month as
50 a result of the supplemental fee imposed, including any interest and
51 penalties thereon. The revenues so certified over the prior three months
52 in total shall be ~~[deposited by the state comptroller in the metropol-~~
53 ~~itan transportation authority aid trust account of the metropolitan~~
54 ~~transportation authority financial assistance fund established pursuant~~
55 ~~to section ninety-two ff of the state finance law for deposit, subject~~
56 ~~to]~~ paid over by the fifteenth day of the last month of each calendar

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

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

17 § 1288. Deposit and disposition of revenue. Notwithstanding any
18 provision of law to the contrary: (a) All taxes, interest and penalties
19 collected or received by the commissioner pursuant to this article shall
20 be deposited daily with such responsible banks, banking houses or trust
21 companies, as may be designated by the comptroller, [~~to the credit of~~
22 ~~the comptroller~~] in trust for the credit of the metropolitan transporta-
23 tion authority. [~~Such an~~] An account may be established in one or more
24 of such depositories. Such deposits shall be kept separate and apart
25 from all other money in the possession of the comptroller. The comp-
26 troller shall require adequate security from all such depositories. Of
27 the total revenue collected or received under this section, the comp-
28 troller shall retain in the comptroller's hands such amount as the
29 commissioner may determine to be necessary for refunds under this arti-
30 cle. The commissioner is authorized and directed to deduct from such
31 amounts collected or received under this article, before deposit into
32 the accounts specified by the comptroller, a reasonable amount necessary
33 to effectuate refunds of appropriations of the department to reimburse
34 the department for the costs to administer, collect and distribute the
35 taxes imposed by this article.

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

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

1 without limiting the generality of the foregoing, any right or claim
2 against the metropolitan transportation authority, any of its bondhold-
3 ers, or any subsidiary or affiliate of the metropolitan transportation
4 authority.

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

7 § 1167. Deposit and disposition of revenue. 1. All taxes, interest and
8 penalties collected or received by the commissioner under this article
9 shall be deposited and disposed of pursuant to the provisions of section
10 one hundred seventy-one-a of this chapter, except that after reserving
11 amounts in accordance with such section one hundred seventy-one-a of
12 this chapter, the remainder shall be paid by the comptroller to the
13 credit of the highway and bridge trust fund established by section
14 eighty-nine-b of the state finance law, provided, however, taxes, inter-
15 est and penalties collected or received pursuant to section eleven
16 hundred sixty-six-a of this article shall be [paid to the credit of the
17 metropolitan transportation authority aid trust account of the metropol-
18 itan transportation authority financial assistance fund established by
19 section ninety-two-ff of the state finance law] deposited and disposed
20 of pursuant to subdivision two of this section.

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

43 § 5. Subdivision 3 and paragraph (a) of subdivision 6 of section
44 92-ff of the state finance law, subdivision 3 as amended by section 14
45 of part UU of chapter 59 of the laws of 2018 and paragraph (a) of subdi-
46 vision 6 as added by section 1 of part G of chapter 25 of the laws of
47 2009, are amended to read as follows:

48 3. Such fund shall consist of all moneys collected therefor or credit-
49 ed or transferred thereto from any other fund, account or source[,
50 ~~including, without limitation, the revenues derived from the special~~
51 ~~supplemental tax on passenger car rentals imposed by section eleven~~
52 ~~hundred sixty six a of the tax law; revenues derived from the transpor-~~
53 ~~tation surcharge imposed by article twenty-nine-A of the tax law; the~~
54 ~~supplemental registration fees imposed by article seventeen-C of the~~
55 ~~vehicle and traffic law; and the supplemental metropolitan commuter~~
56 ~~transportation district license fees imposed by section five hundred~~

1 ~~three of the vehicle and traffic law~~]. Any interest received by the
2 comptroller on moneys on deposit in the metropolitan transportation
3 authority financial assistance fund shall be retained in and become a
4 part of such fund.

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

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

14 13. Notwithstanding subdivision one of this section and any other law
15 to the contrary, the revenue (including fees, taxes, interest and penal-
16 ties) from the metropolitan commuter transportation district supple-
17 mental fees and taxes imposed pursuant to paragraph (b-1) of subdivision
18 two of section five hundred three of the vehicle and traffic law, para-
19 graph (c-3) of subdivision two of section five hundred three of the
20 vehicle and traffic law, article seventeen-C of the vehicle and traffic
21 law, article twenty-nine-A of the tax law and section eleven hundred
22 sixty-six-a of the tax law which are paid in accordance with subpara-
23 graph (ii) of paragraph (b-1) of subdivision two of section five hundred
24 three of the vehicle and traffic law, subparagraph (ii) of paragraph
25 (c-3) of subdivision two of section five hundred three of the vehicle
26 and traffic law, section twelve hundred eighty-eight of the tax law and
27 section eleven hundred sixty-seven of the tax law into the corporate
28 transportation account of the metropolitan transportation authority
29 special assistance fund established by section twelve hundred seventy-a
30 of the public authorities law shall be made pursuant to statute but
31 without an appropriation.

32 § 7. Subdivision 1 and paragraph (e) of subdivision 4 of section
33 1270-a of the public authorities law, subdivision 1 as amended by
34 section 14 and paragraph (e) of subdivision 4 as added by section 15 of
35 part H of chapter 25 of the laws of 2009, are amended to read as
36 follows:

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

43 The authority shall make deposits in the transit account and the
44 commuter railroad account of the moneys received by it pursuant to the
45 provisions of subdivision one of section two hundred sixty-one of the
46 tax law in accordance with the provisions thereof, and shall make depos-
47 its in the corporate transportation account of the moneys received by it
48 pursuant to the provisions of subdivision two of section two hundred
49 sixty-one of the tax law and section ninety-two-ff of the state finance
50 law. The comptroller shall deposit, without appropriation, into the
51 corporate transportation account the revenue fees, taxes, interest and
52 penalties collected in accordance with paragraph (b-1) of subdivision
53 two of section five hundred three of the vehicle and traffic law, para-
54 graph (c-3) of subdivision two of section five hundred three of the
55 vehicle and traffic law, article seventeen-C of the vehicle and traffic

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

3 (e) Notwithstanding the foregoing provisions of this subdivision, any
4 moneys in the corporate transportation account that are received by the
5 authority: (i) without appropriation pursuant to subdivision one of this
6 section, or (ii) pursuant to the provisions of section ninety-two-ff of
7 the state finance law may be pledged by the authority, or pledged to the
8 Triborough bridge and tunnel authority, to secure bonds, notes or other
9 obligations of the authority or the Triborough bridge and tunnel author-
10 ity, as the case may be, and, if so pledged to the Triborough bridge and
11 tunnel authority, shall be paid to the Triborough bridge and tunnel
12 authority in such amounts and at such times as necessary to pay or to
13 reimburse that authority for its payment of debt service and reserve
14 requirements, if any, on that portion of special Triborough bridge and
15 tunnel authority bonds and notes issued by that authority pursuant to
16 section five hundred fifty-three-d of this chapter. Subject to the
17 provisions of any such pledge, or in the event there is no such pledge,
18 any moneys in the corporate transportation account received by the
19 authority: (i) without appropriation pursuant to subdivision one of this
20 section, or (ii) pursuant to the provisions of section ninety-two-ff of
21 the state finance law may be used by the authority for payment of oper-
22 ating costs of, and capital costs, including debt service and reserve
23 requirements, if any, of or for the authority, the New York city transit
24 authority and their subsidiaries as the authority shall determine. No
25 moneys in the corporate transportation account that are reserved by the
26 authority: (i) without appropriation pursuant to subdivision one of this
27 section; or (ii) pursuant to the provisions of section ninety-two-ff of
28 the state finance law may be used for making any payment to the Dutch-
29 ess, Orange and Rockland fund created by section twelve hundred seven-
30 ty-b of this title or considered in calculating the amounts required to
31 be paid into such fund.

32 § 8. This act shall take effect immediately.

33 PART GG

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

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

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

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

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

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

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

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

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

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

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

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

5 5. The owner of a vehicle shall be liable for a penalty imposed pursu-
6 ant to this subdivision if such vehicle was used or operated with the
7 permission of the owner, express or implied, in violation of any appli-
8 cable local law or regulation defined herein, while operated within the
9 congestion toll zone or along a designated bus corridor, and such
10 violation is evidenced by information obtained from a photo device;
11 provided however that no owner of a vehicle shall be liable for a penal-
12 ty imposed pursuant to this subdivision where the operator of such vehi-
13 cle has been convicted of the underlying violation of such applicable
14 local law or regulation.

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

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

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

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

27 § 4-08(f)(4) and § 4-12(m): General no standing zones, Bus lanes

28 § 4-08(c)(3): Violation of posted no standing rules prohibited, Bus
29 stop

30 § 4-08(f)(1): General no standing zones, Double parking

31 § 4-08(k)(2): Special rules for commercial vehicles, No standing
32 except trucks loading and unloading

33 § 4-08(a)(3): Standing prohibited

34 § 4-07(b)(1) and § 4-08(e)(11): Stopping prohibited

35 § 4-07(e)(4): General no stopping zones, Intersections

36 § 4-08 (e)(5): General no stopping zones, Crosswalks

37 § 4-08(e)(12): General no stopping zones, Obstructing traffic at inter-
38 section.

39 § 4-05, § 4-07(h)(2): Turns

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

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

52 8. An owner liable for a violation shall be liable for monetary penal-
53 ties in accordance with a schedule of fines and penalties promulgated by
54 the parking violations bureau of the city of New York; provided, howev-
55 er, that the monetary penalty for a first offense of a provision of
56 local law or regulation of the city of New York relating to stopping,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 § 3. This act shall take effect immediately; provided that the amend-
9 ments to section 1111-c of the vehicle and traffic law made by section
10 one of this act shall not affect the repeal of such section and shall be
11 deemed repealed therewith. Effective immediately, the addition, amend-
12 ment and/or repeal of any rule or regulation necessary for the implemen-
13 tation of this act on its effective date are authorized to be made and
14 completed on or before such effective date.

15 PART HH

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

20 § 45. This act shall take effect immediately; except that: (a) para-
21 graph (d) of subdivision 3 of section 1263 of the public authorities
22 law, as added by section twenty-six of this act, shall be deemed to have
23 been in full force and effect on and after August 5, 1986; (b) sections
24 thirty-three and thirty-four of this act shall not apply to a certified
25 or recognized public employee organization which represents any public
26 employees described in subdivision 16 of section 1204 of the public
27 authorities law and such sections shall expire on July 1, [~~2019~~] 2021
28 and nothing contained within these sections shall be construed to divest
29 the public employment relations board or any court of competent juris-
30 diction of the full power or authority to enforce any order made by the
31 board or such court prior to the effective date of this act; (c) the
32 provisions of section thirty-five of this act shall expire on March 31,
33 1987; and (d) provided, however, the commissioner of taxation and
34 finance shall have the power to enforce the provisions of sections two
35 through nine of this act beyond December 31, 1990 to enable such commis-
36 sioner to collect any liabilities incurred prior to January 1, 1991.

37 § 2. This act shall take effect immediately.

38 PART II

39 Section 1. Subdivisions 3 and 11 of section 120.05 of the penal law,
40 subdivision 3 as amended by chapter 267 of the laws of 2016 and subdivi-
41 sion 11 as separately amended by chapters 268 and 281 of the laws of
42 2016, are amended to read as follows:

43 3. With intent to prevent a peace officer, a police officer, prosecu-
44 tor as defined in subdivision thirty-one of section 1.20 of the criminal
45 procedure law, registered nurse, licensed practical nurse, public health
46 sanitarian, New York city public health sanitarian, sanitation enforce-
47 ment agent, New York city sanitation worker, a firefighter, including a
48 firefighter acting as a paramedic or emergency medical technician admin-
49 istering first aid in the course of performance of duty as such fire-
50 fighter, an emergency medical service paramedic or emergency medical
51 service technician, or medical or related personnel in a hospital emer-
52 gency department, a city marshal, a school crossing guard appointed

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

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

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

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

1 § 118-a. Highway worker. Any person employed by or on behalf of the
2 state, a county, city, town or village, a public authority, a local
3 authority, or a public utility company, or the agent or contractor of
4 any such entity, who has been assigned to perform work on a highway,
5 including maintenance, repair, flagging, utility work, construction,
6 reconstruction or operation of equipment on public highway infrastruc-
7 ture and associated rights-of-way in highway work areas, and shall also
8 include any flagperson as defined in section one hundred fifteen-b of
9 this article.

10 § 118-b. Motor vehicle inspector and motor carrier investigator. Any
11 person employed by the New York State department of transportation who
12 has been assigned to perform inspections of any motor vehicles or inves-
13 tigation of any carriers regulated by the commissioner of transporta-
14 tion.

15 § 118-c. Motor vehicle license examiner. Any person employed by the
16 department who conducts road tests to ensure that only qualified persons
17 are licensed to operate motor vehicles or performs field inspections of
18 the licensing aspect of driving schools, private service bureaus, and
19 motor carriers, or any employee of the department who directly super-
20 vises such employees.

21 § 3. The vehicle and traffic law is amended by adding a new section
22 1221-a to read as follows:

23 § 1221-a. Intrusion into an active work zone. 1. No driver of a vehi-
24 cle shall enter or intrude into an active work zone except upon direc-
25 tion from a flagperson, police officer or other visibly designated
26 person in charge of traffic control or direction from a traffic control
27 device regulating entry therein. For purposes of this section, the term
28 "active work zone" shall mean the physical area of a highway, street or
29 private road on which construction, maintenance or utility work is being
30 conducted, which area is marked by any signs, channeling devices, barri-
31 ers, pavement markings, or work vehicles, and where workers are phys-
32 ically present.

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

38 § 4. The vehicle and traffic law is amended by adding a new section
39 1221-b to read as follows:

40 § 1221-b. Work zone safety and outreach. The governor's traffic safety
41 committee, upon consultation with the commissioner of transportation,
42 the superintendent of state police, the commissioner, the chairman of
43 the New York state thruway authority, local law enforcement agencies,
44 and representatives for contractors and laborers, shall design and
45 implement a public education and outreach program to increase motorist
46 awareness of the importance of highway work zone safety, to reduce the
47 number of work zone incidents, including speeding, unauthorized intru-
48 sions into work zones, and any conduct resulting in threats or injuries
49 to highway workers, and to increase and promote work zone safety.

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

52 11-d. With intent to cause physical injury to a terminal cleaner,
53 cabin cleaner, facilities cleaner, wheelchair assist employee, baggage
54 handler, skycap, ticket agent, customer services employee, security
55 guard, queue management employee, shuttle bus driver, or any employee
56 whose duties require him or her to work on the tarmac, employed by any

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

§ 6. This act shall take effect immediately.

PART JJ

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

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

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

TITLE 11-A

TOLL COLLECTIONS

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

2985-a. Cashless tolling and tolls by mail.

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

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

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

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

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

21 5. An owner found liable for a violation of toll collection regu-
22 lations pursuant to this section shall for a first violation thereof be
23 liable for a monetary penalty not to exceed fifty dollars or two times
24 the toll evaded whichever is greater; for a second violation thereof
25 both within eighteen months be liable for a monetary penalty not to
26 exceed one hundred dollars or five times the toll evaded whichever is
27 greater; for a third or subsequent violation thereof all within eighteen
28 months be liable for a monetary penalty not to exceed one hundred fifty
29 dollars or ten times the toll evaded whichever is greater.

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

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

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

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

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

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

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

17 9. If an owner receives a notice of liability pursuant to this section
18 for any time period during which the vehicle was reported to the police
19 department as having been stolen, it shall be a valid defense to an
20 allegation of liability for a violation of toll collection regulations
21 that the vehicle had been reported to the police as stolen prior to the
22 time the violation occurred and had not been recovered by such time. If
23 an owner receives a notice of liability pursuant to this section for any
24 time period during which the vehicle was stolen, but not as yet reported
25 to the police as having been stolen, it shall be a valid defense to an
26 allegation of liability for a violation of toll collection regulations
27 pursuant to this section that the vehicle was reported as stolen within
28 two hours after the discovery of the theft by the owner. For purposes
29 of asserting the defense provided by this subdivision it shall be suffi-
30 cient that a certified copy of the police report on the stolen vehicle
31 be sent by first class mail to the court or other entity having juris-
32 isdiction.

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

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

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

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

26 13. Nothing in this section shall be construed to limit the liability
27 of an operator of a vehicle for any violation of toll collection regu-
28 lations.

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

45 § 2985-a. Cashless tolling and tolls by mail. 1. Definitions. For
46 purposes of this section, the following terms shall have the following
47 meanings:

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

51 (b) "Owner" shall mean any person, corporation, partnership, firm,
52 agency, association, lessor or organization who, at the time of incur-
53 ring an obligation to pay a toll at a cashless tolling facility, and
54 with respect to the vehicle identified in the notice of toll due: (i) is
55 the beneficial or equitable owner of such vehicle; or (ii) has title to
56 such vehicle; or (iii) is the registrant or co-registrant of such vehi-

1 cle which is registered with the department of motor vehicles of this
2 state or any other state, territory, district, province, nation or other
3 jurisdiction; or (iv) is subject to the limitations set forth in subdivi-
4 vision ten of section twenty-nine hundred eighty-five of this title,
5 uses such vehicle in its vehicle renting and/or leasing business; or (v)
6 is a person entitled to the use and possession of a vehicle subject to a
7 security interest in another person.

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

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

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

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

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

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

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

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

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

45 2. Authorization for cashless tolling. Notwithstanding any other
46 provision of the law, every public authority which operates a toll high-
47 way, bridge and/or tunnel facility and is authorized pursuant to section
48 two thousand nine hundred eighty-five of this title to promulgate toll
49 collection regulations and to impose monetary liability for failure to
50 comply with such regulations is hereby authorized and empowered to oper-
51 ate a demonstration program for utilization of cashless tolling facili-
52 ties and a tolls by mail program and to impose monetary liability on the
53 owner of a vehicle for failure to comply with the toll collection regu-
54 lations of such public authority in accordance with the provisions of
55 this section. Such public authority shall promulgate regulations estab-
56 lishing a demonstration program for the utilization of cashless tolling

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 12. Defenses. It shall be a valid defense to an allegation of liabil-
35 ity for a toll and/or violation that:

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

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

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

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

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

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

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

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

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

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

37 17. (a) On or after the effective date of this section, no public
38 authority which operates a cashless tolling facility shall sell or
39 transfer any debt owed to the public authority by an owner for a
40 violation of toll collection regulations to a debt collection agency
41 unless one year has passed from the date the owner was found liable for
42 the violation of toll collection regulations associated with such debt,
43 or the owner has a total debt owed to the public authority of one thou-
44 sand dollars or more. The authority shall obtain a default judgment in a
45 court or administrative tribunal with jurisdiction over the assessed
46 toll before selling or transferring any debt to a debt collection agen-
47 cy.

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

52 (c) For purposes of this subdivision, "debt collection agency" shall
53 mean a person, firm or corporation engaged in business, the principal
54 purpose of which is to regularly collect or attempt to collect debts
55 owed or due or asserted to be owed or due to another and shall also
56 include a buyer of delinquent debt who seeks to collect such debt either

1 directly or through the services of another by, including but not limit-
2 ed to, initiating or using legal processes or other means to collect or
3 attempt to collect such debt. Any entity or subsidiary which maintains a
4 contract with the authority for administering a cashless tolling program
5 shall be prohibited from serving as a debt collection agency for
6 purposes of this section.

7 18. Notwithstanding the provisions of any other law, order, rule or
8 regulation to the contrary, no registration of any motor vehicle shall
9 be suspended resulting from an obligation to pay a toll at a cashless
10 tolling facility as described in this section and the commissioner of
11 motor vehicles shall not suspend the registration of a motor vehicle
12 resulting from an obligation to pay a toll at a cashless tolling facili-
13 ty as described in this section.

14 19. Every public authority which operates a cashless tolling facility
15 shall undertake a public awareness campaign regarding the use of and
16 process involved with the payment of tolls at cashless tolling facili-
17 ties. Each public authority shall provide for sufficient methods for
18 owners to obtain an electronic device for the electronic toll collection
19 system, including making such devices available at all rest areas owned
20 or operated by each authority. Any public authority that operates a
21 cashless tolling facility shall maintain a website and toll-free phone
22 number for any person to obtain current information on any outstanding
23 tolls and shall implement a system to notify those owners who so request
24 by electronic mail and/or text message about tolls as they are incurred.
25 Such website and phone number shall be printed on any toll bill or
26 notice of violation. Such website shall additionally maintain photos or
27 video of each instance in which an owner has incurred an obligation to
28 pay a toll when such vehicle crosses a cashless tolling facility without
29 an operable electronic device for purposes of viewing by the owner.

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

37 (a) the locations where vehicle sensors for cashless tolling monitor-
38 ing systems were used;

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

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

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

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

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

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

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

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

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

8 (k) the aggregate amount of penalties charged owners;

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

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

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

16 (o) expenses incurred by such authority in connection with the cash-
17 less tolling program; and

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

19 § 4. a. Within 90 days of the effective date of this act, the Tribor-
20 ough Bridge and Tunnel Authority, the public authority created pursuant
21 to chapter 870 of the laws of 1939, shall implement an amnesty program
22 for any and all persons who, with respect to any toll obligation
23 incurred on or after November 1, 2016 at a cashless tolling facility
24 operated by the authority, (1) (i) owes tolls, fines, fees, or penal-
25 ties; (ii) have been referred to a debt collection agency; or (iii) have
26 had their vehicle registration suspended. Such amnesty program shall be
27 at least eight weeks in duration, and shall provide that upon an owner's
28 payment or contesting the outstanding toll balance during the amnesty
29 program period (2) (i) the authority shall waive all fees, fines, and
30 penalties associated with the outstanding toll balance; and (ii) the
31 authority shall advise the commissioner of motor vehicles, in such form
32 and manner that such commissioner shall have prescribed, that such
33 person has responded and any registration suspension shall be rescinded.

34 b. The authority shall undertake a public awareness campaign for such
35 amnesty program, maintain a public website for any person to obtain
36 information on any outstanding tolls and no later than thirty days
37 preceding the commencement of the amnesty period, notify by first class
38 mail all persons with outstanding toll balances of their eligibility for
39 the amnesty program. The authority shall provide for sufficient methods
40 to pay the outstanding toll balances, including but not limited to, by
41 phone, by mail, or through the internet.

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

48 2. Such task force shall consist of eight members. Such members shall
49 be as follows: two members appointed by the governor; two members
50 appointed by the temporary president of the senate; two members
51 appointed by the speaker of the assembly; the commissioner of transpor-
52 tation, or his or her designee; and the chairman of the New York state
53 thruway authority, or his or her designee.

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

4. The goals of the task force shall include, but are not limited to, the study and evaluation of the New York state thruway authority's:

- (a) current toll rates;
- (b) commuter discount programs;
- (c) resident discount programs;
- (d) rates issued for commercial vehicles;
- (e) any other special toll discount plans; and
- (f) potential toll increases as related to funding for the Governor Mario M. Cuomo bridge.

5. The task force shall hold a minimum of two public hearings, the first of which shall be held no later than June 1, 2019. At least one public hearing shall be held in the county of Rockland and one public hearing shall be held in the county of Westchester. During the public hearings, the task force shall hear the testimony of voluntary witnesses, shall provide an opportunity for public comment, and may request the production of any documents the task force deems reasonably necessary to carry out its responsibilities.

6. The task force shall make a report to the governor and the legislature of its findings, conclusions and recommendations on or before December 31, 2020.

§ 6. This act shall take effect on the one hundred twentieth day after it shall have become a law and shall expire 5 years after such effective date when upon such date the provisions of this act shall be deemed repealed. Effective immediately, any authority or agency shall take any actions necessary to adopt, amend or repeal regulations in order to implement the provisions of this act by such effective date.

PART KK

Intentionally Omitted

PART LL

Intentionally Omitted

PART MM

Section 1. The state finance law is amended by adding a new section 99-ff to read as follows:

§ 99-ff. Parks retail stores fund. 1. Notwithstanding sections eight, eight-a and seventy of this chapter and any other provision of law, rule, regulation or practice to the contrary, there is hereby established in the joint custody of the state comptroller and the commissioner of tax and finance a parks retail stores fund, which shall be classified by the state comptroller as an enterprise fund, and which shall consist of all moneys received from private entities and individuals from retail operations at state parks, recreational facilities and historic sites operated by the office of parks, recreation and historic preservation.

2. Moneys within the parks retail stores fund shall be made available to the commissioner of parks, recreation and historic preservation for services and expenses relating to the operation of retail stores and in support of the sale of retail goods at state parks, recreational facilities and historic sites.

§ 2. The state finance law is amended by adding a new section 99-gg to read as follows:

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

11 2. Moneys within the golf fund shall be made available to the commis-
12 sioner of parks, recreation and historic preservation for services and
13 expenses of the office of parks, recreation and historic preservation
14 relating to the direct maintenance and operation of state owned golf
15 courses, and in support of the sale of retail goods and services at
16 state owned golf courses.

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

19 PART NN

20 Section 1. Subdivision 7 of section 2611 of the public authorities
21 law, as amended by section 3 of part C of chapter 60 of the laws of
22 2012, is amended to read as follows:

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

38 § 2. This act shall take effect immediately.

39 PART OO

40 Intentionally Omitted

41 PART PP

42 Intentionally Omitted

43 PART QQ

44 Intentionally Omitted

45 PART RR

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

4 6. The provisions of subdivisions one, two, three and four of this
5 section shall not be applicable to any procurement by the authority
6 commenced during the period from the effective date of this subdivision
7 until December thirty-first, nineteen hundred ninety-one or during the
8 period from December sixteenth, nineteen hundred ninety-three until June
9 thirtieth, two thousand [~~nineteen~~] twenty-three; and the provisions of
10 subdivisions seven, eight, nine, ten, eleven, twelve and thirteen of
11 this section shall only apply to procurements by the authority commenced
12 during such periods. The provisions of such subdivisions one, two, three
13 and four shall apply to procurements by the authority commenced during
14 the period from December thirty-first, nineteen hundred ninety-one until
15 December sixteenth, nineteen hundred ninety-three, and to procurements
16 by the authority commenced on and after July first, two thousand [~~nine-~~
17 ~~teen~~] twenty-three. Notwithstanding the foregoing, the provisions of
18 such subdivisions one, two, three and four shall apply to (i) the award
19 of any contract of the authority if the bid documents for such contract
20 so provide and such bid documents are issued within sixty days of the
21 effective date of this subdivision or within sixty days of December
22 sixteenth, nineteen hundred ninety-three, or (ii) for a period of one
23 hundred eighty days after the effective date of this subdivision, or for
24 a period of one hundred eighty days after December sixteenth, nineteen
25 hundred ninety-three, the award of any contract for which an invitation
26 to bid, solicitation, request for proposal, or any similar document has
27 been issued by the authority prior to the effective date of this subdivi-
28 sion or during the period from January first, nineteen hundred nine-
29 ty-two until December fifteenth, nineteen hundred ninety-three.

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

33 1. The provisions of this section shall only apply to procurements by
34 the authority commenced during the period from April first, nineteen
35 hundred eighty-seven until December thirty-first, nineteen hundred nine-
36 ty-one, and during the period from December sixteenth, nineteen hundred
37 ninety-three until June thirtieth, two thousand [~~nineteen~~] twenty-three;
38 provided, however, that the provisions of this section shall not apply
39 to (i) the award of any contract of the authority if the bid documents
40 for such contract so provide and such bid documents are issued within
41 sixty days of the effective date of this section or within sixty days of
42 December sixteenth, nineteen hundred ninety-three, or (ii) for a period
43 of one hundred eighty days after the effective date of this section or
44 for a period of one hundred eighty days after December sixteenth, nine-
45 teen hundred ninety-three, the award of any contract for which an invi-
46 tation to bid, solicitation, request for proposal, or any similar docu-
47 ment has been issued by the authority prior to the effective date of
48 this section or during the period from January first, nineteen hundred
49 ninety-two until December sixteenth, nineteen hundred ninety-three.

50 § 3. Intentionally omitted.

51 § 4. This act shall take effect immediately.

1 Section 1. Section 1 of chapter 174 of the laws of 1968, constituting
2 the New York state urban development corporation act, is amended by
3 adding a new section 53 to read as follows:

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

6 (a) "Economic development benefits" shall mean:

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

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

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

19 (c) "State agency" shall mean any New York state department, board,
20 bureau, division, commission, committee, public authority, public corpo-
21 ration, council, office or other state governmental entity performing a
22 governmental or proprietary function for the state, as well as entities
23 created by any of the preceding or that are governed by a board of
24 directors or similar body a majority of which is designated by one or
25 more state officials;

26 (d) "Full-time job" shall mean a job in which an individual is
27 employed by a qualified participant for at least thirty-five hours a
28 week;

29 (e) "Full-time equivalent" shall mean a unit of measure which is equal
30 to one filled, full-time, annual-salaried position;

31 (f) "Part-time job" shall mean a job in which an individual is
32 employed by a qualified participant for less than thirty-five hours a
33 week; and

34 (g) "Contract job" shall mean a job in which an individual is hired
35 for a season or for a limited period of time.

36 (2) Searchable state subsidy and economic development benefits data-
37 base. Notwithstanding any laws to the contrary, the corporation, in
38 cooperation with the department of economic development, shall create or
39 modify an existing searchable database, which includes the following
40 features and functionality:

41 (a) the ability to search the database by each of the reported infor-
42 mation to the corporation and for the public viewer to show a qualified
43 participant which is a recipient of an economic development benefit and
44 view a list of all types and amounts of benefits received by a qualified
45 participant;

46 (b) for the prior state fiscal year, the following information:

47 (i) a qualified participant's name and location;

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

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

53 (iv) for any economic development benefits provided for job retention
54 and creation, the total number of employees at all sites covered by the
55 project utilizing such economic development benefits at the time of the
56 agreement including the number of permanent full-time jobs, the number

1 of permanent part-time jobs, the number of full-time equivalents, and
2 the number of contract jobs;

3 (v) the number of jobs that a qualified participant receiving economic
4 development benefits is contractually obligated to retain and create
5 over the life of the project utilizing such economic development bene-
6 fits, except that such information shall be reported on an annual basis
7 for agreements containing annual job retention or creation requirements,
8 and for each reporting year, the base employment level the entity
9 receiving economic development benefits agrees to retain over the life
10 of the project utilizing such economic development benefits, any job
11 creation scheduled to take place as a result of the project utilizing
12 such economic development benefits and where applicable, any job
13 creation targets for the current reporting year;

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

20 (vii) for any economic development benefits provided for job retention
21 and creation, the total actual number of employees at all sites covered
22 by the project utilizing such economic development benefits for the
23 current reporting year, including the number of permanent full-time
24 jobs, the number of permanent part-time jobs, the number of full-time
25 equivalents, and the number of contract jobs;

26 (viii) a statement of compliance indicating whether, during the
27 current reporting year, the corporation and/or any other state agency
28 has reduced, cancelled or recaptured economic development benefits from
29 such qualified participant, and, if so, the total amount of the
30 reduction, cancellation or recapture, and any penalty assessed and the
31 reasons therefor;

32 (c) the ability to digitally select defined individual fields corre-
33 sponding to any of the reported information from qualified participants
34 to create unique database views;

35 (d) the ability to download the database in its entirety, or in part,
36 in a common machine readable format;

37 (e) the ability to view and download contracts or award agreements for
38 each economic development benefit received by the qualified participant
39 to the extent such contracts or award agreements are available to the
40 public pursuant to article six of the public officers law;

41 (f) a definition or description of terms for fields in the database;
42 and

43 (g) a summary of each economic development benefit available to quali-
44 fied participants.

45 (3) Certification regarding reporting. The corporation shall certify
46 to the New York state authorities budget office, the corporation's board
47 of directors and post to its website that it has fulfilled all of its
48 reporting requirements as required by law, rules, regulations, or execu-
49 tive orders. The corporation shall provide a list of all reports, the
50 due dates of such reports, and certify to the New York state authorities
51 budget office and the corporation's board of directors, that each report
52 has been submitted to the individual, office, or entity as prescribed by
53 applicable laws, rules, and regulations.

54 (4) Database reporting. The corporation may request the specific data
55 from qualified participants, which is necessary and required in develop-
56 ing, updating and maintaining the searchable database. Such qualified

1 participants shall provide any such information requested by the corpo-
2 ration. Beginning on June first, two thousand twenty, the corporation
3 shall make all reported data on such database available to the public on
4 its website. Such database shall be updated on a quarterly basis with
5 qualified participants added to any programs and any new data provided
6 by existing qualified participants required reporting.

7 (5) Reporting. The corporation's senior staff shall report on a quar-
8 terly basis, to the corporation's board of directors with a status
9 update on the development and maintenance of the searchable database.

10 § 2. Section 100 of the economic development law is amended by adding
11 a new subdivision 18-j to read as follows:

12 18-j. to assist the urban development corporation to establish a
13 searchable database pursuant to section fifty-three of the urban devel-
14 opment corporation act.

15 § 3. This act shall take effect on the ninetieth day after it shall
16 have become a law. Effective immediately, the addition, amendment
17 and/or repeal of any rule or regulation necessary for the implementation
18 of this act on its effective date are authorized to be made and
19 completed on or before such effective date.

20 PART TT

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

24 (a) Before any contract made for or by any state agency, department,
25 board, officer, commission, or institution, except the office of general
26 services, shall be executed or become effective, whenever such contract
27 exceeds fifty thousand dollars in amount and before any contract made
28 for or by the office of general services shall be executed or become
29 effective, whenever such contract exceeds eighty-five thousand dollars
30 in amount, it shall first be approved by the comptroller and filed in
31 his or her office, ~~[with the exception of contracts established as a~~
32 ~~centralized contract through the office of general services and purchase~~
33 ~~orders or other procurement transactions issued under such centralized~~
34 ~~contracts. The]~~ provided, however, that the comptroller shall make a
35 final written determination with respect to approval of such contract
36 within ninety days of the submission of such contract to his or her
37 office unless the comptroller shall notify, in writing, the state agen-
38 cy, department, board, officer, commission, or institution, prior to the
39 expiration of the ninety day period, and for good cause, of the need for
40 an extension of not more than fifteen days, or a reasonable period of
41 time agreed to by such state agency, department, board, officer, commis-
42 sion, or institution and provided, further, that such written determi-
43 nation or extension shall be made part of the procurement record pursu-
44 ant to paragraph f of subdivision one of section one hundred sixty-three
45 of this chapter.

46 § 2. Subdivisions 5 and 6 of section 355 of the education law, as
47 amended by section 1 of subpart B of part D of chapter 58 of the laws of
48 2011, paragraph a of subdivision 5 as amended by section 31 of part L of
49 chapter 55 of the laws of 2012, are amended to read as follows:

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

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

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

29 (a-1) The trustees, after consultation with the commissioner of gener-
30 al services, are authorized to annually negotiate with the state comp-
31 troller increases in the dollar limits set forth in paragraph a of this
32 subdivision and the exemption of any articles, categories of articles or
33 commodities from these limits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (c) the amendments to subdivision 12 of section 373 of the education
15 law made by section four of this act shall not affect the expiration of
16 such subdivision pursuant to section 4 of subpart A of part D of chapter
17 58 of the laws of 2011, as amended, and shall expire therewith; and

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

20 PART UU

21 Section 1. Approximately 40 percent of the food produced in the United
22 States today goes uneaten. Much of this organic waste is disposed of in
23 solid waste landfills, where its decomposition accounts for over 15
24 percent of our nation's emissions of methane, a potent greenhouse gas.
25 Meanwhile, an estimated 2.8 million New Yorkers are facing hunger and
26 food insecurity. Recognizing the importance of food scraps to our envi-
27 ronment, economy, and the health of New Yorkers, this act establishes a
28 food scraps hierarchy for the state of New York. The first tier of the
29 hierarchy is source reduction, reducing the volume of surplus food
30 generated. The second tier is recovery, feeding wholesome food to hungry
31 people. Third is repurposing, feeding animals. Fourth is recycling,
32 processing any leftover food such as by composting or anaerobic
33 digestion to create a nutrient-rich soil amendment. This legislation is
34 designed to address each tier of the hierarchy by: encouraging the
35 prevention of food waste generation by commercial generators and resi-
36 dents; directing the recovery of excess edible food from high-volume
37 commercial food waste generators; and ensuring that a significant
38 portion of inedible food waste from large volume food waste generators
39 is managed in a sustainable manner, and does not end up being sent to
40 landfills or incinerators. In addition, the state has supported the
41 recovery of wholesome food by providing grants from the environmental
42 protection fund to increase capacity of food banks, conduct food scraps
43 audits of high-volume generators of food scraps, support implementation
44 of pollution prevention projects identified by such audits, and expand
45 capacity of generators and municipalities to donate and recycle food.

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

48 TITLE 22

49 FOOD DONATION AND FOOD SCRAPS RECYCLING

50 Section 27-2201. Definitions.

51 27-2203. Designated food scraps generator responsibilities.

52 27-2205. Waste transporter responsibilities.

53 27-2207. Transfer station.

54 27-2209. Food scraps disposal prohibition.

27-2211. Department responsibilities.

27-2213. Regulations.

27-2215. Exclusions.

27-2217. Annual Report.

27-2219. Severability.

§ 27-2201. Definitions.

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

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

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

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

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

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

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

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

§ 27-2203. Designated food scraps generator responsibilities.

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

(a) all designated food scraps generators shall separate their excess edible food for donation for human consumption to the maximum extent

1 practicable, and in accordance with applicable laws, rules and regu-
2 lations related to food donation; and

3 (b) except as provided in paragraph (c) of this subdivision, each
4 designated food scraps generator that is within twenty-five miles of an
5 organics recycler, to the extent that the recycler has capacity to
6 accept all of such generator's food scraps based on the department's
7 yearly estimate of an organic recyclers' capacity pursuant to section
8 27-2211 of this title, shall:

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

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

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

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

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

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

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

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

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

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

43 (d) the unique circumstances of the generator.

44 A waiver shall be no longer than one year in duration provided, howev-
45 er, the department may renew such waiver.

46 § 27-2205. Waste transporter responsibilities.

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

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

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

54 2. Any waste transporter that collects food scraps from a designated
55 food scraps generator shall take all reasonable precautions to not
56 deliver those food scraps to an incinerator or a landfill nor commingle

1 the material with any other solid waste unless such commingled waste can
2 be processed by an organics recycler or unless such generator has
3 received a temporary waiver under subdivision three of section 27-2203
4 of this title.

5 § 27-2207. Transfer station.

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

13 § 27-2209. Food scraps disposal prohibition.

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

21 § 27-2211. Department responsibilities.

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

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

33 3. The department shall develop and make available educational materi-
34 als to assist designated food scraps generators with compliance with
35 this title. The department shall also develop education materials on
36 food waste minimization and encourage municipalities to disseminate
37 these materials both on their municipal websites and in any such future
38 mailings to their residents as they may distribute.

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

42 § 27-2213. Regulations.

43 The department shall, after one or more public hearings, promulgate
44 rules and regulations necessary to implement the provisions of this
45 title including: (a) the methodology the department will use to deter-
46 mine who is a designated food scraps generator; (b) the waiver process;
47 (c) procedures to minimize odors and vectors; (d) a list of all desig-
48 nated food scraps generators, organics recyclers, and all waste trans-
49 porters that manage source-separated organics; and (e) how designated
50 food scraps generators shall comply with the provisions of paragraph (a)
51 and subparagraph (i) of paragraph (b) of subdivision one of section
52 27-2203 of this title.

53 § 27-2215. Exclusions.

54 1. This title shall not apply to any designated food scraps generators
55 located in a city with a population of one million or more which has a

1 local law, ordinance or regulation in place which requires the diversion
2 of edible food and food scraps from disposal.

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

5 § 27-2217. Annual report.

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

12 § 27-2219. Severability.

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

17 § 3. This act shall take effect immediately.

18 PART VV

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

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

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

27 (ii) providing a web mapping service application displaying the
28 locations of the reported defects and any departmental actions respond-
29 ing to and remedying the reported defects. Mapping service applications
30 shall include any additional information the department deems necessary.

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

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

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

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

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

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

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

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

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

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

19 § 2. This act shall take effect on the one hundred twentieth day after
20 it shall have become a law. Effective immediately, the addition, amend-
21 ment and/or repeal of any rule or regulation necessary for the implemen-
22 tation of this act on its effective date are authorized to be made and
23 completed on or before such effective date.

24 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
25 sion, section or part of this act shall be adjudged by any court of
26 competent jurisdiction to be invalid, such judgment shall not affect,
27 impair, or invalidate the remainder thereof, but shall be confined in
28 its operation to the clause, sentence, paragraph, subdivision, section
29 or part thereof directly involved in the controversy in which such judg-
30 ment shall have been rendered. It is hereby declared to be the intent of
31 the legislature that this act would have been enacted even if such
32 invalid provisions had not been included herein.

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