

STATE OF NEW YORK

S. 8008

A. 9008

SENATE - ASSEMBLY

January 19, 2022

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend the penal law and the vehicle and traffic law, in relation to transportation worker safety; and to amend the penal law, in relation to establishing the offense of menacing a highway worker (Subpart A); to amend the vehicle and traffic law, in relation to increasing fines payable by a driver of a motor vehicle who causes injury to a pedestrian (Subpart B); to amend the vehicle and traffic law, in relation to leaving the scene of an accident; and to amend the highway law in relation to clearing of vehicles from highways (Subpart C); to amend the vehicle and traffic law, in relation to work zone safety and outreach program (Subpart D); to amend the vehicle and traffic law, in relation to increasing penalties for certain traffic infractions and the use of global positioning system technology; to amend the vehicle and traffic law and the general business law, in relation to notification of parkway prohibitions (Subpart E); and to amend the highway law, in relation to increasing certain fines for violations related to permits for work within the state highway right of way (Subpart F) (Part A); to amend the highway law and the transportation law, in relation to consolidated local highway assistance payments (Part B); to amend the transportation law, in relation to airport improvement and revitalization (Part C); to amend the highway law, in relation to the entry of adjacent lands for the safe functionality of state highway infrastructure (Part D); to amend chapter 413 of the laws of 1999, relating to providing for mass transportation payments, in relation to the amount of payments in the Capitol District Transportation District and adding Montgomery County to such District (Part E); to amend the public authorities law, in relation to the electronic submission and public posting of bids for New York state thruway authority construction, reconstruction and improvement contracts (Part F); to amend the public authorities law, in relation to procurement contracts (Part G); to amend the public authorities

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

LBD12673-01-2

law, in relation to increasing the statutory threshold for mandatory use of design-build by the metropolitan transportation authority (Part H); to amend the public authorities law, in relation to procurements conducted by the metropolitan transportation authority and the New York city transit authority (Part I); to amend chapter 54 of the laws of 2016 amending the general municipal law relating to the New York transit authority and the metropolitan transportation authority, in relation to extending authorization for tax increment financing for the metropolitan transportation authority (Part J); to amend the public authorities law, in relation to MTA capital projects and utility relocations (Part K); to amend the penal law, in relation to assaulting or harassing certain employees of a transit agency or authority (Part L); to amend the vehicle and traffic law, in relation to owner liability for failure of operator to comply with bus operation-related local law or regulation traffic restrictions; 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 M); to amend the penal law, in relation to including the intentional use of any toll highway, parkway, road, bridge or tunnel or entry into or remaining in a tolled central business district without payment of the lawful toll or charge as a theft of services; to amend the vehicle and traffic law, in relation to the penalty imposed upon the operator of a vehicle with an altered or obscured license plate while on a toll highway, bridge or tunnel; to amend the vehicle and traffic law, in relation to deterring fraudulent use of the toll exemption for vehicles transporting persons with disabilities into or remaining in a tolled central business district; and to amend the vehicle and traffic law, in relation to allowing the commissioner of motor vehicles to deny registration, reregistration, renewal, replacement or transfer of the registration of a vehicle and vehicle identification number suspended for toll evasion, or subject to a pending toll authority request for suspension (Part N); to amend chapter 751 of the laws of 2005, amending the insurance law and the vehicle and traffic law relating to establishing the accident prevention course internet technology pilot program, in relation to the effectiveness thereof (Part O); to amend chapter 62 of the laws of 2003, amending the vehicle and traffic law and other laws relating to increasing certain motor vehicle transaction fees, in relation to the effectiveness thereof; and to amend chapter 84 of the laws of 2002, amending the state finance law relating to the costs of the department of motor vehicles, in relation to the effectiveness thereof (Part P); to amend the vehicle and traffic law, in relation to waiving non-driver identification application fees for incarcerated individuals (Part Q); to amend the civil rights law, in relation to requiring all state agencies to update all applicable forms and data systems to include a gender "x" option (Part R); to amend the public officers law, in relation to authorizing the disclosure of records for the public service loan forgiveness program (Part S); to amend chapter 495 of the laws of 2004, amending the insurance law and the public health law relating to the New York state health insurance continuation assistance demonstration project, in relation to the effectiveness thereof (Part T); to amend the general municipal law, in relation to brown-field opportunity areas; and to amend the public authorities law, in relation to funding for certain projects by the dormitory authority

(Part U); to amend the agriculture and markets law and chapter 537 of the laws of 1976, relating to paid, free and reduced price breakfast for eligible pupils in certain school districts, in relation to the transfer of the administration of the national school lunch program and related food programs to the Department of Agriculture and Markets; and to provide for the transfer of certain functions and employees with respect thereto (Part V); to amend the general business law, in relation to appearance enhancement professionals (Part W); in relation to authorizing certain health care professionals licensed to practice in other jurisdictions to practice in this state in connection with the Winter World University Games; and providing for the repeal of such provisions upon expiration thereof (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 extending loan powers (Part Y); to amend the urban development corporation act, in relation to extending the authority of the New York state urban development corporation to administer the empire state economic development fund (Part Z); to amend the infrastructure investment act, in relation to the effectiveness thereof; and to amend chapter 749 of the laws of 2019 authorizing, for certain public works undertaken pursuant to project labor agreements, use of the alternative delivery method known as design-build contracts, in relation to the effectiveness thereof (Part AA); to amend the state finance law, in relation to the excelsior linked deposit program (Part BB); to amend the New York state urban development corporation act, in relation to creating the small business seed funding grant program (Part CC); to amend chapter 584 of the laws of 2011, amending the public authorities law relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, in relation to the effectiveness thereof (Part DD); to amend the public authorities law, in relation to authorizing the dormitory authority to provide its services to not-for-profit corporations (Part EE); to amend the public authorities law, in relation to authorizing the dormitory authority to utilize a prequalification list when seeking to bid or enter into a contract for public work (Part FF); to amend the public authorities law, in relation to authorizing the dormitory authority to provide its services to recipients of grants and loans from the downtown revitalization program (Part GG); to amend the public authorities law, in relation to authorizing the dormitory authority to enter into design and construction management agreements with state authorities (Part HH); to amend the state finance law and the public authorities law, in relation to the cannabis social equity fund (Part II); to amend the highway law and the transportation corporations law, in relation to right of way for fiber optic cable (Part JJ); to amend the environmental conservation law, in relation to removing a program cap and allowing funding of the solid waste mitigation program's inactive landfill initiative (Part KK); to amend the environmental conservation law and the tax law, in relation to eligibility for participation in the brownfield cleanup program, assignment of the brownfield redevelopment tax credits and brownfield opportunity areas; and to amend part H of chapter 1 of the laws of 2003, amending the tax law relating to brownfield redevelopment tax credits, remediated brownfield credit for real property taxes for qualified sites and environmental remediation insurance credits, in relation to the effectiveness thereof (Part LL);

to amend the environmental conservation law, in relation to extending the waste tire management fee for five years and conforming the applicable administrative provisions to article 28 of the tax law (Part MM); to amend part TT of chapter 59 of the laws of 2021 authorizing the creation of state debt in the amount of three billion dollars, in relation to creating the environmental bond act of 2022 "restore mother nature" for the purposes of environmental improvements that preserve, enhance, and restore New York's natural resources and reduce the impact of climate change; and providing for the submission to the people of a proposition or question therefor to be voted upon at the general election to be held in November, 2022, in relation to creating the Clean Water, Clean Air, and Green Jobs Environmental Bond Act of 2022 (Part NN); to amend the environmental conservation law, the state finance law, and part UU of chapter 59 of the laws of 2021 amending the environmental conservation law and the state finance law relating to the implementation of the environmental bond act of 2022 "restore mother nature", in relation to renaming such act "clean water, clean air, and green jobs" (Part OO); to amend the tax law, in relation to increasing the transfer amount from the real estate transfer tax to the environmental protection fund (Part PP); to amend the environmental conservation law, in relation to freshwater wetlands; and to repeal certain provisions of such law relating thereto (Part QQ); amend the environmental conservation law, in relation to enacting the "extended producer responsibility act"; and to amend the state finance law, in relation to creating the stewardship organization fund (Part RR); to amend the environmental conservation law, in relation to enacting the toxics in packaging act to restrict PFAS in all packaging and adding restrictions for phthalates in all packaging; and to repeal title 2 of article 37 of the environmental conservation law relating to hazardous packaging (Part SS); to amend the county law, in relation to enacting the "Suffolk County water quality restoration act", authorizing the county of Suffolk to establish a water quality restoration fund, and extending the authority of the county of Suffolk to form a county-wide sewer and wastewater management district (Part TT); to amend the environmental conservation law, in relation to the water pollution control revolving fund (Part UU); to amend the executive law, in relation to ensuring proper administration and enforcement of the uniform fire prevention and building code and the state energy conservation construction code (Part VV); to amend the vehicle and traffic law and the state finance law, in relation to the vessel surcharge; and to repeal certain provisions of the state finance law relating thereto (Part WW); to amend the environmental conservation law and the real property tax law, in relation to river regulating district payment of taxes on lands owned by the state (Part XX); to amend the parks, recreation and historic preservation law, in relation to the powers, functions and duties of the state council of parks, recreation and historic preservation and the regional park, recreation and historic preservation commissions; and to repeal certain provisions of such law relating thereto (Part YY); to amend the insurance law, the public authorities law and the tax law, in relation to authorizing the power authority of the state of New York to form a pure captive insurance company (Part ZZ); to authorize the energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY program, as well as climate change related expenses of the department of environmental conservation and the department of agriculture

and markets' Fuel NY program, from an assessment on gas and electric corporations (Part AAA); to authorize utility and cable television assessments that provide funds to the department of health from cable television assessment revenues and to the department of agriculture and markets, department of environmental conservation, department of state, and the office of parks, recreation and historic preservation from utility assessment revenues; and providing for the repeal of such provisions upon the expiration thereof (Part BBB); to amend the public service law, in relation to the provision of gas service (Part CCC); to amend the public authorities law, in relation to the eligibility of hospitals in the state to receive assistance from the power authority of the state of New York (Part DDD); to amend the energy law, the executive law and the state finance law, in relation to establishing the "advanced building codes, appliance and equipment efficiency standards, and building benchmarking act of 2022" (Part EEE); and to amend the public authorities law, in relation to authorizing the power authority of the state of New York to dispose of excess capacity in its broadband technologies and infrastructure (Part FFF)

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 necessary to implement the state transportation, economic development
3 and environmental conservation budget for the 2022-2023 state fiscal
4 year. Each component is wholly contained within a Part identified as
5 Parts A through FFF. The effective date for each particular provision
6 contained within such Part is set forth in the last section of such
7 Part. Any provision in any section contained within a Part, including
8 the effective date of the Part, which makes a reference to a section "of
9 this act", when used in connection with that particular component, shall
10 be deemed to mean and refer to the corresponding section of the Part in
11 which it is found. Section three of this act sets forth the general
12 effective date of this act.

13 PART A

14 Section 1. This Part enacts into law major components of legislation
15 relating to safety on highways of the state. Each component is wholly
16 contained within a Subpart identified as Subparts A through F. The
17 effective date for each particular provision contained within such
18 Subpart is set forth in the last section of such Subpart. Any provision
19 in any section contained within a Subpart, including the effective date
20 of the Subpart, which makes a reference to a section "of this act", when
21 used in connection with that particular component, shall be deemed to
22 mean and refer to the corresponding section of the Subpart in which it
23 is found. Section three of this Part sets forth the general effective
24 date of this Part.

25 SUBPART A

26 Section 1. Subdivisions 3 and 11 of section 120.05 of the penal law,
27 subdivision 3 as amended by chapter 267 of the laws of 2016 and subdivi-
28 sion 11 as separately amended by chapters 268 and 281 of the laws of
29 2016, are amended to read as follows:

3. With intent to prevent a peace officer, a police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, a firefighter, including a firefighter acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such firefighter, an emergency medical service paramedic or emergency medical service technician, or medical or related personnel in a hospital emergency department, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer, traffic enforcement agent, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector or motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, employee of the New York state department of motor vehicles or a county clerk performing motor vehicle transactions on behalf of such department, 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 or motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, employee of the New York state department of motor vehicles or a county clerk performing motor vehicle transactions on behalf of such department, 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 or motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, employee of the New York state department of motor vehicles or a county clerk performing motor vehicle transactions on behalf of such department, or employee of an entity governed by the public service law; or

11. With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner or terminal cleaner 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 or motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, employee of the New York state department of motor vehicles or a county clerk performing motor vehicle transactions on behalf of such department, 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, 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 or motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, employee of the New York state department of motor vehicles or a county clerk performing motor vehicle transactions on behalf of such department, 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, 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 or motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, employee of the New York state department of motor vehicles or a county clerk performing motor vehicle transactions on behalf of such department, 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 penal law is amended by adding a new section 120.19 to read as follows:

§ 120.19 Menacing a highway worker.

A person is guilty of menacing a highway worker when he or she intentionally places or attempts to place a highway worker in reasonable fear of death, imminent serious physical injury or physical injury. For purposes of this subdivision, a highway worker shall be as defined in section one hundred eighteen-a of the vehicle and traffic law.

Menacing a highway worker is a class E felony.

§ 3. The vehicle and traffic law is amended by adding two new sections 118-a and 118-b to read as follows:

§ 118-a. Highway worker. Any person employed by or on behalf of the state, a county, city, town or village, a public authority, a local authority, or a public utility company, or the agent or contractor of any such entity, who has been assigned to perform work on a highway, including maintenance, repair, flagging, utility work, construction,

reconstruction or operation of equipment on public highway infrastructure and associated rights-of-way in highway work areas, and shall also include any flagperson as defined in section one hundred fifteen-b of the vehicle and traffic law.

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

§ 4. Paragraph a of subdivision 2 of section 510 of the vehicle and traffic law is amended by adding a new subparagraph (xiv) to read as follows:

(xiv) of menacing a highway worker, or menacing in the first, second or third degree, as defined in article one hundred twenty of the penal law, where such offense was committed against a highway worker.

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

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

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

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

SUBPART B

Section 1. Paragraph 1 of subdivision (b) of section 1146 of the vehicle and traffic law, as amended by chapter 333 of the laws of 2010, is amended to read as follows:

1. A driver of a motor vehicle who causes physical injury as defined in article ten of the penal law to a pedestrian or bicyclist while failing to exercise due care in violation of subdivision (a) of this section, shall be guilty of a traffic infraction punishable by a fine of not more than [~~five hundred~~ one thousand] dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment.

§ 2. Paragraph 1 of subdivision (c) of section 1146 of the vehicle and traffic law, as amended by chapter 333 of the laws of 2010, is amended to read as follows:

1. A driver of a motor vehicle who causes serious physical injury as defined in article ten of the penal law to a pedestrian or bicyclist while failing to exercise due care in violation of subdivision (a) of this section, shall be guilty of a traffic infraction punishable by a fine of not more than [~~seven hundred fifty~~ one thousand five hundred] dollars or by imprisonment for not more than fifteen days or by required participation in a motor vehicle accident prevention course pursuant to

1 paragraph (e-1) of subdivision two of section 65.10 of the penal law or
2 by any combination of such fine, imprisonment or course, and by suspen-
3 sion of a license or registration pursuant to subparagraph (xiv) or (xv)
4 of paragraph b of subdivision two of section five hundred ten of this
5 chapter.

6 § 3. Subdivision (d) of section 1146 of the vehicle and traffic law,
7 as amended by chapter 333 of the laws of 2010, is amended to read as
8 follows:

9 (d) A violation of subdivision (b) or (c) of this section committed by
10 a person who has previously been convicted of any violation of such
11 subdivisions within the preceding five years, shall constitute a class B
12 misdemeanor punishable by a fine of not more than ~~[one]~~ two thousand
13 dollars in addition to any other penalties provided by law.

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

16 SUBPART C

17 Section 1. Section 600 of the vehicle and traffic law is amended by
18 adding a new subdivision 4 to read as follows:

19 4. Any person operating a motor vehicle involved in an accident not
20 involving personal injury or death who moves such vehicle to a location
21 off the roadway but as near as possible to the place where the damage
22 occurred, so as not to obstruct the regular flow of traffic, shall not
23 be construed to be in violation of subdivision one of this section
24 because of such movement.

25 § 2. Subdivision 2 of section 15 of the highway law, as amended by
26 chapter 1110 of the laws of 1971, is amended to read as follows:

27 2. The commissioner of transportation or a police officer, or any
28 person acting at the direction of the commissioner or a police officer,
29 shall have the power to cause the immediate removal, from the right of
30 way of any state highway, of any vehicle, cargo, or debris which
31 obstructs or interferes with the use of such a highway for public travel;
32 or which obstructs or interferes with the construction, reconstruction
33 or maintenance of such a highway; or which obstructs or interferes
34 with the clearing or removal of snow or ice from such a highway;
35 or which obstructs or interferes with any operation of the department of
36 transportation during a public emergency. The commissioner of transportation
37 or a police officer, or any person acting at the direction of the
38 commissioner or a police officer, shall not be liable for any damage to
39 such vehicle, cargo, or debris, unless such removal was carried out in a
40 reckless or grossly negligent manner.

41 § 3. This act shall take effect immediately.

42 SUBPART D

43 Section 1. The vehicle and traffic law is amended by adding a new
44 section 1221-b to read as follows:

45 § 1221-b. Work zone safety and outreach. The governor's traffic safety
46 committee, upon consultation with the commissioner of transportation,
47 the superintendent of state police, the commissioner of motor vehicles,
48 the chairman of the New York state thruway authority, local law enforce-
49 ment agencies, and representatives for contractors and laborers, shall
50 design and implement a public education and outreach program to increase
51 motorist awareness of the importance of highway work zone safety, to
52 reduce the number of work zone incidents, including speeding, unauthor-

ized intrusions into work zones, and any conduct resulting in threats or injuries to highway workers, and to increase and promote work zone safety.

§ 2. This act shall take effect immediately.

SUBPART E

Section 1. Subdivisions (h) and (i) of section 1800 of the vehicle and traffic law, as amended by section 1 of part B of chapter 58 of the laws of 2020, are amended to read as follows:

(h) Notwithstanding the provisions of subdivisions (b) and (c) of this section, a person convicted of a traffic infraction for a violation of any ordinance, order, rule, regulation or local law adopted pursuant to one or more of the following provisions of this chapter: paragraphs two and nine of subdivision (a) of section sixteen hundred twenty-one; subdivision three of section sixteen hundred thirty; or subdivision five of section seventy-one of the transportation law, prohibiting the operation on a highway or parkway of a motor vehicle registered as a commercial vehicle and having a gross vehicle weight rating of at least ten thousand pounds but no more than twenty-six thousand pounds shall, for a first conviction thereof, be punished by a fine of not more than [~~three hundred-fifty~~] one thousand dollars or by imprisonment of not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than [~~seven~~] fifteen hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than [~~one~~] two thousand five hundred dollars or by imprisonment of not more than ninety days or by both such fine and imprisonment; provided, however, the provisions of this subdivision shall not apply to a commercial motor vehicle as such term is defined in paragraph (a) of subdivision four of section five hundred one-a of this chapter.

(i) Notwithstanding the provisions of subdivisions (b) and (c) of this section, a person convicted of a traffic infraction for a violation of any ordinance, order, rule, regulation or local law adopted pursuant to one or more of the following provisions of this chapter: paragraphs two and nine of subdivision (a) of section sixteen hundred twenty-one; subdivision three of section sixteen hundred thirty; or subdivision five of section seventy-one of the transportation law, prohibiting the operation on a highway or parkway of a commercial motor vehicle as defined in paragraph (a) of subdivision four of section five hundred one-a of this chapter, for a first conviction thereof, be punished by a fine of not more than [~~seven-hundred~~] five thousand dollars or by imprisonment of not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than [~~one~~] seven thousand five hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than [~~two~~] ten thousand dollars or by imprisonment of not more than ninety days or by both such fine and imprisonment. In addition to the penalties provided for in this subdivi-

1 sion, the registration of the vehicle may be suspended for a period not
2 to exceed one year whether at the time of the violation the vehicle was
3 in charge of the owner or his agent. The provisions of section five
4 hundred ten of this chapter shall apply to such suspension except as
5 otherwise provided herein.

6 § 2. Subdivision 18-a of section 385 of the vehicle and traffic law,
7 as added by section 2 of part B of chapter 58 of the laws of 2020, is
8 amended to read as follows:

9 18-a. A violation of the provisions of subdivisions two or fourteen of
10 this section, where the violation relates to the height of the vehicle,
11 including a violation related to the operation, within a city not wholly
12 included within one county, of a vehicle which exceeds the limitations
13 provided for in the rules and regulations of the city department of
14 transportation of such city, shall be punishable by a fine of not more
15 than ~~[one]~~ five thousand dollars, or by imprisonment for not more than
16 thirty days, or by both such fine and imprisonment, for the first
17 offense; by a fine of not more than ~~[two]~~ seven thousand five hundred
18 dollars, or by imprisonment for not more than sixty days, or by both
19 such fine and imprisonment, for the second or subsequent offense;
20 provided that a sentence or execution thereof for any violation under
21 this subdivision may not be suspended. For any violation of the
22 provisions of subdivisions two or fourteen of this section where the
23 violation relates to the height of the vehicle, including a violation
24 related to the operation, within a city not wholly included within one
25 county, of a vehicle which exceeds the limitations provided for in the
26 rules and regulations of the city department of transportation of such
27 city, the registration of the vehicle may be suspended for a period not
28 to exceed one year whether at the time of the violation the vehicle was
29 in charge of the owner or his agent. The provisions of section five
30 hundred ten of this chapter shall apply to such suspension except as
31 otherwise provided herein.

32 § 3. Subdivision 54 of section 375 of the vehicle and traffic law, as
33 amended by chapter 473 of the laws of 2021, is amended to read as
34 follows:

35 54. Stretch limousine ~~[and]~~, charter bus, and commercial motor vehicle
36 commercial GPS. (a) Every stretch limousine ~~[and]~~, charter bus, and
37 commercial motor vehicle registered in this state shall be equipped with
38 commercial global positioning system (GPS) technology within no later
39 than one year of the date upon which the national highway traffic safety
40 administration promulgates final regulations establishing standards for
41 commercial GPS.

42 (b) It shall be unlawful to operate or cause to be operated a stretch
43 limousine ~~[or]~~, charter bus, or commercial motor vehicle registered in
44 this state on any public highway or private road open to public motor
45 vehicle traffic unless such stretch limousine ~~[or]~~, charter bus, or
46 commercial motor vehicle is equipped with commercial global positioning
47 system (GPS) technology as required by this subdivision and such commer-
48 cial global positioning system (GPS) technology is used. The presence in
49 such stretch limousine ~~[or]~~, charter bus, or commercial motor vehicle of
50 commercial global positioning system (GPS) technology connected to a
51 power source and in an operable condition is presumptive evidence of its
52 use by any person operating such stretch limousine ~~[or]~~, charter bus, or
53 commercial motor vehicle. Such presumption may be rebutted by any cred-
54 ible and reliable evidence which tends to show that such commercial
55 global positioning system (GPS) technology was not in use.

56 (c) For the purposes of this subdivision:

(i) "Stretch limousine" shall mean an altered motor vehicle having a seating capacity of nine or more passengers, including the driver, commonly referred to as a "stretch limousine" and which is used in the business of transporting passengers for compensation;

(ii) "Charter bus" shall mean a bus transporting passengers for compensation in a chartered party;

(iii) "Chartered party" shall mean a group of persons who, pursuant to a common purpose and under a single contract and at a fixed charge, have acquired exclusive use of a bus to travel together as a group to a specific destination or for a particular itinerary either agreed upon in advance or modified after having left the place of origin by such group;

[and]

(iv) "Commercial motor vehicle" shall mean a motor vehicle or combination of vehicles having a gross combination weight rating of more than ten thousand pounds used in commerce to transport property or persons and shall include a tow truck with a gross vehicle weight rating of at least eighty-six hundred pounds; and

(v) "Commercial global positioning system (GPS) technology" shall mean global positioning system (GPS) technology which has been specifically designed to assist in the navigation of commercial motor vehicles.

§ 4. The vehicle and traffic law is amended by adding a new section 509-vv to read as follows:

§ 509-vv. The use of non-commercial global positioning systems. One year following the date upon which the national highway traffic safety administration promulgates final regulations establishing standards for commercial global positioning systems (GPS), the use of non-commercial global positioning systems (GPS) by any commercial driver or commercial motor carrier, while engaged in the operation or directing the operation of any commercial vehicle, is prohibited. For purposes of this section, non-commercial global position system (GPS) shall mean any global positioning technology which has not been specifically designed to assist in the navigation of commercial vehicles.

§ 5. The vehicle and traffic law is amended by adding a new section 509-vvv to read as follows:

§ 509-vvv. Parkways notification. Commercial carriers must notify, in writing, all commercial drivers in their employ of the prohibition against operating commercial motor vehicles on parkways.

§ 6. The vehicle and traffic law is amended by adding a new section 509-ii to read as follows:

§ 509-ii. The use of non-commercial global positioning systems. One year following the date upon which the national highway traffic safety administration promulgates final regulations establishing standards for commercial global positioning systems (GPS), the use of non-commercial global positioning systems (GPS) by any bus driver or motor carrier, while engaged in the operation or directing the operation of any bus, is prohibited. For purposes of this section, non-commercial global position system (GPS) shall mean any global positioning technology which has not been specifically designed to assist in the navigation of commercial vehicles.

§ 7. The vehicle and traffic law is amended by adding a new section 509-iii to read as follows:

§ 509-iii. Parkways notification. Motor carriers must notify, in writing, all bus drivers in their employ of the prohibition against operating commercial motor vehicles on parkways.

§ 8. The general business law is amended by adding a new section 396-zz to read as follows:

1 § 396-zz. Commercial vehicle owner notifications of parkway prohibi-
2 tions. (a) All rental vehicle companies, as defined in section three
3 hundred ninety-six-z of this article, must notify in writing all author-
4 ized drivers or renters, as defined in section three hundred
5 ninety-six-z of this article, of the prohibition against commercial
6 motor vehicles operating on parkways for any rentals or leases of
7 commercial motor vehicles. For purposes of this section "commercial
8 motor vehicle" shall mean a motor vehicle or combination of vehicles
9 having a gross combination weight rating of more than ten thousand
10 pounds used to transport property or persons and shall include a tow
11 truck with a gross vehicle weight rating of at least eighty-six hundred
12 pounds.

13 (b) A conviction for a violation of this section shall be punishable
14 by a fine of not more than one thousand dollars.

15 § 9. Severability. If any clause, sentence, subdivision, paragraph,
16 section or part of this act be adjudged by any court of competent juris-
17 diction to be invalid, or if any federal agency determines in writing
18 that this act would render New York state ineligible for the receipt of
19 federal funds, such judgment or written determination shall not affect,
20 impair or invalidate the remainder thereof, but shall be confined in its
21 operation to the clause, sentence, subdivision, paragraph, section or
22 part thereof directly involved in the controversy in which such judgment
23 or written determination shall have been rendered.

24 § 10. This act shall take effect on the one hundred eightieth day
25 after it shall have become a law; provided, however, that if chapter 473
26 of the laws of 2021 shall not have taken effect on or before such date
27 then section three of this act shall take effect on the same date and in
28 the same manner as such chapter of the laws of 2021 takes effect;
29 provided further that this act shall be deemed repealed if any federal
30 agency determines in writing that this act would render New York state
31 ineligible for the receipt of federal funds or any court of competent
32 jurisdiction finally determines that this act would render New York
33 state out of compliance with federal law or regulation; and provided
34 that the commissioner of transportation shall notify the legislative
35 bill drafting commission upon the occurrence of the provisions of this
36 act in order that the commission may maintain an accurate and timely
37 effective data base of the official text of the laws of the state of New
38 York in furtherance of effectuating the provisions of section 44 of the
39 legislative law and section 70-b of the public officers law; and
40 provided further, however, that with respect to sections four and six of
41 this act, the commissioner of transportation shall notify the legisla-
42 tive bill drafting commission upon the occurrence of the provisions of
43 sections four and six of this act, in order that the commission may
44 maintain an accurate and timely effective data base of the official text
45 of the laws of the state of New York in furtherance of effectuating the
46 provisions of section 44 of the legislative law and section 70-b of the
47 public officers law. Effective immediately, the addition, amendment
48 and/or repeal of any rule or regulation necessary for the implementation
49 of this act on its effective date are authorized to be made and
50 completed on or before such effective date.

51 SUBPART F

52 Section 1. Section 52 of the highway law, as amended by chapter 297 of
53 the laws of 1972, the fourth undesignated paragraph as amended by chap-
54 ter 643 of the laws of 1998 and the closing paragraph as amended by

1 section 14 of part EE of chapter 63 of the laws of 2000, is amended to
2 read as follows:

3 § 52. Permits for work within the state highway right of way. 1.
4 Except in connection with the construction, reconstruction, maintenance
5 or improvement of a state highway, no person, firm, corporation, municipi-
6 pality, or state department or agency shall construct or improve, within
7 the state highway right of way an entrance or connection to such high-
8 way, or construct within the state highway right of way any works,
9 structure or obstruction, or any overhead or underground crossing there-
10 of, or lay or maintain therein underground wires or conduits or drain-
11 age, sewer or water pipes, except in accordance with the terms and
12 conditions of a work permit issued by the commissioner of transportation
13 or his duly designated agent, notwithstanding any consent or franchise
14 granted by any town or county superintendent, or by any other municipal
15 authority. Any municipal corporation may enter upon any state highway
16 for the purpose of widening the pavement or for any other purpose
17 authorized by this section, but only after securing a permit as provided
18 herein. Notwithstanding the limitations in any general or special law,
19 every municipal corporation shall have and is hereby given authority to
20 deposit with the department of transportation, such a sum of money or a
21 security bond as may be required by the commissioner of transportation
22 as a condition precedent to the granting of the permit provided in this
23 section.

24 2. (a) The commissioner of transportation shall establish regulations
25 governing the issuance of highway work permits, including the fees to be
26 charged therefor, a system of deposits of money or bonds guaranteeing
27 the performance of the work and requirements of insurance to protect the
28 interests of the state during performance of the work pursuant to a
29 highway work permit. With respect to driveway entrance permits, the
30 regulations shall take into consideration the prospective character of
31 the development, the traffic which will be generated by the facility
32 within the reasonably foreseeable future, the design and frequency of
33 access to the facility, the effect of the facility upon drainage as
34 related to existing drainage systems, the extent to which such facility
35 may impair the safety and traffic carrying capacity of the existing
36 state highway and any proposed improvement thereto within the reasonably
37 foreseeable future, and any standards governing access, non-access or
38 limited access which have been established by the department of trans-
39 portation.

40 (b) Upon completion of the work within the state highway right of way,
41 authorized by the work permit, the person, firm, corporation, municipi-
42 pality, or state department or agency, and his or its successors in
43 interest, shall be responsible for the maintenance and repair of such
44 work or portion of such work as set forth within the terms and condi-
45 tions of the work permit.

46 3. An advertising sign, display or device, or any part thereof,
47 erected or maintained in violation of this section shall be removed from
48 the state highway right of way by the owner or the party responsible for
49 its erection and maintenance. The commissioner of transportation shall
50 make a demand by mail, to the last known address of the owner, apparent
51 owner or party responsible for the erection and maintenance of such
52 advertising sign, display or device, for its removal and, if it is not
53 removed within thirty days from the date of the mailing of such demand,
54 the commissioner of transportation may remove any such advertising sign,
55 display or device, or any part thereof, from the state highway right of
56 way. Any such legally permitted, erected and maintained sign, display or

1 device may be maintained by its owner in accordance with the provisions
2 of this section upon the approval of the permit issuing office on the
3 same terms and conditions as may exist for the granting of such
4 approvals generally. Where such approvals are for permits to control
5 vegetation, the permit issuing office shall approve no more than two
6 hundred fifty permits per annum. The commissioner of transportation may
7 also order the approval of additional permits to control vegetation on
8 an individual basis upon demonstration of acute need.

9 4. The term "state highway right of way" shall, for the purposes of
10 this section, mean the entire width between the boundary line of all
11 property which has been purchased or appropriated by the state for state
12 highway purposes, all property over which the commissioner of transpor-
13 tation or his predecessors has assumed jurisdiction for state highway
14 purposes, all property over which the commissioner of transportation has
15 assumed jurisdiction during the period of construction, reconstruction
16 or improvement and all property which has become part of the state high-
17 way system through dedication or use.

18 5. Any person, firm or corporation violating this section shall be
19 liable ~~[to]~~ for a fine of not ~~[less than twenty-five dollars nor]~~ more
20 than ~~[one]~~ twenty-five thousand dollars for each day of violation to be
21 recovered by the commissioner of transportation. All fees, fines or
22 penalties collected or recovered by the commissioner pursuant to this
23 section shall be deposited by the comptroller into the special obli-
24 gation reserve and payment account of the dedicated highway and bridge
25 trust fund established pursuant to section eighty-nine-b of the state
26 finance law, excepting monies deposited with the state on account of
27 betterments performed pursuant to subdivision twenty-seven or subdivi-
28 sion thirty-five of section ten of this chapter.

29 § 2. This act shall take effect immediately.

30 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
31 sion, section or Subpart of this Part shall be adjudged by any court of
32 competent jurisdiction to be invalid, such judgment shall not affect,
33 impair, or invalidate the remainder thereof, but shall be confined in
34 its operation to the clause, sentence, paragraph, subdivision, section
35 or Subpart thereof directly involved in the controversy in which such
36 judgment shall have been rendered. It is hereby declared to be the
37 intent of the legislature that this Part would have been enacted even if
38 such invalid provisions had not been included herein.

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

42 PART B

43 Section 1. Paragraph (e) of subdivision 4 of section 10-c of the high-
44 way law, as amended by section 1 part A of chapter 58 of the laws of
45 2020, is amended to read as follows:

46 (e) Funds allocated for local street or highway projects under this
47 subdivision shall be used to undertake work on a project either with the
48 municipality's own forces or by contract, provided however, that whenev-
49 er the estimate for the construction contract work exceeds one hundred
50 thousand dollars but does not exceed ~~[three]~~ seven hundred fifty thou-
51 sand dollars such work must be performed either with the municipality's
52 own forces or by contract let by competitive bid in accordance with the
53 provisions of section one hundred three of the general municipal law and
54 provided further, however, that whenever the estimate for the

1 construction contract work exceeds [~~three~~ seven] hundred fifty thousand
2 dollars such work must be performed by contract let by competitive bid
3 in accordance with the provisions of section one hundred three of the
4 general municipal law.

5 § 2. This act shall take effect immediately.

6 PART C

7 Section 1. Section 14-1 of the transportation law, as added by
8 section 2 of part H of chapter 413 of the laws of 1999, paragraph (f) of
9 subdivision 2 as amended by section 1 of subpart XX of chapter 59 of the
10 laws of 2021, is amended to read as follows:

11 § 14-1. Airport improvement and revitalization. 1. Notwithstanding any
12 other provision of law to the contrary, an airport improvement and re-
13 vitalization grant [~~and loan~~] program is established. Such program is
14 established to provide assistance for the revitalization of public use
15 airports through funding of projects or portions thereof, for which
16 sufficient federal capital assistance and required non-federal matching
17 funding is not available and provided the project is consistent with the
18 airport layout plan approved by the department or the Federal Aviation
19 Administration. The funding of capital improvements pursuant to this
20 section shall not be used to provide the non-federal matching share for
21 federal airport capital improvement grants.

22 2. (a) Assistance may consist of grants [~~and loans~~] for capital
23 improvements and technical assistance provided by the department pursu-
24 ant to this section.

25 [~~Loans and grants~~] Grants pursuant to this section may be made to any
26 municipal corporation, public authority, public benefit corporation or
27 any combination thereof, or to other owners of a public use airport for
28 the purpose of improving a public use airport. A county, pursuant to a
29 written agreement, may act on behalf of one or more cities, towns or
30 villages for the purposes of this section. No such assistance shall be
31 provided to any airport operated by a bi-state authority.

32 (b) Improvements pursuant to this section may be made for the follow-
33 ing purposes:

34 (i) construction, reconstruction, improvement, reconditioning and
35 preservation of capital facilities where the service life of the project
36 is at least ten years, and related engineering services provided, howev-
37 er, that for pavement management projects the service life of the
38 project shall be at least five years; and

39 (ii) purchase of airport equipment, including navigational aids,
40 acquisition of land and easements[~~, and~~

41 ~~(iii) technical assistance for airports including, but not limited to,~~
42 ~~preparation of studies to attract, retain or improve air carrier or air~~
43 ~~cargo services including low fare commercial service air carrier~~
44 ~~services, airport business plans, activities to inform the general~~
45 ~~public or public and private organizations of the availability and~~
46 ~~economic impact of the airport and the aviation services at the airport~~
47 ~~on the community].~~

48 (c) Assistance pursuant to this section shall be provided pursuant to
49 contract with the commissioner. Contracts for capital improvements shall
50 insure the availability to the public of any airport improved hereunder
51 for the useful life of such improvement as defined in section sixty-one
52 of the state finance law. The commissioner shall establish standards
53 governing the form, content and submission of applications for partic-
54 ipation in this program. Such standards shall include, but not be limit-

ed to, the requirement that, with respect to applications submitted by owners of privately-owned airports, the commissioner shall make a determination that a request submitted by such owners will serve a public purpose ~~[and such applications are accompanied by]~~. Before any funding under this section may be accepted or disbursed, the commissioner must be provided with a resolution from the governing body of the county in which such privately-owned airport is located formally endorsing the project for which assistance is requested. The commissioner shall not approve an application for a grant ~~[or loan]~~ unless the applicant can demonstrate commitment of sufficient funds to provide the match set forth in paragraph (d) of this subdivision.

~~[All loans shall be repaid within ten years and bear such rate of interest as shall be established therefor by the commissioner upon the issuance of the loan; provided, however, such rate shall not exceed six percent per annum. Payments on all loans shall be made to the department and credited to the airport improvement and revitalization fund established pursuant to section eighty-eight-d of the state finance law.]~~

(d) Matching ratios. ~~[(i)]~~ Capital grants ~~[and loans]~~. State assistance for the program shall cover the following share of the project cost: for general aviation airports and commercial service airports with less than fifty thousand annual enplanements, up to ninety percent; for commercial service airports with fifty thousand or more but less than seven hundred thousand annual enplanements, up to eighty percent; and for commercial service airports with annual enplanements of seven hundred thousand or more, up to seventy percent.

~~[(ii) Technical assistance. Technical assistance may be up to eighty percent of the project cost. Funding for technical assistance shall be limited to general aviation airports and commercial service airports with less than two hundred fifty thousand annual enplanements, provided, however, that such funding may be granted to general aviation airports and commercial service airports, regardless of the number of annual enplanements, for the preparation of studies to attract, retain or improve low fare commercial service air carrier services. The entire cost of regional or statewide studies conducted by or on behalf of the department may be funded.]~~

(e) Funds for assistance pursuant to this section shall be from the airport improvement and revitalization fund established pursuant to section eighty-eight-d of the state finance law. No funds shall be paid pursuant to this section unless the applicant for assistance provides for the required non-state funded share of the costs of a project.

(f) No grant ~~[or loan]~~ to any eligible applicant shall exceed the sum of ~~[two]~~ five million ~~[five hundred thousand]~~ dollars, and no part of any such grant ~~[or loan]~~ shall be used for salaries or for services regularly provided by the applicant for administrative costs in connection with such grant ~~[or loan]~~.

(g) On or before May first each year, the commissioner shall submit a report on the immediately preceding fiscal year to the governor, temporary president of the senate and speaker of the assembly showing the total funds available for assistance pursuant to this section, and itemization of assistance provided~~[, and the repayments of loans]~~.

(h) No provision of this section shall be deemed to make any applicant ineligible for assistance otherwise available pursuant to section fourteen-h or fourteen-k of this article.

(i) The commissioner may promulgate rules and regulations for the implementation of this section.

§ 2. This act shall take effect immediately.

1

PART D

2 Section 1. Section 45 of the highway law, as amended by chapter 1110
3 of the laws of 1971, is amended to read as follows:

4 § 45. Entry upon adjacent lands and streams. Lands adjacent to a state
5 highway or adjoining or in the bed or beds of any streams or creeks may
6 be entered upon and occupied by the commissioner of transportation, his
7 or her representatives and employees, or by a contractor or any of his
8 or her agents or employees when directed by the commissioner of trans-
9 portation or his or her representative:

10 1. to open, maintain or construct an existing ditch or drain or for
11 making surveys and for digging a new ditch or drain, or a section there-
12 of, for the free passage of water for the drainage of such highways.

13 2. to perform such work of construction, reconstruction, improvement
14 or maintenance in order to keep the waters of such streams or creeks
15 within their proper channels and to prevent their encroachment upon
16 state highways or bridges thereon.

17 3. to remove or change the position of a fence or other obstruction
18 which, in the judgment of the commissioner of transportation, prevents
19 the free flow of water under or through a state highway, bridge or
20 culvert.

21 4. to remove any fence or other obstruction which, in the judgment of
22 the commissioner of transportation, causes snow to drift in and upon a
23 state highway, and to erect snow fences or other devices upon such lands
24 to prevent the drifting of snow in or upon any such highway.

25 5. to inspect trees for the purpose of determining whether any are in
26 such a condition as to constitute a danger to users of the adjacent
27 highway and to remove or prune those trees or parts thereof which in the
28 judgment of the commissioner constitute such a danger.

29 6. on a temporary basis, when determined to be necessary in the
30 discretion of the commissioner, to perform emergency repairs to provide
31 for the safe functionality and operation of state highways and bridges
32 when such functionality or operation is impacted by storm damage, land-
33 slide, or retaining wall or drainage failure, and may pose a threat to
34 the traveling public.

35 Notwithstanding the provisions of any general, special or local law or
36 of any inconsistent provision of this chapter, claims for any damage
37 caused by such entry and work and not exceeding three hundred and fifty
38 dollars may be adjusted by agreement by the commissioner of transporta-
39 tion without appropriating any property. Upon making any such agreement
40 and adjustment, and upon the approval thereof by the department of audit
41 and control, the commissioner of transportation shall deliver to the
42 comptroller such agreement and a certificate stating the amount due such
43 owner for damage caused by such entry and work and the amount so fixed
44 shall be paid out of the state treasury from moneys appropriated for the
45 maintenance and repair of state highways.

46 § 2. This act shall take effect immediately.

47

PART E

48 Section 1. Section 1 of part I of chapter 413 of the laws of 1999,
49 relating to providing for mass transportation payments, as amended by
50 section 1 of part D of chapter 58 of the laws of 2015, is amended to
51 read as follows:

52 Section 1. Notwithstanding any other law, rule or regulation to the
53 contrary, payment of mass transportation operating assistance pursuant

to section 18-b of the transportation law shall be subject to the provisions contained herein and the amounts made available therefor by appropriation.

In establishing service and usage formulas for distribution of mass transportation operating assistance, the commissioner of transportation may combine and/or take into consideration those formulas used to distribute mass transportation operating assistance payments authorized by separate appropriations in order to facilitate program administration and to ensure an orderly distribution of such funds.

To improve the predictability in the level of funding for those systems receiving operating assistance payments under service and usage formulas, the commissioner of transportation is authorized with the approval of the director of the budget, to provide service payments based on service and usage statistics of the preceding year.

In the case of a service payment made, pursuant to section 18-b of the transportation law, to a regional transportation authority on account of mass transportation services provided to more than one county (considering the city of New York to be one county), the respective shares of the matching payments required to be made by a county to any such authority shall be as follows:

	Percentage of Matching Payment
Local Jurisdiction	

In the Metropolitan Commuter Transportation District:	
New York City	6.40
Dutchess	1.30
Nassau	39.60
Orange	0.50
Putnam	1.30
Rockland	0.10
Suffolk	25.70
Westchester	25.10
In the Capital District Trans- portation District:	
Albany	[56.10] 55.27
Rensselaer	[23.30] 22.96
Saratoga	[4.10] 4.04
Schenectady	[16.50] 16.26
<u>Montgomery</u>	<u>1.47</u>
In the Central New York Re- gional Transportation Dis- trict:	
Cayuga	5.11
Onondaga	75.83
Oswego	2.85
Oneida	16.21
In the Rochester-Genesee Re- gional Transportation Dis- trict:	
Genesee	1.36
Livingston90
Monroe	90.14
Wayne98

1	Wyoming51	
2	Seneca64	
3	Orleans77	
4	Ontario	4.69	
5	In the Niagara Frontier Trans-		
6	portation District: Erie		89.20
7	Niagara	10.80	

8 Notwithstanding any other inconsistent provisions of section 18-b of
9 the transportation law or any other law, any moneys provided to a public
10 benefit corporation constituting a transportation authority or to other
11 public transportation systems in payment of state operating assistance
12 or such lesser amount as the authority or public transportation system
13 shall make application for, shall be paid by the commissioner of trans-
14 portation to such authority or public transportation system in lieu, and
15 in full satisfaction, of any amounts which the authority would otherwise
16 be entitled to receive under section 18-b of the transportation law.

17 Notwithstanding the reporting date provision of section 17-a of the
18 transportation law, the reports of each regional transportation authori-
19 ty and other major public transportation systems receiving mass trans-
20 portation operating assistance shall be submitted on or before July 15
21 of each year in the format prescribed by the commissioner of transporta-
22 tion. Copies of such reports shall also be filed with the chairpersons
23 of the senate finance committee and the assembly ways and means commit-
24 tee and the director of the budget. The commissioner of transportation
25 may withhold future state operating assistance payments to public trans-
26 portation systems or private operators that do not provide such reports.

27 Payments may be made in quarterly installments as provided in subdivi-
28 sion 2 of section 18-b of the transportation law or in such other manner
29 and at such other times as the commissioner of transportation, with the
30 approval of the director of the budget, may provide; and where payment
31 is not made in the manner provided by such subdivision 2, the matching
32 payments required of any city, county, Indian tribe or intercity bus
33 company shall be made within 30 days of the payment of state operating
34 assistance pursuant to this section or on such other basis as may be
35 agreed upon by the commissioner of transportation, the director of the
36 budget, and the chief executive officer of such city, county, Indian
37 tribe or intercity bus company.

38 The commissioner of transportation shall be required to annually eval-
39 uate the operating and financial performance of each major public trans-
40 portation system. Where the commissioner's evaluation process has iden-
41 tified a problem related to system performance, the commissioner may
42 request the system to develop plans to address the performance deficien-
43 cies. The commissioner of transportation may withhold future state oper-
44 ating assistance payments to public transportation systems or private
45 operators that do not provide such operating, financial, or other infor-
46 mation as may be required by the commissioner to conduct the evaluation
47 process.

48 Payments shall be made contingent upon compliance with regulations
49 deemed necessary and appropriate, as prescribed by the commissioner of
50 transportation and approved by the director of the budget, which shall
51 promote the economy, efficiency, utility, effectiveness, and coordinated
52 service delivery of public transportation systems. The chief executive
53 officer of each public transportation system receiving a payment shall
54 certify to the commissioner of transportation, in addition to informa-
55 tion required by section 18-b of the transportation law, such other

1 information as the commissioner of transportation shall determine is
2 necessary to determine compliance and carry out the purposes herein.

3 Counties, municipalities or Indian tribes that propose to allocate
4 service payments to operators on a basis other than the amount earned by
5 the service payment formula shall be required to describe the proposed
6 method of distributing governmental operating aid and submit it one
7 month prior to the start of the operator's fiscal year to the commis-
8 sioner of transportation in writing for review and approval prior to the
9 distribution of state aid. The commissioner of transportation shall only
10 approve alternate distribution methods which are consistent with the
11 transportation needs of the people to be served and ensure that the
12 system of private operators does not exceed established maximum service
13 payment limits. Copies of such approvals shall be submitted to the
14 chairpersons of the senate finance and assembly ways and means commit-
15 tees.

16 Notwithstanding the provisions of subdivision 4 of section 18-b of the
17 transportation law, the commissioner of transportation is authorized to
18 continue to use prior quarter statistics to determine current quarter
19 payment amounts, as initiated in the April to June quarter of 1981. In
20 the event that actual revenue passengers and actual total number of
21 vehicle, nautical or car miles are not available for the preceding quar-
22 ter, estimated statistics may be used as the basis of payment upon
23 approval by the commissioner of transportation. In such event, the
24 succeeding payment shall be adjusted to reflect the difference between
25 the actual and estimated total number of revenue passengers and vehicle,
26 nautical or car miles used as the basis of the estimated payment. The
27 chief executive officer may apply for less aid than the system is eligi-
28 ble to receive. Each quarterly payment shall be attributable to operat-
29 ing expenses incurred during the quarter in which it is received, unless
30 otherwise specified by such commissioner. In the event that a public
31 transportation system ceases to participate in the program, operating
32 assistance due for the final quarter that service is provided shall be
33 based upon the actual total number of revenue passengers and the actual
34 total number of vehicle, nautical or car miles carried during that quar-
35 ter.

36 Payments shall be contingent on compliance with audit requirements
37 determined by the commissioner of transportation.

38 In the event that an audit of a public transportation system or
39 private operator receiving funds discloses the existence of an overpay-
40 ment of state operating assistance, regardless of whether such an over-
41 payment results from an audit of revenue passengers and the actual
42 number of revenue vehicle miles statistics, or an audit of private oper-
43 ators in cases where more than a reasonable return based on equity or
44 operating revenues and expenses has resulted, the commissioner of trans-
45 portation, in addition to recovering the amount of state operating
46 assistance overpaid, shall also recover interest, as defined by the
47 department of taxation and finance, on the amount of the overpayment.

48 Notwithstanding any other law, rule or regulation to the contrary,
49 whenever the commissioner of transportation is notified by the comp-
50 troller that the amount of revenues available for payment from an
51 account is less than the total amount of money for which the public mass
52 transportation systems are eligible pursuant to the provisions of
53 section 88-a of the state finance law and any appropriations enacted for
54 these purposes, the commissioner of transportation shall establish a
55 maximum payment limit which is proportionally lower than the amounts set
56 forth in appropriations.

1 Notwithstanding paragraphs (b) of subdivisions 5 and 7 of section 88-a
2 of the state finance law and any other general or special law, payments
3 may be made in quarterly installments or in such other manner and at
4 such other times as the commissioner of transportation, with the
5 approval of the director of the budget may prescribe.

6 § 2. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after April 1, 2022.

8 PART F

9 Section 1. Subdivision 1 of section 359 of the public authorities law,
10 as amended by section 6 of part TT of chapter 54 of the laws of 2016, is
11 amended to read as follows:

12 1. On assuming jurisdiction of a thruway section or connection or any
13 part thereof, or of a highway connection, the authority shall proceed
14 with the construction, reconstruction or improvement thereof. All such
15 work shall be done pursuant to a contract or contracts which shall be
16 let to the lowest responsible bidder, by sealed proposals publicly
17 opened, or by electronically secure proposal submission as permitted by
18 the authority and electronically posted for public view, after public
19 advertisement and upon such terms and conditions as the authority shall
20 require; provided, however, that the authority may reject any and all
21 proposals and may advertise for new proposals, as herein provided, if in
22 its opinion, the best interests of the authority will thereby be
23 promoted; provided further, however, that at the request of the authori-
24 ty, all or any portion of such work, together with any engineering
25 required by the authority in connection therewith, shall be performed by
26 the commissioner and his subordinates in the department of transporta-
27 tion as agents for, and at the expense of, the authority.

28 § 2. This act shall take effect immediately.

29 PART G

30 Section 1. Section 359-a of the public authorities law, as amended by
31 section 7 of part TT of chapter 54 of the laws of 2016, is amended to
32 read as follows:

33 § 359-a. Procurement contracts. For the purposes of section twenty-
34 eight hundred seventy-nine of this chapter as applied to the authority,
35 the term "procurement contract" shall mean any written agreement for the
36 acquisition of goods or services of any kind by the authority in the
37 actual or estimated amount of [~~fifteen~~] fifty thousand dollars or more.
38 The authority may utilize a procurement contract let by any department,
39 agency or instrumentality of the United States government and/or any
40 department, agency, office, political subdivision or instrumentality of
41 any state or states. The authority shall document in the procurement
42 record its rationale for the use of such a contract. Such rationale
43 shall include, but need not be limited to, a determination of need, a
44 consideration of the procurement method by which the contract was
45 awarded, an analysis of alternative procurement sources including an
46 explanation why a competitive procurement or the use of a centralized
47 contract let by the commissioner of the office of general services is
48 not in the best interest of the authority, and the reasonableness of
49 cost. The authority shall accept sole responsibility for any payment
50 due the vendor or contractor as a result of the authority's use of the
51 contract.

§ 2. This act shall take effect immediately.

PART H

Section 1. Subdivision 1 of section 1264 of the public authorities law, as amended by section 2 of subpart B of part ZZZ of chapter 59 of the laws of 2019, is amended to read as follows:

1. The purposes of the authority shall be the continuance, further development and improvement of commuter transportation and other services related thereto within the metropolitan commuter transportation district, including but not limited to such transportation by railroad, omnibus, marine and air, in accordance with the provisions of this title. It shall be the further purpose of the authority, consistent with its status as the ex officio board of both the New York city transit authority and the triborough bridge and tunnel authority, to develop and implement a unified mass transportation policy for such district in an efficient and cost-effective manner that includes the use of design-build contracting on all projects over [~~twenty-five~~] two hundred million dollars in cost for new construction and all projects over four hundred million dollars in cost for projects that are predominantly rehabilitation or replacement of existing assets except where a waiver is granted by the New York state budget director pursuant to a request in writing from the metropolitan transportation authority. For purposes of granting a waiver pursuant to this section, such review shall consider whether the design build contracting method is appropriate for the project that such waiver is sought for, and the amount of savings and efficiencies that could be achieved using such method. The determination for such waiver shall be made in writing within forty-five days from request or shall be deemed granted.

§ 2. This act shall take effect immediately.

PART I

Section 1. Paragraph (b) of subdivision 7 of section 1209 of the public authorities law, as amended by section 3 of subpart C of part ZZZ of chapter 59 of the laws of 2019, is amended to read as follows:

(b) Section twenty-eight hundred seventy-nine of this chapter shall apply to the authority's acquisition of goods or services of any kind, in the actual or estimated amount of fifteen thousand dollars or more, provided that (i) a contract for services in the actual or estimated amount of one million dollars or less shall not require approval by the board of the authority regardless of the length of the period over which the services are rendered, and provided further that a contract for services in the actual or estimated amount in excess of one million dollars shall require approval by the board of the authority regardless of the length of the period over which the services are rendered unless such a contract is awarded to the lowest responsible bidder after obtaining sealed bids and (ii) the board of the authority may by resolution adopt guidelines that authorize the award of contracts to small business concerns, to service disabled veteran owned businesses certified pursuant to article seventeen-B of the executive law, or minority or women-owned business enterprises certified pursuant to article fifteen-A of the executive law, or purchases of goods or technology that are recycled or remanufactured, in an amount not to exceed one million five hundred thousand dollars without a formal competitive process and without further board approval. The board of the authority shall adopt

1 guidelines which shall be made publicly available for the awarding of
2 such contract without a formal competitive process.

3 § 2. Paragraph (a) of subdivision 8 of section 1209 of the public
4 authorities law, as amended by chapter 725 of the laws of 1993, is
5 amended to read as follows:

6 (a) Advertisement for bids, when required by this section, shall be
7 published at least once in a newspaper of general circulation in the
8 area served by the authority and in the procurement opportunities news-
9 letter published pursuant to article four-C of the economic development
10 law provided that, notwithstanding the provisions of article four-C of
11 the economic development law, an advertisement shall only be required
12 when required by this section. Publication in a newspaper of general
13 circulation in the area served or in the procurement opportunities news-
14 letter shall not be required if bids for contracts for supplies, materi-
15 als or equipment are of a type regularly purchased by the authority and
16 are to be solicited from a list of potential suppliers, if such list is
17 or has been developed consistent with the provisions of subdivision
18 eleven of this section. Any such advertisement shall contain a statement
19 of: (i) the time and place where bids received pursuant to any notice
20 requesting sealed bids will be publicly opened and read; (ii) the name
21 of the contracting agency; (iii) the contract identification number;
22 (iv) a brief description of the public work, supplies, materials, or
23 equipment sought, the location where work is to be performed, goods are
24 to be delivered or services provided and the contract term; (v) the
25 address where bids or proposals are to be submitted; (vi) the date when
26 bids or proposals are due; (vii) a description of any eligibility or
27 qualification requirement or preference; (viii) a statement as to wheth-
28 er the contract requirements may be fulfilled by a subcontracting, joint
29 venture, or co-production arrangement; (ix) any other information deemed
30 useful to potential contractors; and (x) the name, address, and tele-
31 phone number of the person to be contacted for additional information.
32 At least [~~fifteen~~ ten] business days shall elapse between the first
33 publication of such advertisement or the solicitation of bids, as the
34 case may be, and the date of opening and reading of bids provided that
35 at least fifteen business days shall elapse between the first publica-
36 tion of such advertisement or the solicitation of bids, as the case may
37 be, and the date of opening and reading of bids for public work
38 contracts.

39 § 3. Paragraph (e) of subdivision 9 of section 1209 of the public
40 authorities law, as added by chapter 929 of the laws of 1986, is amended
41 to read as follows:

42 (e) the item is available through an existing contract [~~between a~~
43 ~~vendor and (i) another public authority provided that such other author-~~
44 ~~ity utilized a process of competitive bidding or a process of compet-~~
45 ~~itive requests for proposals to award such contract or (ii) the state of~~
46 ~~New York or the city of New York, provided that in any case when the~~
47 ~~authority under this paragraph determines that obtaining such item~~
48 ~~thereby would be in the public interest and sets forth the reasons for~~
49 ~~such determination] let by any department, agency or instrumentality of
50 the United States government and/or any department, agency, office,
51 political subdivision or instrumentality of any state or states. The
52 authority shall document in the procurement record its rationale for the
53 use of such a contract. Such rationale shall include, but need not be
54 limited to, a determination of need, a consideration of the procurement
55 method by which the contract was awarded, an analysis of alternative
56 procurement sources including an explanation why a competitive procure-~~

1 ment or the use of a centralized contract let by the commissioner of the
2 office of general services is not in the best interest of the authority,
3 and the reasonableness of cost. The authority shall accept sole respon-
4 sibility for any payment due the vendor as a result of the authority's
5 order; or

6 § 4. Subdivision 10 of section 1209 of the public authorities law, as
7 added by chapter 929 of the laws of 1986, is amended to read as follows:

8 10. Upon the adoption of a resolution by the authority stating, for
9 reasons of efficiency, economy, compatibility or maintenance reliabil-
10 ity, that there is a need for standardization, the authority may estab-
11 lish procedures whereby particular supplies, materials or equipment are
12 identified on a qualified products list. Such procedures shall provide
13 for products or vendors to be added to or deleted from such list and
14 shall include provisions for public advertisement of the manner in which
15 such lists are compiled. The authority shall review such list no less
16 than [~~twice~~] once a year for the purpose of making modifications there-
17 to. Contracts for particular supplies, materials or equipment identi-
18 fied on a qualified products list may be awarded by the authority to the
19 lowest responsible bidder after obtaining sealed bids in accordance with
20 this section or without competitive sealed bids in instances when the
21 item is available from only a single source, except that the authority
22 may dispense with advertising provided that it mails copies of the invi-
23 tation to bid to all vendors of the particular item on the qualified
24 products list.

25 § 5. Paragraph (b) of subdivision 2 of section 1265-a of the public
26 authorities law, as amended by section 3-a of subpart C of part ZZZ of
27 chapter 59 of the laws of 2019, is amended to read as follows:

28 (b) Section twenty-eight hundred seventy-nine of this chapter shall
29 apply to the authority's acquisition of goods or services of any kind,
30 in the actual or estimated amount of fifteen thousand dollars or more,
31 provided (i) that a contract for services in the actual or estimated
32 amount of one million dollars or less shall not require approval by the
33 board of the authority regardless of the length of the period over which
34 the services are rendered, and provided further that a contract for
35 services in the actual or estimated amount in excess of one million
36 dollars shall require approval by the board of the authority regardless
37 of the length of the period over which the services are rendered unless
38 such a contract is awarded to the lowest responsible bidder after
39 obtaining sealed bids, and (ii) the board of the authority may by resol-
40 ution adopt guidelines that authorize the award of contracts to small
41 business concerns, to service disabled veteran owned businesses certi-
42 fied pursuant to article seventeen-B of the executive law, or minority
43 or women-owned business enterprises certified pursuant to article
44 fifteen-A of the executive law, or purchases of goods or technology that
45 are recycled or remanufactured, in an amount not to exceed one million
46 five hundred thousand dollars without a formal competitive process and
47 without further board approval. The board of the authority shall adopt
48 guidelines which shall be made publicly available for the awarding of
49 such contract without a formal competitive process.

50 § 6. Paragraph (a) of subdivision 3 of section 1265-a of the public
51 authorities law, as amended by chapter 494 of the laws of 1990, is
52 amended to read as follows:

53 (a) Advertisement for bids, when required by this section, shall be
54 published at least once in a newspaper of general circulation in the
55 area served by the authority and in the procurement opportunities news-
56 letter published pursuant to article four-C of the economic development

1 law provided that, notwithstanding the provisions of article four-C of
2 the economic development law, an advertisement shall only be required
3 for a purchase contract for supplies, materials or equipment when
4 required by this section. Publication in a newspaper of general circu-
5 lation in the area served or in the procurement opportunities newsletter
6 shall not be required if bids for contracts for supplies, materials or
7 equipment are of a type regularly purchased by the authority and are to
8 be solicited from a list of potential suppliers, if such list is or has
9 been developed consistent with the provisions of subdivision six of this
10 section. Any such advertisement shall contain a statement of: (i) the
11 time and place where bids received pursuant to any notice requesting
12 sealed bids will be publicly opened and read; (ii) the name of the
13 contracting agency; (iii) the contract identification number; (iv) a
14 brief description of the public work, supplies, materials, or equipment
15 sought, the location where work is to be performed, goods are to be
16 delivered or services provided and the contract term; (v) the address
17 where bids or proposals are to be submitted; (vi) the date when bids or
18 proposals are due; (vii) a description of any eligibility or qualifica-
19 tion requirement or preference; (viii) a statement as to whether the
20 contract requirements may be fulfilled by a subcontracting, joint
21 venture, or co-production arrangement; (ix) any other information deemed
22 useful to potential contractors; and (x) the name, address, and tele-
23 phone number of the person to be contacted for additional information.
24 At least [~~fifteen~~] ten business days shall elapse between the first
25 publication of such advertisement or the solicitation of bids, as the
26 case may be, and the date of opening and reading of bids provided that
27 at least fifteen business days shall elapse between the first publica-
28 tion of such advertisement or the solicitation of bids, as the case may
29 be, and the date of opening and reading of bids for public work
30 contracts.

31 § 7. Paragraph (e) of subdivision 4 of section 1265-a of the public
32 authorities law, as added by chapter 929 of the laws of 1986, is amended
33 to read as follows:

34 (e) the item is available through an existing contract [~~between a~~
35 ~~vendor and (i) another public authority provided that such other author-~~
36 ~~ity utilized a process of competitive bidding or a process of compet-~~
37 ~~itive requests for proposals to award such contracts or (ii) Nassau~~
38 ~~county, or (iii) the state of New York or (iv) the city of New York,~~
39 ~~provided that in any case when under this paragraph the authority deter-~~
40 ~~mines that obtaining such item thereby would be in the public interest~~
41 ~~and sets forth the reasons for such determination]~~ let by any depart-
42 ment, agency or instrumentality of the United States government and/or
43 any department, agency, office, political subdivision or instrumentality
44 of any state or states. The authority shall document in the procurement
45 record its rationale for the use of such a contract. Such rationale
46 shall include, but need not be limited to, a determination of need, a
47 consideration of the procurement method by which the contract was
48 awarded, an analysis of alternative procurement sources including an
49 explanation why a competitive procurement or the use of a centralized
50 contract let by the commissioner of the office of general services is
51 not in the best interest of the authority, and the reasonableness of
52 cost. The authority shall accept sole responsibility for any payment due
53 the vendor as a result of the authority's order; or

54 § 8. Subdivision 5 of section 1265-a of the public authorities law, as
55 added by chapter 929 of the laws of 1986, is amended to read as follows:

5. Upon the adoption of a resolution by the authority stating, for reasons of efficiency, economy, compatibility or maintenance reliability, that there is a need for standardization, the authority may establish procedures whereby particular supplies, materials or equipment are identified on a qualified products list. Such procedures shall provide for products or vendors to be added to or deleted from such list and shall include provisions for public advertisement of the manner in which such lists are compiled. The authority shall review such list no less than ~~twice~~ once a year for the purpose of making such modifications. Contracts for particular supplies, materials or equipment identified on a qualified products list may be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in accordance with this section or without competitive sealed bids in instances when the item is available from only a single source, except that the authority may dispense with advertising provided that it mails copies of the invitation to bid to all vendors of the particular item on the qualified products list.

§ 9. This act shall take effect immediately; provided, however, that the amendments to paragraph (b) of subdivision 7 of section 1209 of the public authorities law made by section one of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith; and provided further, however, that the amendments to paragraph (b) of subdivision 2 of section 1265-a of the public authorities law made by section five of this act shall not affect the expiration of such paragraph and shall be deemed to expire therewith.

PART J

Section 1. Section 3 of part PP of chapter 54 of the laws of 2016, amending the general municipal law relating to the New York transit authority and the metropolitan transportation authority, as amended by section 1 of part K of chapter 58 of the laws of 2020, is amended to read as follows:

§ 3. This act shall take effect immediately; provided that the amendments to subdivision 1 of section 119-r of the general municipal law made by section two of this act shall expire and be deemed repealed April 1, ~~2022~~ 2032, and provided further that such repeal shall not affect the validity or duration of any contract entered into before that date pursuant to paragraph f of such subdivision.

§ 2. This act shall take effect immediately.

PART K

Section 1. Section 1266 of the public authorities law is amended by adding a new subdivision 12-b to read as follows:

12-b. Whenever in connection with the improvement, construction, reconstruction or rehabilitation of a transportation facility the authority determines that the pipes, mains, conduits or other infrastructure of any public service corporation and any fixtures and appliances connected therewith or attached thereto must be removed, relocated or otherwise protected or replaced, either temporarily or permanently ("the required work"), the following provisions shall apply.

(a) The design for the required work may be prepared by the authority or the authority's contractor. Such designs shall be subject to the review and approval of the public service corporation, which shall not be unreasonably withheld. Such review and approval shall be completed

1 within a reasonable period of time as may be determined by the authority
2 after consultation with the public service corporation.

3 (b) In reviewing and approving designs for the required work, a public
4 service corporation may not require the authority to provide for antic-
5 ipated future service increases or other betterments, other than to
6 comply with current standards or ensure reliability as determined by the
7 department of public service, without the authority's agreement, which
8 shall not be unreasonably withheld.

9 (c) Where the public service corporation determines that it will
10 perform any portion of the required work, that portion of the required
11 work shall be performed according to a schedule determined by the
12 authority after consultation with the public service corporation,
13 provided that the schedule is reasonable and practicable.

14 § 2. This act shall take effect immediately.

15 PART L

16 Section 1. Subdivision 11 of section 120.05 of the penal law, as sepa-
17 rately amended by chapters 268 and 281 of the laws of 2016, is amended
18 to read as follows:

19 11. With intent to cause physical injury to a train operator, ticket
20 inspector, conductor, signalperson, bus operator, station agent, station
21 cleaner [~~ex~~], terminal cleaner, station customer assistant; person whose
22 official duties include the sale or collection of tickets, passes,
23 vouchers, or other fare payment media for use on a train or bus; a
24 person whose official duties include the maintenance, repair,
25 inspection, troubleshooting, testing or cleaning of a transit signal
26 system, elevated or underground subway tracks, transit station struc-
27 ture, commuter rail tracks or stations, train yard, revenue train in
28 passenger service, bus while on the road, or a train or bus station or
29 terminal; or a supervisor of such personnel, employed by any transit or
30 commuter railroad agency, authority or company, public or private, whose
31 operation is authorized by New York state or any of its political subdivi-
32 sions, a city marshal, a school crossing guard appointed pursuant to
33 section two hundred eight-a of the general municipal law, a traffic
34 enforcement officer, traffic enforcement agent, prosecutor as defined in
35 subdivision thirty-one of section 1.20 of the criminal procedure law,
36 sanitation enforcement agent, New York city sanitation worker, public
37 health sanitarian, New York city public health sanitarian, registered
38 nurse, licensed practical nurse, emergency medical service paramedic, or
39 emergency medical service technician, he or she causes physical injury
40 to such train operator, ticket inspector, conductor, signalperson, bus
41 operator, station agent, station cleaner [~~ex~~], terminal cleaner, station
42 customer assistant; person whose official duties include the sale or
43 collection of tickets, passes, vouchers or other fare payment media for
44 use on a train or bus; a person whose official duties include the main-
45 tenance, repair, inspection, troubleshooting, testing or cleaning of a
46 transit signal system, elevated or underground subway tracks, transit
47 station structure, commuter rail tracks or stations, train yard, revenue
48 train in passenger service, bus while on the road, or a train or bus
49 station or terminal; or a supervisor of such personnel, city marshal,
50 school crossing guard appointed pursuant to section two hundred eight-a
51 of the general municipal law, traffic enforcement officer, traffic
52 enforcement agent, prosecutor as defined in subdivision thirty-one of
53 section 1.20 of the criminal procedure law, registered nurse, licensed
54 practical nurse, public health sanitarian, New York city public health

1 sanitarian, sanitation enforcement agent, New York city sanitation work-
2 er, emergency medical service paramedic, or emergency medical service
3 technician, while such employee is performing an assigned duty on, or
4 directly related to, the operation of a train or bus, [~~including the~~]
5 cleaning of a train or bus station or terminal, assisting customers, the
6 sale or collection of tickets, passes, vouchers, or other fare media for
7 use on a train or bus, or maintenance of a train or bus station or
8 terminal, signal system, elevated or underground subway tracks, transit
9 station structure, commuter rail tracks or stations, train yard, revenue
10 train in passenger service or bus while on the road, or such city
11 marshal, school crossing guard, traffic enforcement officer, traffic
12 enforcement agent, prosecutor as defined in subdivision thirty-one of
13 section 1.20 of the criminal procedure law, registered nurse, licensed
14 practical nurse, public health sanitarian, New York city public health
15 sanitarian, sanitation enforcement agent, New York city sanitation work-
16 er, emergency medical service paramedic, or emergency medical service
17 technician is performing an assigned duty; or

18 § 2. Section 240.30 of the penal law is amended by adding a new subdivi-
19 sion 3-a to read as follows:

20 3-a. Strikes, shoves, kicks, or otherwise subjects another person to
21 physical contact, which includes spitting on such other person, and such
22 other person is an on-duty train operator; ticket inspector; conductor;
23 signalperson; bus operator; station agent; station cleaner; terminal
24 cleaner; station customer assistant; person whose official duties
25 include the sale or collection of tickets, passes, vouchers or other
26 fare payment media for use on a train or bus; person whose official
27 duties include the maintenance, repair, inspection, troubleshooting,
28 testing or cleaning of a transit signal system, elevated or underground
29 subway tracks, transit station structure, commuter rail tracks or
30 stations, train yard, revenue train in passenger service, bus while on
31 the road, or train or bus station or terminal, or a supervisor of such
32 personnel, employed by any transit or commuter railroad agency, authori-
33 ty or company, public or private, whose operation is authorized by New
34 York state or any of its political subdivisions; or

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

37 PART M

38 Section 1. The vehicle and traffic law is amended by adding a new
39 section 1111-c-1 to read as follows:

40 § 1111-c-1. Owner liability for failure of operator to comply with bus
41 operation-related local law or regulation traffic restrictions. (a)
42 Notwithstanding any other provision of law, in accordance with the
43 provisions of this section, the city of New York is hereby authorized
44 and empowered to impose monetary liability on the owner of a vehicle for
45 failure of an operator thereof to comply with the applicable local laws
46 and regulations of the city of New York regarding bus operation-related
47 traffic restrictions. The department of transportation of the city of
48 New York and/or an applicable mass transit agency, shall operate photo
49 devices that may be stationary or mobile and shall be activated at
50 locations determined by such department of transportation and/or on
51 buses selected by the applicable mass transit agency.

52 (b) Any image or images captured by photo devices shall be inadmissi-
53 ble in any disciplinary proceeding convened by the applicable mass tran-
54 sit agency or any subsidiary thereof and any proceeding initiated by the

1 department involving licensure privileges of bus operators. Any mobile
2 bus photo device mounted on a bus shall be directed outwardly from such
3 bus to capture images of vehicles operated in violation of the local
4 laws and regulations relating to bus operation traffic restrictions, and
5 images produced by such device shall not be used for any other purpose
6 in the absence of a court order requiring such images to be produced.

7 (c) The city of New York shall adopt and enforce measures to protect
8 the privacy of drivers, passengers, pedestrians and cyclists whose iden-
9 tity and identifying information may be captured by a photo device
10 pursuant to this section. Such measures shall include:

11 1. utilization of necessary technologies to ensure, to the extent
12 practicable, that images produced by such photo devices shall not
13 include images that identify the driver, the passengers, or the contents
14 of a vehicle, provided, however, that no notice of liability issued
15 pursuant to this section shall be dismissed solely because an image
16 allows for the identification of the driver, the passengers or other
17 contents of a vehicle;

18 2. a prohibition on the use or dissemination of vehicles' license
19 plate information and other information and images captured by photo
20 devices except:

21 (i) as required to establish liability under this section or collect
22 payment of penalties;

23 (ii) as required by court order;

24 (iii) as required pursuant to a search warrant issued in accordance
25 with the criminal procedure law or a subpoena; or

26 (iv) as otherwise required by law;

27 3. the installation of signage that is clearly visible to drivers at
28 regular intervals along and adjacent to bus lanes stating that mobile
29 and stationary photo devices are used to enforce restrictions relating
30 to bus operation traffic restrictions including stopping, standing,
31 parking and turning movements; and

32 4. oversight procedures to ensure compliance with the privacy
33 protection measures under this subdivision.

34 (d) Warning notices of violation shall be issued during the first
35 sixty days that photo device enforcement pursuant to this section is
36 active.

37 (e) The owner of a vehicle shall be liable for a penalty imposed
38 pursuant to this section if such vehicle was used or operated with the
39 permission of the owner, express or implied, in violation of any appli-
40 cable bus operation-related local law or regulation traffic restrictions
41 and such violation is evidenced by information obtained from a photo
42 device; provided however that no owner of a vehicle shall be liable for
43 a penalty imposed pursuant to this section where the operator of such
44 vehicle has been convicted of the underlying violation of such applica-
45 ble local law or regulation.

46 (f) For purposes of this section the following terms shall have the
47 following meanings:

48 1. "owner" shall have the meaning provided in article two-B of this
49 chapter.

50 2. "photo device" shall mean a mobile or stationary device that is
51 capable of operating independently of an enforcement officer and produc-
52 es one or more images of each vehicle at the time it is in violation of
53 an applicable local law or regulation.

54 3. "applicable bus operation-related local law or regulation traffic
55 restrictions" shall mean the restrictions set forth in chapter four of
56 title thirty-four of the rules of the city of New York affecting bus

operations including but not limited to the following: 4-08(f)(4), general no standing zones, bus lanes; 4-08(c)(3), violation of posted no standing rules prohibited, bus stop; 4-08(f)(1), general no standing zones, double parking; 4-08(k)(2), special rules for commercial vehicles, no standing except trucks loading and unloading; 4-07(b)(1) and 4-08(e)(11), stopping prohibited; 4-08(e)(4), general no stopping zones, intersections; 4-08(e)(5), general no stopping zones, crosswalks; 4-08(e)(12), general no stopping zones, obstructing traffic at intersection; and 4-05 and 4-07(h)(2), turns.

4. "lessor" means any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee or bailee under a rental agreement, lease or otherwise, wherein the said lessee or bailee has the exclusive use of said vehicle for any period of time.

5. "lessee" means any person, corporation, firm, partnership, agency, association or organization that rents, bails, leases or contracts for the use of one or more vehicles and has the exclusive use thereof for any period of time.

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

(h) An owner liable for a violation under this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties promulgated by the parking violations bureau of the city of New York; provided, however, that the monetary penalty for a first offense of a provision of local law or regulation of the city of New York relating to stopping, standing, parking and turning movement violations pursuant to this section shall not exceed one hundred twenty-five dollars for a first offense, one hundred fifty dollars for a second offense within a twelve-month period, two hundred dollars for a third offense within a twelve-month period, two hundred fifty dollars for a fourth offense within a twelve-month period, and three hundred fifty dollars for each subsequent offense within a twelve-month period; and provided, further, that an owner shall be liable for an additional penalty not to exceed twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period set forth in the notice of violation.

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

(j) 1. A notice of liability pursuant to this section shall be sent by first class mail to each person alleged to be liable as an owner for a violation under this section. Personal delivery to the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained in such record of mailing.

2. A notice of liability pursuant to this section shall contain the name and address of the person alleged to be liable as an owner for a violation, the registration number of the vehicle involved in such

1 violation, the location where such violation took place including the
2 street address or cross streets, one or more images identifying the
3 violation, the date and time of such violation, the identification
4 number of the photo device which recorded the violation or other docu-
5 ment locator number, and whether the device was stationary or mobile. If
6 the photo device was mobile, an identity of the vehicle containing such
7 photo device shall be included in the notice.

8 3. A notice of liability pursuant to this section shall contain infor-
9 mation advising the person charged of the manner and the time in which
10 he or she may contest the liability alleged in the notice. Such notice
11 of liability shall also contain a warning to advise the persons charged
12 that failure to contest in the manner and time provided shall be deemed
13 an admission of liability and that a default judgment may be entered
14 thereon.

15 4. A notice of liability pursuant to this section shall be prepared
16 and mailed by the agency or agencies designated by the city of New York,
17 or any other entity authorized by such city to prepare and mail such
18 notification of violation.

19 (k) Adjudication of the liability imposed upon owners by this section
20 shall be conducted by the New York city parking violations bureau.

21 (l) If an owner of a vehicle receives a notice of liability pursuant
22 to this section for any time period during which such vehicle was
23 reported to the police department as having been stolen, it shall be a
24 valid defense to an allegation of liability that the vehicle had been
25 reported to the police as stolen prior to the time the violation
26 occurred and had not been recovered by such time. For purposes of
27 asserting the defense under this subdivision, it shall be sufficient
28 that a certified copy of the police report on the stolen vehicle be sent
29 by first class mail to the parking violations bureau of the city of New
30 York.

31 (m) 1. An owner who is a lessor of a vehicle to which a notice of
32 liability was issued pursuant to this section shall not be liable for
33 the violation of an applicable bus operation-related local law or regu-
34 lation traffic restriction, provided that:

35 (i) prior to such violation, the lessor has filed with the parking
36 violations bureau of the city of New York in accordance with the
37 provisions of section two hundred thirty-nine of this chapter; and

38 (ii) within thirty-seven days after receiving notice from the parking
39 violations bureau of the city of New York of the date and time of a
40 liability, together with the other information contained in the original
41 notice of liability, the lessor submits to such bureau the correct name
42 and address of the lessee of the vehicle identified in the notice of
43 liability at the time of such violation, together with such other addi-
44 tional information contained in the rental, lease or other contract
45 document, as may be reasonably required by such bureau pursuant to regu-
46 lations that may be promulgated for such purpose. Failure to timely
47 submit such information shall render the lessor liable for the penalty
48 prescribed in this section.

49 2. Where the lessor complies with the provisions of subparagraph (i)
50 of paragraph one of this subdivision, the lessee of such vehicle on the
51 date of such violation shall be deemed to be the owner of such vehicle
52 for purposes of this section, shall be subject to liability for such
53 violation pursuant to this section and shall be sent a notice of liabil-
54 ity pursuant to subdivision (j) of this section.

55 (n) If the owner liable for a violation under this section was not the
56 operator of the vehicle at the time of such violation, such owner may

1 maintain an action for indemnification against the operator of the vehi-
2 cle at the time of such violation.

3 (o) Nothing in this section shall be construed to limit the liability
4 of an operator of a vehicle for any violation of an applicable local law
5 or regulation.

6 (p) The city of New York and the applicable mass transit agency shall
7 submit a report on the results of the use of photo devices pursuant to
8 this section to the governor, the temporary president of the senate, and
9 the speaker of the assembly by April first, within twelve months of
10 operation of such photo devices and every two years thereafter. Such
11 report shall include, but not be limited to:

12 1. a description of the locations and/or buses where photo devices
13 were used under this section;

14 2. the total number of violations under this section recorded on a
15 monthly and annual basis;

16 3. the total number of notices of liability issued under this section;

17 4. the number of fines and total amount of fines paid after the first
18 notice of liability under this section;

19 5. the number of violations under this section adjudicated and results
20 of such adjudications including breakdowns of dispositions made;

21 6. the total amount of revenue realized by the city of New York and
22 any participating mass transit agency under this section;

23 7. the quality of the adjudication process under this section and its
24 results;

25 8. the total number of cameras by type of camera used under this
26 section; and

27 9. the total cost to the city of New York and the total cost to any
28 participating mass transit agency under this section.

29 (q) Any revenue from fines and penalties collected pursuant to this
30 section from mobile bus photo devices shall be remitted by the city of
31 New York to the applicable mass transit agency on a quarterly basis to
32 be deposited in the general transportation account of the New York city
33 transportation assistance fund established pursuant to section twelve
34 hundred seventy-i of the public authorities law.

35 § 2. The opening paragraph of section 14 of part II of chapter 59 of
36 the laws of 2010, amending the vehicle and traffic law and the public
37 officers law relating to establishing a bus rapid transit demonstration
38 program to restrict the use of bus lanes by means of bus lane photo
39 devices, as amended by section 2 of part D of chapter 39 of the laws of
40 2019, is amended to read as follows:

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

46 § 3. This act shall take effect immediately; provided that section one
47 of this act shall take effect on the one hundred eightieth day after it
48 shall have become a law. Effective immediately, the addition, amendment
49 and/or repeal of any rule or regulation necessary for the implementation
50 of this act on its effective date are authorized to be made and
51 completed on or before such effective date.

52 PART N

53 Section 1. Subdivision 3 of section 165.15 of the penal law is amended
54 to read as follows:

3. With intent to obtain railroad, subway, bus, air, taxi or any other public transportation service or to use any toll highway, parkway, road, bridge or tunnel or to enter or remain in the tolled central business district described in section seventeen hundred four of the vehicle and traffic law without payment of the lawful charge or toll therefor, or to avoid payment of the lawful charge or toll for such transportation service which has been rendered to him or her or for such use of any toll highway, parkway, road, bridge or tunnel or for such entering or remaining in such tolled central business district, he or she obtains or attempts to obtain such service or to use any toll highway, parkway, road, bridge or tunnel or to enter or remain in a tolled central business district or avoids or attempts to avoid payment therefor by force, intimidation, stealth, deception or mechanical tampering, or by unjustifiable failure or refusal to pay; or

§ 2. Paragraph (b) of subdivision 1 of section 402 of the vehicle and traffic law, as amended by chapter 451 of the laws of 2021, is amended and a new paragraph (c) is added to read as follows:

(b) (i) Number plates shall be kept clean and in a condition so as to be easily readable and shall not be covered by glass or any plastic material.

(ii) Number plates shall not be knowingly covered or coated with any artificial or synthetic material or substance that conceals or obscures such number plates or that distorts a recorded or photographic image of such number plates.

(iii) The view of such number plates shall not be obstructed by any part of the vehicle or by anything carried thereon~~[, except for a receiver-transmitter issued by a publicly owned tolling facility in connection with electronic toll collection when such receiver-transmitter is affixed to the exterior of a vehicle in accordance with mounting instructions provided by the tolling facility]~~.

(c) It shall be unlawful for any person to operate, drive or park a motor vehicle on a toll highway, bridge and/or tunnel facility or enter or remain in the tolled central business district described in section seventeen hundred four of this chapter, under the jurisdiction of the tolling authority, if such number plate is not easily readable, nor shall any number plate be covered by glass or any plastic material, and shall not be knowingly covered or coated with any artificial or synthetic material or substance that conceals or obscures such number plates or that distorts a recorded or photographic image of such number plates, and the view of such number plates shall not be obstructed by any part of the vehicle or by anything carried thereon, except for a receiver-transmitter issued by a publicly owned tolling authority in connection with electronic toll collection when such receiver-transmitter is affixed to the exterior of a vehicle in accordance with mounting instructions provided by the tolling authority. For purposes of this paragraph, "tolling authority" shall mean every public authority which operates a toll highway, bridge and/or tunnel or a central business district tolling program, as well as the port authority of New York and New Jersey, a bi-state agency created by compact set forth in chapter one hundred fifty-four of the laws of nineteen hundred twenty-one, as amended.

§ 3. Subdivision 8 of section 402 of the vehicle and traffic law, as amended by chapter 451 of the laws of 2021, is amended to read as follows:

8. A violation of this section shall be punishable by a fine of not less than twenty-five nor more than two hundred dollars, except that:

1 (a) a violation of subparagraph (ii) or subparagraph (iii) of paragraph
2 (b) of subdivision one of this section shall be punishable by a fine of
3 not less than fifty nor more than three hundred dollars; and (b) a
4 violation of paragraph (c) of subdivision one of this section shall be
5 punishable by a fine of not less than one hundred nor more than five
6 hundred dollars.

7 § 4. Subdivision 5-a of section 401 of the vehicle and traffic law is
8 amended by adding a new paragraph d to read as follows:

9 d. It shall be unlawful for any person to register, reregister, renew,
10 replace or transfer the registration, change the name, address or other
11 information of the registered owner, or change the registration classi-
12 fication of any vehicle whose vehicle identification number is associ-
13 ated with a vehicle whose registration has been suspended, or is subject
14 to a pending request from a tolling authority to suspend the registra-
15 tion, under paragraph d of subdivision three of section five hundred ten
16 of this chapter and 15 NYCRR 127.14. The commissioner or the commission-
17 er's agent shall impose a vehicle identification number block and deny
18 the registration, reregistration, renewal, replacement or transfer of
19 the registration for such vehicle and vehicle identification number
20 until the tolling authority advises, in such form and manner as the
21 commissioner shall prescribe, that notices of violation have been
22 responded to and any unpaid tolls, fees or other charges associated with
23 the vehicle and the vehicle identification number have been paid to the
24 tolling authority. Where an application is denied pursuant to this
25 paragraph, the commissioner may, in the commissioner's discretion, deny
26 a registration, reregistration, renewal, replacement or transfer of the
27 registration for any other motor vehicle registered in the name of the
28 applicant where the commissioner has determined that such registrant's
29 intent has been to evade the purposes of this paragraph and where the
30 commissioner has reasonable grounds to believe that such registration,
31 reregistration, renewal, replacement or transfer of registration will
32 have the effect of defeating the purposes of this paragraph. Such vehi-
33 cle identification number block and denial shall only remain in effect
34 until the tolling authority advises, in such form and manner as the
35 commissioner shall prescribe, that notices of violation have been
36 responded to and any unpaid tolls, fees or other charges associated with
37 the vehicle and the vehicle identification number have been paid to the
38 tolling authority.

39 § 5. Paragraph d of subdivision 3 of section 510 of the vehicle and
40 traffic law, as amended by chapter 173 of the laws of 1990, is amended
41 to read as follows:

42 d. for habitual or persistent violation of any of the provisions of
43 this chapter, or of any lawful ordinance, rule or regulation made by
44 local authorities in relation to traffic, including violations of any
45 statute, ordinance, rule or regulation pertaining to a tolling
46 authority;

47 § 6. Subdivision 4-d of section 510 of the vehicle and traffic law, as
48 added by chapter 379 of the laws of 1992, is amended to read as follows:

49 4-d. Suspension of registration for failure to answer or pay penalties
50 with respect to certain violations. Upon the receipt of a notification
51 from a court or an administrative tribunal that an owner of a motor
52 vehicle failed to appear on the return date or dates or a new subsequent
53 adjourned date or dates or failed to pay any penalty imposed by a court
54 or failed to comply with the rules and regulations of an administrative
55 tribunal following entry of a final decision or decisions, in response
56 to [~~five~~] three or more notices of liability or other process, issued

1 within [~~an eighteen month~~] a five year period charging such owner with a
2 violation of toll collection regulations in accordance with the
3 provisions of section two thousand nine hundred eighty-five of the
4 public authorities law or sections sixteen-a, sixteen-b and sixteen-c of
5 chapter seven hundred seventy-four of the laws of nineteen hundred
6 fifty, the commissioner or his agent shall suspend the registration of
7 the vehicle or vehicles involved in the violation or the privilege of
8 operation of any motor vehicle owned by the registrant. Such suspension
9 shall take effect no less than thirty days from the date on which notice
10 thereof is sent by the commissioner to the person whose registration or
11 privilege is suspended and shall remain in effect until such registrant
12 has appeared in response to such notices of liability or has paid such
13 penalty or in the case of an administrative tribunal, the registrant has
14 complied with the rules and regulations following the entry of a final
15 decision or decisions.

16 § 7. Section 1704-a of the vehicle and traffic law is amended by
17 adding a new subdivision 5 to read as follows:

18 5. (a) Any person who knowingly makes a false statement, or falsifies
19 or permits to be falsified any record or records of the central business
20 district tolling program, for the purpose of fraudulently obtaining an
21 exemption from the central business district toll under subdivision two
22 of this section for a qualifying vehicle transporting a person with
23 disabilities, shall be guilty of a misdemeanor, and shall also be
24 subject to a civil penalty not to exceed five thousand dollars and the
25 stated value of the claim for each such violation.

26 (b) Any violation of subdivision one of this section that results in a
27 person receiving exemptions from central business district tolls under
28 subdivision two of this section for a qualifying vehicle transporting a
29 person with disabilities with a value in excess of one thousand dollars
30 more than they would have been entitled to shall be a class E felony.
31 Any such violation that results in a person receiving such exemptions
32 with a value in excess of five thousand dollars more than they would
33 have been entitled to shall be a class D felony.

34 § 8. This act shall take effect on the ninetieth day after it shall
35 have become a law.

36 PART O

37 Section 1. Section 5 of chapter 751 of the laws of 2005, amending the
38 insurance law and the vehicle and traffic law relating to establishing
39 the accident prevention course internet technology pilot program, as
40 amended by section 4 of part ZZ of chapter 58 of the laws of 2020, is
41 amended to read as follows:

42 § 5. This act shall take effect on the one hundred eightieth day after
43 it shall have become a law and shall expire and be deemed repealed April
44 1, [~~2022~~] 2024; provided that any rules and regulations necessary to
45 implement the provisions of this act on its effective date are author-
46 ized and directed to be completed on or before such date.

47 § 2. This act shall take effect immediately.

48 PART P

49 Section 1. Section 13 of part U1 of chapter 62 of the laws of 2003,
50 amending the vehicle and traffic law and other laws relating to increas-
51 ing certain motor vehicle transaction fees, as amended by section 1 of

part YY of chapter 58 of the laws of 2020, is amended to read as follows:

§ 13. This act shall take effect immediately; provided however that sections one through seven of this act, the amendments to subdivision 2 of section 205 of the tax law made by section eight of this act, and section nine of this act shall expire and be deemed repealed on April 1, ~~2022~~ 2024; provided further, however, that the provisions of section eleven of this act shall take effect April 1, 2004 and shall expire and be deemed repealed on April 1, ~~2022~~ 2024.

§ 2. Section 2 of part B of chapter 84 of the laws of 2002, amending the state finance law relating to the costs of the department of motor vehicles, as amended by section 2 of part YY of chapter 58 of the laws of 2020, is amended to read as follows:

§ 2. This act shall take effect April 1, 2002; provided, however, if this act shall become a law after such date it shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2002; provided further, however, that this act shall expire and be deemed repealed on April 1, ~~2022~~ 2024.

§ 3. This act shall take effect immediately.

PART Q

Section 1. Subdivision 3 of section 491 of the vehicle and traffic law, as added by section 1 of part H of chapter 58 of the laws of 2017, is amended to read as follows:

3. Waiver of fee. The commissioner may waive the payment of fees required by subdivision two of this section if the applicant is (a) an incarcerated individual in an institution under the jurisdiction of a state department or agency, or (b) a victim of a crime and the identification card applied for is a replacement for one that was lost or destroyed as a result of the crime.

§ 2. This act shall take effect immediately.

PART R

Section 1. The civil rights law is amended by adding a new section 79-q to read as follows:

§ 79-q. Collection of gender or sex designation information by state agencies. 1. All New York state agencies that collect demographic information about a person's gender or sex shall make available to the person at the point of data collection an option to mark their gender or sex as "x".

2. Where applicable federal law requires a state agency to collect sex or gender data as either "m" or "f", the state agency shall create a separate field for state purposes so that a person has the option to mark their gender or sex as "x" to be collected by the state.

3. All state agencies shall update any applicable forms or data systems by January first, two thousand twenty-three, except the department of labor, the office of children and family services, the office of temporary and disability assistance and the division of criminal justice services, which shall update any applicable forms or data systems by January first, two thousand twenty-four.

4. A state agency that cannot comply with the requirements of this section shall post publicly on its website a written report of the steps the agency has taken to comply with this section and the time frame for compliance at least sixty days before the date required by this section.

1 The written report shall be updated every six months from the date of
2 the original posting.

3 § 2. Subdivision 3 of section 62 of the civil rights law, as added by
4 chapter 158 of the laws of 2021, is amended to read as follows:

5 3. Except as provided in subdivisions one and two of this section, the
6 court shall not require any other pre-hearing notice. [~~The court shall~~
7 ~~not condition the entry of an order on notice to any other party or to~~
8 ~~any city, state or federal agency except by written order detailing the~~
9 ~~court's reasoning for requiring such notice and showing cause why such~~
10 ~~notice should be served.~~] Under no circumstances shall the court require
11 notice to United States immigration and customs enforcement, United
12 States customs and border protection, United States citizenship and
13 immigration services, or any successor agencies, or any agencies having
14 similar duties.

15 § 3. This act shall take effect immediately.

16 PART S

17 Section 1. Paragraph (o) of subdivision 1 of section 96 of the public
18 officers law, as added by chapter 319 of the laws of 2014, is amended to
19 read as follows:

20 (o) to officers or employees of a public retirement system of the city
21 of New York if the information sought to be disclosed is necessary for
22 the receiving public retirement system to process benefits under the
23 retirement and social security law, the administrative code of the city
24 of New York, or the education law or any other applicable provision of
25 law. A written request or consent from the data subject pursuant to
26 paragraph (a) of this subdivision shall not be required for the disclo-
27 sure of records pursuant to this paragraph; or

28 (p) to officers or employees of the United States department of educa-
29 tion for such department to process credit for qualifying employment and
30 loan forgiveness under the public service loan forgiveness program. A
31 written request or consent from the data subject pursuant to paragraph
32 (a) of this subdivision shall not be required for the disclosure of
33 records pursuant to this paragraph.

34 § 2. This act shall take effect immediately.

35 PART T

36 Section 1. Section 4 of chapter 495 of the laws of 2004, amending the
37 insurance law and the public health law relating to the New York state
38 health insurance continuation assistance demonstration project, as
39 amended by section 1 of part KK of chapter 57 of the laws of 2021, is
40 amended to read as follows:

41 § 4. This act shall take effect on the sixtieth day after it shall
42 have become a law; provided, however, that this act shall remain in
43 effect until July 1, [~~2022~~ 2023] when upon such date the provisions of
44 this act shall expire and be deemed repealed; provided, further, that a
45 displaced worker shall be eligible for continuation assistance retroac-
46 tive to July 1, 2004.

47 § 2. This act shall take effect immediately.

48 PART U

1 Section 1. Subparagraph 7 of paragraph b of subdivision 2 of section
2 970-r of the general municipal law, as amended by section 1 of part U of
3 chapter 58 of the laws of 2018, is amended to read as follows:

4 (7) preliminary descriptions of possible remediation strategies, reuse
5 opportunities, necessary infrastructure improvements and other public or
6 private measures needed to stimulate investment, promote revitalization,
7 [and] support job growth, reduce greenhouse gas emissions, increase
8 climate resilience, enhance community health and environmental condi-
9 tions, and achieve environmental justice.

10 § 2. Subparagraph 11 of paragraph d of subdivision 3 of section 970-r
11 of the general municipal law, as amended by section 1 of part U of chap-
12 ter 58 of the laws of 2018, is amended to read as follows:

13 (11) descriptions of possible remediation strategies, reuse opportu-
14 nities, brownfield redevelopment, necessary infrastructure improvements
15 and other public or private measures needed to stimulate investment,
16 promote revitalization, [and] support job growth, reduce greenhouse gas
17 emissions, increase climate resilience, enhance community health and
18 environmental conditions, and achieve environmental justice;

19 § 3. Paragraph a of subdivision 3-a of section 970-r of the general
20 municipal law, as added by section 1 of part U of chapter 58 of the laws
21 of 2018, is amended to read as follows:

22 a. Within amounts appropriated therefor, the secretary is authorized
23 to provide, on a competitive basis, financial assistance to munici-
24 palities, to community based organizations, to community boards, or to
25 community based organizations acting in cooperation with a municipality,
26 to conduct predevelopment activities within a designated brownfield
27 opportunity area to advance the goals and priorities of the brownfield
28 opportunity area program set forth in the nomination of such area. Such
29 financial assistance shall not exceed ninety percent of the costs of
30 such activities. Activities eligible to receive such assistance shall
31 include: development and implementation of marketing strategies; devel-
32 opment of plans and specifications; real estate services; building
33 condition studies; infrastructure analyses; zoning and regulatory
34 updates; environmental, housing and economic studies, analyses and
35 reports; renewable energy feasibility studies, legal and financial
36 services; impact analyses; demolition; site preparation; asbestos
37 removal; and public outreach.

38 § 4. Paragraphs c, d, f, g, and h of subdivision 6 of section 970-r of
39 the general municipal law, as amended by section 1 of part U of chapter
40 58 of the laws of 2018, are amended to read as follows:

41 c. Brownfield site assessment activities eligible for funding include,
42 but are not limited to, testing of properties to determine the nature
43 and extent of the contamination (including soil and groundwater), envi-
44 ronmental assessments, the development of a proposed remediation strate-
45 gy to address any identified contamination, and any other activities
46 deemed appropriate by the ~~[commissioner]~~ secretary of state in consulta-
47 tion with the ~~[secretary of state]~~ commissioner. Any environmental
48 assessment shall be subject to the review and approval of such secretary
49 in consultation with such commissioner.

50 d. Applications for such assistance shall be submitted to the ~~[commis-~~
51 ~~sioner]~~ secretary in a format, and containing such information, as
52 prescribed by the ~~[commissioner]~~ secretary in consultation with the
53 ~~[secretary of state]~~ commissioner.

54 f. The ~~[commissioner]~~ secretary, upon the receipt of an application
55 for such assistance from a community based organization not in cooper-
56 ation with the local government having jurisdiction over the proposed

1 brownfield opportunity area, shall request the municipal government to
2 review and state the municipal government's support or lack of support.
3 The municipal government's statement shall be considered a part of the
4 application.

5 g. Prior to making an award for assistance, the ~~[commissioner]~~ secre-
6 tary shall notify the temporary president of the senate and the speaker
7 of the assembly.

8 h. Following notification to the applicant that assistance has been
9 awarded, and prior to disbursement of funds, a contract shall be
10 executed between the department and the applicant or co-applicants. The
11 ~~[commissioner]~~ secretary of state shall establish terms and conditions
12 for such contracts as the ~~[commissioner]~~ secretary deems appropriate in
13 consultation with the ~~[secretary of state]~~ commissioner, including
14 provisions to define: applicant's work scope, work schedule, and deliv-
15 erables; fiscal reports on budgeted and actual use of funds expended;
16 and requirements for submission of a final fiscal report. The contract
17 shall also require the distribution of work products to the department,
18 and, for community based organizations, to the applicant's municipality.
19 Applicants shall be required to make the results publicly available.
20 Such contract shall further include a provision providing that if any
21 responsible party payments become available to the applicant, the amount
22 of such payments attributable to expenses paid by the award shall be
23 paid to the department by the applicant; provided that the applicant may
24 first apply such responsible party payments towards actual project costs
25 incurred by the applicant.

26 § 5. Subdivision 8 of section 970-r of the general municipal law, as
27 amended by section 1 of part U of chapter 58 of the laws of 2018, is
28 amended to read as follows:

29 8. ~~[Applications]~~ Community participation requirements. a. All appli-
30 cations for financial assistance for pre-nomination or nomination study
31 ~~[assistance]~~ or applications for designation of a brownfield opportunity
32 area shall demonstrate that the following community participation activ-
33 ities have been or will be performed by the applicant:

34 (1) identification of the interested public and preparation of a
35 contact list;

36 (2) identification of major issues of public concern;

37 (3) ~~[public access to (i) the draft and final application for pre no-~~
38 ~~mination assistance and brownfield opportunity area designation, and~~
39 ~~(ii) any supporting documents in a manner convenient to the public;~~

40 ~~(4)]~~ public notice and newspaper notice of (i) the intent of the muni-
41 cipality and/or community based organization to undertake a pre-nomina-
42 tion ~~[process]~~ or nomination study or ~~[prepare]~~ apply for designation of
43 a brownfield opportunity area ~~[plan]~~, and (ii) the availability of such
44 application and any supporting documents in a manner convenient to the
45 public.

46 b. Application for ~~[nomination]~~ designation of a brownfield opportu-
47 nity area shall provide the following minimum community participation
48 activities:

49 (1) a comment period of at least thirty days on a draft ~~[application]~~
50 nomination;

51 (2) a public meeting on ~~[a brownfield opportunity area draft]~~ an
52 application.

53 § 6. Section 970-r of the general municipal law is amended by adding a
54 new subdivision 11 to read as follows:

55 11. All applicants for financial assistance and participation in any
56 other activity authorized under this section, as determined by the

secretary, may contract with the dormitory authority of the state of New York in use of such financial assistance and in completion of such other activities that the secretary determines and requires under this section. The dormitory authority of the state of New York is authorized to provide planning, design and construction services and to contract for and render any such services the secretary determines and requires to such applicants under this section.

§ 7. Paragraph (b) of subdivision 2 of section 1676 of the public authorities law is amended by adding a new undesignated paragraph to read as follows:

Applicants for financial assistance for pre-nomination or nomination study of a brownfield opportunity area or for pre-development activities or site assessments within a brownfield opportunity area designated by the secretary that has been awarded pursuant to section nine hundred seventy-r of the general municipal law, as determined by the secretary and for the purposes authorized by section nine hundred seventy-r of the general municipal law.

§ 8. Subdivision 1 of section 1680 of the public authorities law is amended by adding a new undesignated paragraph to read as follows:

Applicants for financial assistance for pre-nomination or nomination study of a brownfield opportunity area or for pre-development activities or site assessments within a brownfield opportunity area designated by the secretary that has been awarded pursuant to section nine hundred seventy-r of the general municipal law, as determined by the secretary and for the purposes authorized by section nine hundred seventy-r of the general municipal law.

§ 9. This act shall take effect immediately.

PART V

Section 1. Paragraph (a) of subdivision 5-b of section 16 of the agriculture and markets law, as amended by chapter 530 of the laws of 2013, is amended to read as follows:

(a) ~~Establish~~ Administer, in cooperation with the commissioner of education, a farm-to-school program to facilitate and promote the purchase of New York farm products by schools, universities and other educational institutions ~~[under the jurisdiction of the education department]~~ and the National School Lunch Act and related food programs.

The department shall solicit information from the education department regarding school districts and other educational institutions interested in purchasing New York farm products, including but not limited to, the type and amount of such products schools wish to purchase and the name of the appropriate contact person from the interested school district. The department shall make this information readily available to interested New York farmers, farm organizations and businesses that market New York farm products. The department shall provide information to the education department and interested school districts and other educational institutions about the availability of New York farm products, including but not limited to, the types and amount of products, and the names and contact information of farmers, farm organizations and businesses marketing such products. The commissioner shall report to the legislature on the need for changes in law to facilitate the purchases of such products by schools and educational institutions.

The department shall also coordinate with the education department, and school food service, education, health and nutrition, farm, and other interested organizations in establishing a promotional event, to

1 be known as New York Harvest For New York Kids Week, in early October
2 each year, that will promote New York agriculture and foods to children
3 through school meal programs and the classroom, at farms and farmers'
4 markets and other locations in the community.

5 § 2. Subdivision 32 of section 16 of the agriculture and markets law,
6 as added by chapter 297 of the laws of 1961, is amended to read as
7 follows:

8 32. Receive and disburse federal moneys allotted to the state by or
9 pursuant to the federal agricultural marketing act of nineteen hundred
10 forty-six as amended, or any other act of the congress making appropri-
11 ation for the allocation among the states for research into basic laws
12 and principles relating to agriculture [~~and~~], to improve and facilitate
13 the marketing and distribution of agricultural products, [~~and~~] or for
14 any other purpose relating to agriculture or marketing agricultural
15 products; on behalf of the state, to adopt, execute and administer plans
16 and programs and to put into effect such measures as may be necessary
17 for such research [~~into basic laws and principles~~], plans, or programs
18 relating to agriculture and to improve and facilitate the marketing and
19 distribution of agricultural products; on behalf of the state, to make
20 and execute such contracts, agreements, covenants or conditions, not
21 inconsistent with law, as may be necessary or required by any duly
22 constituted agency of the federal government as a condition precedent to
23 receiving such funds or in connection with such research; to cooperate
24 with all federal, state or local authorities, or other agencies, author-
25 ized under such acts of congress to carry out the purposes thereof; to
26 adopt and from time to time to amend such rules and regulations and to
27 prescribe such conditions, not inconsistent with law, as may be neces-
28 sary to make available to the people of the state the benefits afforded
29 by such acts of congress; and to enforce all the provisions of this
30 subdivision and the rules adopted pursuant hereto. The department of
31 taxation and finance is designated as custodian of all federal-aid funds
32 allotted to the state for the purposes of this subdivision by the United
33 States and such funds shall be payable only on the audit and warrant of
34 the comptroller on certificate of the commissioner as provided in
35 section one hundred ten of the state finance law.

36 § 3. Paragraph (v) of subdivision c of section 1 of chapter 537 of the
37 laws of 1976, relating to paid, free and reduced price breakfast for
38 eligible pupils in certain school districts, as separately amended by
39 chapters 260 and 615 of the laws of 1993, is amended to read as follows:

40 (v) Any school not offering a breakfast program on the dates specified
41 in this section, which would be required under the provisions of para-
42 graph (i), (ii), (iii) or (iv) of this subdivision to implement such
43 program in September of the same year, may apply to the commissioner of
44 [~~education~~] agriculture and markets for an exemption from the provisions
45 of this act. Such an exemption shall not be granted by such commission-
46 er unless a school demonstrates with good cause: (1) that there is no
47 need for such breakfast program because of low enrollment or documented
48 projections of low participation or (2) that economic hardship or other
49 good cause makes the establishment of such a program impractical. Such
50 commissioner shall establish explicit good cause criteria in regulations
51 pursuant to this act and annually review the basis for such exemptions.
52 Such commissioner may also grant a waiver for up to one year from the
53 provisions of this subdivision to allow adequate time for planning and
54 implementation of a breakfast program

§ 4. Subdivisions d and e of section 1 of chapter 537 of the laws of 1976, relating to paid, free and reduced price breakfast for eligible pupils in certain school districts, are amended to read as follows:

d. In accordance with subsections (c) and (d) of section seventeen hundred seventy-three of title forty-two of the United States Code and derivative regulations, the commissioner of ~~[education]~~ agriculture and markets shall determine which participating school facilities are financially unable to support the service of free and reduced price breakfasts and therefore are considered "especially needy" school facilities. Such school facilities subsequently shall be assigned the appropriate increased "especially needy" per meal reimbursement calculated pursuant to such code and regulations in support of the cost of free and reduced price breakfasts.

e. In the provision of free and reduced price meals for the school breakfast programs, the ~~[state commissioner of education]~~ commissioner of agriculture and markets shall prescribe maximum eligibility standards permissible under section nine of the National School Lunch Act and section four of the Child Nutrition Act.

§ 5. Section 3 of chapter 537 of the laws of 1976, relating to paid, free and reduced price breakfast for eligible pupils in certain school districts, is amended to read as follows:

§ 3. The ~~[state commissioner of education]~~ commissioner of agriculture and markets hereby is directed to request the bureau of school food management to provide any additional information and assistance which may be required by the schools and school districts to aid them in developing and implementing the various school food programs.

§ 6. Subdivisions a, d and e of section 4 of chapter 537 of the laws of 1976, relating to paid, free and reduced price breakfast for eligible pupils in certain school districts, as added by section 2 of part B of chapter 56 of the laws of 2018, are amended to read as follows:

a. All public elementary or secondary schools in this state, not including a charter school authorized by article 56 of the education law, with at least seventy percent or more of its students eligible for free or reduced-price meals under the federal National School Lunch Program as determined by the ~~[State Education Department]~~ Department of Agriculture and Markets based upon data submitted by schools through the basic educational data system (BEDS) and provided by the State Education Department to the Department of Agriculture and Markets for the prior school year and, shall be required to offer all students a school breakfast after the instructional day has begun.

d. Any school identified pursuant to this section may apply to the commissioner of ~~[education]~~ agriculture and markets for a waiver from establishing a school breakfast program after the instructional day has begun. Such waiver may be granted by the commissioner of ~~[education]~~ agriculture and markets upon the school demonstrating:

i. A lack of need for a school breakfast program after the instructional day has begun because of a successful existing breakfast program; or

ii. Providing a school breakfast program after the instructional day has begun would cause economic hardship for the school.

The commissioner of ~~[education]~~ agriculture and markets shall annually review the basis for waivers granted to schools.

e. The ~~[State Education Department]~~ Department of Agriculture and Markets shall:

i. ~~[on or before May 1, 2018]~~ commencing on the first May 1 following the department's receipt of authority to administer the programs herein,

1 and on or before May 1 of each year thereafter preceding each school
2 year, publish on its website a list of the public schools that meet the
3 requirements for operating such programs, and provide notification to
4 such schools;

5 ii. develop and distribute guidelines for the implementation of such
6 programs, which shall be in the compliance with all applicable federal
7 and state laws governing the School Breakfast Program;

8 iii. provide technical assistance relating to the implementation of
9 such program and submission of claims for reimbursement under the School
10 Breakfast Program; and

11 iv. ~~[annually publish by December 2019]~~ commencing on the first
12 December 1 following the department's receipt of authority to administer
13 the programs herein, and each December thereafter, on its website infor-
14 mation relating to each school subject to this requirement, as well as
15 any other schools operating such program which are not subject to this
16 requirement, in the prior school year. Such information shall include,
17 but not be limited to: the school name, service delivery models imple-
18 mented, student enrollment, the free and reduced-price lunch percentage,
19 the average daily breakfast participation rate.

20 § 7. Subdivisions a, b and c of section 5 of chapter 537 of the laws
21 of 1976, relating to paid, free and reduced price breakfast for eligible
22 pupils in certain school districts, as added by section 2 of part B of
23 chapter 56 of the laws of 2018, are amended to read as follows:

24 a. Notwithstanding any monetary limitations with respect to school
25 lunch programs contained in any law or regulation, for school lunch
26 meals served in the school year commencing ~~[July 1, 2019 and]~~ on the
27 first July 1 following the department's receipt of authority to adminis-
28 ter the programs herein and each July 1 thereafter, a school food
29 authority shall be eligible for a lunch meal State subsidy of twenty-
30 five cents, which shall include any annual State subsidy received by
31 such school food authority under any other provision of State law, for
32 any school lunch meal served by such school food authority; provided
33 that the school food authority certifies to the ~~[State Education Depart-~~
34 ~~ment]~~ Department of Agriculture and Markets through the application
35 submitted pursuant to subdivision b of this section that such food
36 authority has purchased at least thirty percent of its total cost of
37 food products for its school lunch service program from New York state
38 farmers, growers, producers or processors in the preceding school year.

39 b. The ~~[State Education Department, in cooperation with the]~~ Depart-
40 ment of Agriculture and Markets~~[,]~~ shall develop an application for
41 school food authorities to seek an additional State subsidy pursuant to
42 this section in a timeline and format prescribed by ~~[the commissioner of~~
43 ~~education]~~ such department. Such application shall include, but not be
44 limited to, documentation demonstrating the school food authority's
45 total food purchases for its school lunch service program, and documen-
46 tation demonstrating its total food purchases and percentages for such
47 program from New York State farmers, growers, producers or processors in
48 the preceding school year. The application shall also include an attes-
49 tation from the school food authority's chief operating officer that it
50 purchased at least thirty percent of its total cost of food products for
51 its school lunch service program from New York State farmers, growers,
52 producers or processors in the preceding school year in order to meet
53 the requirements for this additional State subsidy. School food authori-
54 ties shall be required to annually apply for this subsidy.

55 c. ~~[The State Education Department]~~ Commencing on the first September
56 1 following the Department of Agriculture and Markets' receipt of

1 authority to administer the programs herein and on or before each
2 September 1 thereafter, the department shall annually publish informa-
3 tion on its website [~~commencing on September 1, 2019 and each September~~
4 ~~1 thereafter,~~] relating to each school food authority that applied for
5 and received this additional State subsidy, including but not limited
6 to: the school food authority name, student enrollment, average daily
7 lunch participation, total food costs for its school lunch service
8 program, total cost of food products for its school lunch service
9 program purchased from New York State farmers, growers, producers or
10 processors, and the percent of total food costs that were purchased from
11 New York State farmers, growers, producers or processors for its school
12 lunch service program.

13 § 8. 1. Transfer of functions. All of the functions and powers
14 possessed by and the obligations and duties of the State Department of
15 Education in connection with the administration of the National School
16 Lunch Program and related programs are hereby transferred to the Depart-
17 ment of Agriculture and Markets.

18 2. Transfer of employees. (a) Upon the transfer of functions, powers,
19 duties and obligations of the State Department of Education's Child
20 Nutrition Program Administration relating to the National School Lunch
21 Program and related programs to the Department of Agriculture and
22 Markets pursuant to this section, provisions shall be made for the
23 transfer to the Department of Agriculture and Markets such employees of
24 the State Education Department who are substantially engaged in the
25 performance of the functions herein. Employees so transferred shall be
26 transferred without further examination or qualification and shall
27 retain their respective civil service classifications and status. For
28 the purpose of determining the employees holding permanent appointments
29 in competitive class positions to be transferred, such employees shall
30 be selected within each class of positions in the order of their
31 original appointment, with due regard to the right of preference in
32 retention of disabled and non-disabled veterans. Any such employee who,
33 at the time of such transfer, has a temporary or provisional appointment
34 shall be transferred subject to the same right of removal, examination
35 or termination as though such transfer had not been made. Employees
36 holding permanent appointments in competitive class positions who are
37 not transferred pursuant to this section shall have their names entered
38 upon an appropriate preferred list for reinstatement pursuant to the
39 civil service law.

40 (b) A transferred employee shall remain in the same collective
41 bargaining unit as was the case prior to his or her transfer; successor
42 employees to the positions held by such transferred employees shall,
43 consistent with the provisions of article fourteen of the civil service
44 law, be included in the same unit as their predecessors. Employees other
45 than management or confidential persons as defined in article fourteen
46 of the civil service law serving positions in newly created titles shall
47 be assigned to the appropriate bargaining unit. Nothing contained in
48 this section shall be construed to affect:

49 (i) the rights of employees pursuant to a collective bargaining agree-
50 ment;

51 (ii) the representational relationships among employee organizations
52 or the bargaining relationships between the state and an employee organ-
53 ization; or

54 (iii) existing law with respect to an application to the public
55 employment relations board; provided, however, that the merger of such
56 negotiating units of employees shall be effected only with the consent

1 of the recognized and certified representative of such units and of the
2 department of law.

3 § 9. This act shall take effect on the one hundred eightieth day after
4 the Department of Agriculture and Markets is notified by the United
5 States Department of Agriculture of the approval of the authority of the
6 Department of Agriculture and Markets to administer the National School
7 Lunch Program, provided that the commissioner of the Department of Agri-
8 culture and Markets shall notify the legislative bill drafting commis-
9 sion upon receipt of approval from the United States Department of Agri-
10 culture of the authority of the Department of Agriculture and Markets to
11 administer the National School Lunch Program in order that the commis-
12 sion may maintain an accurate and timely effective database of the offi-
13 cial text of laws of the state of New York in furtherance of effecting
14 the provisions of section 44 of the legislative law and section 70-b of
15 the public officers law.

16 PART W

17 Section 1. Subdivisions 3, 5, 8 and 11 of section 400 of the general
18 business law, subdivisions 3 and 8 as added by chapter 509 of the laws
19 of 1992, subdivision 5 as amended by chapter 343 of the laws of 1998,
20 and subdivision 11 as added by chapter 80 of the laws of 2015, are
21 amended to read as follows:

22 3. "Licensee" means a person licensed pursuant to this article to
23 engage in the practice of [~~natural hair styling~~] waxing, esthetics, nail
24 specialty or cosmetology, or to operate an appearance enhancement busi-
25 ness in which such practice, as herein defined, is provided to the
26 public, or to provide the services of a salon assistant, as herein
27 defined.

28 5. The [~~practice~~] services of [~~"natural hair styling"~~] "salon assist-
29 ant" means providing for a fee, or any consideration or exchange, wheth-
30 er direct or indirect, any of the following services to the hair of a
31 human being: shampooing, arranging, dressing, [~~twisting, wrapping, weav-~~
32 ~~ing, extending, locking or braiding~~] or blow drying the hair [or beard]
33 by either hand or mechanical appliances, including but not limited to,
34 curling irons and mechanical hair straighteners. Such practice shall not
35 include twisting, wrapping, weaving, extending, locking, braiding,
36 cutting, shaving or trimming hair except that such activities are
37 permissible to the extent that such activities are incidental to the
38 [~~practice~~] services of [~~natural hair styling~~] a salon assistant. Such
39 [~~practice~~] services shall not include the application of dyes, reactive
40 chemicals, or other preparations to alter the color or to straighten,
41 curl, or alter the structure of the hair. [~~Techniques~~] Nothing contained
42 in this subdivision shall be deemed to require a license for services
43 which result in tension on hair roots such as certain types of braiding,
44 weaving, wrapping, and locking [and extending of the hair may only be
45 performed by a natural hair styling or cosmetology licensee who has
46 successfully completed an approved course of study in such techniques],
47 or incidental services attended thereto.

48 8. "Appearance enhancement business" means the business of providing
49 any or all of the services licensed pursuant to this article at a fixed
50 location. In addition, any business which offers, demands, collects, or
51 receives a fee, or any consideration or exchange, whether direct or
52 indirect, for any of the following services to the hair of a human
53 being: shampooing, arranging, dressing, twisting, wrapping, weaving,
54 extending, locking or braiding the hair or beard by either hand or

1 mechanical appliances shall also be required to obtain a license pursu-
2 ant to this article.

3 11. "Trainee" means a person pursuing in good faith a course of study
4 ~~[in the practice of nail specialty]~~ to become a licensee under the
5 tutelage, supervision and direction of a licensed ~~[nail]~~ practitioner of
6 the same license type, as herein defined. Such trainee shall be employed
7 by a licensed appearance enhancement business.

8 § 2. Subdivisions 1 and 3 of section 401 of the general business law,
9 subdivision 1 as amended by chapter 80 of the laws of 2015, and subdivi-
10 sion 3 as amended by chapter 341 of the laws of 1998, are amended to
11 read as follows:

12 1. No person shall engage in the practice of nail specialty, waxing,
13 ~~[natural hair styling,~~ esthetics or cosmetology, as defined in section
14 four hundred of this article, or offer the services of a salon assist-
15 ant, as defined in section four hundred of this article, without having
16 received a license to engage in such practice in the manner prescribed
17 in this article. No person shall act as a trainee or perform any service
18 as such unless he or she has obtained a certificate of registration
19 pursuant to this article.

20 3. A person licensed by any other state or country to practice nail
21 specialty, waxing, ~~[natural hair styling,~~ esthetics or cosmetology, or
22 who is licensed to offer the services of a salon assistant, shall be
23 allowed to practice in New York state for three months or less within
24 any calendar year for the purpose of giving to, or receiving from,
25 persons who are licensed under this article training in current styles,
26 techniques or materials, provided however, that no such unlicensed
27 person may provide services to the public for any fee, or other compen-
28 sation, whether direct or indirect.

29 § 3. Subdivision 1 of section 403 of the general business law, as
30 amended by chapter 339 of the laws of 2017, is amended to read as
31 follows:

32 1. There shall be established within the department an advisory
33 committee which shall consist of nine members broadly representative of
34 the appearance enhancement industry; including one person engaged in the
35 practice of either nail specialty or waxing; ~~[two persons engaged in~~
36 ~~natural hair styling, one of whom shall be knowledgeable in the practice~~
37 ~~of styling techniques which place tension on the hair roots, and one of~~
38 ~~whom shall ensure strict adherence to quality services for all clients~~
39 ~~of all hair types, including, but not limited to, curl pattern, hair~~
40 ~~strand thickness, and volume of hair,]~~ one person engaged in esthetics;
41 ~~[two]~~ four persons engaged in cosmetology; two persons engaged in train-
42 ing of persons for such practices and one person licensed as a dermatol-
43 ogist. The secretary shall appoint such persons to serve on the advisory
44 committee, provided, that two shall be appointed by the secretary on the
45 recommendation of the temporary president of the senate and two shall be
46 appointed by the secretary on the recommendation of the speaker of the
47 assembly. Each member of the committee shall be appointed for terms of
48 two years. Any member may be reappointed for additional terms. The
49 secretary shall designate from among the members of the committee a
50 chairperson who shall serve at the pleasure of the secretary.

51 § 4. Section 404 of the general business law, as amended by chapter 80
52 of the laws of 2015, is amended to read as follows:

53 § 404. Rules and regulations. The secretary shall promulgate rules and
54 regulations which establish standards for practice and operation by
55 licensees and trainees under this article in order to ensure the health,
56 safety and welfare of the public including licensees and trainees when

1 they are working within such establishments. Such rules and regulations
2 shall include, but not be limited to, the sanitary conditions and proce-
3 dures required to be maintained, a minimum standard of training appro-
4 priate to the duties of nail specialists, trainees, waxers, [~~natural~~
5 ~~hair-stylists~~] salon assistants, estheticians, and cosmetologists and
6 the provision of service by nail specialists, trainees, waxers, [~~natural~~
7 ~~hair-stylists~~] salon assistants, estheticians or cosmetologists at
8 remote locations other than the licensee's home provided that such prac-
9 titioner holds an appearance enhancement business license to operate at
10 a fixed location or is employed by the holder of an appearance enhance-
11 ment business license. Regulations setting forth the educational
12 requirements for nail specialists and trainees shall include education
13 in the area of causes of infection and bacteriology. In promulgating
14 such rules and regulations the secretary shall consult with the state
15 education department, the advisory committee established pursuant to
16 this article, any other state agencies and private industry represen-
17 tatives as may be appropriate in determining minimum training require-
18 ments.

19 § 5. Paragraphs a and f of subdivision 1, subdivision 2 and paragraph
20 b of subdivision 4 of section 406 of the general business law, paragraph
21 a of subdivision 1, subdivision 2 and paragraph b of subdivision 4 as
22 amended by chapter 341 of the laws of 1998, paragraph f of subdivision 1
23 as added by chapter 80 of the laws of 2015, and paragraph c of subdivi-
24 sion 2 as amended by section 3 of part D of chapter 328 of the laws of
25 2014, are amended to read as follows:

26 a. Any person intending to practice nail specialty, waxing, [~~natural~~
27 ~~hair-styling~~] esthetics or cosmetology as defined in this article, or
28 to own or operate an appearance enhancement business, or to offer
29 services as a salon assistant or to practice as a trainee, shall first
30 make application to the secretary for a license therefor.

31 f. Notwithstanding the educational requirements of this section, a
32 trainee may [~~obtain a license to practice nail specialty~~] submit an
33 application to become a licensee if such trainee provides satisfactory
34 evidence to the secretary that such trainee has been actively engaged in
35 a traineeship for a period of one year and has completed a course of
36 study set forth by the secretary. Such course of study may be delivered
37 by electronic means.

38 2. a. Any person seventeen years of age or older may apply to the
39 secretary for a license to practice nail specialty, waxing, [~~natural~~
40 ~~hair-styling~~] esthetics or cosmetology, or to offer services as a salon
41 assistant, or to practice as a trainee.

42 b. Each such application shall also be accompanied by satisfactory
43 evidence of having taken and passed the appropriate examination or exam-
44 inations offered by the secretary pursuant to this article for the
45 license sought and evidence of the successful completion of an approved
46 course of study in nail specialty, waxing, [~~natural hair-styling~~] salon
47 assistant services, esthetics or cosmetology in a school duly licensed
48 pursuant to the education law.

49 c. Any applicant for a license to practice nail specialty, waxing,
50 [~~natural hair-styling~~] or to provide salon assistant services, esthetics
51 or cosmetology may submit satisfactory evidence of licensure to practice
52 an equivalent occupation issued by any other state, territory, protec-
53 torate or dependency of the United States or any other country in lieu
54 of the evidence of schooling and examination required by this subdivi-
55 sion, provided that such license was granted in compliance with stand-
56 ards which were, in the judgment of the secretary, not lower than those

1 of this state and provided that such state, territory, protectorate,
2 dependency, or country extends similar reciprocity to the licensees of
3 this state, or the applicant practiced an equivalent occupation in such
4 state, territory, protectorate, dependency or country for a minimum of
5 five years, or the applicant is a member of the household of a member of
6 the armed forces of the United States, national guard or reserves and
7 was a member of such household before such member relocated to the
8 state.

9 d. Notwithstanding the educational requirements of this section and
10 the testing requirements of this section, an applicant who otherwise has
11 met the licensing requirements of this article for a nail specialist,
12 waxer, [~~natural hair stylist,~~] esthetician or cosmetologist who shall
13 provide satisfactory evidence he or she has been actively and contin-
14 uously engaged in the practice of nail specialty, waxing, [~~natural hair~~
15 ~~styling,~~] esthetics or cosmetology for at least one year prior to the
16 effective date of this article, may be issued a license for nail
17 specialty, waxing, [~~natural hair styling,~~] esthetics or cosmetology
18 pursuant to this article. Notwithstanding the educational and testing
19 requirements of this section, a person licensed to practice barbering
20 under article twenty-eight of this chapter who otherwise has met the
21 licensing requirements of this article may be issued a license to [~~prae-~~
22 ~~tice natural hairstyling~~] provide salon assistant services. Other than
23 applicants licensed under article twenty-eight of this chapter, those
24 persons who apply after a twelve month period from the effective date of
25 this article will be required to provide evidence of training and to
26 take the examination or examinations as required for other licenses
27 pursuant to this article.

28 e. Upon acceptance by the secretary of a proper application for an
29 operator's license to practice nail [~~speciality~~] specialty, waxing,
30 [~~natural hair styling~~] or to provide salon assistant services, esthetics
31 or cosmetology, the secretary may issue a temporary operator's license
32 which shall expire six months from issuance. Upon good cause shown, the
33 secretary may renew a temporary operator's license for one additional
34 six-month period upon filing the appropriate application and fee.

35 b. In the case of persons who are called to active military service
36 and will be discharged from active military service, the period of two
37 years specified in paragraph d of subdivision two of this section need
38 not be continuous. The length of time such person was engaged in the
39 practice of nail specialty, waxing, [~~natural hair styling,~~] esthetics or
40 cosmetology, or to provide salon assistant services, before entering
41 active military service may be added to any period of time during which
42 such person was or is engaged in the practice of nail specialty, waxing,
43 [~~natural hair styling,~~] esthetics or cosmetology after the termination
44 of active military service.

45 § 6. Subdivision 1 of section 407 of the general business law, as
46 amended by section 1 of chapter 255 of the laws of 1999, is amended to
47 read as follows:

48 1. The examinations for the license to practice [~~natural hair styl-~~
49 ~~ing,~~] esthetics, nail specialty and cosmetology shall be practical and
50 written. The examinations for the license to practice waxing shall be
51 limited to a written examination only. The examinations to provide salon
52 assistant services shall be limited to a practical examination only. The
53 secretary shall determine reasonable standards of performance for each
54 license and shall evaluate the prospective applicants and applicants on
55 the basis of such standards. The objectives of the examinations shall be
56 to insure that prospective applicants and applicants have sufficient

1 basic skills to safeguard the health and safety of the public and to
2 insure that prospective applicants and applicants have attained adequate
3 levels of skill to competently engage in the activities authorized by
4 the license.

5 § 7. Subdivision 1 of section 409 of the general business law, as
6 amended by section 2 of part Y of chapter 60 of the laws of 2011, is
7 amended to read as follows:

8 1. The non-refundable fee for an application for a license to engage
9 in the practice of nail specialty, waxing, [~~natural hair styling,~~
10 esthetics or cosmetology, shall be forty dollars initially and for each
11 renewal thereof the fee shall be forty dollars; the fee for a temporary
12 license and each renewal shall be ten dollars.

13 § 8. Paragraph a of subdivision 2 of section 410 of the general busi-
14 ness law, as amended by chapter 80 of the laws of 2015, is amended to
15 read as follows:

16 a. The secretary may issue an order directing the cessation of any
17 activity related to nail specialty, waxing, [~~natural hair styling,~~
18 esthetics or cosmetology, or to services relating to salon assistants,
19 for which a license is required by this article upon a determination
20 that a person, partnership, limited liability company or business corpo-
21 ration, engaging in the business or occupation of, or holding himself,
22 herself or itself out as or acted, temporarily or otherwise, as a nail
23 specialist, [~~natural hair stylist~~] salon assistant, esthetician or
24 cosmetologist within this state without a valid license being in effect.
25 The secretary shall, before making such determination and order, afford
26 such person, partnership, limited liability company or business corpo-
27 ration an opportunity to be heard in person or by counsel in reference
28 thereto in an adjudicatory proceeding held pursuant to section four
29 hundred eleven of this article as applicable.

30 § 9. Subdivision 1 of section 412 of the general business law, as
31 amended by chapter 80 of the laws of 2015, is amended to read as
32 follows:

33 1. The practice of nail specialty, waxing, [~~natural hair styling,~~
34 esthetics or cosmetology, or providing salon assistant services, without
35 a license or while under suspension or revocation, or in violation of an
36 order directing the cessation of unlicensed activity issued by the
37 secretary pursuant to section four hundred ten or four hundred eleven of
38 this article, is a violation and is subject to a civil penalty of up to
39 five hundred dollars for the first violation; one thousand dollars for a
40 second such violation; and two thousand five hundred dollars for a third
41 violation and any subsequent violation.

42 § 10. This act shall take effect on the one hundred eightieth day
43 after it shall have become a law. Effective immediately, the addition,
44 amendment and/or repeal of any rule or regulation by the secretary of
45 state necessary for the implementation of this act on its effective date
46 are authorized to be made and completed on or before such effective
47 date.

48 PART X

49 Section 1. Notwithstanding any other provision of law to the contrary,
50 any person who is licensed or certified as a physician, physician's
51 assistant, massage therapist, physical therapist, chiropractor, dentist,
52 optometrist, nurse, nurse practitioner, emergency medical technician,
53 podiatrist or athletic trainer by a foreign government may provide
54 professional services within this state without first being licensed

1 pursuant to the provisions of title 8 of the education law or certified
2 pursuant to the provisions in the public health law, as may be applica-
3 ble, to the team athletes, coaches, staff and delegations originating
4 from such foreign government, in connection with the Winter World
5 University Games, Lake Placid 2023. Such services shall be limited to
6 athletes and personnel in relation to the Winter World University Games,
7 Lake Placid 2023, between the dates of January 5, 2023 and January 25,
8 2023.

9 § 2. Any person who is licensed or certified to practice as a physi-
10 cian, physician's assistant, massage therapist, physical therapist,
11 chiropractor, dentist, optometrist, nurse, nurse practitioner, emergency
12 medical technician, podiatrist or athletic trainer in another state or
13 territory, who is in good standing in such state or territory, and who
14 has been appointed by the Adirondack North Country Sports Council to
15 provide professional services at an event in this state sanctioned by
16 the Adirondack North Country Sports Council, may provide such profes-
17 sional services to team athletes, coaches, staff and delegations from
18 such state or territory registered to train at a location in this state
19 or registered to compete in an event conducted under the sanction of the
20 Adirondack North Country Sports Council in this state without first
21 being licensed pursuant to the provisions of title 8 of the education
22 law or certified pursuant to the provisions of the public health law, as
23 may be applicable. Such services shall be limited to team athletes,
24 coaches, staff and delegations in relation to the Winter World Universi-
25 ty Games, Lake Placid 2023, between the dates of January 5, 2023 and
26 January 25, 2023.

27 § 3. This act shall take effect January 5, 2023 and shall expire and
28 be deemed repealed January 25, 2023.

29 PART Y

30 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
31 New York state urban development corporation act, relating to the powers
32 of the New York state urban development corporation to make loans, as
33 amended by section 1 of part J of chapter 58 of the laws of 2021, is
34 amended to read as follows:

35 § 2. This act shall take effect immediately provided, however, that
36 section one of this act shall expire on July 1, [~~2022~~] 2025, at which
37 time the provisions of subdivision 26 of section 5 of the New York state
38 urban development corporation act shall be deemed repealed; provided,
39 however, that neither the expiration nor the repeal of such subdivision
40 as provided for herein shall be deemed to affect or impair in any manner
41 any loan made pursuant to the authority of such subdivision prior to
42 such expiration and repeal.

43 § 2. This act shall take effect immediately and shall be deemed to
44 have been in full force and effect on and after July 1, 2021.

45 PART Z

46 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
47 of the laws of 1968 constituting the New York state urban development
48 corporation act, as amended by section 1 of part K of chapter 58 of the
49 laws of 2021, is amended to read as follows:

50 3. The provisions of this section shall expire, notwithstanding any
51 inconsistent provision of subdivision 4 of section 469 of chapter 309 of
52 the laws of 1996 or of any other law, on July 1, [~~2022~~] 2025.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2021.

PART AA

Section 1. Section 17 of part F of chapter 60 of the laws of 2015 constituting the infrastructure investment act, as amended by section 7 of part DD of chapter 58 of the laws of 2020, is amended to read as follows:

§ 17. This act shall take effect immediately and shall expire and be deemed repealed December 31, ~~2022~~ 2027, provided that, projects with requests for qualifications issued prior to such repeal shall be permitted to continue under this act notwithstanding such repeal.

§ 2. Section 14 of chapter 749 of the laws of 2019 authorizing, for certain public works undertaken pursuant to project labor agreements, use of the alternative delivery method known as design-build contracts, is amended to read as follows:

§ 14. This act shall take effect immediately and shall expire and be deemed repealed ~~three~~ eight 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.

§ 3. This act shall take effect immediately.

PART BB

Section 1. Subparagraph 6 of paragraph (g) of subdivision 11 of section 213 of the state finance law, as added by section 1 of part HH of chapter 59 of the laws of 2013, is amended and a new paragraph (h) is added to read as follows:

(6) small scale systems integration and packaging~~[-]; or~~
(h) a community development financial institution.

§ 2. Paragraph (e) of subdivision 12 of section 213 of the state finance law, as added by chapter 705 of the laws of 1993, is amended and a new paragraph (f) is added to read as follows:

(e) for certified minority-and women-owned businesses, projects to provide financing necessary to carry out a procurement contract with an agency or authority or other entity of the state or federal government~~[-]; or~~

(f) projects in which community development financial institutions make loans.

§ 3. Section 213 of the state finance law is amended by adding a new subdivision 25 to read as follows:

25. "Community development financial institution" means an organization as defined in 12 U.S.C. 4702(5)(a).

§ 4. This act shall take effect immediately.

PART CC

Section 1. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 16-gg to read as follows:

§ 16-gg. Small business seed funding grant program. 1. Definitions. As used in this section, the following terms shall have the following meanings:

1 (a)"Small business" shall mean a business which is resident in this
2 state, independently owned and operated, not dominant in its field, and
3 employs one hundred or less persons, was started on March 1, 2019 or
4 later and has been operational for a minimum of six months prior to
5 application.

6 (b)"Micro-business" shall mean a business which is a resident in this
7 state, independently owned and operated, not dominant in its field, and
8 employs ten or less persons.

9 (c)"The program" shall mean the small business seed funding grant
10 program established pursuant to subdivision two of this section.

11 (d)"Applicant" shall mean a small business or for-profit independent
12 arts and cultural organization submitting an application for a grant
13 award to the program.

14 2. Small business seed funding grant program established. The small
15 business seed funding grant program is hereby created to provide assist-
16 ance to early-stage small businesses to succeed in a recovering New York
17 state economy.

18 3. Authorization. The corporation is hereby authorized, using avail-
19 able funds, to issue grants and provide technical assistance and
20 outreach to small businesses and technical assistance partners for the
21 purpose of aiding the recovery of the New York state economy, and may
22 promulgate guidelines to effectuate the purposes herein.

23 4. Selection criteria and application process. (a) In order to be
24 eligible for a grant or additional form of support under the program, an
25 eligible small business shall:

26 (i) be incorporated in New York state or licensed or registered to do
27 business in New York state and must be resident in the state of New
28 York;

29 (ii) be a currently viable small business that started business on
30 March 1, 2019 or later and has been operational for at least six months
31 before application;

32 (iii) have between five thousand and one million dollars in gross
33 receipts or be able to demonstrate ten thousand dollars in business
34 expenses;

35 (iv) be in substantial compliance with applicable federal, state and
36 local laws, regulations, codes and requirements; and

37 (v) not owe any federal, state or local taxes, or have an approved
38 repayment, deferral plan, or agreement with appropriate federal, state,
39 and local taxing authorities.

40 (b) Grants awarded from this program shall be available to eligible
41 micro-businesses and small businesses that do not qualify for business
42 assistance grant programs under the federal American Rescue Plan Act of
43 2021 or any other available federal COVID-19 economic recovery or busi-
44 ness assistance grant programs, including loans forgiven under the
45 federal Paycheck Protection Program, or are unable to obtain sufficient
46 business assistance from such federal programs, with priority given to
47 socially and economically disadvantaged business owners including, but
48 not limited to, minority and women-owned business enterprises, service-
49 disabled veteran-owned businesses, and veteran-owned businesses, or
50 businesses located in communities that were economically distressed
51 prior to March 1, 2020, as determined by the most recent census data.

52 5. Eligible costs. (a) Eligible costs considered for micro-businesses
53 and small businesses under this program must have been incurred between
54 March 1, 2019 and January 1, 2022.

55 (b) (i) The following costs incurred by a micro-business and small
56 businesses, shall be considered eligible under the program at a minimum:

payroll costs; costs of rent or mortgage as provided for in subparagraph (ii) of this paragraph; costs of repayment of local property or school taxes associated with such small business's location as provided for in subparagraph (iii) of this paragraph; insurance costs; utility costs; costs of personal protection equipment (PPE) necessary to protect worker and consumer health and safety; heating, ventilation, and air conditioning (HVAC) costs, or other machinery or equipment costs, or supplies and materials necessary for compliance with COVID-19 health and safety protocols, and other documented COVID-19 costs as approved by the corporation.

(ii) Mortgage payments or commercial rent shall be considered eligible costs.

(iii) Payment of local property taxes and school taxes shall be considered eligible costs.

(c) Grants awarded under the program shall not be used to re-pay or pay down any portion of a loan obtained through a federal coronavirus relief package for business assistance or any New York state business assistance programs.

6. Application and approval process. (a) An eligible micro-business, small business shall submit a complete application in a form and manner prescribed by the corporation.

(b) The corporation shall establish the procedures and time period for micro-businesses and small businesses to submit applications to the program. As part of the application each micro-business and small business shall provide sufficient documentation in a manner prescribed by the corporation to demonstrate hardship, and prevent fraud, waste, and abuse.

7. Technical assistance and outreach. The corporation may offer or make available to all applicants, regardless of approval status, direct or indirect access to financial and business planning, legal consultation, language assistance services, mentoring services for post-pandemic planning, reopening planning assistance and other assistance and support as determined by the corporation. Assistance, support, outreach and other services may be provided by or through partner organizations, including but not limited to chambers of commerce, local business development corporations, trade associations and other community organizations that have expertise and background in providing technical assistance, at the discretion of the corporation.

§ 2. This act shall take effect immediately.

PART DD

Section 1. Section 2 of chapter 584 of the laws of 2011, amending the public authorities law relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, as amended by section 1 of part CC of chapter 58 of the laws of 2020, is amended to read as follows:

§ 2. This act shall take effect immediately and shall expire and be deemed repealed on July 1, ~~2022~~ 2025; provided however, that the expiration of this act shall not impair or otherwise affect any of the powers, duties, responsibilities, functions, rights or liabilities of any subsidiary duly created pursuant to subdivision twenty-five of section 1678 of the public authorities law prior to such expiration.

§ 2. This act shall take effect immediately.

PART EE

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

Any not-for-profit corporation or collaboration of not-for-profit corporations, for capital projects located in New York state related to physical infrastructure with a total cost of not less than five million dollars. For the purposes of this paragraph "not-for-profit corporation" shall mean a domestic corporation or authorized foreign corporation as defined in section one hundred two of the not-for-profit corporation law. Any such not-for-profit corporation shall possess the requisite credit standing to secure such funding in the private or public capital markets to be eligible to obtain a loan from the authority pursuant to subdivision three of section sixteen hundred eighty of this title.

§ 2. Subdivision 1 of section 1680 of the public authorities law is amended by adding a new undesignated paragraph to read as follows:

Any not-for-profit corporation or collaboration of not-for-profit corporations, for capital projects located in New York state related to physical infrastructure with a total cost of not less than five million dollars. For the purposes of this paragraph "not-for-profit corporation" shall mean a domestic corporation or authorized foreign corporation as defined in section one hundred two of the not-for-profit corporation law. Any such not-for-profit corporation shall possess the requisite credit standing to secure such funding in the private or public capital markets to be eligible to obtain a loan from the authority pursuant to subdivision three of this section.

§ 3. Nothing in this act is intended to limit, impair, or affect the legal authority of the Dormitory Authority of the state of New York under any other provision of law.

§ 4. This act shall take effect immediately.

PART FF

Section 1. Section 1678 of the public authorities law is amended by adding a new subdivision 30 to read as follows:

30. (a) Notwithstanding any law, rule or regulation to the contrary, when awarding a contract for public work, the authority may establish guidelines governing the qualifications of bidders seeking to bid or enter into such contracts. If the authority maintains an appropriate list of qualified bidders, the bidding shall be restricted to those who have qualified prior to the receipt of bids according to standards fixed by the authority. In determining whether a prospective bidder qualifies for inclusion on a list of prequalified bidders, the authority shall consider the experience and record of performance of the prospective bidder in the particular type of work, as well as: (i) the prospective bidder's ability to undertake the particular type and complexity of work; (ii) the financial capability, responsibility and reliability of the prospective bidder for such type and complexity of work; (iii) the record of the prospective bidder in complying with existing labor standards and maintaining harmonious labor relations; (iv) the prospective bidder's compliance with equal employment opportunity requirements and anti-discrimination laws, and demonstrated commitment to working with minority and women-owned businesses through joint ventures or subcontractor relationships; and (v) the record of the prospective bidder in protecting the health and safety of workers on public works projects and job sites as demonstrated by the prospective bidder's experience modification rate for each of the last three years.

(b) The authority shall, not less than annually, publish in a newspaper of general circulation or post in the New York State Contract Reporter an advertisement requesting prospective bidders to submit qualification statements. Lists of prequalified bidders may be established on a project-specific basis. Prequalified lists shall include all bidders that qualify; provided, however, that any such list shall have no less than five bidders but shall remain open for all additional qualified bidders. The authority's procedures for prequalifying bidders shall include an appeals process for those denied a place on a prequalified list. Any denial must be based upon substantial evidence, cannot be arbitrary or capacious, and shall be subject to judicial review pursuant to article seventy-eight of the civil practice law and rules. The authority may move forward on the contract award during such appeals.

§ 2. This act shall take effect immediately.

PART GG

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

Any recipient of loans or grants awarded pursuant to the downtown revitalization program designed and executed by the department of state and the division of housing and community renewal for transformative housing, economic development, transportation, and community projects.

§ 2. Subdivision 1 of section 1680 of the public authorities law is amended by adding a new undesignated paragraph to read as follows:

Any recipient of loans or grants awarded pursuant to the downtown revitalization program designed and executed by the department of state and the division of housing and community renewal for transformative housing, economic development, transportation, and community projects.

§ 3. This act shall take effect immediately.

PART HH

Section 1. Section 1678 of the public authorities law is amended by adding a new subdivision 30 to read as follows:

30. To enter into a design and construction management agreement with any state authority, pursuant to which one or more facilities are to be planned, designed, constructed, reconstructed, rehabilitated, improved, furnished, or equipped for such state authority. Any such design and construction management agreement entered into pursuant to this subdivision shall provide for the following; the scope of design and construction management services to be provided, the fees to be charged by the dormitory authority and the sources of funds for the projects. No design-build contract as defined in part F of chapter fifty-six of the laws of two thousand eleven shall be awarded pursuant to this subdivision except if the state authority is otherwise authorized to utilize a design-build contract. For the purposes of this subdivision the term "state authority" shall have the same meaning as defined pursuant to section two of this chapter.

§ 2. This act shall take effect immediately.

PART II

Section 1. Section 99-ii of the state finance law is amended by adding a new subdivision 2-a to read as follows:

2-a. Revenues deposited into this fund pursuant to section fifteen of the cannabis law shall first be used to reimburse the state for any funds deposited into this fund from the state general fund and used to support expenditures authorized under paragraph (c) of subdivision three of this section.

§ 2. Subparagraph (c) of subdivision 3 of section 99-ii of the state finance law, as added by chapter 92 of the laws of 2021, is amended to read as follows:

(c) Actual and necessary costs incurred by the office of cannabis management and the cannabis control board, and the urban development corporation, related to the administration of incubators and other assistance to qualified social and economic equity applicants including the administration, capitalization, and provision of low and zero interest loans to such applicants pursuant to section sixteen-ee of the urban development corporation act~~[, Such]~~ and the funding of, whether directly or indirectly by investment in a private debt or equity fund formed for the limited purpose of funding the fixed capital costs associated with establishing adult-use cannabis retail dispensaries for operation by social and economic equity applicants duly licensed pursuant to article four of the cannabis law. Such fixed capital costs shall include, but are not limited to, all costs related to the acquisition, leasing, purchasing, planning, design, construction, reconstruction, rehabilitation, improvement, furnishing, or equipping of such adult-use cannabis retail dispensaries, whether such work has been undertaken or costs for such work incurred by (i) the office of cannabis management and the cannabis control board, (ii) the dormitory authority of the state of New York, or any subsidiary thereof, under agreement with the office of cannabis management and the cannabis control board, or with the private debt or equity fund formed for the limited purpose of funding the fixed capital costs associated with establishing such adult-use cannabis retail dispensaries, or (iii) the private debt or equity fund formed for the limited purpose of funding the fixed capital costs associated with establishing such adult-use cannabis retail dispensaries. Payments for the fixed capital costs to establish such adult-use cannabis retail dispensaries, including any investment in a private debt or equity fund formed for the limited purpose of funding such fixed capital costs, and any repayments of these amounts may be deposited in the New York state cannabis revenue fund or such other account as determined by the director of the division of the budget. All above referenced costs shall be paid out of revenues received, including, but not limited to, from special one-time fees paid by registered organizations pursuant to section sixty-three of the cannabis law.

§ 3. Section 1678 of the public authorities law is amended by adding two new subdivisions 30 and 31 to read as follows:

30. To enter into one or more agreements with the office of cannabis management, the cannabis control board, or any private debt or equity fund, in which the state or any state agency, public authority, public benefit corporation, or division thereof has invested and is formed for the limited purpose of funding the fixed capital costs associated with establishing adult-use cannabis retail dispensaries for operation by social and economic equity applicants duly licensed pursuant to article four of the cannabis law, for the following purposes:

(a) To acquire by purchase, condemnation, gift, devise, lease, or other agreement such real property or an interest therein as may be necessary or convenient for the acquisition, construction, reconstruction, rehabilitation, improvement, or provision of adult-use canna-

1 bis retail dispensaries for operation by social and economic equity
2 licensees;

3 (b) To prepare or cause to be prepared plans, specifications, designs,
4 and estimates of costs for the design, construction, reconstruction,
5 rehabilitation, improvement, furnishing or equipping of adult-use canna-
6 bis retail dispensaries for operation by social and economic equity
7 licensees;

8 (c) To design, construct, reconstruct, rehabilitate, or improve
9 adult-use cannabis retail dispensaries for operation by social and
10 economic equity licensees and to enter into contracts to cause such
11 facilities to be designed, constructed, reconstructed, rehabilitated,
12 improved, furnished, or equipped;

13 (d) To enter, as lessor or as agent for the lessor, into leases,
14 subleases, or other agreements with the social and economic equity
15 licensees operating the adult-use cannabis retail dispensaries;

16 (e) To enter, as lender or as agent for the lender, into loan or other
17 agreements with the social and economic equity licensees operating the
18 adult-use cannabis retail dispensaries; and

19 (f) To sell, convey, lease, sublease or otherwise transfer any real
20 property or interest therein held by the authority to any person, firm,
21 association, corporation, or agency, including a public body, for the
22 purpose of constructing an adult-use cannabis retail dispensary,
23 provided that, simultaneously therewith, the authority enters into an
24 agreement for the reconveyance, purchase, lease, sublease, or other
25 acquisition of such dispensary.

26 31. (a) To form one or more subsidiaries for the purpose of limiting
27 the potential liability of the authority when exercising the powers and
28 duties conferred upon the authority by subdivision thirty of this
29 section in connection with certain work performed on behalf of the
30 office of cannabis management, the cannabis control board, or any
31 private debt or equity fund in which the state or any state agency,
32 public authority, public benefit corporation, or division thereof has
33 invested and is formed for the limited purpose of funding the fixed
34 capital costs associated with establishing adult-use cannabis retail
35 dispensaries for operation by social and economic equity applicants duly
36 licensed pursuant to article four of the cannabis law. Such subsidiary
37 created pursuant to this subdivision may exercise and perform one or
38 more of the purposes, powers, duties, functions, rights and responsibil-
39 ities of the authority other than the issuance of indebtedness, in
40 connection with real and personal property with respect to which the
41 authority holds title or a leasehold interest including, but not limited
42 to: (i) bidding for, taking, holding, selling, conveying, assigning or
43 transferring title to such property; (ii) entering into leases,
44 subleases, or other arrangements with regard to such property and acting
45 in a manner consistent with the rights, obligations or responsibilities
46 of the owner, landlord or tenant of such property pursuant to such lease
47 or sublease agreements; (iii) servicing loan payments; (iv) furnishing
48 property management services; and (v) providing general operational and
49 administrative support services.

50 (b) Such subsidiary authorized by paragraph (a) of this subdivision
51 shall be established in the form of a public benefit corporation by
52 executing and filing with the secretary of state a certificate of incor-
53 poration which shall identify the authority as the entity organizing
54 such subsidiary and set forth the name of such subsidiary public benefit
55 corporation, its duration, the location of its principal office and its
56 corporate purposes as provided in this subdivision and which certificate

1 may be amended from time to time by the filing of amendments thereto
2 with the secretary of state. Such subsidiary shall be organized as a
3 public benefit corporation, shall be a body politic and corporate, and
4 shall have all the privileges, immunities, tax exemptions and other
5 exemptions of the authority. The members of such subsidiary shall be the
6 same as the members of the authority and the provisions of subdivision
7 two of section sixteen hundred ninety-one of this title shall in all
8 respects apply to such members when acting in such capacity.

9 (c) Nothing in this subdivision shall be construed to impose any
10 liabilities, obligations, or responsibilities of such subsidiary upon
11 the authority and the authority shall have no liability or responsibil-
12 ity therefor unless the authority expressly agrees to assume the same.

13 (d) Such subsidiary created pursuant to this subdivision shall be
14 subject to any other provision of this chapter pertaining to subsid-
15 iaries of public authorities.

16 § 4. Paragraph (b) of subdivision 2 of section 1676 of the public
17 authorities law is amended by adding three undesignated paragraphs to
18 read as follows:

19 the office of cannabis management.

20 the cannabis control board.

21 any private debt or equity fund in which the state or any state agen-
22 cy, public authority or public benefit corporation, or division thereof,
23 has invested and is formed for the limited purpose of funding the fixed
24 capital costs associated with establishing adult-use cannabis retail
25 dispensaries for operation by social and economic equity applicants duly
26 licensed pursuant to article four of the cannabis law.

27 § 5. Subdivision 1 of section 1680 of the public authorities law is
28 amended by adding three undesignated paragraphs to read as follows:

29 the office of cannabis management.

30 the cannabis control board.

31 any private debt or equity fund in which the state or any agency,
32 authority or division thereof has invested and is formed for the limited
33 purpose of funding the fixed capital costs associated with establishing
34 adult-use cannabis retail dispensaries for operation by social and
35 economic equity applicants, duly licensed pursuant to article four of
36 the cannabis law.

37 § 6. This act shall take effect immediately.

38 PART JJ

39 Section 1. Subdivision 24-e of section 10 of the highway law, as added
40 by section 1 of part RRR of chapter 59 of the laws of 2019, is amended
41 to read as follows:

42 24-e. The commissioner of transportation is hereby authorized to enter
43 into an agreement with any fiber optic utility for use and occupancy of
44 the state right of way for the purposes of installing, modifying, relo-
45 cating, repairing, operating, or maintaining fiber optic facilities.
46 Such agreement may include a fee for use and occupancy of the right of
47 way, provided, however, such fee shall not be greater than fair market
48 value. Any provider using or occupying a right of way in fulfillment of
49 a state grant award through either the New NY Broadband Program or any
50 successor office shall not be subject to a fee for such use or occupan-
51 cy. Such exemption shall be applied to the entirety of an award recipi-
52 ent's built footprint, and no portion of such footprint, notwithstanding
53 current status as it relates to access to broadband and other connectiv-

1 ity infrastructure, shall be subject to a fee for use and occupancy. Any
2 fee for use or occupancy charged to a fiber optic utility shall not be
3 passed through in whole or in part as a fee, charge, increased service
4 cost, or by any other means by a fiber optic utility to any person or
5 entity that contracts with such fiber optic utility for service. Any
6 compensation received by the state pursuant to such agreement shall be
7 deposited by the comptroller into the special obligation reserve and
8 payment account of the dedicated highway and bridge trust fund estab-
9 lished pursuant to section eighty-nine-b of the state finance law. Noth-
10 ing herein shall impair, inhibit, or otherwise affect the ability of any
11 municipality to regulate zoning, land use, or any other power or author-
12 ity granted under the law. For purposes of this subdivision, "munici-
13 pality" shall include a county, city, village, or town.

14 § 2. Section 7 of the transportation corporations law, as added by
15 section 2 of part RRR of chapter 59 of the laws of 2019, is amended to
16 read as follows:

17 § 7. Agreement for fiber optic utility use and occupancy of state
18 right of way. The commissioner of transportation is hereby authorized to
19 enter into an agreement with any fiber optic utility for use and occu-
20 pancy of the state right of way for the purposes of installing, modify-
21 ing, relocating, repairing, operating, or maintaining fiber optic facil-
22 ities. Such agreement may include a fee for use and occupancy of the
23 right of way, provided, however, such fee shall not be greater than fair
24 market value. Any provider using or occupying a right of way in fulfill-
25 ment of a state grant award through either the New NY Broadband Program
26 or any successor office shall not be subject to a fee for such use or
27 occupancy. Such exemption shall be applied to the entirety of an award
28 recipient's built footprint, and no portion of such footprint, notwith-
29 standing current status as it relates to access to broadband and other
30 connectivity infrastructure, shall be subject to a fee for use and occu-
31 pancy. Any fee for use or occupancy charged to a fiber optic utility
32 shall not be passed through in whole or in part as a fee, charge,
33 increased service cost, or by any other means by a fiber optic utility
34 to any person or entity that contracts with such fiber optic utility for
35 service. Any compensation received by the state pursuant to such agree-
36 ment shall be deposited by the comptroller into the special obligation
37 reserve and payment account of the dedicated highway and bridge trust
38 fund established pursuant to section eighty-nine-b of the state finance
39 law. Nothing herein shall impair, inhibit, or otherwise affect the abil-
40 ity of any municipality to regulate zoning, land use, or any other power
41 or authority granted under the law. For purposes of this section, "muni-
42 cipality" shall include a county, city, village, or town.

43 § 3. This act shall take effect immediately; provided that the amend-
44 ments to subdivision 24-e of section 10 of the highway law and section 7
45 of the transportation corporations law made by this act shall not affect
46 the repeal of such subdivision and section and shall expire and be
47 deemed repealed therewith.

48 PART KK

49 Section 1. Subdivision 2 of section 27-1207 of the environmental
50 conservation law, as amended by section 7 of part AA of chapter 58 of
51 the laws of 2018, is amended to read as follows:

52 2. ~~[The]~~ Appropriations for the solid waste mitigation program ~~[shall~~
53 ~~receive no more than twenty-five million dollars]~~ from the clean water
54 infrastructure act of 2017 ~~[and]~~ shall be made available to the depart-

ment and the department of health, as applicable, for the following purposes:

- a. enumeration and assessment of solid waste sites;
- b. investigation and environmental characterization of solid waste sites, including environmental sampling;
- c. mitigation and remediation of solid waste sites;
- d. monitoring of solid waste sites; and
- e. administration and enforcement of the requirements of section 27-1203 of this title.

§ 2. This act shall take effect immediately.

PART LL

Section 1. Section 27-1405 of the environmental conservation law is amended by adding three new subdivisions 32, 33 and 34 to read as follows:

32. "Conforming BOA site" shall mean a site located within an area designated by the secretary of state as a brownfield opportunity area pursuant to section nine hundred seventy-r of the general municipal law and for which the secretary of state has issued an affirmative conformance determination pursuant to subdivision ten of such section.

33. "Disadvantaged community" shall mean a community that is identified pursuant to section 75-0111 of this chapter.

34. "Renewable energy facility site" shall mean real property: (a) that is primarily used for any renewable energy system, as defined in section sixty-six-p of the public service law; (b) any co-located system storing energy generated from such a renewable energy system prior to delivering it to the bulk transmission, sub-transmission, or distribution system; or (c) any standalone system storing energy interconnected into New York's bulk transmission system or an Investor Owned Utility's (IOU) transmission or distribution system providing distribution services, wholesale market energy, ancillary services, and/or capacity services, including all associated appurtenances to electric plants as defined under section two of the public service law.

§ 2. The opening paragraph of subdivision 1-a of section 27-1407 of the environmental conservation law, as added by section 3 of part BB of chapter 56 of the laws of 2015, is amended to read as follows:

If the person is also seeking a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit pursuant to paragraph three of subdivision (a) of section twenty-one of the tax law for a site located in a city having a population of one million or more, such person shall submit information sufficient to demonstrate that: (a) at least half of the site area is located in an environmental zone as defined in section twenty-one of the tax law; (b) the property is upside down or underutilized; ~~(c) the project is an affordable housing project;~~ (d) the project is a conforming BOA site; or (e) the project is being developed as a renewable energy facility site. An applicant may request an eligibility determination for tangible property credits at any time from application until the site receives a certificate of completion pursuant to section 27-1419 of this title except for sites seeking eligibility under the underutilized category.

§ 3. Section 27-1409 of the environmental conservation law is amended by adding a new subdivision 13 to read as follows:

13. After acceptance by the department, an executed brownfield cleanup agreement shall be submitted and returned to the department with payment

1 of a nonrefundable program fee in the amount of fifty thousand dollars,
2 which shall be deposited to the credit of the oversight and assistance
3 account of the hazardous waste remedial fund pursuant to section nine-
4 ty-seven-b of the state finance law. The department may reduce or waive
5 such fee upon a demonstration of financial hardship by the applicant.
6 Program fees shall not qualify for any of the tax credits available for
7 brownfield sites under sections twenty-one, twenty-two, and twenty-three
8 of the tax law.

9 § 4. Paragraph 2 of subdivision (a) of section 21 of the tax law, as
10 amended by section 1 of part H of chapter 577 of the laws of 2004, is
11 amended to read as follows:

12 (2) Site preparation credit component. The site preparation credit
13 component shall be equal to the applicable percentage of the site prepa-
14 ration costs paid or incurred by the taxpayer with respect to a quali-
15 fied site. The credit component amount so determined with respect to a
16 site's qualification for a certificate of completion shall be allowed
17 for the taxable year in which the effective date of the certificate of
18 completion occurs. The credit component amount determined other than
19 with respect to such qualification shall be allowed for the taxable year
20 in which the improvement to which the applicable costs apply is placed
21 in service for up to five taxable years after the issuance of such
22 certificate of completion; provided, however, that for any qualified
23 site to which a certificate of completion is issued on or after March
24 twentieth, two thousand fifteen but on or before June twenty-fourth, two
25 thousand twenty-one, the site preparation credit component for such
26 costs shall be allowed for up to seven taxable years after the issuance
27 of such certificate of completion.

28 § 5. Paragraph 4 of subdivision (a) of section 21 of the tax law, as
29 amended by section 1 of part H of chapter 577 of the laws of 2004, is
30 amended to read as follows:

31 (4) On-site groundwater remediation credit component. The on-site
32 groundwater remediation credit component shall be equal to the applica-
33 ble percentage of the on-site groundwater remediation costs paid or
34 incurred by the taxpayer with respect to a qualified site (to the extent
35 that such groundwater remediation costs are not included in the determi-
36 nation of the site preparation credit or the cost or other basis
37 included in the determination of the tangible property credit). The
38 credit component so determined for costs incurred and paid with respect
39 to and prior to the issuance of a certificate of completion shall be
40 allowed for the taxable year in which the effective date of the issuance
41 of a certificate of completion occurs. The credit component amount
42 determined in taxable years after the effective date of the issuance of
43 a certificate of completion shall be allowed in the taxable year such
44 qualified costs are incurred and paid for up to five taxable years after
45 the issuance of such certificate of completion; provided, however, that
46 with respect to any qualified site for which a certificate of completion
47 has been issued on or after July first, two thousand fifteen but on or
48 before June twenty-fourth, two thousand twenty-one, the credit component
49 amount determined in taxable years after the effective date of the issu-
50 ance of a certificate of completion shall be allowed in the taxable year
51 such qualified costs are incurred and paid for up to seven taxable years
52 after the issuance of such certificate of completion.

53 § 6. Subparagraph (B) of paragraph 5 of subdivision (a) of section 21
54 of the tax law, as amended by section 21 of part BB of chapter 56 of the
55 laws of 2015, is amended to read as follows:

(B) With respect to such qualified site for which the department of environmental conservation has issued a notice to the taxpayer on or after July first, two thousand fifteen ~~[or the date of publication in the state register of proposed regulations defining "underutilized" as provided in subdivision thirty of section 27-1405 of the environmental conservation law, whichever shall be later]~~, that its request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law, the applicable percentage for the tangible property credit component of the brownfield redevelopment tax credit pursuant to paragraph three of ~~[subdivision (a) of]~~ this ~~[section]~~ subdivision shall be the sum of ten percent and the following additional percentages, provided that if the sum is greater than twenty-four percent, the total percentage of the tangible property credit component shall be twenty-four percent and is otherwise subject to the limitations set forth in paragraphs three and three-a of ~~[subdivision (a) of]~~ this ~~[section]~~ subdivision:

(i) five percent for a site which:

(1) is located within an environmental zone; or

(2) is in a disadvantaged community as that term is defined in section 27-1405 of the environmental conservation law for which the department of environmental conservation has issued a notice to the taxpayer on or after January first, two thousand twenty-three that its request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law;

(ii) five percent for a site located within a designated brownfield opportunity area and ~~that is [developed in conformance with the goals and priorities established for that applicable brownfield opportunity area]~~ a conforming BOA site as that term is defined in section 27-1405 of the environmental conservation law;

(iii) five percent for a site developed as affordable housing, as defined in section 27-1405 of the environmental conservation law;

(iv) five percent for a site to be used primarily for manufacturing activities as such term is defined in subparagraph (B) of paragraph three-a of this subdivision; ~~[and]~~

(v) five percent for sites remediated to Track 1 as that term is defined in subdivision four of section 27-1415 of the environmental conservation law; and

(vi) for a qualified site for which the department of environmental conservation has issued a notice to the taxpayer on or after January first, two thousand twenty-three that its request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law, five percent for sites developed as renewable energy facility sites as defined in section 27-1405 of the environmental conservation law.

§ 7. Paragraph 2 of subdivision (b) of section 21 of the tax law, as amended by section 23 of part BB of chapter 56 of the laws of 2015, is amended to read as follows:

(2) Site preparation costs. The term "site preparation costs" shall mean all amounts properly chargeable to a capital account, which are paid or incurred which are necessary to implement a site's investigation, remediation, or qualification for a certificate of completion, and shall include costs of: excavation; demolition; activities undertaken under the oversight of the department of labor or in accordance with standards established by the department of health to remediate and dispose of regulated materials including asbestos, lead or polychlorinated biphenyls; environmental consulting; engineering; legal costs;

1 transportation, disposal, treatment or containment of contaminated soil;
2 remediation measures taken to address contaminated soil vapor; cover
3 systems consistent with applicable regulations; physical support of
4 excavation; dewatering and other work to facilitate or enable remedi-
5 ation activities; sheeting, shoring, and other engineering controls
6 required to prevent off-site migration of contamination from the quali-
7 fied site or migrating onto the qualified site; and the costs of fenc-
8 ing, temporary electric wiring, scaffolding, and security facilities
9 until such time as the certificate of completion has been issued. Site
10 preparation shall include all costs paid or incurred within sixty months
11 after the last day of the tax year in which the certificate of
12 completion is issued that are necessary for compliance with the certif-
13 icate of completion or subsequent modifications thereof, or the remedial
14 program defined in such certificate of completion including but not
15 limited to institutional controls, engineering controls, an approved
16 site management plan, and an environmental easement with respect to the
17 qualified site. Provided, however, with respect to any qualified site
18 for which a certificate of completion has been issued on or after July
19 first, two thousand fifteen but on or before June twenty-fourth, two
20 thousand twenty-one, site preparation costs shall include all such costs
21 paid or incurred within eighty-four months after the last day of the tax
22 year in which the certificate of completion is issued. Site preparation
23 cost shall not include the costs of foundation systems that exceed the
24 cover system requirements in the regulations applicable to the qualified
25 site.

26 § 8. Paragraph 4 of subdivision (b) of section 21 of the tax law, as
27 amended by section 23 of part BB of chapter 56 of the laws of 2015, is
28 amended to read as follows:

29 (4) On-site groundwater remediation costs. The term "on-site groundwa-
30 ter remediation costs" shall mean all amounts properly chargeable to a
31 capital account, which are paid or incurred which are necessary to
32 implement a site's groundwater investigation, remediation, or qualifica-
33 tion for a certificate of completion not already covered under site
34 preparation costs, and shall include costs of: environmental consulting;
35 engineering; legal costs; transportation, disposal, treatment or
36 containment of contaminated groundwater; sheeting, shoring, and other
37 engineering controls required to prevent off-site migration of groundwa-
38 ter contamination from the qualified site or migrating onto the quali-
39 fied site; and the costs of fencing, temporary electric wiring and secu-
40 rity facilities until such time as the certificate of completion is
41 issued. On-site groundwater remediation costs shall include all costs
42 paid or incurred within sixty months after the last day of the tax year
43 in which the certificate of completion is issued that are necessary for
44 compliance with the certificate of completion or subsequent modifica-
45 tions thereof, or the groundwater remedial program defined in such
46 certificate of completion including but not limited to institutional
47 controls, engineering controls, an approved site management plan specif-
48 ic to on-site groundwater remediation, and an environmental easement
49 with respect to the qualified site. Provided, however, with respect to
50 any qualified site for which a certificate of completion has been issued
51 on or after July first, two thousand fifteen but on or before June twen-
52 ty-fourth, two thousand twenty-one, on-site groundwater remediation
53 costs shall include all such costs paid or incurred within eighty-four
54 months after the last day of the tax year in which the certificate of
55 completion is issued.

§ 9. Section 31 of part H of chapter 1 of the laws of 2003, amending the tax law relating to brownfield redevelopment tax credits, remediated brownfield credit for real property taxes for qualified sites and environmental remediation insurance credits, as amended by section 32 of part BB of chapter 56 of the laws of 2015, is amended to read as follows:

§ 31. The tax credits allowed under section 22 or 23 of the tax law and the corresponding provisions in articles 9, 9-A, 22 and 33 of the tax law, as added by the provisions of sections one through twenty-nine of this act, shall not be applicable to any site accepted into the brownfield cleanup program on and after July 1, 2015 ~~[or the date of publication in the state register of proposed regulations defining "underutilized" as provided in subdivision 30 of section 27-1405 of the environmental conservation law, whichever shall be later]~~. The tax credits allowed under section 21 of the tax law and the corresponding provisions in articles 9, 9-A, 22 and 33 of the tax law, as added by the provisions of sections one through twenty-nine of this act, shall not be applicable to any site accepted into the brownfield cleanup program after December 31, ~~[2022]~~ 2032, provided, however that any sites accepted on or before December 31, ~~[2022]~~ 2032 must have received the certificate of completion required to qualify for any of such credits on or before ~~[March]~~ December 31, ~~[2026]~~ 2036.

§ 10. This act shall take effect immediately.

PART MM

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 E of chapter 58 of the laws of 2019, are amended to read as follows:

1. Until December thirty-first, two thousand ~~[twenty-two]~~ twenty-seven, 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 ~~[twenty-two]~~ twenty-seven, 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 E of chapter 58 of the laws of 2019, are amended to read as follows:

1. Until December thirty-first, two thousand ~~[twenty-two]~~ twenty-seven, 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 ~~[twenty-two]~~ twenty-seven, the tire service shall collect the waste tire management and recycling fee from the purchaser at the time of the sale and shall

1 remit such fee to the department of taxation and finance with the quar-
2 terly report filed pursuant to subdivision three of this section.

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

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

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

17 (a) Each return shall include:

18 (i) the name of the tire service;

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

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

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

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

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

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

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

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

49 § 3. Subdivision 3 of section 27-1913 of the environmental conserva-
50 tion law, as amended by section two of this act, is amended to read as
51 follows:

52 3. Each tire service maintaining a place of business in this state
53 shall make a return to the department of taxation and finance ~~[on a~~
54 ~~quarterly basis, with the return for December, January, and February~~
55 ~~being due on or before the immediately following March thirty-first, the~~
56 ~~return for March, April, and May being due on or before the immediately~~

~~following June thirtieth, the return for June, July, and August being due on or before the immediately following September thirtieth, and the return for September, October, and November being due on or before the immediately following December thirty-first.~~

~~(a) Each return shall include:~~

~~(i) the name of the tire service;~~

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

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

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

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

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

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

~~If a tire service ceases business, it shall file a final return and remit all fees due under this title with the department of taxation and finance not more than one month after discontinuing that business]~~ on such form and including such information as the commissioner of taxation and finance may require. Such returns shall be due at the same time and for the same periods as the sales tax return of such tire service, in accordance with section eleven hundred thirty-six of the tax law, and payment of all fees due for such periods shall be remitted with such returns.

§ 4. Subdivision 5 of section 27-1913 of the environmental conservation law, as added by section 2 of part E of chapter 686 of the laws of 2003, is amended to read as follows:

5. (a) The provisions of article [twenty-seven] twenty-eight of the tax law, including the provisions relating to definitions, exemptions, returns, personal liability for the tax, collection of tax from the customer, payment of tax and the administration of the tax imposed, shall apply to the provisions of this section in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this section and had expressly referred to the fee under this section, except to the extent that any provision of such article is either inconsistent with a provision of this section or is not relevant to this section. For purposes of this section, any reference to a tax or the taxes imposed by article twenty-eight of the tax law shall be deemed also to refer to the waste tire management and recycling fee imposed under the authority of this section unless a different meaning is clearly required.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the exemptions provided in section eleven hundred sixteen of the tax law shall not apply to this section except with respect to the entities described in paragraphs one, two, three and six of subdivision (a) of such section.

§ 5. This act shall take effect immediately; provided that sections three and four of this act shall take effect on March 1, 2023; provided, further, that the return for the quarterly period ending on the last day of February, 2023 shall be due on March 31, 2023, and any fees required to be collected and paid for such period must be remitted with such return.

1 PART NN

2 Section 1. Sections 1, 2, and 3 of section 1 and section 2 of part TT
3 of chapter 59 of the laws of 2021 authorizing the creation of state debt
4 in the amount of three billion dollars, in relation to creating the
5 environmental bond act of 2022 "restore mother nature" for the purposes
6 of environmental improvements that preserve, enhance, and restore New
7 York's natural resources and reduce the impact of climate change; and
8 providing for the submission to the people of a proposition or question
9 therefor to be voted upon at the general election to be held in Novem-
10 ber, 2022, are amended to read as follows:

11 § 1. Short title. This act shall be known and may be cited as the
12 "clean water, clean air, and green jobs environmental bond act of 2022
13 [~~restore mother nature~~]".

14 § 2. Creation of state debt. The creation of state debt in an amount
15 not exceeding in the aggregate [~~three~~] four billion dollars
16 [~~(\$3,000,000,000)~~] (\$4,000,000,000) is hereby authorized to provide
17 moneys for the single purpose of making environmental improvements that
18 preserve, enhance, and restore New York's natural resources and reduce
19 the impact of climate change by funding capital projects for: restora-
20 tion and flood risk reduction not less than one billion two hundred
21 million dollars [~~(\$1,000,000,000)~~] (\$1,200,000,000); open space land
22 conservation and recreation up to [~~five~~] six hundred fifty million
23 dollars [~~(\$550,000,000)~~] (\$650,000,000); climate change mitigation up to
24 [~~seven hundred~~] one billion one hundred million dollars [~~(\$700,000,000)~~]
25 (\$1,100,000,000); and, water quality improvement and resilient infras-
26 tructure not less than [~~five~~] six hundred fifty million dollars
27 [~~(\$550,000,000)~~] (\$650,000,000).

28 § 3. Bonds of the state. The state comptroller is hereby authorized
29 and empowered to issue and sell bonds of the state up to the aggregate
30 amount of [~~three~~] four billion dollars [~~(\$3,000,000,000)~~]
31 (\$4,000,000,000) for the purposes of this act, subject to the provisions
32 of article 5 of the state finance law. The aggregate principal amount of
33 such bonds shall not exceed [~~three~~] four billion dollars
34 [~~(\$3,000,000,000)~~] (\$4,000,000,000) excluding bonds issued to refund or
35 otherwise repay bonds heretofore issued for such purpose; provided,
36 however, that upon any such refunding or repayment, the total aggregate
37 principal amount of outstanding bonds may be greater than [~~three~~] four
38 billion dollars [~~(\$3,000,000,000)~~] (\$4,000,000,000) only if the present
39 value of the aggregate debt service of the refunding or repayment bonds
40 to be issued shall not exceed the present value of the aggregate debt
41 service of the bonds to be refunded or repaid. The method for calculat-
42 ing present value shall be determined by law.

43 § 2. This act shall take effect immediately, provided that the
44 provisions of section one of this act shall not take effect unless and
45 until this act shall have been submitted to the people at the general
46 election to be held in November 2022 and shall have been approved by a
47 majority of all votes cast for and against it at such general election.
48 Upon approval by the people, section one of this act shall take effect
49 immediately. The ballots to be furnished for the use of voters upon
50 submission of this act shall be in the form prescribed by the election
51 law and the proposition or question to be submitted shall be printed
52 thereon in the following form, namely "To address and combat the impact
53 of climate change and damage to the environment, the "Clean Water, Clean
54 Air, and Green Jobs Environmental Bond Act of 2022 [~~"Restore Mother~~
55 ~~Nature~~]" authorizes the sale of state bonds up to [~~three~~] four billion

1 dollars to fund environmental protection, natural restoration, resiliency,
2 cy, and clean energy projects. Shall the Environmental Bond Act of 2022
3 be approved?".

4 § 2. This act shall take effect immediately.

5 PART OO

6 Section 1. The article heading of article 58 of the environmental
7 conservation law, as added by section 1 of part UU of chapter 59 of the
8 laws of 2021, is amended to read as follows:

9 IMPLEMENTATION OF THE ENVIRONMENTAL BOND ACT OF 2022 "[~~RESTORE MOTHER~~
10 ~~NATURE~~] CLEAN WATER, CLEAN AIR, AND GREEN JOBS"

11 § 2. Subdivision 1 of section 58-0101 of the environmental conserva-
12 tion law, as added by section 1 of part UU of chapter 59 of the laws of
13 2021, is amended to read as follows:

14 1. "Bonds" shall mean general obligation bonds issued pursuant to the
15 environmental bond act of 2022 "[~~restore mother nature~~] clean water,
16 clean air, and green jobs" in accordance with article VII of the New
17 York state constitution and article five of the state finance law.

18 § 3. Section 58-0103 of the environmental conservation law, as added
19 by section 1 of part UU of chapter 59 of the laws of 2021, is amended to
20 read as follows:

21 § 58-0103. Allocation of moneys.

22 The moneys received by the state from the sale of bonds pursuant to
23 the environmental bond act of 2022 shall be disbursed in the following
24 amounts pursuant to appropriations as specifically provided for in
25 titles three, five, seven, and nine of this article:

26 1. Not less than one billion two hundred million dollars
27 [~~(\$1,000,000,000)~~] (\$1,200,000,000) for restoration and flood risk
28 reduction as set forth in title three of this article.

29 2. Up to [~~five~~] six hundred fifty million dollars [~~(\$550,000,000)~~]
30 (\$650,000,000) for open space land conservation and recreation as set
31 forth in title five of this article.

32 3. Up to [~~seven~~] one billion one hundred million dollars
33 [~~(\$700,000,000)~~] (\$1,100,000,000) for climate change mitigation as set
34 forth in title seven of this article.

35 4. Not less than [~~five~~] six hundred fifty million dollars
36 [~~(\$550,000,000)~~] (\$650,000,000) for water quality improvement and resil-
37 ient infrastructure as set forth in title nine of this article.

38 § 4. Subdivision 1 of section 58-0105 of the environmental conserva-
39 tion law, as added by section 1 of part UU of chapter 59 of the laws of
40 2021, is amended to read as follows:

41 1. Administer funds generated pursuant to the environmental bond act
42 of 2022 "[~~restore mother nature~~] clean water, clean air, and green
43 jobs".

44 § 5. Section 58-0301 of the environmental conservation law, as added
45 by section 1 of part UU of chapter 59 of the laws of 2021, is amended to
46 read as follows:

47 § 58-0301. Allocation of moneys.

48 Of the moneys received by the state from the sale of bonds pursuant to
49 the environmental bond act of 2022, not less than one billion two
50 hundred million dollars [~~(\$1,000,000,000)~~] (\$1,200,000,000) shall be
51 available for disbursements for restoration and flood risk reduction
52 projects developed pursuant to section 58-0303 of this title. Not more
53 than two hundred fifty million dollars (\$250,000,000) of this amount

shall be available for projects pursuant to subdivision two of section 58-0303 of this title and not less than one hundred million dollars (\$100,000,000) each shall be available for coastal rehabilitation and shoreline restoration projects and projects which address inland flooding, pursuant to paragraph a of subdivision one of section 58-0303 of this title.

§ 6. Section 58-0501 of the environmental conservation law, as added by section 1 of part UU of chapter 59 of the laws of 2021, is amended to read as follows:

§ 58-0501. Allocation of moneys.

Of the moneys received by the state from the sale of bonds pursuant to the environmental bond act of 2022 to be used for open space land conservation and recreation projects, up to [~~five~~] six hundred fifty million dollars [~~(\$550,000,000)~~] (\$650,000,000) shall be available for programs, plans, and projects developed pursuant to section 58-0503 of this title, however, not more than seventy-five million dollars (\$75,000,000) shall be made available for the creation of a fish hatchery, or the improvement, expansion, repair or maintenance of existing fish hatcheries, not less than two hundred million dollars (\$200,000,000) shall be made available for open space land conservation projects pursuant to paragraph a of subdivision one of section 58-0503 of this title and not less than one hundred million dollars (\$100,000,000) shall be made available for farmland protection pursuant to paragraph b of subdivision one of section 58-0503 of this title.

§ 7. Section 58-0701 of the environmental conservation law, as added by section 1 of part UU of chapter 59 of the laws of 2021, is amended to read as follows:

§ 58-0701. Allocation of moneys.

Of the moneys received by the state from the sale of bonds pursuant to the environmental bond act of 2022, up to [~~seven~~] one billion one hundred million dollars [~~(\$700,000,000)~~] (\$1,100,000,000) shall be made available for disbursements for climate change mitigation projects developed pursuant to section 58-0703 of this title. Not less than three hundred fifty million dollars (\$350,000,000) of this amount shall be available for green buildings projects.

§ 8. Section 58-0901 of the environmental conservation law, as added by section 1 of part UU of chapter 59 of the laws of 2021, is amended to read as follows:

§ 58-0901. Allocation of moneys.

Of the moneys received by the state from the sale of bonds pursuant to the environmental bond act of 2022 for disbursements for state assistance for water quality improvement projects as defined by title one of this article, not less than [~~five~~] six hundred fifty million dollars [~~(\$550,000,000)~~] (\$650,000,000) shall be available for water quality improvement projects developed pursuant to section 58-0903 of this title. Not less than two hundred million dollars (\$200,000,000) of this amount shall be available for wastewater infrastructure projects undertaken pursuant to the New York state water infrastructure improvement act of 2017 pursuant to paragraph e of subdivision one of section 58-0903 of this title, and not less than one hundred million dollars (\$100,000,000) shall be available for municipal stormwater projects pursuant to paragraph a of subdivision one of section 58-0903 of this title.

§ 9. Subdivision 1 of section 58-1103 of the environmental conservation law, as added by section 1 of part UU of chapter 59 of the laws of 2021, is amended to read as follows:

1 1. No later than sixty days following the end of each fiscal year,
2 each department, agency, public benefit corporation, and public authori-
3 ty receiving an allocation or allocations of appropriation financed from
4 the [~~restore mother nature~~] clean water, clean air, and green jobs envi-
5 ronmental bond act of 2022 shall submit to the commissioner in a manner
6 and form prescribed by the department, the following information as of
7 March thirty-first of such fiscal year, within each category listed in
8 this title: the total appropriation; total commitments; year-to-date
9 disbursements; remaining uncommitted balances; and a description of each
10 project.

11 § 10. Section 97-tttt of the state finance law, as added by section 2
12 of part UU of chapter 59 of the laws of 2021, is amended to read as
13 follows:

14 § 97-tttt. [~~Restore mother nature~~] Clean water, clean air, and green
15 jobs bond fund. 1. There is hereby established in the joint custody of
16 the state comptroller and the commissioner of taxation and finance a
17 special fund to be known as the "[~~restore mother nature~~] clean water,
18 clean air, and green jobs bond fund".

19 2. The state comptroller shall deposit into the [~~restore mother~~
20 ~~nature~~] clean water, clean air, and green jobs bond fund all moneys
21 received by the state from the sale of bonds and/or notes for uses
22 eligible pursuant to section four of the environmental bond act of 2022
23 "[~~restore mother nature~~] clean water, clean air, and green jobs".

24 3. Moneys in the [~~restore mother nature~~] clean water, clean air, and
25 green jobs bond fund, following appropriation by the legislature and
26 allocation by the director of the budget, shall be available only for
27 reimbursement of expenditures made from appropriations from the capital
28 projects fund for the purpose of the [~~restore mother nature~~] clean
29 water, clean air, and green jobs bond fund, as set forth in the environ-
30 mental bond act of 2022 "[~~restore mother nature~~] clean water, clean air,
31 and green jobs".

32 4. No moneys received by the state from the sale of bonds and/or notes
33 sold pursuant to the environmental bond act of 2022 "[~~restore mother~~
34 ~~nature~~] clean water, clean air, and green jobs" shall be expended for
35 any project until funds therefor have been allocated pursuant to the
36 provisions of this section and copies of the appropriate certificates of
37 approval filed with the chair of the senate finance committee, the chair
38 of the assembly ways and means committee and the state comptroller.

39 § 11. Subdivision 32 of section 61 of the state finance law, as added
40 by section 3 of part UU of chapter 59 of the laws of 2021, is amended to
41 read as follows:

42 32. Thirty years. For the payment of "[~~restore mother nature~~] clean
43 water, clean air, and green jobs" projects, as defined in article
44 fifty-eight of the environmental conservation law and undertaken pursu-
45 ant to a chapter of the laws of two thousand twenty-one, enacting and
46 constituting the environmental bond act of 2022 "[~~restore mother nature~~] clean
47 water, clean air, and green jobs". Thirty years for flood control
48 infrastructure, other environmental infrastructure, wetland and other
49 habitat restoration, water quality projects, acquisition of land,
50 including acquisition of real property, and renewable energy projects.
51 Notwithstanding the foregoing, for the purposes of calculating annual
52 debt service, the state comptroller shall apply a weighted average peri-
53 od of probable life of [~~restore mother nature~~] clean water, clean air,
54 and green jobs projects, including any other works or purposes to be
55 financed with state debt. Weighted average period of probable life shall
56 be determined by computing the sum of the products derived from multi-

plying the dollar value of the portion of the debt contracted for each work or purpose (or class of works or purposes) by the probable life of such work or purpose (or class of works or purposes) and dividing the resulting sum by the dollar value of the entire debt after taking into consideration any original issue premium or discount.

§ 12. Section 5 of part UU of chapter 59 of the laws of 2021 amending the environmental conservation law and the state finance law relating to the implementation of the environmental bond act of 2022 "restore mother nature", is amended to read as follows:

§ 5. This act shall take effect only in the event that section 1 of part TT of the chapter of the laws of 2021 enacting the environmental bond act of 2022 "~~restore mother nature~~ clean water, clean air, and green jobs" is submitted to the people at the general election to be held in November 2022 and is approved by a majority of all votes cast for and against it at such election. Upon such approval, this act shall take effect immediately; provided that the commissioner of environmental conservation shall notify the legislative bill drafting commission upon the occurrence of the enactment of section 1 of part TT of the chapter of the laws of 2021 enacting the environmental bond act of 2022 "~~restore mother nature~~ clean water, clean air, and green jobs", 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. Effective immediately, the addition, amendment, and/or repeal of any rule or regulation necessary for the implementation of the foregoing sections of this act are authorized ~~and directed~~ to be made and completed on or before such effective date.

§ 13. This act shall take effect immediately; provided, however that sections one, two, three, four, five, six, seven, eight, nine, ten and eleven of this act shall take effect on the same date and in the same manner as part UU of chapter 59 of the laws of 2021, takes effect.

PART PP

Section 1. Subdivision (a) of section 1421 of the tax law, as amended by section 4 of part 000 of chapter 59 of the laws of 2019, is amended to read as follows:

(a) From the taxes, interest and penalties attributable to the tax imposed pursuant to section fourteen hundred two of this article, the amount of one hundred ninety-nine million three hundred thousand dollars shall be deposited by the comptroller in the environmental protection fund established pursuant to section ninety-two-s of the state finance law for the fiscal year beginning April first, two thousand nine; the amount of one hundred nineteen million one hundred thousand dollars shall be deposited in such fund for the fiscal year beginning April first, two thousand ten; the amount of two hundred fifty-seven million three hundred fifty thousand dollars shall be deposited into such fund for the fiscal year beginning April first, two thousand twenty-two; and for each fiscal year thereafter. On or before June twelfth, nineteen hundred ninety-five and on or before the twelfth day of each month thereafter (excepting the first and second months of each fiscal year), the comptroller shall deposit into such fund from the taxes, interest and penalties collected pursuant to such section fourteen hundred two of this article which have been deposited and remain to the comptroller's credit in the banks, banking houses or trust companies referred to in

1 section one hundred seventy-one-a of this chapter at the close of busi-
2 ness on the last day of the preceding month, an amount equal to one-
3 tenth of the annual amount required to be deposited in such fund pursu-
4 ant to this section for the fiscal year in which such deposit is
5 required to be made. In the event such amount of taxes, interest and
6 penalties so remaining to the comptroller's credit is less than the
7 amount required to be deposited in such fund by the comptroller, an
8 amount equal to the shortfall shall be deposited in such fund by the
9 comptroller with subsequent deposits, as soon as the revenue is avail-
10 able. Beginning April first, nineteen hundred ninety-seven, the comp-
11 troller shall transfer monthly to the clean water/clean air fund estab-
12 lished pursuant to section ninety-seven-bbb of the state finance law,
13 all moneys remaining from such taxes, interest and penalties collected
14 that are not required for deposit in the environmental protection fund.

15 § 2. This act shall take effect immediately.

16 PART QQ

17 Section 1. Subdivisions 2, 3 and 7 of section 24-0105 of the environ-
18 mental conservation law, as added by chapter 614 of the laws of 1975,
19 subdivision 7 as renumbered by chapter 654 of the laws of 1977, are
20 amended to read as follows:

21 2. Considerable acreage of freshwater wetlands in the state of New
22 York has been lost, despoiled or impaired by unregulated draining,
23 dredging, filling, excavating, building, pollution or other ~~[acts]~~
24 ~~activities~~ inconsistent with the natural uses of such areas. ~~[Other~~
25 ~~freshwater]~~ Freshwater wetlands are in jeopardy of being lost, despoiled
26 or impaired by such ~~[unrelated-acts]~~ activities.

27 3. Recurrent flooding aggravated or caused by the loss of freshwater
28 wetlands has serious effects upon natural ecosystems and communities.
29 The increasing severity and duration of storm-related flooding due to
30 climate change, which has caused billions of dollars of property damage
31 across the state, makes protection of all freshwater wetlands in the
32 state of vital importance.

33 7. Any loss of freshwater wetlands deprives the people of the state of
34 some or all of the many and multiple benefits to be derived from
35 wetlands, to wit:

36 (a) flood and storm control by the hydrologic absorption and storage
37 capacity of freshwater wetlands;

38 (b) wildlife habitat by providing breeding, nesting and feeding
39 grounds and cover for many forms of wildlife, wildfowl and shorebirds,
40 including migratory wildfowl and rare, endangered or threatened species
41 ~~[such as the bald eagle and osprey]~~;

42 (c) protection of subsurface water resources and provision for valu-
43 able watersheds and recharging ground water supplies;

44 (d) recreation by providing areas for hunting, fishing, boating,
45 hiking, bird watching, photography, camping and other uses;

46 (e) pollution treatment by serving as biological and chemical oxida-
47 tion basins;

48 (f) erosion control by serving as sedimentation areas and filtering
49 basins, absorbing silt and organic matter and protecting channels and
50 harbors;

51 (g) education and scientific research by providing readily accessible
52 outdoor bio-physical laboratories, living classrooms and vast training
53 and education resources; ~~[and]~~

1 (h) open space and aesthetic appreciation by providing often the only
2 remaining open areas along crowded river fronts and coastal Great Lakes
3 regions; ~~[and]~~

4 (i) sources of nutrients in freshwater food cycles and nursery grounds
5 and sanctuaries for freshwater fish~~[-];~~

6 (j) supporting a diversity of plant species that are rare, endangered
7 or threatened, or exploitably vulnerable as defined in section 9-1503 of
8 this chapter; and

9 (k) supporting a diversity of communities of plants and animals that
10 are deemed by the commissioner to be rare in the state or in a region of
11 the state.

12 § 2. The opening paragraph and paragraphs (c) and (d) of subdivision
13 1, and subdivisions 2, 3 and 8 of section 24-0107 of the environmental
14 conservation law, as amended by chapter 654 of the laws of 1977, are
15 amended and two new subdivisions 9 and 10 are added to read as follows:

16 "Freshwater wetlands" means lands and waters of the state ~~[as shown on~~
17 ~~the freshwater wetlands map]~~ that have an area of at least twelve and
18 four-tenths acres or, if less than twelve and four-tenths acres in size,
19 are of unusual importance, and which contain any or all of the follow-
20 ing:

21 (c) lands and waters substantially enclosed by aquatic or semi-aquatic
22 vegetation as set forth in paragraph (a) of this subdivision or by dead
23 vegetation as set forth in paragraph (b) of this subdivision, the regu-
24 lation of which is necessary to protect and preserve the aquatic and
25 semi-aquatic vegetation; and

26 (d) the waters overlying the areas set forth in paragraphs (a) and (b)
27 of this subdivision and the lands underlying paragraph (c) of this
28 subdivision.

29 2. "Freshwater wetlands map" shall mean a map promulgated by the
30 department pursuant to section 24-0301 of this article on which are
31 indicated the boundaries of any freshwater wetlands. Freshwater wetland
32 maps depict the approximate location of wetlands and are not necessarily
33 determinative as to whether a permit is required pursuant to section
34 24-0701 of this article. There is a rebuttable presumption that mapped
35 and unmapped areas meeting the definition of a freshwater wetland in
36 this section are regulated and subject to permit requirements. This
37 presumption may be rebutted by presenting information to the department
38 that the area does not meet the definition contained in this section. A
39 wetland delineation by the department, or a verification by the depart-
40 ment of a wetland delineation by another party, is required to identify
41 the regulated freshwater wetland boundary in a particular location.

42 3. "Boundaries of a freshwater wetland" shall mean the outer limit of
43 the vegetation specified in paragraphs (a) and (b) of subdivision one of
44 this section ~~[24-0107]~~ and of the lands and waters specified in para-
45 graph (c) of such subdivision.

46 8. "Pollution" shall mean the presence in the environment of ~~[man-in-~~
47 ~~duced]~~ human-induced conditions, or contaminants in quantities or char-
48 acteristics which are or may be injurious to human, plant or wildlife,
49 or other animal life or to property.

50 9. "Unusual importance" shall mean a freshwater wetland, regardless of
51 size, that possesses one or more of the following characteristics as
52 determined by the department:

53 (a) it is located in a watershed that has experienced significant
54 flooding in the past, or is expected to experience significant flooding
55 in the future from severe storm events related to climate change;

1 (b) it is located within an urbanized area, as defined by the United
2 States census bureau;

3 (c) it contains a plant species occurring in fewer than thirty-five
4 sites statewide or having fewer than five thousand individuals state-
5 wide;

6 (d) it contains habitat for an essential behavior of an endangered or
7 threatened species or a species of special concern as defined under
8 section 11-0535 of this chapter or listed as a species of greatest
9 conservation need in New York's wildlife action plan;

10 (e) it is classified by the department as a Class I wetland;

11 (f) it was previously classified and mapped by the department as a
12 wetland of unusual local importance; or

13 (g) it is determined by the commissioner to be of significant impor-
14 tance to protecting the state's water quality.

15 10. "Delineation" shall mean a precise representation of a regulated
16 freshwater wetland as defined in subdivisions one and three of this
17 section.

18 § 3. Subdivisions 1, 2, 3, 4 and 5 of section 24-0301 of the environ-
19 mental conservation law are REPEALED.

20 § 4. Subdivisions 6, 7 and 8 of section 24-0301 of the environmental
21 conservation law, subdivision 6 as amended by chapter 16 of the laws of
22 2010 and subdivision 7 as amended and subdivision 8 as added by chapter
23 654 of the laws of 1977, are amended to read as follows:

24 ~~[6-]~~ 1. Except as provided in subdivision ~~[eight]~~ three of this
25 section, the commissioner shall supervise the maintenance of ~~[such boun-~~
26 ~~dary]~~ freshwater wetlands maps, which shall be available to the public
27 ~~[for inspection and examination at the regional office of the department~~
28 ~~in which the wetlands are wholly or partly located and in the office of~~
29 ~~the clerk of each county in which each such wetland or a portion thereof~~
30 ~~is located]~~ on the department's website. The commissioner may readjust
31 the map ~~[thereafter to clarify the boundaries of the wetlands, to~~
32 ~~correct any errors on the map, to effect any additions, deletions or~~
33 ~~technical changes on the map, and to reflect changes as have occurred as~~
34 ~~a result of the granting of permits pursuant to section 24-0703 of this~~
35 ~~article, or natural changes which may have occurred through erosion,~~
36 ~~accretion, or otherwise. Notice of such readjustment shall be given in~~
37 ~~the same manner as set forth in subdivision five of this section for the~~
38 ~~promulgation of final freshwater wetlands maps. In addition, at the time~~
39 ~~notice is provided pursuant to subdivision five of this section, the~~
40 ~~commissioner shall update any digital image of the map posted on the~~
41 ~~department's website to reflect such readjustment]~~ at any time to more
42 accurately depict the approximate location of wetlands.

43 ~~[7-]~~ 2. Except as provided in subdivision ~~[eight]~~ three of this
44 section, the commissioner may, upon ~~[his]~~ their own initiative, and
45 shall, upon a written request by a landowner whose land or a portion
46 thereof may be included within a wetland, or upon the written request of
47 another person or persons or an official body whose interests are shown
48 to be affected, cause to be delineated ~~[more precisely]~~ the boundary
49 line or lines of a freshwater wetland or a portion thereof. ~~[Such more~~
50 ~~precise delineation of a freshwater wetland boundary line or lines shall~~
51 ~~be of appropriate scale and sufficient clarity to permit the ready iden-~~
52 ~~tification of individual buildings and of other major man-made struc-~~
53 ~~tures or facilities or significant geographical features with respect to~~
54 ~~the boundary of any freshwater wetland.]~~ The commissioner shall under-
55 take to delineate the boundary of a particular wetland or wetlands, or a
56 particular part of the boundary thereof only upon a showing by the

1 applicant therefor of good cause for such ~~[more precise]~~ delineation and
2 the establishment of such ~~[more precise]~~ line.

3 ~~[8-]~~ 3. The supervision of the maintenance of any freshwater wetlands
4 map or portion thereof applicable to wetlands within the Adirondack
5 park, the readjustment and precise delineation of wetland boundary lines
6 and the other functions and duties ascribed to the commissioner by
7 subdivisions ~~[six and seven]~~ one and two of this section shall be
8 performed by the Adirondack park agency, which shall make such maps
9 available ~~[for public inspection and examination at its headquarters]~~ on
10 the agency's website.

11 § 5. Subdivisions 1 and 4 of section 24-0701 of the environmental
12 conservation law, subdivision 1 as amended by chapter 654 of the laws of
13 1977 and subdivision 4 as amended by chapter 697 of the laws of 1979,
14 are amended to read as follows:

15 1. ~~[After issuance of the official freshwater wetlands map of the~~
16 ~~state, or of any selected section or region thereof, any]~~ Any person
17 desiring to conduct activities on freshwater wetlands ~~[as so designated~~
18 ~~thereon any of the regulated activities set forth in subdivision two of~~
19 ~~this section], or the regulated areas adjacent to these wetlands set~~
20 ~~forth in subdivision two of this section,~~ must obtain a permit as
21 provided in this title.

22 4. ~~[The]~~ On lands in active agricultural use, the activities of farm-
23 ers and other landowners in grazing and watering livestock, making
24 reasonable use of water resources, harvesting natural products of the
25 wetlands, selectively cutting timber, draining land or wetlands for
26 growing agricultural products and otherwise engaging in the use of
27 wetlands or other land for growing agricultural products shall be
28 excluded from regulated activities and shall not require a permit under
29 subdivision one ~~[hereof]~~ of this section, except that structures not
30 required for enhancement or maintenance of the agricultural productivity
31 of the land and any filling activities shall not be excluded hereunder,
32 and provided that the use of land ~~[designated as a freshwater wetland~~
33 ~~upon the freshwater wetlands map at the effective date thereof]~~ that
34 meets the definition of a freshwater wetland in section 24-0107 of this
35 article for uses other than those referred to in this subdivision shall
36 be subject to the provisions of this article. All activities on lands
37 that meet the definition of a freshwater wetland shall be subject to the
38 provisions of this article once agricultural activities cease.

39 § 6. Subdivision 5 of section 24-0703 of the environmental conserva-
40 tion law, as amended by section 38 of part D of chapter 60 of the laws
41 of 2012, is amended to read as follows:

42 5. ~~[Prior to the promulgation of the final freshwater wetlands map in~~
43 ~~a particular area and the implementation of a freshwater wetlands~~
44 ~~protection law or ordinance, no person shall conduct, or cause to be~~
45 ~~conducted, any activity for which a permit is required under section~~
46 ~~24-0701 of this title on any freshwater wetland unless he has obtained a~~
47 ~~permit from the commissioner under this section.]~~ Any person may inquire
48 of the department as to whether or not a given parcel of land ~~[will be~~
49 ~~designated]~~ includes a freshwater wetland subject to regulation or a
50 regulated freshwater wetland adjacent area. The department shall give a
51 definite answer in writing within ~~[thirty]~~ sixty days of such request as
52 to ~~[whether]~~ the status of such parcel ~~[will or will not be so desig-~~
53 ~~nated]~~. Provided that, in the event that weather or ground conditions
54 prevent the department from making a determination within ~~[thirty]~~ sixty
55 days, it may extend such period until a determination can be made. Such
56 answer in the affirmative shall be reviewable; such an answer in the

negative shall be a complete defense to the enforcement of this article as to such parcel of land for a period of five years from the date the department issues the negative answer. ~~[The commissioner may by regulation adopted after public hearing exempt categories or classes of wetlands or individual wetlands which he determines not to be critical to the furtherance of the policies and purposes of this article.]~~

§ 7. Subdivision 1 of section 24-0901 of the environmental conservation law, as added by chapter 614 of the laws of 1975, is amended to read as follows:

1. ~~[Upon completion of the freshwater wetlands map, the]~~ The commissioner shall confer with local government officials in each region in which the inventory has been conducted to establish a program for the protection of the freshwater wetlands of the state.

§ 8. Subdivisions 1 and 5 of section 24-0903 of the environmental conservation law, as added by chapter 614 of the laws of 1975, are amended to read as follows:

1. ~~[Upon completion of the freshwater wetlands map of the state, or of any selected section or region thereof, the]~~ The commissioner shall ~~[proceed to]~~ classify freshwater wetlands so designated thereon according to their most appropriate uses, in light of the values set forth in section 24-0105 of this article and the present conditions of such wetlands. The commissioner shall determine what uses of such wetlands are most compatible with the foregoing and shall prepare minimum land use regulations to permit only such compatible uses. The classifications may cover freshwater wetlands in more than one governmental subdivision. Permits pursuant to section 24-0701 of this article are required whether or not a classification has been promulgated.

5. Prior to the adoption of any land use regulations governing freshwater wetlands, the commissioner shall hold a public hearing thereon in the area in which the affected freshwater wetlands are located, and give fifteen days prior notice thereof by posting on the department's website or by publication at least once in a newspaper having general circulation in the area of the local government involved. The commissioner shall promulgate the regulations within thirty days of such hearing and post such order on the department's website or publish such order ~~[at least once]~~ in a newspaper having general circulation in the area of the local government affected and make such plan available for public inspection and review; such order shall not take effect until thirty days after the filing thereof with the clerk of the county in which such wetland is located.

§ 9. Section 24-1305 of the environmental conservation law, as added by chapter 771 of the laws of 1976, is amended to read as follows:

§ 24-1305. Applicability.

The provisions of this article shall not apply to any land use, improvement or development for which final approval shall have been obtained prior to the effective date of this article from the local governmental authority or authorities having jurisdiction over such land use. As used in this section, the term "final approval" shall mean[+]

~~(a) in the case of the subdivision of land, conditional approval of a final plat as the term is defined in section two hundred seventy-six of the town law, and approval as used in section 7-728 of the village law and section thirty-two of the general cities law,~~

~~(b) in the case of a site plan not involving the subdivision of land, approval by the appropriate body or office of a city, village or town of the site plan; and~~

~~(c) in those cases not covered by subdivision (a) or (b) above,~~ the issuance of a building permit or other authorization for the commencement of the use, improvement or development for which such permit or authorization was issued or in those local governments which do not require such permits or authorizations, the actual commencement of the use, improvement or development of the land.

§ 10. Subdivision 2 of section 34-0104 of the environmental conservation law, as added by chapter 841 of the laws of 1981, is amended to read as follows:

2. Upon completion of a preliminary identification of an erosion hazard area, the commissioner or ~~his~~ their designated hearing officer shall hold a public hearing in a place reasonably accessible to residents of the affected area in order to afford an opportunity for any person to propose changes in such preliminary identification. The commissioner shall ~~[give notice of such hearing to each owner of record, as shown on the latest completed tax assessment rolls, of lands included within such area, and also to the chief executive officer and clerk of each local government within the boundaries of which any portion of such area may be located, by certified mail at least thirty days prior to the date set for such hearing, and shall insure]~~ ensure that a copy of the preliminary identification is available for public inspection at a convenient location ~~[in such local government]~~. 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 one newspaper having general circulation in the area involved and in the environmental notice publication provided for under section 3-0306 of this chapter.

§ 11. Subdivision 3 of section 34-0104 of the environmental conservation law, as added by chapter 841 of the laws of 1981, is amended to read as follows:

3. After considering the testimony given at such hearings and the potential erosion hazard in accordance with the purposes and policies of this article, and after consultation with affected local governments, the commissioner shall issue the final identification of the erosion hazard areas. Such final identification shall not be made less than sixty days from the date of the public hearing required by subdivision two hereof. A copy of such final identification shall be filed in the office of the clerk of each local government in which such area or any portion thereof is located. Notice ~~[that such final identification has been made shall be given each owner of lands included within the erosion hazard area, as such ownership is shown on the latest completed tax assessment rolls, by certified mail in any case where a notice by certified mail was not sent pursuant to subdivision two of this section, and in all other cases by first class mail. Such notice]~~ shall also be given at such time to the chief executive officer of each local government within the boundaries of which such erosion hazard area or any portion thereof is located.

§ 12. Subdivision 8 of section 70-0117 of the environmental conservation law, as added by section 1 of part AAA of chapter 59 of the laws of 2009, is amended to read as follows:

8. (a) All persons required to obtain a permit from the department pursuant to section 24-0701 of this chapter shall submit to the department an application fee in an amount not to exceed the following:

(i) ~~[fifty]~~ one hundred dollars per application for a ~~[permit for a minor project as defined in this article or]~~ modification to any existing permit issued pursuant to section 24-0701 of this chapter;

(ii) ~~[fifty]~~ three hundred dollars per application for ~~[a permit for a residential project defined as associated with]~~ one new single family dwelling and customary appurtenances thereto;

(iii) ~~[one]~~ five hundred dollars per application for new multiple single family dwellings, new multiple family dwelling and customary appurtenances thereto;

(iv) ~~[two]~~ one thousand dollars per application for new commercial or industrial structures or improvements;

(v) one hundred dollars per application for a permit for any other project as defined in this article.

(b) All persons required to obtain a permit from the department pursuant to section 25-0402 of this chapter shall submit to the department an application fee in an amount not to exceed the following:

(i) ~~[two]~~ three hundred dollars per application for a permit for a minor project as defined in this article or modification to any existing permit issued pursuant to section 25-0402 of this chapter;

(ii) ~~[nine hundred]~~ two thousand dollars per application for subdivision of land or new commercial or industrial structures or improvements;

(iii) one thousand dollars per application for a permit for a project as defined in this article.

(c) ~~[All fees]~~ Fees collected pursuant to ~~[this]~~ paragraph (a) of this subdivision shall be deposited [into the environmental protection fund pursuant to section ninety-two of the state finance law] to the credit of the conservation fund. Fees collected pursuant to paragraph (b) of this subdivision shall be deposited to the credit of the marine resources account of the conservation fund.

(d) Application fees required pursuant to this subdivision will not be required for any state department.

§ 13. Subdivisions 1 and 2 of section 71-2303 of the environmental conservation law, as amended by chapter 99 of the laws of 2010, are amended to read as follows:

1. ~~[Administrative]~~ Civil sanctions. a. Any person who violates, disobeys or disregards any provision of article twenty-four, including title five and section 24-0507 thereof or any rule or regulation, local law or ordinance, permit or order issued pursuant thereto, shall be liable to the people of the state for a civil penalty of not to exceed eleven thousand dollars for every such violation, to be assessed, after a hearing or opportunity to be heard upon due notice and with the rights to specification of the charges and representation by counsel at such hearing, by the commissioner or local government or in an action initiated by the attorney general pursuant to section 71-2305 of this title or on the attorney general's own initiative. Each violation shall be a separate and distinct violation and, in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. Such penalty assessed by the commissioner or local government may be recovered in an action brought by the attorney general at the request and in the name of the commissioner or local government in any court of competent jurisdiction. Such civil penalty may be released or compromised by the commissioner or local government before the matter has been referred to the attorney general; and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the attorney general with the consent of the commissioner or local government. In addition, the commissioner or local government shall have power, following a hearing held in conformance with the procedures set forth in section 71-1709 of this article, to

1 direct the violator to cease [~~his violation of~~] violating the act and to
2 restore the affected freshwater wetland to its condition prior to the
3 violation, insofar as that is possible within a reasonable time and
4 under the supervision of the commissioner or local government. Any such
5 order of the commissioner or local government shall be enforceable in an
6 action brought by the attorney general at the request and in the name of
7 the commissioner or local government in any court of competent jurisdic-
8 tion. Any civil penalty or order issued by the commissioner or local
9 government pursuant to this subdivision shall be reviewable in a
10 proceeding pursuant to article seventy-eight of the civil practice law
11 and rules.

12 b. Upon determining that significant damage to the functions and bene-
13 fits of a freshwater wetland is occurring or is imminent as a result of
14 any violation of article twenty-four of this chapter, including but not
15 limited to (i) activity taking place requiring a permit under article
16 twenty-four of this chapter but for which no permit has been granted or
17 (ii) failure on the part of a permittee to adhere to permit conditions,
18 the commissioner or local government shall have power to direct the
19 violator to cease and desist from violating the act. In such cases the
20 violator shall be provided an opportunity to be heard within ten days of
21 receipt of the notice to cease and desist.

22 2. Criminal sanctions. Any person who violates any provision of arti-
23 cle twenty-four of this chapter, including any rule or regulation, local
24 law or ordinance, permit or order issued pursuant thereto, shall, in
25 addition, for the first offense, be guilty of a violation punishable by
26 a fine of not less than two thousand nor more than [~~four~~] five thousand
27 dollars; for a second and each subsequent offense he shall be guilty of
28 a misdemeanor punishable by a fine of not less than four thousand nor
29 more than [~~seven~~] ten thousand dollars or a term of imprisonment of not
30 less than fifteen days nor more than six months or both. [~~Instead of~~] In
31 addition to these punishments, any offender may be punishable by being
32 ordered by the court to restore the affected freshwater wetland to its
33 condition prior to the offense, insofar as that is possible. The court
34 shall specify a reasonable time for the completion of such restoration,
35 which shall be effected under the supervision of the commissioner or
36 local government. Each offense shall be a separate and distinct offense
37 and, in the case of a continuing offense, each day's continuance thereof
38 shall be deemed a separate and distinct offense.

39 § 14. Subdivision 1 of section 71-2305 of the environmental conserva-
40 tion law, as added by chapter 614 of the laws of 1975, is amended to
41 read as follows:

42 1. The attorney general, upon [~~his~~] their own initiative or upon
43 complaint of the commissioner or local government, shall prosecute
44 persons alleged to have violated [~~any such order of the commissioner or~~
45 ~~local government pursuant to~~] article twenty-four of this chapter.

46 § 15. The title heading of title 25 of article 71 of the environmental
47 conservation law, as added by chapter 182 of the laws of 1975, is
48 amended to read as follows:

49 ENFORCEMENT OF ARTICLE 25 AND ARTICLE 34

50 § 16. Section 71-2501 of the environmental conservation law, as added
51 by chapter 182 of the laws of 1975, is amended to read as follows:

52 § 71-2501. Applicability of this title.

53 The provisions of this title shall be applicable to the enforcement of
54 article twenty-five and article thirty-four.

§ 17. Section 71-2503 of the environmental conservation law, as amended by chapter 666 of the laws of 1989, is amended to read as follows:

§ 71-2503. Violation; penalties.

1. Administrative sanctions.

a. Any person who violates, disobeys or disregards any provision of article twenty-five including any rule or regulation, local law or ordinance, permit or order issued pursuant thereto, or article thirty-four shall be liable to the people of the state for a civil penalty of not to exceed ten thousand dollars for every such violation, to be assessed, after a hearing or opportunity to be heard, by the commissioner. Each violation shall be a separate and distinct violation and, in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. The penalty may be recovered in an action brought by the commissioner in any court of competent jurisdiction. Such civil penalty may be released or compromised by the commissioner before the matter has been referred to the attorney general; and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the attorney general with the consent of the commissioner.

b. Upon determining that significant damage to the functions and benefits of tidal wetlands or coastal erosion hazard areas is occurring or is imminent as a result of any violation of article twenty-five or article thirty-four, including but not limited to (i) activity taking place requiring a permit under article twenty-five or article thirty-four but for which no permit has been granted or (ii) failure on the part of a permittee to adhere to permit conditions, the ~~commissioner~~ department shall have power to direct the violator to cease and desist from violating the act. In such cases the violator shall be provided an opportunity to be heard within ten days of receipt of the notice to cease and desist.

c. Following a hearing held pursuant to section 71-1709 of this article, the commissioner shall have power to direct the violator to cease and desist from violating the act and to restore the affected tidal wetland or area immediately adjacent thereto or coastal erosion hazard area to its condition prior to the violation, insofar as that is possible within a reasonable time and under the supervision of the commissioner. Any order of the commissioner shall be enforceable in an action brought by the commissioner in any court of competent jurisdiction. Any civil penalty or order issued by the commissioner under this subdivision shall be reviewable in a proceeding under article seventy-eight of the civil practice law and rules.

2. Criminal sanctions. Any person who violates any provision of article twenty-five or article thirty-four shall, in addition, for the first offense, be guilty of a violation punishable by a fine of not less than five hundred nor more than five thousand dollars; for a second and each subsequent offense such person shall be guilty of a misdemeanor punishable by a fine of not less than one thousand nor more than ten thousand dollars or a term of imprisonment of not less than fifteen days nor more than six months or both. In addition to or instead of these punishments, any offender shall be punishable by being ordered by the court to restore the affected tidal wetland or area immediately adjacent thereto or coastal erosion hazard area to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of the restoration, which shall be effected under the

1 supervision of the commissioner. Each offense shall be a separate and
2 distinct offense and, in the case of a continuing offense, each day's
3 continuance thereof shall be deemed a separate and distinct offense.

4 3. The proceeds of any penalty or fine assessed under this section
5 shall be deposited to the credit of the marine resources account of the
6 conservation fund.

7 § 18. Section 71-2505 of the environmental conservation law, as
8 amended by chapter 249 of the laws of 1997, is amended to read as
9 follows:

10 § 71-2505. Enforcement.

11 The attorney general, on ~~[his]~~ their own initiative or at the request
12 of the commissioner, shall prosecute persons who violate article twen-
13 ty-five or article thirty-four. In addition the attorney general, on
14 ~~[his]~~ their own initiative or at the request of the commissioner, shall
15 have the right to recover a civil penalty of up to ten thousand dollars
16 for every violation of any provision of such ~~[article]~~ articles, and to
17 seek equitable relief to restrain any violation or threatened violation
18 of such ~~[article]~~ articles and to require the restoration of any
19 affected tidal wetland or area immediately adjacent thereto or coastal
20 erosion hazard area to its condition prior to the violation, insofar as
21 that is possible, within a reasonable time and under the supervision of
22 the commissioner. In the case of a continuing violation, each day's
23 continuance thereof shall be deemed a separate and distinct violation.

24 § 19. Section 71-2507 of the environmental conservation law, as added
25 by chapter 182 of the laws of 1975, is amended to read as follows:

26 § 71-2507. Pollution of tidal wetlands or coastal erosion hazard areas.

27 Where any tidal wetlands or coastal erosion hazard areas are subject
28 to pollution, the commissioner and attorney general shall take all
29 appropriate action to abate the pollution. In addition, the commissioner
30 may restrict or order cessation of solid waste disposal, deep well
31 disposal, or liquid waste disposal where such is polluting a given area
32 of tidal wetland or coastal erosion hazard area. Where pesticides, chem-
33 ical products, or fertilizer residues are the polluting agents, the
34 commissioner shall confer with other appropriate public officials to
35 limit the use of such substances at their source; after appropriate
36 consultations, the commissioner may make such rules and regulations as
37 ~~[he deems]~~ they deem necessary under section 3-0301 of ~~[the environ-~~
38 ~~mental conservation law]~~ this chapter.

39 § 20. This act shall take effect immediately, provided, however, that
40 sections two, three, four, five, six, seven and eight of this act shall
41 take effect January 1, 2025.

42 PART RR

43 Section 1. Legislative intent. The legislature finds the amount of
44 waste generated in New York is a threat to the environment. The legisla-
45 ture further finds and declares that it is in the public interest of the
46 state of New York for packaging and paper products producers to take
47 responsibility for the development and implementation of strategies to
48 promote reduction, reuse, recovery, and recycling of covered materials
49 and products through investments in the end-of-product-life management
50 of printed paper and product packaging.

51 § 2. Article 27 of the environmental conservation law is amended by
52 adding a new title 33 to read as follows:

53 TITLE 33

54 EXTENDED PRODUCER RESPONSIBILITY ACT

1 Section 27-3301. Definitions.

2 27-3303. Needs assessment and establishment of a packaging and
3 paper products program.

4 27-3305. Advisory committee.

5 27-3307. Producer responsibility program plan.

6 27-3309. Reporting requirements and audits.

7 27-3311. Antitrust protections.

8 27-3313. Penalties.

9 27-3315. State preemption.

10 27-3317. Authority to promulgate rules and regulations.

11 27-3319. Extended producer responsibility reporting to the
12 governor and legislature.

13 27-3321. Severability.

14 § 27-3301. Definitions.

15 When used in this title:

16 1. "Brand" means a name, symbol, word, or mark that identifies a prod-
17 uct, rather than its components, and attributes the product to the owner
18 of the brand.

19 2. "Consumer" means any person located in the state, who owns or uses
20 packaging and paper products, including, but not limited to, a person
21 residing in a single or multi-family residential unit, a school, state
22 or local agency, business, or institution.

23 3. "Department" means the New York state department of environmental
24 conservation.

25 4. "Extended producer responsibility program" means a program financed
26 and implemented by producers, either individually, or collectively
27 through a producer responsibility organization, that provides for, but
28 is not limited to, the collection, transportation, reuse, recycling,
29 proper end-of-life management, or an appropriate combination thereof, of
30 unwanted packaging and paper products.

31 5. "Packaging and paper products" covered by this title include, but
32 are not limited to, the following:

33 (a) Packaging means any part of a package or container, regardless of
34 recyclability or compostability, including, but not limited to, such
35 material types as paper, plastic, glass, or metal, that is used:

36 (i) for the containment, protection, handling, delivery, serving, and
37 presentation of goods that are sold, offered for sale, or distributed to
38 consumers in the state, including through an internet transaction;

39 (ii) as secondary packaging intended for the consumer market;

40 (iii) as tertiary packaging used for transportation or distribution
41 directly to a consumer or retailer; or

42 (iv) for a single or short-term use.

43 (b) Paper products means:

44 (i) paper and other cellulosic fibers, whether or not they are used as
45 a medium for text or images, except bound books;

46 (ii) containers or packaging used to deliver printed matter directly
47 to the ultimate consumer or recipient; or

48 (iii) paper of any description, including but not limited to: flyers;
49 brochures; booklets; catalogs; telephone directories; paper fiber; card-
50 board; and paper used for writing or any other purpose.

51 (c) For the purpose of this title, the packaging and paper products
52 covered designation does not include the following:

53 (i) packaging or paper products that could become unsafe or unsanitary
54 to recycle by virtue of their anticipated use;

55 (ii) literary, text, and reference bound books;

56 (iii) newspapers, magazines, and periodicals;

1 (iv) beverage containers, as defined in section 27-1003 of this arti-
2 cle on which a deposit is required to be initiated;

3 (v) packaging that is used exclusively in industrial or manufacturing
4 processes;

5 (vi) medical devices and packaging, or paper used to contain and which
6 are included with products regulated as a drug, medical device or
7 dietary supplement by the U.S. Food and Drug Administration under the
8 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 et seq., sec. 3.2(e)
9 of 21 U.S. Code of Federal Regulations or the Dietary Supplement Health
10 and Education Act;

11 (vii) animal biologics, including vaccines, bacterins, antisera, diag-
12 nostic kits, and other products of biological origin, and other covered
13 materials regulated by the United States Department of Agriculture under
14 the Virus, Serum, Toxin Act, 21 U.S.C. 151-159; and

15 (viii) packaging products used to contain, and paper products which
16 are included with, substances hazardous to the environment, regulated
17 pursuant to section 37-0103 of this chapter, or packaging products regu-
18 lated by the federal insecticide, fungicide, and rodenticide act, 7
19 U.S.C. sec. 136 et seq. or other applicable federal law, rule or regu-
20 lation.

21 6. "Municipality" means any county, city, town, village, local public
22 authority or benefit corporation, or solid waste management district
23 within the state of New York.

24 7. "Post-consumer recycled content" means the content of a product
25 made of recycled materials derived from post-consumer recycled materials
26 or feedstock.

27 8. (a) "Producer" means an entity that shall be determined to be the
28 producer, for the purposes of this title, based on the following hierar-
29 chy:

30 (i) the person who manufactures the packaging or paper product under
31 such person's own name or brand and who sells or offers for sale the
32 packaging or paper product in the state; or

33 (ii) the person who imports the packaging or paper product as the
34 owner or licensee of a trademark or brand under which the packaging or
35 paper products are sold or distributed in the state; or

36 (iii) the person or company that offers for sale, sells, or distrib-
37 utes the packaging or paper product in the state.

38 (b) For purposes of this title, a producer shall not include those
39 that:

40 (i) generate less than one million dollars in annual gross revenue;

41 (ii) generate less than one ton of packaging and paper products
42 supplied to New York state consumers per year;

43 (iii) operate as a single point of retail sale and are not supplied or
44 operated as part of a franchise; or

45 (iv) are a municipality or a local government planning unit, or a
46 registered 501(c)(3) charitable organization or 501(c)(4) social welfare
47 organization.

48 (c) If more than one person is a producer of a brand of packaging or
49 paper product, any such person may assume responsibility for obligations
50 of a producer of that brand under this title. If none of those persons
51 assume responsibility for the obligations of a producer under this
52 title, any and all such persons jointly and severally may be considered
53 the responsible producer of that brand for purposes of this title.

54 9. "Producer responsibility organization" means a not-for-profit
55 organization designated by a group of producers to act as an agent on
56 behalf of each participating producer to develop and implement a produc-

1 er responsibility program. To the extent applicable, a producer respon-
2 sibility organization shall have a governing board that represents the
3 diversity of producers and the covered materials and product types, and
4 such board shall include non-voting members representing a diversity of
5 material trade associations.

6 10. "Readily-recyclable" means packaging that can be sorted by enti-
7 ties processing recyclables from New York and for which, during the
8 previous two calendar years, there was a consistent market, meaning
9 recyclers were willing to pay for fully sorted material at the door of
10 their facilities in quantities equal to or in excess of material supply.
11 This does not include material types that recyclers accept in low quan-
12 tities or sort out of material during additional processing steps; if
13 material recyclers do not desire a full bale of a specific material
14 type, that material type is not readily-recyclable.

15 11. "Recovery rate" means the amount of packaging or paper products
16 collected and recovered for reuse or recycling over a program year by
17 material type, divided by the amount of packaging or paper products sold
18 into the state, by material type, expressed as percentages.

19 12. "Recycling" means the processing of source-separated packaging and
20 paper products to produce a marketable product or secondary raw materi-
21 al. Recycling does not include thermal treatment processes that produce
22 fuel or fuel products without substantial production of a marketable
23 non-fuel product or secondary raw material.

24 13. "Recycling collection" means a recycling program that serves resi-
25 dential units, schools, federal, state or local agencies, businesses, or
26 institutions, where such schools, federal, state or local agencies,
27 businesses, or institutions were eligible to be served under a contract
28 with a municipality by a municipality or a private sector hauler as of
29 the effective date of this title, and such recycling program is operated
30 by a municipality or pursuant to a contract with the municipality,
31 private sector hauler, or other public agency or through approved local
32 solid waste management plans.

33 14. "Recycling rate" means the amount of discarded packaging and paper
34 products that is managed through recycling, as defined by this title,
35 and is computed by dividing the amount of discarded packaging and paper
36 products collected and recycled, by material type, by the total amount
37 of discarded packaging and paper products collected over a program year,
38 by material type, expressed as percentages.

39 15. "Retailer" means a person who sells or offers for sale a product
40 to a consumer, including sales made through an internet transaction to
41 be delivered to a consumer in the state.

42 16. "Reuse" means returning, donating or selling a discarded packaging
43 or paper product back into the market for its original intended use,
44 when the discarded packaging or paper product retains its original
45 performance characteristics and can be used for its original purpose.

46 § 27-3303. Needs assessment and establishment of a packaging and paper
47 products program.

48 1. (a) By January first, two thousand twenty-four, a statewide needs
49 assessment conducted by a third-party organization selected by the
50 department, shall be submitted to the department.

51 (b) The statewide needs assessment shall be retroactively funded by
52 the producers or producer responsibility organization.

53 (c) The statewide needs assessment shall include an evaluation of the
54 capacity, costs, gaps, and needs for the following factors:

55 (i) current funding needs, both operational and capital, impacting
56 recycling access and availability;

1 (ii) existing state statutory provisions and funding sources for recycling, reuse, reduction, and recovery;
2

3 (iii) the collection and hauling system for recyclable materials in
4 the state;

5 (iv) the processing capacity and infrastructure for recyclable materials in the state and regionally and identifying necessary capital
6 investments to existing and future reuse and recycling infrastructure;
7

8 (v) the market conditions and opportunities for recyclable and reusable materials in the state and regionally;
9

10 (vi) consumer education needs for recycling, reuse, and reduction of
11 covered materials and products;

12 (vii) current state packaging and paper product recovery rates, recycling rates, and post-consumer recycled content rates, by material type;
13

14 (viii) accounting of greenhouse gas emissions associated with
15 collection, processing, and marketing of packaging and paper products;

16 (ix) an evaluation of state and regionally accepted recycling practices that constitute legitimate recycling; and
17

18 (x) current barriers affecting the equitable access to recycling or
19 reuse programs.

20 2. By June first, two thousand twenty-three, an advisory committee
21 shall be established and begin performing its obligations pursuant to
22 section 27-3305 of this title.

23 3. (a) By April first, two thousand twenty-five, any producer implementing an individual extended producer responsibility program or any
24 producer responsibility organization, shall submit a producer responsibility program plan developed in consultation with the advisory committee to the department for approval. A producer may satisfy its obligations under this title individually or through a producer
25 responsibility organization.
26

27 (b) Any producer implementing an individual extended producer responsibility program or any producer responsibility organization, shall
28 begin program implementation within six months after the date the plan is approved, but not later than April first, two thousand twenty-six.
29

30 4. Any person that becomes a producer after April first, two thousand
31 twenty-five, shall submit an individual extended producer responsibility
32 program plan within six months and begin program implementation within
33 six months of plan approval, or join a producer responsibility organization.
34

35 5. By April first, two thousand twenty-six, no producer shall sell,
36 offer for sale, or distribute packaging or paper products for use in New
37 York unless the producer, or its designated producer responsibility
38 organization, has submitted a producer responsibility program plan to
39 the department for approval.
40

41 6. To address program performance, producers shall be required to
42 evaluate how they are meeting the minimum post-consumer recycled content
43 rate, minimum recovery rate, and minimum recycling rate for packaging
44 and paper material types, as recommended by the advisory committee, and
45 adopted by the department in regulation.
46

47 7. No producer shall sell, offer for sale, or distribute packaging and
48 paper products for use in New York unless such packaging or paper
49 products are in compliance with title two of article thirty-seven of
50 this chapter.
51

52 8. Funds collected from producers by a producer responsibility organization to operate the program pursuant to this title shall not be used
53 to carry out lobbying activities, bring a lawsuit against the state,
54 defend litigation involving claims of a producer responsibility organ-
55 ization.
56

1 ization's failure to comply with the requirements of this chapter, or
2 for payment of penalties for violations of this chapter.

3 9. No person may charge a consumer a point-of-sale or point-of-collec-
4 tion fee to recoup the costs associated with meeting the obligations
5 under this title.

6 § 27-3305. Advisory committee.

7 1. The commissioner of the department shall appoint members to the
8 advisory committee, which shall be comprised of an odd number of
9 members, with at least one member representing each of the following
10 disciplines, with each discipline having equal representation:

11 (a) an association representing municipalities and an additional
12 municipal representative from a city with a population of one million or
13 more residents;

14 (b) a municipality operating a recycling program;

15 (c) a statewide environmental organization;

16 (d) a representative of an environmental justice community or organ-
17 ization;

18 (e) a statewide waste disposal association;

19 (f) a recyclables handling and recovery facility located within the
20 state of New York;

21 (g) a recycling collection provider;

22 (h) a manufacturer of packaging materials utilizing post-consumer
23 recycled content;

24 (i) a manufacturer of paper materials utilizing post-consumer recycled
25 content;

26 (j) a consumer advocate;

27 (k) a retail organization; and

28 (l) a producer of packaging products, producer of paper products, and
29 a representative from a producer responsibility organization established
30 under this title as non-voting members.

31 2. The advisory committee shall select a chair from among the
32 members. The chair will be responsible for selecting secretarial support
33 for the advisory committee.

34 3. The advisory committee shall be consulted as needed, but at least
35 once, during the development of the producer responsibility program
36 plan, prior to any update to the producer responsibility program plan,
37 and prior to the submission of an annual report.

38 4. The advisory committee shall use the findings from the statewide
39 needs assessment to inform its producer or producer responsibility
40 organization program plan recommendations.

41 5. The advisory committee shall work with all producers implementing
42 an individual extended producer responsibility program and all producer
43 responsibility organizations to ensure consistent messaging and coordi-
44 nation across program plans.

45 6. The advisory committee shall review the producer responsibility
46 program plans required under this title and prepare specific written
47 recommendations on all portions of the producer responsibility program
48 plans and on all updates or revisions to approved producer responsibil-
49 ity program plans. Such recommendation shall be approved by a majority
50 of the advisory committee's members. The producer implementing an indi-
51 vidual extended producer responsibility program or producer responsibil-
52 ity organization shall consider and respond to those written recommenda-
53 tions in writing, and such recommendations and responses shall be
54 provided to the department at the time of plan submission.

55 7. By April first, two thousand twenty-four, the advisory committee
56 shall recommend to the department annual minimum recovery rates, recycl-

ing rates, and post-consumer recycled content rates, by material type, over a five-year timeframe beginning in two thousand twenty-six. Such rate setting recommendation shall be informed by the needs assessment and approved by the department.

8. By October first, two thousand twenty-five, the department shall adopt regulations setting forth initial annual minimum recovery rates, recycling rates, and post-consumer recycled content rates, by material type, over a five-year timeframe beginning in two thousand twenty-six.

9. (a) The advisory committee shall make recommendations to the department at the time of producer or producer responsibility organization annual report submittal, as to whether any adjustments to the initially adopted minimum recovery rates, recycling rates, and post-consumer recycled content rates are necessary. The advisory committee, in consideration of a recommendation to adjust any rates, shall consider:

(i) changes in market conditions, including supply and demand for post-consumer recycled plastics, both domestically and globally;

(ii) current recycling rates;

(iii) the availability of recycled materials suitable to meet the minimum recycled content goals, including the availability of high-quality recycled materials, and food-grade recycled materials;

(iv) the capacity of recycling or processing infrastructure;

(v) utilization rates of the material; and

(vi) the progress made by producers in meeting the post-consumer recycled targets by material type.

(b) If an adjustment is recommended, the advisory committee shall provide a detailed basis for justification.

10. Members of the advisory committee shall be reimbursed for any necessary travel expenses, related to participating on the advisory committee, by the producer implementing an individual extended producer responsibility program or producer responsibility organization, and the department shall be responsible for monitoring these expenses. Members of the advisory committee shall receive no salary from a producer implementing an individual extended producer responsibility program or producer responsibility organization. The costs for secretarial support to the advisory committee shall be paid for by the producer implementing an individual extended producer responsibility program or producer responsibility organization, and the department shall be responsible for monitoring these expenses.

11. Members shall serve on the advisory committee for at least three years.

§ 27-3307. Producer responsibility program plan.

1. By April first, two thousand twenty-five, any producer implementing an individual extended producer responsibility program or any producer responsibility organization, shall submit to the department a producer responsibility program plan, detailing its proposed collection and recycling program for packaging and paper products.

2. The producer responsibility program plan shall be valid for five years and shall be reviewed and updated every five years following the approval of the original plan. The department shall have the discretion to require the plan to be reviewed or revised prior to the five-year period if the department has cause to believe the minimum post-consumer recycled content rates, minimum recovery rates, minimum recycling rates, as specified by the department in regulation, or other factors of the plan are not being met or followed by the producer or producer responsibility organization, or if there has been a change in circumstances that warrants revision of the plan.

1 3. The submitted plan shall, at a minimum, address the following:

2 (a) Contact information. Contact information, including the name,
3 electronic and physical address, and telephone number of the authorized
4 representative of the producer implementing an individual extended
5 producer responsibility program or producer responsibility organization.

6 (b) Participating producer or producers. Identify the producer or
7 producers participating in the submitted producer responsibility program
8 plan.

9 (c) Advisory committee recommendations. A description of how the
10 recommendations from the advisory committee were considered and
11 addressed in the development of the plan.

12 (d) Types and brands of packaging and paper products. A list of the
13 types and brands of packaging and paper products for which the producer
14 or producer responsibility organization is responsible for.

15 (e) Funding mechanism. A description of the proposed funding mechanism
16 that is necessary to meet the requirements of this title and is suffi-
17 cient to cover the cost of operating the program, updating the plan, and
18 maintaining a financial reserve sufficient to operate the program in a
19 fiscally prudent and responsible manner. The department may promulgate
20 regulations necessary for a producer implementing an individual extended
21 producer responsibility program or a producer responsibility organiza-
22 tion to develop and manage a funding mechanism and activity-based costs.
23 The following funding mechanism details shall be provided in the produc-
24 er responsibility plan:

25 (i) proposed program charges for producers, listed by producer, which
26 shall be sufficient to cover all program costs;

27 (ii) eco-modulation. For purposes of this title, "eco-modulation"
28 shall provide that program charges are structured to provide producers
29 with financial incentives that reward waste and source reduction and
30 recycling compatibility innovations and practices, reward producers of
31 packaging and paper products that can be easily reused, and that disin-
32 centivize designs or practices that increase costs of managing the pack-
33 aging and paper products. The producer responsibility organization may
34 adjust charges to be paid by participating producers, or the producers
35 may be provided a credit, based on factors that affect system costs. At
36 a minimum, charges shall be variable based on:

37 (A) costs to provide recycling collection or other form of consumer
38 service that is, at minimum, as convenient as the previous waste
39 collection schema in the particular jurisdiction for all consumers;

40 (B) costs to process a producer's packaging and paper products for
41 sale to secondary material markets;

42 (C) whether the packaging or paper product would typically be readi-
43 ly-recyclable except that as a consequence of the product's design, the
44 product has the effect of disrupting recycling processes or the product
45 includes labels, inks, or adhesives containing heavy metals that would
46 contaminate the recycling process;

47 (D) whether the packaging and paper products are nonfood contact pack-
48 aging that is specifically designed to be reusable or refillable and has
49 a high reuse or refill rate;

50 (E) the commodity value of packaging and paper products; and

51 (F) contributions to greenhouse gas emissions from the production,
52 use, collection, processing, and marketing of the packaging or paper
53 product.

54 (iii) a proposed special assessment charge on specific categories of
55 covered packaging and paper products at the request of responsible enti-
56 ties representing and approved by the advisory committee if the nature

1 of the covered packaging and paper product imposes unusual costs in
2 collection or processing or requires special actions to address effec-
3 tive access to recycling or successful processing in municipal recycling
4 facilities. The revenue from the special assessment shall be used to
5 make system improvements for the specific covered packaging and paper
6 products on which the special assessment was applied;

7 (iv) how charges shall be adjusted based upon the percentage of post-
8 consumer recycled content and such percentage of post-consumer recycled
9 content shall be verified either by the producer responsibility organ-
10 ization or by an independent party designated by the department to
11 ensure that such percentage meets or exceeds the minimum requirements in
12 the packaging or paper product, as long as the recycled content does not
13 disrupt the potential for future recycling; and

14 (v) how activity-based costs are calculated and dispersed for services
15 utilized by a producer implementing an individual extended producer
16 responsibility program or producer responsibility organization if the
17 waste haulers, recyclables handling and recovery facilities, recyclers,
18 and municipalities, and other service providers elect to participate and
19 be compensated by the producer implementing an individual extended
20 producer responsibility program or producer responsibility organization
21 in the recovery, recycling, and processing of packaging and paper
22 products. The activity-based cost mechanism shall be based on the cost
23 of consumer recycling collection, on-site processing cost for each read-
24 ily-recyclable material, processing cost of non-readily recyclable mate-
25 rial types, transportation cost of recycling for each material type,
26 disposal costs for any residual or non-recyclable material, and any
27 other cost factors as determined by the advisory committee or depart-
28 ment.

29 (f) Municipal and private entity reimbursement. A description of the
30 process for municipalities or private entities (such as solid waste
31 collection, transportation, sorting, and processing companies, and other
32 participating service providers) operating under the producer or produc-
33 er responsibility organization's plan, to recoup reasonable costs from
34 the producer or producer responsibility organization for the activity-
35 based costs, including, as applicable, any administrative, collection,
36 sorting, transportation, capital improvement, or processing costs. The
37 municipality or private entity may not pass on to the consumer costs for
38 which it has been paid by the producer or producer responsibility organ-
39 ization. To facilitate the producer's or producer responsibility organ-
40 ization's determination of activity-based costs, participating munici-
41 palities and private entities shall report data related to their costs
42 and the value of materials to the producer or producer responsibility
43 organization. Cost calculations shall account for revenue generated from
44 recyclable materials.

45 (g) Outreach and education. A description of the producer's or produc-
46 er responsibility organization's public outreach and education program
47 for consumers and other stakeholders.

48 (i) The plan shall address how the outreach and education program
49 will:

50 (A) be designed to achieve the management goals of packaging and paper
51 products extended producer responsibility under this title, including
52 the prevention of contamination of products;

53 (B) be coordinated across producer and producer responsibility organ-
54 ization programs to avoid confusion for consumers; and

55 (C) consult with municipalities and other stakeholders, coordinate
56 with and assist local municipal programs, municipal contracted programs,

1 solid waste collection companies, and other entities providing services,
2 and develop and provide outreach and education to the diverse popu-
3 lations in the state, including utilizing a variety of outreach and
4 education tools and ensuring materials are accessible to all persons and
5 are provided in multiple languages.

6 (ii) Participating producers shall label or mark packaging and paper
7 products in accordance with current labeling rules, laws, or regulations
8 with information to assist consumers in responsibly managing and recycl-
9 ing packaging and paper products, responsibly composting packaging and
10 paper products, and educating consumers about the percentage of post-
11 consumer recycled content.

12 (iii) Details on the following components of the outreach and educa-
13 tion program shall be provided in the plan, and available to consumers
14 and other stakeholders on the producer's or producer responsibility
15 organization's public education program website:

16 (A) proper end-of-life management of packaging, paper products and
17 beverage containers;

18 (B) the location and availability of recycling collection;

19 (C) how to prevent litter of packaging, paper products, and beverage
20 containers;

21 (D) information on how consumers can reduce their consumption for
22 single-use packaging and paper products in favor of more reusable mate-
23 rials;

24 (E) recycling and composting instructions that are: consistent state-
25 wide, except as necessary to take into account differences among local
26 laws and processing capabilities; easy to understand; and easily acces-
27 sible; and

28 (F) a description of the process for answering stakeholder questions
29 and resolving any issues.

30 (iv) A producer implementing an individual extended producer responsi-
31 bility program or producer responsibility organization shall undertake
32 outreach, education, and communications that assist in attaining or
33 exceeding the minimum post-consumer content, minimum recovery rates, and
34 minimum recycling rates, as specified by the department in regulation.

35 (h) Existing infrastructure. How the producer implementing an individ-
36 ual extended producer responsibility program or the producer responsi-
37 bility organization will work with existing waste haulers, recyclables
38 handling and recovery facilities, recyclers, and municipalities to oper-
39 ate or expand current collection programs to address material collection
40 methods.

41 (i) Convenience. A description of how the producer implementing an
42 individual extended producer responsibility program or producer respon-
43 sibility organization intends to meet the convenience requirements set
44 forth as follows:

45 (i) A producer implementing an individual extended producer responsi-
46 bility program or producer responsibility organization shall provide for
47 widespread, free, convenient, and equitable consumer access to
48 collection opportunities for the packaging and paper products identified
49 under the producer or producer responsibility organization's program
50 plan.

51 (ii) A producer implementing an individual extended producer responsi-
52 bility program or producer responsibility organization shall ensure
53 services, that are at least as convenient as the previous collection
54 schema in a particular jurisdiction, continue for all consumers as of
55 the effective date of this title.

1 (iii) A producer implementing an individual extended producer respon-
2 sibility program or producer responsibility organization shall ensure
3 services that collect covered packaging and paper products generated by
4 business establishments are at least as orderly and efficient as the
5 previous collection schema as of the effective date of this title.

6 (iv) A producer implementing an individual extended producer responsi-
7 bility program or producer responsibility organization may rely on a
8 range of means to collect various categories of packaging and paper
9 products including, but not limited to, curbside collection, facility
10 drop-off, and events, so long as packaging and paper products collection
11 options include recycling collection services if:

12 (A) The category of packaging and paper products is suitable for recy-
13 cling collection and can be effectively sorted by the facilities receiv-
14 ing the collected material;

15 (B) The provider of the recycling collection service agrees to include
16 the category of packaging and paper products as an accepted material;

17 (C) The packaging and paper products category is not handled through a
18 deposit and return scheme, other extended producer responsibility
19 program, or buy back system that relies on a collection system other
20 than recycling collection; and

21 (D) The provider of the recycling collection service agrees to the
22 producer implementing an individual extended producer responsibility
23 program's or producer responsibility organization's activity-based costs
24 arrangement.

25 (v) Where recycling collection is not available and drop-off
26 collection facilities are utilized, consumers shall have free and equi-
27 table access to facilities that are within fifteen miles of at least
28 ninety-five percent of the jurisdiction's population unserved by recycl-
29 ing collection.

30 (j) Minimum recycling, recovery and content rates. A description of
31 how the producer implementing an individual extended producer responsi-
32 bility program or producer responsibility organization intends to meet
33 or exceed the minimum recycling rate, minimum recovery rate, and minimum
34 post-consumer recycled content rates for packaging or paper products, by
35 material type, as specified by the department in regulation.

36 (k) End-of-life management processes. A description of the process for
37 end-of-life management, including recycling and disposal, for each
38 component material, using environmentally sound management practices.

39 (l) A description of how the producer responsibility organization
40 shall provide the option to purchase recycled materials from processors
41 on behalf of producer members interested in obtaining recycled feedstock
42 in order to achieve post-consumer recycled content objectives.

43 (m) A description of how the producer responsibility organization will
44 work with producers to help reduce a producer's total amount of non-
45 reusable packaging.

46 (n) Packaging and paper products reduction. A description of how a
47 producer responsibility organization will work with producers to reduce
48 packaging and paper products through product design and program inno-
49 ventions.

50 (o) Consumer concerns process. A process to address concerns and ques-
51 tions from consumers.

52 (p) Additional information. Any other information as specified by the
53 department.

54 4. (a) No later than ninety days after the submission of the producer
55 responsibility plan, the department shall determine whether to approve

1 the plan as submitted; approve the plan with conditions; or deny the
2 plan.

3 (b) The department shall consider the following in determining whether
4 to approve a plan:

5 (i) whether the plan adequately addresses all elements described in
6 this section;

7 (ii) whether the producer has undertaken satisfactory consultation
8 with the advisory committee and has provided an opportunity for advisory
9 committee input in the development of the plan prior to submission of
10 the plan;

11 (iii) whether the plan adequately provides for:

12 (A) the producer responsibility organization collecting and funding
13 the costs of collecting and processing packaging and paper products
14 covered by the plan and reimbursing a municipality or private entity;

15 (B) the funding mechanism to cover the entire cost of the producer
16 responsibility organization's program;

17 (C) convenient and free consumer access to collection facilities or
18 collection services;

19 (D) an evaluation system for the program charge structure, which shall
20 be evaluated on an annual basis by the producer responsibility organiza-
21 tion and advisory committee and resubmitted to the department annually;
22 and

23 (E) effective consumer outreach and education.

24 (iv) whether the plan satisfactorily provides for how the producer
25 implementing an individual extended producer responsibility program or
26 the producer responsibility organization will meet the minimum post-con-
27 sumer content rates, recovery rates, and recycling rates, as specified
28 by the department in regulation, which will create or enhance markets
29 for recycled materials; and

30 (v) whether the plan creates a convenient system for consumers to
31 recycle covered packaging and paper products that meets or exceeds the
32 convenience criteria set forth in paragraph (i) of subdivision three of
33 section 27-3307 of this title.

34 (c) The department may deny a plan. (i) If a plan is denied, the
35 department shall inform the producer implementing an individual extended
36 producer responsibility program or producer responsibility organization
37 in writing as to any deficiencies in said plan. A producer implementing
38 an individual extended producer responsibility program or producer
39 responsibility organization shall amend and resubmit any denied plans
40 for reconsideration within sixty days of notification of the denial of
41 said plan. The department shall approve or deny said plan within thirty
42 days of resubmission.

43 (ii) If a plan is denied a second time, the department will provide
44 the producer implementing an individual extended producer responsibility
45 program or producer responsibility organization with direction for meet-
46 ing any additional required elements of the plan it deems necessary.

47 (d) The department may rescind the approval of an approval plan at any
48 time for just cause. If a plan is rescinded, the department shall
49 inform the producer implementing an individual extended producer respon-
50 sibility program or producer responsibility organization in writing as
51 to any and all reasons why the plan was rescinded. A producer implement-
52 ing an individual extended producer responsibility program or producer
53 responsibility organization shall amend and resubmit any rescinded plans
54 for reconsideration within sixty days of notification of the rescission
55 of said plan. The department shall approve or reject said plan within
56 thirty days of resubmission.

1 5. The producer implementing an individual extended producer responsi-
2 bility program or producer responsibility organization shall notify the
3 department of any modification to the program. If the department deter-
4 mines that the producer responsibility plan has been substantially modi-
5 fied, the producer implementing an individual extended producer respon-
6 sibility program or producer responsibility organization, after
7 consultation with the advisory committee, shall submit a proposed plan
8 amendment describing the changes to the department within ninety days of
9 the determination. Within ninety days of receipt of a proposed amended
10 plan, the department shall determine whether the amended plan complies
11 with this title. The department shall send a letter notifying the
12 producer implementing an individual extended producer responsibility
13 program or producer responsibility organization of: (a) approval; or (b)
14 disapproval, including the reasons for rejecting the plan. The producer
15 implementing an individual extended producer responsibility program or
16 producer responsibility organization shall provide the department's
17 letter of disapproval to the advisory committee. The producer imple-
18 menting an individual extended producer responsibility program or
19 producer responsibility organization shall submit a revised plan within
20 sixty days after receipt of the letter of disapproval.

21 6. The producer implementing an individual extended producer responsi-
22 bility program or producer responsibility organization shall reimburse
23 the department annually at the time of annual reporting for all adminis-
24 trative costs associated with oversight of the program, which shall be
25 deposited to the credit of the stewardship organization fund established
26 pursuant to section ninety-two-kk of the state finance law.

27 § 27-3309. Reporting requirements and audits.

28 1. Fifteen months after the first plan of a producer implementing an
29 individual extended producer responsibility program or producer respon-
30 sibility organization is implemented, and annually thereafter, each
31 producer implementing an individual extended producer responsibility
32 program, or each producer responsibility organization, shall submit a
33 report to the department that details the prior calendar year's program.
34 The report shall be posted on the website of the producer implementing
35 an individual extended producer responsibility program or producer
36 responsibility organization.

37 2. Such annual report shall include:

38 (a) a detailed description of the methods used to collect, transport,
39 and process packaging and paper products including detailing collection
40 methods made available to consumers and an evaluation of the program's
41 collection convenience;

42 (b) a detailed description of the amount of packaging and paper
43 products sold, offered for sale, or distributed to consumers in the
44 state on an annual basis, including a percentage of packaging and paper
45 products sold, offered for sale, or distributed to consumers in the
46 state through internet transactions;

47 (c) the weight of packaging and paper products collected for reuse or
48 recycling in the state, by material type;

49 (d) the weight, by material type, of packaging and paper products
50 collected for reuse or recycling in the state by the method of disposi-
51 tion;

52 (e) the total cost of implementing the program;

53 (f) financial statements detailing all deposits received and
54 reimbursements paid by the producers covered by the approved plan;

55 (g) a detailed accounting of how the program compensated munici-
56 palities, solid waste collection, transportation, sorting, and reproc-

1 essing companies, and other entities, for their recycling efforts and
2 other related services;

3 (h) a description of investments made in infrastructure and market
4 development in New York state as related to the needs identified,
5 including the amount spent expressed as a percentage of the program's
6 total annual expenditures;

7 (i) a description of investment made and an evaluation of the effec-
8 tiveness of outreach and education efforts to determine whether changes
9 are necessary to improve those outreach and education efforts. If the
10 department determines improvements are necessary, the producer imple-
11 menting an individual extended producer responsibility program or
12 producer responsibility organization shall develop new and improved
13 outreach and education methods for approval by the department;

14 (j) samples of all educational materials provided to consumers or
15 other entities;

16 (k) a detailed list of efforts undertaken and an evaluation of the
17 methods used to disseminate such materials including recommendations, if
18 any, for how the educational component of the program can be improved;

19 (l) the achieved post-consumer recycled content rates, recovery rates,
20 and recycling rates for packaging and paper product material types, how
21 the rates were derived, and a discussion of how these rates may be
22 improved. If, upon consultation with the advisory committee, there is
23 reason to adjust minimum rates, the annual report shall include
24 suggestions and justifications for the department to consider revision
25 of such rates in regulation;

26 (m) a detailed description of any efforts undertaken to reduce the
27 amount of packaging used; changes in material types used in packaging
28 that have helped to improve recyclability, post-consumer recycled
29 content rates, recovery rates, recycling rates for packaging, greenhouse
30 gas emissions, and the result on program implementation costs through
31 such efforts;

32 (n) a discussion on the feasibility to increase consumer convenience
33 through curbside collection, facility drop-off, events or other alterna-
34 tives, and to expand the program, for example, to include additional
35 service to consumers without previous access to recycling collection,
36 and public spaces, as well as a discussion on how the producer imple-
37 menting an individual extended producer responsibility program or
38 producer responsibility organization plans for continuous improvement;
39 and

40 (o) an evaluation of the feasibility and recommendation for adding
41 beverages in beverage containers as defined in title ten of this article
42 to the covered packaging and paper products definition of this title.

43 3. Prior to the submission of the annual report, all data and informa-
44 tion that is material to the department's review of the program's
45 compliance with the requirements of this title shall be annually audited
46 and verified by an independent third-party auditor, approved by the
47 department. This includes, but is not limited to, a review and verifica-
48 tion of all financial documentation and all information related to the
49 material recycling rates, recovery rates, and the post-consumer recycled
50 content rates. A copy of the independent audit shall be included in the
51 annual report.

52 4. The department shall not require public reporting of any confiden-
53 tial information that the department determines to be trade secrets,
54 confidential commercial information or critical infrastructure informa-
55 tion, in accordance with article six of the public officers law and the
56 department's rules and regulations promulgated pursuant thereto.

1 § 27-3311. Antitrust protections.

2 A producer implementing an individual extended producer responsibility
3 program or producer responsibility organization that organizes the
4 collection, transportation, and processing of packaging and paper
5 products, in accordance with a producer responsibility program plan
6 approved under this title, shall not be liable for any claim of a
7 violation of antitrust, restraint of trade, or unfair trade practice
8 arising from conduct undertaken in accordance with the program pursuant
9 to this title; provided, however, this section shall not apply to any
10 agreement establishing or affecting the price of packaging or a paper
11 product, or the output or production of any agreement restricting the
12 geographic area or customers to which packaging or a paper product will
13 be sold.

14 § 27-3313. Penalties.

15 1. Except as otherwise provided in this section, any person or entity
16 that violates any provision of or fails to perform any duty imposed
17 pursuant to this title or any rule or regulation promulgated pursuant
18 thereto, or any final determination or order of the commissioner made
19 pursuant to this article or article seventy-one of this chapter shall be
20 liable for a civil penalty not to exceed five hundred dollars for each
21 violation and an additional penalty of not more than five hundred
22 dollars for each day during which such violation continues.

23 2. (a) Any producer or producer responsibility organization who
24 violates any provision of or fails to perform any duty imposed pursuant
25 to this title or any rule or regulation promulgated pursuant thereto, or
26 any term or condition of any registration or permit issued pursuant
27 thereto, or any final determination or order of the commissioner made
28 pursuant to this article or article seventy-one of this chapter shall be
29 liable for a civil penalty not to exceed five thousand dollars for each
30 violation and an additional penalty of not more than one thousand five
31 hundred dollars for each day during which such violation continues. For
32 a second violation committed within twelve months of a prior violation,
33 the producer implementing an individual extended producer responsibility
34 program or producer responsibility organization shall be liable for a
35 civil penalty not to exceed ten thousand dollars and an additional
36 penalty of not more than three thousand dollars for each day during
37 which such violation continues. For a third or subsequent violation
38 committed within twelve months of any prior violation, the producer
39 implementing an individual extended producer responsibility program or
40 producer responsibility organization shall be liable for a civil penalty
41 not to exceed twenty thousand dollars and an additional penalty of six
42 thousand dollars for each day during which such violation continues.

43 (b) All producers participating in a producer responsibility organiza-
44 tion shall be jointly and severally liable for any penalties assessed
45 against the producer responsibility organization pursuant to this title
46 and article seventy-one of this chapter.

47 3. Civil penalties under this section shall be assessed by the depart-
48 ment after an opportunity to be heard pursuant to the provisions of
49 section 71-1709 of this chapter, or by the court in any action or
50 proceeding pursuant to section 71-2727 of this chapter, and in addition
51 thereto, such person or entity may by similar process be enjoined from
52 continuing such violation and any permit, registration or other approval
53 issued by the department may be revoked or suspended or a pending
54 renewal denied.

55 4. The department and the attorney general are hereby authorized to
56 enforce the provisions of this title and all monies collected shall be

1 deposited to the credit of the environmental protection fund as estab-
2 lished pursuant to section ninety-two-s of the state finance law.

3 § 27-3315. State preemption.

4 Jurisdiction in all matters pertaining to activity-based costs and
5 funding mechanisms of producer responsibility organizations relating to
6 the recovery of packaging and paper products by this title, is vested
7 exclusively in the state. Any provision of any local law or ordinance,
8 or any rule or regulation promulgated thereto, governing packaging and
9 paper products recycling shall, upon the effective date of this title,
10 be preempted; provided however, that nothing in this section shall
11 preclude a person from coordinating, for recycling or reuse, the
12 collection of packaging and paper products.

13 § 27-3317. Authority to promulgate rules and regulations.

14 The department shall have the authority to promulgate rules and regu-
15 lations necessary and appropriate for the administration of this title.

16 § 27-3319. Extended producer responsibility reporting to the governor
17 and legislature.

18 1. (a) By November first, two thousand twenty-four, and biennially
19 thereafter, the department shall submit to the governor and legislature
20 a report that includes the following:

21 (i) a review and evaluation of the performance of existing extended
22 producer responsibility programs in the state;

23 (ii) recommendations the department would propose through legislation
24 to improve existing extended producer responsibility programs;

25 (iii) recommendations the department would propose through legislation
26 to promote the reduction targets through the promotion of reusable
27 products or source reduction; and

28 (iv) draft legislation required to amend an existing extended producer
29 responsibility program based on recommendations in paragraph (b) of this
30 subdivision.

31 (b) The report submitted in accordance with this section shall fulfill
32 the requirements found in subdivision four of section 27-1807, subdivi-
33 sion two of section 27-2005, and subdivision four of section 27-2617 of
34 this article, and future biennial reports on extended producer responsi-
35 bility programs required of the department to be provided to the gover-
36 nor and legislature.

37 2. The department shall collect information available in the public
38 domain regarding potential products in the waste stream to assist in
39 designating products or product categories for extended producer respon-
40 sibility programs in accordance with this title. At the department's
41 discretion, a report shall be submitted to the governor and legislature
42 which shall contain the following:

43 (a) Recommendations for establishing new extended producer responsi-
44 bility programs. The department may identify a potential product or
45 product category as a candidate for an extended producer responsibility
46 program if it is determined after evaluation of each of the following
47 that:

48 (i) the potential product or product category is found to contain
49 toxins that pose the risk of an adverse impact to the environment or
50 public health and safety; or

51 (ii) an extended producer responsibility program for the potential
52 product or product category will increase the recovery of materials for
53 reuse and recycling and reduce the need for use of virgin materials; or

54 (iii) an extended producer responsibility program for the potential
55 product or product category will reduce the costs of waste management to
56 local governments and taxpayers; or

(iv) an extended producer responsibility program for the potential product or product category will enhance energy conservation or mitigate climate change impacts; or

(v) an extended producer responsibility program for the potential product or product category will be beneficial for existing and new businesses and infrastructure to manage the products and lead to the development of new industries to utilize the recovered materials; or

(vi) there exists public demand for an extended producer responsibility program for the potential product or product category; or

(vii) there is success in collecting and processing similar types of products in programs in other states or countries; or

(viii) existing voluntary extended producer responsibility programs for the potential product or product category in the state are not effective in achieving the policy of this chapter; and

(b) Draft legislation required to implement and enforce an extended producer responsibility program for a potential product or product category recommended in paragraph (a) of this subdivision.

3. At least thirty days prior to submitting the report pursuant to subdivision two of this section to the governor and legislature, the department shall post the report on its publicly accessible website. Within that period, a person may submit to the department written comments regarding the report. The department shall submit all public comments received to the governor and legislature with the report.

§ 27-3321. 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.

§ 3. The state finance law is amended by adding a new section 92-kk to read as follows:

§ 92-kk. Stewardship organization fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of the department of taxation and finance, a special fund to be known as the "stewardship organization fund".

2. The stewardship organization fund shall consist of all revenue collected from fees pursuant to title thirty-three of article twenty-seven of the environmental conservation law and any cost recoveries or other revenues collected pursuant to title thirty-three of article twenty-seven of the environmental conservation law, and any other monies deposited into the fund pursuant to law.

3. Moneys of the fund, following appropriation by the legislature, shall be used for execution of the program pursuant to title thirty-three of article twenty-seven of the environmental conservation law, and expended for the purposes as set forth in title thirty-three of article twenty-seven of the environmental conservation law.

§ 4. This act shall take effect immediately.

PART SS

Section 1. Title 2 of article 37 of the environmental conservation law is REPEALED and a new title 2 is added to read as follows:

TITLE 2

TOXICS IN PACKAGING ACT

Section 37-0201. Legislative findings and intent.

37-0203. Short title and definitions.

37-0205. Prohibitions.

37-0207. Certificate of compliance.

37-0209. Violations.

37-0211. Regulations.

37-0213. Severability.

§ 37-0201. Legislative findings and intent.

The legislature finds and declares that:

1. The management of solid waste can pose a wide range of hazards to public health and safety and to the environment; and

2. Packaging comprises a significant percentage of the overall solid waste stream; and

3. The presence of chemicals, such as heavy metals, in packaging is a part of the total concern in light of their likely presence in emissions or ash when packaging is incinerated, or in leachate when packaging is landfilled; and

4. Lead, mercury, cadmium, hexavalent chromium, PFAS, and phthalates, on the basis of available scientific and medical evidence, are of particular concern; and

5. It is desirable as a first step in reducing the toxicity of packaging waste to eliminate the addition of these chemicals to packaging; and

6. The intent of this title is to achieve this reduction in toxicity without impeding or discouraging the expanded use of post-consumer materials in the production of packaging and its components.

§ 37-0203. Short title and definitions.

1. This title shall be known as and may be cited as the "toxics in packaging act".

2. For the purpose of this title, the term:

a. "Distribute" means to offer for sale, barter, exchange, give, or supply.

b. "Distributor" means the importer, or first domestic distributor of a package or packaging component, if the person who currently manufactures or assembles the product does not have a presence in the United States. Persons involved solely in delivering a package or packaging component on behalf of third parties are not considered distributors.

c. "Food packaging" means a package or packaging component that is intended for direct food contact and is comprised of in substantial part, but not limited to, paper, paperboard, or other materials originally derived from plant fibers.

d. "Manufacturer" means any person who currently manufactures a package or packaging component, or whose brand name is affixed to such package or packaging component. In the case of a package or packaging component that was imported into the United States, "manufacturer" includes the importer or first domestic distributor of the package or packaging component if the person who currently manufactures or assembles the package or packaging component or whose brand name is affixed to such package or packaging component does not have a presence in the United States.

e. "Package" means any container produced domestically or internationally that markets, protects, or allows for the handling of a product and shall include a unit package, an intermediate package, or a shipping container. "Package" shall also mean and include such unsealed receptacles as carrying cases, crates, cups, pails, tubs, rigid foil and other trays, wrappers, wrapping films, and bags.

f. "Packaging component" means any individual assembled part of a package produced domestically or internationally, such as, but not limited to, any interior or exterior blocking, bracing, cushioning,

weatherproofing, exterior strapping, coatings, closures, inks, dyes, pigments, adhesives, stabilizers, labels, or any other additives.

g. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means all members of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

h. "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity.

i. "Phthalates" or "ortho-phthalates" means all members of the class of organic chemicals that are esters of phthalic acid and that contain two carbon chains located in the ortho position.

§ 37-0205. Prohibitions.

1. No person shall distribute a package or packaging component, or any product that incorporates such package or packaging component, in which lead, cadmium, mercury, or hexavalent chromium are present, individually or in combination, in amounts exceeding 100 parts per million by weight.

2. Beginning December 31, 2024, no person shall distribute a package or packaging component, or any product that incorporates such package or packaging component, in which phthalates are present, individually or in combination, in amounts exceeding 100 parts per million by weight (0.01%).

3. Beginning December 31, 2022, no person shall distribute food packaging, or any product that incorporates such food packaging, in which PFAS is present, individually or in combination, in amounts exceeding 100 parts per million by weight (0.01%).

4. Notwithstanding subdivision three of this section, beginning December 31, 2024, no person shall distribute a package or packaging component, or any product that incorporates such package or packaging component, in which PFAS is present, individually or in combination, in amounts exceeding 100 parts per million by weight (0.01%).

§ 37-0207. Certificate of compliance.

No person who distributes a package or packaging component, or any product that incorporates such package or packaging component, shall be held in violation of this title if they can show that they relied in good faith on the written assurance of the manufacturer or distributor of such package or packaging component that such a package or packaging component met the requirements of this title. Such written assurance shall take the form of a certificate of compliance, in a form and manner prescribed by the department, stating that such a package or packaging component is in compliance with the requirements of this title. The certificate of compliance shall be signed by an authorized officer of the manufacturer or distributor of such package or packaging component. A copy of the certificate of compliance shall be kept on file by the manufacturer or distributor of the package or packaging component, and shall be provided to the department, upon request.

§ 37-0209. Violations.

A violation of any of the provisions of this title or any rule or regulation promulgated pursuant thereto shall be punishable in the case of a first violation, by a civil penalty not to exceed ten thousand dollars. In the case of a second and any further violation, the liability shall be for a civil penalty not to exceed twenty-five thousand dollars for each violation per day. The commissioner shall deposit all money recovered or received by the department in satisfaction of penalties assessed for violations of this title or any rule or regulation promulgated pursuant thereto to the credit of the environmental regulatory account.

1 § 37-0211. Regulations.

2 The department is authorized to promulgate any other such rules and
3 regulations as it shall deem necessary to implement the provisions of
4 this title. The department is authorized to evaluate other chemicals to
5 review for potential regulation under this title. The department may
6 provide a report based upon that evaluation to the governor and legisla-
7 ture which may contain recommendations to add other chemicals contained
8 in a package or packaging component to regulate in order to further
9 reduce the toxicity of packaging waste.

10 § 37-0213. Severability.

11 If any clause, sentence, paragraph, section or part of this title
12 shall be adjudged by any court of competent jurisdiction to be invalid,
13 such judgment shall not affect, impair or invalidate the remainder ther-
14 eof, but shall be confined in its operation to the clause, sentence,
15 paragraph, section or part thereof directly involved in the controversy
16 in which such judgment shall have been rendered.

17 § 2. Subdivisions 1 and 2 of section 72-1009 of the environmental
18 conservation law, subdivision 1 as amended by chapter 60 of the laws of
19 1993 and subdivision 2 as added by chapter 166 of the laws of 1991, are
20 amended to read as follows:

21 1. The environmental regulatory account shall be credited with all
22 moneys received from fees and fee interest collected; all other moneys
23 collected by the department pursuant to title twenty-seven of article
24 twenty-three of this chapter, except as identified under article six of
25 the public officers law; all moneys collected or received by the depart-
26 ment pursuant to title two of article thirty-seven of this chapter; and
27 any other contributions or donations by the public to such account.

28 2. Moneys in the account, following appropriation by the legislature,
29 shall be allocated upon the certification of approval for availability
30 by the director of the budget for the administration and enforcement of
31 title twenty-seven of article twenty-three and title two of article
32 thirty-seven of this chapter, including but not limited to monitoring,
33 surveillance, enforcement, training, research, administration and coop-
34 eration with any federal, state or local agency.

35 § 3. This act shall take effect immediately.

36 PART TT

37 Section 1. Short title. This act shall be known and may be cited as the
38 "Suffolk County water quality restoration act".

39 § 2. Legislative intent. The county of Suffolk ("county"), with a
40 population of one million five hundred thousand persons, has in excess
41 of three hundred eighty thousand existing onsite systems, comprised
42 mostly of cesspools and septic systems, with two hundred nine thousand
43 of these onsite systems in environmentally sensitive areas which could
44 benefit from nitrogen-reducing technologies. The United States Environ-
45 mental Protection Agency recognizes Long Island as having a sole source
46 aquifer system for its drinking water supply. Suffolk county has an
47 imminent need to preserve this valuable water resource by reducing the
48 amount of nitrogen discharged into the groundwater by onsite systems.
49 The full water cycle is impacted by increasing quantities of nutrients,
50 pathogens, pesticides, volatile organic contaminants and saltwater
51 intrusion, as well as a number of emerging threats such as prescription
52 drugs and sea level rise.

1 The Suffolk county subwatersheds wastewater plan ("SWP"), certified by
2 the department of environmental conservation as a Nine Elements
3 Watershed (9E) plan, has documented the devastating effects of high
4 levels of nitrogen pollution, not only on the drinking water quality,
5 but also on coastal ecosystems, dissolved oxygen, water clarity,
6 eelgrass, wetlands, shellfish, coastal resilience and in triggering
7 harmful algal blooms. The Suffolk county subwatersheds wastewater plan,
8 or SWP, is a long-term plan to address the need for wastewater treatment
9 infrastructure throughout the county comprehensively over a period of
10 fifty years. The SWP delineates the source and concentration of nitrogen
11 loading in one hundred ninety-one subwatersheds throughout the county,
12 and established nitrogen reduction goals for each watershed.

13 For many areas of the county, installing or connecting sewers is not a
14 practical or cost-effective method of treating wastewater. For that
15 reason, the SWP prescribes a hybrid approach that relies on sewerage
16 where feasible, and the replacement of cesspools and septic systems with
17 innovative/alternative onsite wastewater treatment systems. The consol-
18 idation of any or all of the twenty-seven county sewer districts, as
19 well as unsewered areas of the county, into a county-wide wastewater
20 management district allows for the implementation of a much needed inte-
21 grated long-term wastewater solution for the county through comprehen-
22 sive planning and management, the establishment of a water quality
23 restoration fund and county-wide district board of trustees to monitor
24 progress and the allocation of resources consistent with the goals of
25 the SWP.

26 The purpose of this act is to create a water quality restoration fund
27 to finance projects for the protection, preservation, and rehabilitation
28 of groundwater and surface waters as recommended by the SWP. This act
29 would allow the funding of projects that will mitigate wastewater pollu-
30 tants utilizing the best available technology consistent with the SWP.

31 A county-wide wastewater management district, supported by a dedicated
32 and recurring revenue source, will provide an integrated and efficient
33 approach to managing wastewater services across the county; allow the
34 county to enhance and expand its incentive program to property owners to
35 upgrade their wastewater treatment systems without risk of adverse
36 personal income tax consequences; to manage, monitor and enforce nitro-
37 gen reduction programs throughout the county; to complete additional
38 sewer extension projects; and provide an opportunity to consolidate and
39 streamline the county's existing sewer district system and normalize the
40 inequitable rate structure that has long existed.

41 § 3. The county law is amended by adding a new section 256-b to read
42 as follows:

43 § 256-b. Suffolk county wastewater management district. 1. (a)
44 Notwithstanding the provisions of any general, special or local law to
45 the contrary, including this article, the county legislature of Suffolk
46 county is hereby authorized to establish by resolution a Suffolk county
47 wastewater management district, hereinafter referred to in this section
48 as the "district", which shall include all powers of a sewer district
49 and a wastewater disposal district as provided in section two hundred
50 fifty of this article and as set forth in this subdivision, pursuant to
51 the procedure contained in this section.

52 (b) In addition to the powers provided in section two hundred fifty of
53 this article, the district shall have the power, as determined by the
54 county legislature, to: (i) consolidate all of the original sewer
55 districts within the county as well as unsewered areas of the county,
56 under the jurisdiction of the district; (ii) establish one or more zones

1 of assessment within the district based upon territorial boundaries, the
2 method of wastewater collection, treatment and disposal, existing or
3 proposed, or both, and make changes to such zones of assessments; (iii)
4 acquire interests in real property which may be completed by the trans-
5 fer of property of original sewer districts to the district, necessary
6 for the installation and maintenance of district facilities; (iv) prior-
7 itize district projects in accordance with the Suffolk county subwat-
8 ershed wastewater plan (SWP) adopted by the county legislature, and any
9 amendments thereto; (v) receive funds from the county or the water qual-
10 ity restoration fund, as established by subdivision twelve of this
11 section, and distribute grant proceeds within the district in accordance
12 with the goals established in the Suffolk county subwatershed wastewater
13 plan; (vi) assume and pay any remaining indebtedness of each original
14 sewer district; (vii) establish and provide for the collection of charg-
15 es, rates, taxes or assessments to provide for the costs of operation,
16 expenses, interest payments, maintenance and improvements of the
17 district, including but not limited to: (A) special assessment as
18 defined in subdivision fifteen of section one hundred two of the real
19 property tax law; (B) special ad valorem levy as defined in subdivision
20 fourteen of section one hundred two of the real property tax law; (C)
21 sewer rent as provided under article fourteen-F of the general municipal
22 law; and (viii) distribute grant proceeds within the district in accord-
23 ance with the goals established in the SWP.

24 2. Boundaries. The boundaries of the district shall coincide with the
25 territorial boundaries of the county of Suffolk.

26 3. County agency review and report. The county legislature shall
27 direct the county agency, appointed or established pursuant to section
28 two hundred fifty-one of this article, to review and report thereon to
29 the county legislature on the creation of the district and the merger
30 therewith of any or all existing county sewer districts in accordance
31 with this section and such other details as may be directed by the coun-
32 ty legislature consistent with this article. When the agency has caused
33 such report to be prepared, it shall transmit it to the county legisla-
34 ture. Upon receipt of the report, the county legislature shall call a
35 public hearing pursuant to subdivision five of this section to create a
36 Suffolk county wastewater management district in accordance with this
37 section. Such report shall be filed in the office of the clerk of the
38 legislature of Suffolk county.

39 4. Resolution. The county legislature of Suffolk county may adopt a
40 resolution calling a public hearing upon the proposed creation of the
41 district.

42 5. Notice. The clerk of the county legislature shall give notice of
43 the hearing described in subdivision four of this section in such news-
44 papers and within such time period as set forth in section two hundred
45 fifty-four of this article. Such notice shall specify the time, date
46 and location of such hearing and, in general terms, describe the
47 proposed establishment of the district and the proposed basis of the
48 future assessment of all costs of operation, maintenance and improve-
49 ments of the district.

50 6. Hearing and resolution to establish. (a) The county legislature
51 shall meet at the time, date and location specified in such notice and
52 hear all persons interested in the subject matter thereof concerning the
53 same. If the county legislature determines that it is in the public
54 interest to establish the district as specified in such notice, the
55 county legislature may adopt a resolution, subject to a mandatory refer-
56 endum, establishing the district.

1 (b) The permission of the state comptroller shall not be required to
2 establish a district created pursuant to this section.

3 7. Notice of adoption of resolution. Within ten days after the
4 adoption by the county legislature of the resolution to establish the
5 district described in subdivision six of this section, the county legis-
6 lature shall give notice thereof, at the expense of the county, by the
7 publication of a notice in such newspapers and within such time period
8 as set forth in section one hundred of this chapter. Such notice shall
9 set forth the date of adoption of the resolution and contain an abstract
10 of such resolution, describing, in general terms, the district, the
11 basis for the future assessment of all costs of operation, maintenance
12 and improvements, and that such resolution was adopted subject to a
13 mandatory referendum.

14 8. Assessments, levys and charges. After the establishment of the
15 district in accordance with this section, the county is hereby author-
16 ized by resolution approved by majority vote of the total membership of
17 the county legislature to assess, levy and collect upon each lot or
18 parcel of land subject to taxation within the district: (a) special
19 assessment as that term is defined in subdivision fifteen of section one
20 hundred two of the real property tax law; (b) special ad valorem levy as
21 that term is defined in subdivision fourteen of section one hundred two
22 of the real property tax law; and (c) sewer rents as provided by article
23 fourteen-F of the general municipal law. Such costs and expenses may
24 include, but shall not be limited to, the amount of money required to
25 pay the annual expenses of maintenance, operation, personnel services of
26 the district and the sums sufficient to pay the annual installment of
27 principal of, and interest on, obligations for improvements of the
28 district. Such sums so levied shall be collected by the local tax
29 collectors or receivers of taxes and assessments and shall be paid over
30 to the chief fiscal officer of the county, in the same manner and at the
31 same time as taxes levied for general county purposes. The chief fiscal
32 officer shall keep a separate account of such moneys and they shall be
33 used only for purposes set forth in this section, and in addition, all
34 monies collected from each zone of assessment established or amended in
35 accordance with this section shall be further segregated and shall not
36 be commingled with monies of other zones of assessment except upon
37 approval by resolution of the county legislature upon recommendation of
38 the district board of trustees established in accordance with the
39 Suffolk county water quality restoration act.

40 8-a. Recording determination. The clerk of the county legislature
41 shall within ten days after the effective date of the resolution creat-
42 ing the district cause a certified copy to be recorded in the office of
43 the clerk of the county and when so recorded such order shall be
44 presumptive evidence of the regularity of the proceedings for the
45 creation of the district and of all other action taken by the county
46 legislature pursuant to this section. A certified copy shall also be
47 filed in the office of the state department of audit and control in
48 Albany, New York.

49 9. Other laws. All provisions of the real property tax law and the
50 Suffolk county tax act, as the same may be amended from time to time,
51 not inconsistent with the provisions of this article, relating to the
52 assessing, levy and collection and enforcement of special assessments,
53 ad valorem levies and sewer rents in the county shall apply and be of
54 equal force and applicability to special assessments, ad valorem levies
55 and sewer rents authorized pursuant to this section.

1 10. Towns and villages. This section shall not be construed as merging
2 the sewer districts of towns and villages within the county of Suffolk
3 into the district created by this section, however the merger of any
4 town or village sewer district with the district shall be in accordance
5 with section two hundred seventy-seven of this article.

6 11. Water quality restoration fee. (a) Notwithstanding any provision
7 of law to the contrary, the county of Suffolk is authorized to establish
8 a water quality restoration fund pursuant to subdivision twelve of this
9 section, to be financed by the water quality restoration fee as provided
10 by this subdivision. Said fund shall be enacted by local law, subject
11 to mandatory referendum, pursuant to section twenty-three of the municip-
12 al home rule law.

13 (b) For each residential dwelling unit, the fee shall be five dollars
14 per month. For all other properties, the fee shall be five dollars per
15 month for each "equivalent dwelling unit" (EDU). An EDU shall be defined
16 as three hundred gallons of wastewater generated per day. The number of
17 EDUs for each property shall be determined by the actual amount of
18 wastewater generated per day. Where such amount of actual wastewater
19 generated per day cannot be determined for a property, the county, by
20 local law, shall establish a schedule of EDUs for each category of land
21 use consistent with the Suffolk County Sanitary Code. The local law may
22 provide for subcategories for each land use.

23 (c) Such fee shall be collected on all properties in the county of
24 Suffolk except as provided herein. Water usage on public land shall be
25 excluded from such fee. Land utilized as part of a farm operation: (i)
26 located in an agricultural district; or (ii) benefitted by an agricul-
27 tural assessment, pursuant to article twenty-five-AA of the agriculture
28 and markets law; or (iii) subject to a government purchase of develop-
29 ment rights program; or (iv) otherwise protected for agricultural
30 purposes shall be exempt from the fee. For the purposes of this act
31 "public land" shall mean any land exempt from real property taxation
32 pursuant to title one of article four of the real property tax law. For
33 the purposes of this section, "farm operation" shall have the same mean-
34 ing as provided for in section three hundred one of the agriculture and
35 markets law.

36 (d) The local law shall also provide for an exemption from the water
37 restoration fee based upon substantial financial hardship.

38 (e) The county, by local law, shall determine the criteria for estab-
39 lishing such substantial financial hardship. The county, by local law,
40 shall determine the means and manner of collection for the fee author-
41 ized pursuant to this section.

42 12. Water quality restoration fund. (a) Notwithstanding any provision
43 of law to the contrary, the net collections from the fee imposed pursu-
44 ant to subdivision eleven of this section shall be deposited in a
45 special fund by the county of Suffolk, to be designated as the water
46 quality restoration fund, to be created by said county therefor, sepa-
47 rate and apart from any other funds and accounts of the county. In no
48 event shall monies deposited in the fund be transferred to any other
49 account. Deposits into the fund may include revenues of Suffolk county
50 from whatever source and shall include, at a minimum, all net revenues
51 from the water quality restoration fee imposed pursuant to subdivision
52 eleven of this section. The fund shall also be authorized to accept
53 gifts of funds. Interest accrued by monies deposited into the fund shall
54 be credited to the fund. Nothing contained in this section shall be
55 construed to prevent the financing in whole or in part, pursuant to the
56 local finance law, of any project authorized pursuant to this section.

1 Monies from the fund may be utilized to repay any indebtedness or obli-
2 gations incurred pursuant to the local finance law consistent with
3 effectuating the purposes of this section. Where Suffolk county finances
4 a project, in whole, or in part, pursuant to the local finance law, the
5 resolution authorizing such indebtedness shall be accompanied by a
6 report from the county executive demonstrating how said indebtedness
7 will be repaid by the fund. Said report shall include an estimate of
8 projected revenues of the fund during the period of indebtedness. The
9 report shall also provide an accounting of all other indebtedness
10 incurred against the fund to be repaid for the same period. The county
11 legislature shall make findings by resolution that there will be suffi-
12 cient revenue to repay such indebtedness in its entirety from the fund
13 before authorizing such indebtedness. Monies in said fund may be appro-
14 priated from or expended in any fiscal year to implement the powers set
15 forth in this section and to repay any indebtedness or obligations
16 incurred pursuant to the local finance law for the purposes authorized
17 pursuant to this section.

18 (b) (i) For purposes of this section: "water quality improvement
19 project" shall mean the planning, design, construction, acquisition,
20 enlargement, extension, or alteration of a wastewater treatment facili-
21 ty, including individual hookups, or an individual septic system,
22 including an alternative wastewater treatment facility or an individual
23 septic system with active treatment, to treat, neutralize, stabilize,
24 eliminate or partially eliminate sewage or reduce pollutants, including
25 permanent or pilot demonstration wastewater treatment projects, or
26 equipment or furnishings thereof. Such projects shall have as their
27 purpose the remediation of existing water quality to meet specific water
28 quality standards consistent with the SWP. Projects consistent with or
29 listed in the SWP that are part of a plan adopted by a local government
30 resulting in a net nitrogen reduction shall be eligible for consider-
31 ation by the district board of trustees, established in accordance with
32 subdivision six of this section. Projects designed primarily to increase
33 density shall not be included within this definition. Of the annual
34 collections of the fund, seventy-five percent of the annual funds shall
35 be used toward individual septic systems purposes, inclusive of: (A) the
36 preparation of an annual SWP implementation action plan to protect,
37 preserve, and rehabilitate groundwater, surface water, and drinking
38 water; (B) the construction of water quality improvement projects; (C)
39 the establishment of a program for residents of the county of Suffolk
40 for grants and low-interest loans as incentives to construct individual
41 septic systems which qualify as water quality improvement projects; and
42 (D) administration of the county wastewater management district not to
43 exceed ten percent of the annual funds.

44 (ii) Other than for the payment of indebtedness or obligations
45 incurred as set forth in paragraph (a) of this subdivision, and except
46 for the preparation of the annual SWP implementation plan, itself, no
47 monies may be expended until the annual SWP implementation plan has been
48 prepared and approved as provided for in this section.

49 (c) (i) Within the local law establishing the water quality restora-
50 tion fund, the county shall establish a district board of trustees of
51 seventeen members to review and approve the action plan for submission
52 to the county executive and county legislature. Such approval shall be
53 in addition to all other approvals required by law. The board of trus-
54 tees shall consist of: (A) a representative from the department of envi-
55 ronmental conservation; (B) a representative from the East End supervi-
56 sors and mayors association; (C) a representative of the Suffolk town

1 supervisors association; (D) a representative of the Suffolk County
2 Village Officials Association; (E) a town representative from the State
3 Central Pine Barrens Joint Planning and Policy Commission to be desig-
4 nated by the commission; (F) a municipal representative from the Peconic
5 Estuary Partnership; (G) a municipal representative from the State South
6 Shore Estuary Reserve; (H) a municipal representative from the Long
7 Island Sound Estuary; (I) a representative of the Long Island Federation
8 of Labor; (J) a representative of Building and Construction Trades Coun-
9 cil of Nassau & Suffolk counties; (K) a representative from a regional
10 environmental organization; (L) the chair of the Suffolk county planning
11 commission; (M) the county executive or designee; (N) the presiding
12 officer of the county legislature or designee; (O) the minority leader
13 of the county legislature or designee; (P) the county department of
14 public works commissioner or designee; and (Q) the county department of
15 health services commissioner or designee.

16 (ii) The powers and duties of the district board of trustees shall
17 include auditing fiscal allocations as it relates to the goals of the
18 Suffolk county subwatersheds wastewater plan, making prudent recommenda-
19 tions for resource allocations for county-approved alternative wastewa-
20 ter treatment technologies not contemplated in the Suffolk county
21 subwatersheds wastewater plan and long-term progress monitoring of the
22 implementation of the Suffolk county subwatersheds wastewater plan
23 regarding achievements of nitrogen load reductions and ecological
24 endpoints.

25 (d) Water quality restoration citizens advisory committee. Within the
26 local law establishing the district board of trustees, the county is
27 authorized to establish a water quality restoration citizens advisory
28 committee ("advisory committee") to actively assist and advise the board
29 of trustees in the preparation, adoption and implementation of the annu-
30 al SWP implementation plan. The committee shall consist of not more
31 than twenty-five members which shall include representatives of environ-
32 mental groups, economic development and real estate interests, farmers,
33 water suppliers, civic groups, planners, biologists, and water quality
34 scientists and recreational interests. The members of the committee
35 shall serve without compensation. The committee by a majority vote shall
36 elect a chairperson. The advisory committee shall meet periodically with
37 the board of trustees, make available working drafts of such plan and
38 other documents, and shall provide services to the district board of
39 trustees, as are necessary and appropriate to carry out its functions
40 under this section. The county by resolution of the county legislature,
41 shall appoint the members of the advisory committee.

42 (e) Annual SWP implementation plan. The water quality restoration fund
43 and district board of trustees shall prepare, review and approve and
44 submit to the county executive the annual SWP implementation plan within
45 one year of the effective date of this section, and in every year there-
46 after in a like manner. The board of trustees shall conduct a public
47 hearing on said plan before its adoption or subsequent amendment. Each
48 year, said plan shall list every water quality restoration project which
49 the county plans to undertake pursuant to the fund and shall state how
50 such project would improve existing water quality. Funds may only be
51 expended pursuant to this section for projects which have been included
52 in said plan. Said plan shall be consistent with state, federal, county,
53 and local government land use and wastewater management plans. After
54 submission and approval by the county executive, such plan shall be
55 submitted to the county legislature. Such plan shall not become effec-
56 tive until approved by local law.

1 (f) Annual audit. The county shall annually commission an independent
2 audit of the fund. The audit shall be conducted by an independent certi-
3 fied public accountant or an independent public accountant. Said audit
4 shall be performed by a certified public accountant or an independent
5 public accountant other than the one that performs the general audit of
6 the county's finances. Such audit shall be an examination of the fund
7 and shall determine whether the fund has been administered consistent
8 with the provisions of this section and all other applicable provisions
9 of state law. Said audit shall be initiated within sixty days of the
10 close of the fiscal year of the county and shall be completed within one
11 hundred twenty days of the close of the fiscal year. A copy of the
12 audit shall be submitted annually to the state comptroller and the coun-
13 ty comptroller. A copy of the audit shall be made available to the
14 public within thirty days of its completion. A notice of the completion
15 of the audit shall be published in the official newspaper of the county
16 and shall also be posted on the internet website for the county. The
17 cost of the audit may be a charge to the fund.

18 (g) Annual report. In addition to any other report required by this
19 section, the water quality restoration fund and district board of trus-
20 tees, through its chairperson, shall deliver annually, in oral and
21 written form, a report to the county legislature. Such report shall
22 be presented by May fifteenth of each year. The report shall describe in
23 detail the projects undertaken, the monies expended, and the administra-
24 tive activities of the water quality fund and district established in
25 accordance with this section, during the prior year. At the conclusion
26 of the report, the chairperson of the water quality restoration fund and
27 district board of trustees shall be prepared to answer the questions of
28 the county legislature with respect to the projects undertaken, the
29 monies expended, and the administrative activities during the past year.

30 13. Amendment by mandatory referendum only. Where the provisions of
31 this section have been adopted by local law subject to mandatory refer-
32 endum, said local law may only be amended, modified, repealed, or
33 altered by enactment of another local law subject to mandatory referen-
34 dum under the municipal home rule law.

35 § 4. This act shall take effect immediately.

36 PART UU

37 Section 1. Paragraph h of subdivision 1 of section 17-1909 of the
38 environmental conservation law, as added by chapter 565 of the laws of
39 1989, is amended to read as follows:

40 h. "Municipality" means any county, city, town, village, district
41 corporation, county or town improvement district, school district, Indi-
42 an reservation wholly within New York state, any public benefit corpo-
43 ration or public authority established pursuant to the laws of New York
44 or any agency of New York state which is empowered to construct and
45 operate an eligible project, or any two or more of the foregoing which
46 are acting jointly in connection with an eligible project.

47 § 2. This act shall take effect immediately.

48 PART VV

49 Section 1. Subdivisions 2, 3, 4 and 5 of section 381 of the executive
50 law, as added by chapter 707 of the laws of 1981, subdivision 2 as
51 amended by chapter 560 of the laws of 2010, are amended, subdivision 6

1 is renumbered subdivision 8, and two new subdivisions 6 and 7 are added
2 to read as follows:

3 2. Except as may be provided in regulations of the secretary pursuant
4 to subdivision one of this section, every local government shall admin-
5 ister and enforce the uniform fire prevention and building code and the
6 state energy conservation construction code on and after the first day
7 of January, nineteen hundred eighty-four, provided, however, that a
8 local government may enact a local law prior to the first day of July in
9 any year providing that it will not enforce such codes on and after the
10 first day of [~~January~~] April next succeeding. In such event the county
11 in which said local government is situated shall administer and enforce
12 such codes within such local government from and after the first day of
13 [~~January~~] April next succeeding the effective date of such local law, in
14 accordance with the provisions of paragraph b of subdivision five of
15 this section unless the county shall have previously enacted a local law
16 providing that it will not enforce such codes within that county. In
17 such event the secretary in the place and stead of the local government
18 shall, directly or by [~~contract~~] using the services of any contractors
19 or other third-party providers as the secretary may deem to be
20 qualified, administer and enforce the uniform code and the state energy
21 conservation construction code within such local government on and after
22 the first day of April next succeeding. A county that is responsible for
23 administering and enforcing such codes within a local government pursu-
24 ant to the foregoing provisions of this subdivision may enact a local
25 law prior to the first day of October in any year providing that it will
26 not enforce such codes within such local government on and after the
27 first day of April next succeeding. In such event, the secretary, in the
28 place and stead of such local government, shall, directly or by using
29 the services of any contractors or other third-party providers as the
30 secretary may deem to be qualified, administer and enforce such codes in
31 such local government from and after the first day of April next
32 succeeding. A local government that adopts a local law providing that it
33 will not enforce such codes on and after the first day of April next
34 succeeding shall promptly notify the county in which such local govern-
35 ment is located and the secretary of the adoption of such local law. A
36 county that adopts a local law providing that it will not enforce such
37 codes on and after the first day of April next succeeding shall promptly
38 notify each local government in which such county is administering and
39 enforcing such codes and the secretary of the adoption of such local
40 law. A local government or a county may repeal a local law which
41 provides that it will not enforce such codes and shall thereafter admin-
42 ister and enforce such codes as provided above. Two or more local
43 governments may provide for joint administration and enforcement of the
44 uniform code, the state energy conservation construction code, or both,
45 by agreement pursuant to article five-G of the general municipal law.
46 Any local government may enter into agreement with the county in which
47 such local government is situated to administer and enforce the uniform
48 code, the state energy conservation construction code, or both, within
49 such local government. Local governments or counties that administer
50 and enforce the uniform code, the state energy conservation construction
51 code, or both, may charge and collect fees to defray the costs of admin-
52 istration and enforcement. Where the secretary is responsible for
53 administration and enforcement of the uniform code and state energy
54 conservation construction code within a local government pursuant to
55 this subdivision or pursuant to paragraph e of subdivision four of this
56 section, (a) the secretary shall administer and enforce the codes in

1 accordance with the provisions of rules and regulations promulgated
2 pursuant to subdivision one of this section; (b) any person or entity
3 who knowingly violates any provision of such rules and regulations shall
4 be punishable by a fine not to exceed one thousand dollars per day of
5 violation, imprisonment not to exceed one year, or both, and (c) the
6 secretary may charge and collect fees to defray the costs of adminis-
7 tration and enforcement.

8 3. a. On and after the first day of July, nineteen hundred eighty-
9 five, the secretary shall have power to investigate [~~and conduct hear-~~
10 ~~ings relative to~~] whether administration and enforcement of the uniform
11 fire prevention and building code and the state energy conservation
12 construction code complies with the minimum standards promulgated pursu-
13 ant to subdivision one of this section. In connection with any such
14 investigation, the secretary shall have the power to issue subpoenas
15 compelling the testimony of witnesses, the production of documents, or
16 both, and the power, at the secretary's discretion, to conduct one or
17 more hearings. At least ten days written notice of any such hearing
18 shall be provided to the elective or appointive chief executive officer
19 or, if there be none, the chairman of the legislative body of the local
20 government or county whose administration and enforcement of the uniform
21 code and state energy conservation construction code is at issue.

22 b. The elective or appointive chief executive officer or, if there be
23 none, the chairman of the legislative body of a county may, with
24 approval of a majority vote of the legislative body of such county,
25 submit to the secretary a written notice requesting the secretary to
26 authorize such county to investigate whether administration and enforce-
27 ment of the uniform fire prevention and building code and the state
28 energy conservation construction code by a local government located in
29 such county complies with the minimum standards promulgated pursuant to
30 subdivision one of this section. Upon receipt of such notice, the secre-
31 tary may authorize such county to conduct such investigation and to
32 provide a written report upon completion of such investigation to the
33 secretary. In connection with any such investigation, the county shall
34 have the power to issue subpoenas compelling the testimony of witnesses,
35 the production of documents, or both, and the power, at the county's
36 discretion, to conduct one or more hearings. At least ten days written
37 notice of any such hearing shall be provided to the elective or appoin-
38 tive chief executive officer or, if there be none, the chairman of the
39 legislative body of the local government whose administration and
40 enforcement of the uniform code and state energy conservation
41 construction code is at issue. Upon receipt of the county's report, the
42 secretary may issue a determination based on such report, conduct
43 further investigations, or take such other action as the secretary deems
44 appropriate, and the secretary shall notify the county and the local
45 government of the actions to be taken by the secretary. Nothing in this
46 paragraph shall limit or impair the secretary's power to investigate,
47 issue subpoenas, and conduct hearings as provided in paragraph a of this
48 subdivision. Nor shall the power of the secretary to investigate, issue
49 subpoenas, and conduct hearings as provided in paragraph a of this
50 subdivision be diminished or otherwise affected by reason of a county
51 submitting, or not submitting, a notice pursuant to this paragraph.

52 4. If the secretary determines that a local government has failed to
53 administer and enforce the uniform fire prevention and building code
54 and/or the state energy conservation construction code in accordance
55 with the minimum standards promulgated pursuant to subdivision one of

1 this section, the secretary shall take any of the following actions,
2 either individually or in combination in any sequence:

3 a. The secretary may issue an order compelling compliance by such
4 local government with the minimum standards [~~for administration and~~
5 ~~enforcement of the uniform code~~] promulgated pursuant to subdivision one
6 of this section.

7 b. The secretary may appoint and remove any person deemed qualified by
8 the secretary as an oversight officer, who shall have the power and
9 authority to do any or all of the following, at the discretion of the
10 oversight officer and at the expense of such local government:

11 (i) observe and report on compliance by such local government with the
12 minimum standards promulgated pursuant to subdivision one of this
13 section;

14 (ii) direct all or any part of the code enforcement activities of the
15 local government's code enforcement personnel;

16 (iii) hire, contract for, or otherwise obtain the services of quali-
17 fied third parties to review building permit applications and plans and
18 specifications submitted therewith, conduct construction inspections and
19 periodic fire safety and property maintenance inspections, and perform
20 other code enforcement activities within the local government;

21 (iv) issue notices of violation, appearance tickets, orders to remedy,
22 and other instruments related to code violations within the local
23 government, or direct the local government to do so, and refer such
24 violations to counsel for the local government or the district attorney
25 for the county in which the local government is located for appropriate
26 prosecution; and

27 (v) take any other steps deemed by the oversight officer to be neces-
28 sary or appropriate to ensure that the uniform code and state energy
29 conservation construction code are administered and enforced within such
30 local government in a due and proper manner and in compliance with the
31 minimum standards promulgated pursuant to subdivision one of this
32 section. Any person who is appointed as an oversight officer pursuant
33 to this paragraph shall be deemed to be a state officer under section
34 two of the public officers law.

35 c. The secretary may ask the attorney general to institute in the name
36 of the secretary an action or proceeding seeking appropriate legal or
37 equitable relief to require such local government to administer and
38 enforce the uniform code and state energy conservation construction code
39 in a due and proper manner and in compliance with the minimum standards
40 promulgated pursuant to subdivision one of this section, including but
41 not limited to requiring such local government to take specific remedial
42 actions, such as establishing and enforcing an effective code enforce-
43 ment program, conducting fire safety and property maintenance
44 inspections, increasing the frequency of fire safety and property main-
45 tenance inspections, and taking enforcement actions that are timely and
46 responsive to circumstances associated with the property in question
47 when violations are identified.

48 [~~e.-the~~] d. The secretary may designate the county in which such local
49 government is located, or any other local government that adjoins or is
50 reasonably proximate to such local government, to administer and enforce
51 the uniform code and state energy conservation construction code in such
52 local government. In the case of such designation, the provisions of
53 subdivision five of this section shall apply.

54 [~~d.-~~] e. The secretary may, in the place and stead of the local govern-
55 ment, directly or by using the services of any contractors or other
56 third-party providers as the secretary may deem to be qualified, admin-

1 ister and enforce the uniform code and state energy conservation
2 construction code in such local government in accordance with the mini-
3 mum standards promulgated pursuant to subdivision one of this section.
4 In such event, the provisions of subdivision five of this section shall
5 apply.

6 f. The secretary may designate the county in which such local govern-
7 ment is located, any other local government that adjoins or is reason-
8 ably proximate to such local government, or the department of state to
9 perform within such local government such types and classes of code
10 enforcement activities, such as permit application review and approval,
11 construction inspections, and fire safety and property maintenance
12 inspections, as the secretary may specify. In the case of such design-
13 ation, the provisions of subdivision seven of this section shall apply.

14 5. Where the secretary has designated a county or adjoining or reason-
15 ably proximate local government to administer and enforce the uniform
16 fire prevention and building code and state energy conservation
17 construction code within a local government pursuant to paragraph d of
18 subdivision four of this section, or has assumed authority for adminis-
19 tration and enforcement of the uniform fire prevention and building code
20 and state energy conservation construction code within a local govern-
21 ment pursuant to [~~subdivision two or~~] paragraph [~~d~~] e of subdivision
22 four of this section:

23 a. [~~Such~~] The local government [~~or county government~~] that is not
24 administering or enforcing the uniform code and state energy conserva-
25 tion construction code in accordance with minimum standards shall not
26 administer and enforce the uniform code or state energy conservation
27 construction code, and shall not charge or collect fees for such admin-
28 istration and enforcement.

29 b. [~~Such~~] The designated county or local government or the secretary
30 shall administer and enforce the uniform code within [~~such~~] the local
31 government whose administration and enforcement of the uniform code and
32 state energy conservation construction code has not met the minimum
33 standards from and after the date of such designation or assumption.
34 Such administration and enforcement shall apply the minimum standards
35 promulgated by the secretary pursuant to subdivision one of this
36 section. Notwithstanding any other provisions of law, such designated
37 county or local government or the secretary shall have full power to
38 administer and enforce the uniform code [~~in accordance with such~~] and
39 state energy conservation construction code in the local government
40 whose administration and enforcement of the uniform code and state ener-
41 gy conservation construction code has not met the minimum standards,
42 including the power to charge and collect fees for such administration
43 and enforcement.

44 c. The secretary shall designate the local government [~~or county~~
45 ~~government~~] whose administration and enforcement of the uniform code and
46 state energy conservation construction code did not meet the minimum
47 standards to resume administration and enforcement of the uniform code
48 when the secretary is satisfied that such local government [~~or county~~]
49 will provide such administration and enforcement in compliance with the
50 minimum standards promulgated pursuant to subdivision one of this
51 section.

52 d. The provisions of subdivisions three and four of this section shall
53 apply to counties [~~which have been designated to administer and enforce~~
54 ~~the uniform code in such local government~~] that are responsible for
55 administration and enforcement of the uniform code and state energy
56 conservation construction code within a local government pursuant to

1 subdivision two of this section, to counties that have been designated
2 to administer and enforce the uniform code and state energy conservation
3 construction code within a local government pursuant to paragraph d of
4 subdivision four of this section, and to local governments that have
5 been designated to administer and enforce the uniform code and state
6 energy conservation construction code within another local government
7 pursuant to paragraph d of subdivision four of this section. Where the
8 provisions of subdivisions three and four of this section are applicable
9 to a county, references in those subdivisions to a local government
10 whose administration and enforcement of the uniform code and state ener-
11 gy conservation construction code have been determined by the secretary
12 to have not met the minimum standards shall be construed as references
13 to such county.

14 6. Where the secretary has designated a county, another local govern-
15 ment, or the department to perform specified types and classes of code
16 enforcement activities within a local government pursuant to paragraph f
17 of subdivision four of this section:

18 a. The local government whose administration and enforcement of the
19 uniform code and state energy conservation construction code has not met
20 the minimum standards shall not perform the types and classes of code
21 enforcement activities specified in such designation and shall accept
22 performance of such types and classes of code enforcement activities by
23 the designee;

24 b. The local government whose administration and enforcement of the
25 uniform code and state energy conservation construction code has not met
26 the minimum standards shall reimburse the designee for the costs and
27 expenses incurred by the designee in performing the designated types and
28 classes of code enforcement activities; and

29 c. The secretary shall designate the local government whose adminis-
30 tration and enforcement of the uniform code and state energy conserva-
31 tion construction code has not met the minimum standards to resume
32 performance of the designated types and classes of code enforcement
33 activities when the secretary is satisfied that such local government
34 will perform such activities in a due and proper manner and will other-
35 wise provide administration and enforcement of the uniform code and
36 state energy conservation construction code in compliance with the mini-
37 imum standards promulgated pursuant to subdivision one of this section.

38 7. a. The term "authority having jurisdiction" as used in this subdi-
39 vision shall mean a local government or county that is responsible for
40 administering and enforcing the uniform code and/or the energy code
41 within such local government; the term "default code enforcement
42 program" shall mean the code enforcement program established by the
43 rules and regulations promulgated pursuant to paragraph b of this subdi-
44 vision; and the term "required features" shall mean the features
45 required by the rules and regulations promulgated pursuant to subdivi-
46 sion one of this section to be included in a code enforcement program.

47 b. The secretary is authorized to promulgate, and to amend from time
48 to time, rules and regulations establishing a default code enforcement
49 program. Such default code enforcement program shall include provisions
50 establishing the required features and such other provisions as the
51 secretary may deem to be appropriate for inclusion in a code enforcement
52 program. Such default code enforcement program shall also establish fees
53 to be charged by any authority having jurisdiction that administers and
54 enforces the uniform code and/or energy code in accordance with the
55 provisions of the default code enforcement program.

1 c. Any authority having jurisdiction that has not established its own
2 code enforcement program shall administer and enforce the uniform code
3 and/or energy code in accordance with the provisions of the default code
4 enforcement program.

5 d. Any authority having jurisdiction that administers and enforces the
6 uniform code and/or energy code in accordance with the provisions of the
7 default code enforcement program pursuant to paragraph c of this subdivi-
8 vision shall, through its chief executive officer, have full power and
9 authority to designate the public officer or agency authorized to issue
10 an appearance ticket, and a public officer who, by virtue of office,
11 title or position, is authorized or required to enforce the provisions
12 of the uniform code and the state energy conservation construction code
13 and the provisions of the default code enforcement program as fully and
14 with the same force and effect as such authority having jurisdiction
15 would have to enforce provisions established by a local law, ordinance,
16 or regulation enacted or adopted by such authority having jurisdiction.
17 The designation authorized by this paragraph shall not take effect until
18 it has been filed with the department of state, and must be maintained
19 on the website of such authority having jurisdiction unless and until
20 such authority having jurisdiction passes a local law delegating the
21 enforcement authority referenced in this paragraph.

22 e. Where an authority having jurisdiction is administering and enforc-
23 ing the uniform code and/or energy code in accordance with the
24 provisions of the default code enforcement program pursuant to paragraph
25 c of this subdivision, any person or entity who knowingly violates any
26 applicable provision of the default code enforcement program shall be
27 punishable by a fine of not more than one thousand dollars per day of
28 violation, or imprisonment not exceeding one year, or both.

29 § 2. Section 382 of the executive law is amended by adding two new
30 subdivisions 5 and 6 to read as follows:

31 5. Notwithstanding any other provision of law, all fines imposed and
32 collected for any violation of this section shall be paid at least
33 monthly into the treasury of the local government in which such
34 violation occurred, unless: (i) the county is administering and enforc-
35 ing the uniform fire prevention and building code and state energy
36 conservation construction code in such local government as provided by
37 subdivision two or four of section three hundred eighty-one of this
38 article, in which case such fines and penalties collected in cases aris-
39 ing out of the violation of this section shall be paid at least monthly
40 into the treasury of the county, (ii) an adjoining or reasonably proximi-
41 mate local government is administering and enforcing the uniform fire
42 prevention and building code and state energy conservation construction
43 code in such local government as provided by subdivision four of section
44 three hundred eighty-one of this article, in which case such fines and
45 penalties collected in cases arising out of the violation of this
46 section shall be paid at least monthly into the treasury of such adjoining
47 or reasonably proximate local government, or (iii) the secretary is
48 administering and enforcing the uniform fire prevention and building
49 code and state energy conservation construction code in such local
50 government as provided by subdivision two or four of section three
51 hundred eighty-one of this article, in which case such fines and penal-
52 ties collected in cases arising out of the violation of this section
53 shall be paid at least monthly into the general fund established by
54 section seventy-two of the state finance law. Where two or more local
55 governments have provided for joint administration and enforcement of
56 the uniform code, the state energy conservation construction code, or

1 both, by agreement pursuant to article five-G of the general municipal
2 law, such local governments may provide in such agreement for a differ-
3 ent distribution of such fines.

4 6. The civil penalties provided in subdivision four of this section
5 may be recovered in an appropriate action or proceeding commenced by the
6 local government, county, or state agency responsible for administration
7 and enforcement of the uniform code with respect to the building that
8 was altered in violation of any provision of the uniform code or any
9 lawful order obtained thereunder, and shall be payable to the treasury
10 of such local government, the treasury of such county, or the general
11 fund of the state of New York, as applicable.

12 § 3. This act shall take effect immediately.

13 PART WW

14 Section 1. Subdivision 3 of section 2251 of the vehicle and traffic
15 law, as amended by section 5 of part G of chapter 59 of the laws of
16 2009, is amended to read as follows:

17 3. Fees. The triennial fee for registration of a vessel shall be:
18 twenty-two dollars and fifty cents [~~and a vessel surcharge of three~~
19 ~~dollars and seventy-five cents,~~] if less than sixteen feet in length;
20 forty-five dollars [~~and a vessel surcharge of twelve dollars and fifty~~
21 ~~cents,~~] if sixteen feet or over but less than twenty-six feet in length;
22 seventy-five dollars [~~and a vessel surcharge of eighteen dollars and~~
23 ~~seventy-five cents,~~] if twenty-six feet or over. [~~All funds derived from~~
24 ~~the collection of the vessel access surcharge pursuant to this subdivi-~~
25 ~~sion are to be deposited in a subaccount of the "I love NY waterways"~~
26 ~~vessel access account established pursuant to section ninety-seven nn of~~
27 ~~the state finance law. The vessel access surcharge shall not be consid-~~
28 ~~ered a registration fee for purposes of section seventy-nine b of the~~
29 ~~navigation law.~~

30 ~~Notwithstanding any inconsistent provision of this section, the differ-~~
31 ~~ence collected between the fees set forth in this subdivision in effect~~
32 ~~on and after September first, two thousand nine and the fees set forth~~
33 ~~in this subdivision prior to such date shall be deposited to the credit~~
34 ~~of the dedicated highway and bridge trust fund. Notwithstanding any~~
35 ~~inconsistent provision of this section, the difference collected between~~
36 ~~the vessel surcharge set forth in this subdivision in effect on and~~
37 ~~after September first, two thousand nine and the vessel surcharge set~~
38 ~~forth in this subdivision in effect prior to such date shall be deposit-~~
39 ~~ed to the credit of the dedicated highway and bridge trust fund.]~~

40 § 2. Subdivision 2 of section 97-nn of the state finance law, as added
41 by chapter 524 of the laws of 2008, is amended to read as follows:

42 2. The "I love NY waterways" fund shall consist of [~~two accounts: (a)~~
43 ~~the "I love NY waterways" boating safety account[, and (b) the "I love~~
44 ~~NY waterways" vessel access account. Moneys in each account shall be~~
45 ~~kept separate and not commingled with any other moneys of the state]~~.

46 § 3. Subdivision 4 of section 97-nn of the state finance law, as
47 amended by chapter 524 of laws of 2008, is REPEALED.

48 § 4. This act shall take effect immediately; provided, however, that
49 sections two and three of this act shall take effect April 1, 2024.

50 PART XX

51 Section 1. Section 15-2115 of the environmental conservation law is
52 amended to read as follows:

1 § 15-2115. Taxation of real estate.

2 Lands owned by the state and acquired pursuant to the provisions of
3 title 21 of this article, exclusive of the improvements erected thereon
4 by the regulating districts, shall be assessed and taxed in the same
5 manner as state lands subject to taxation pursuant to title 2 of article
6 5 of the Real Property Tax Law, provided, however, that the aggregate
7 assessed valuations of such lands in any town shall not be reduced below
8 the aggregate assessed valuations thereof with the improvements thereon
9 at the time of their acquisition by the regulating districts, and
10 provided further that in case of a general increase in assessments in
11 any town the assessed valuations of the lands and improvements at the
12 time of their acquisition by the regulating districts shall be deemed to
13 have been increased proportionately with the increase of other real
14 property in such tax district. ~~[The taxes levied thereon shall be paid
15 by the river regulating district under whose authority the land was
16 acquired.]~~

17 § 2. Section 532 of the real property tax law is amended by adding a
18 new subdivision (1) to read as follows:

19 (1) lands owned by the state and acquired pursuant to the provisions
20 of title twenty-one of article fifteen of the environmental conservation
21 law exclusive of the improvements erected thereon erected by the regu-
22 lating districts.

23 § 3. This act shall take effect immediately.

24 PART YY

25 Section 1. Subdivision 6 of section 5.09 of the parks, recreation and
26 historic preservation law is REPEALED.

27 § 2. Section 7.11 of the parks, recreation and historic preservation
28 law, as amended by chapter 679 of the laws of 1981, is amended to read
29 as follows:

30 § 7.11 Powers and duties of commissions. Each regional park, recre-
31 ation and historic preservation commission shall:

32 1. ~~[Review the application of policy and plans of the office to the
33 park region served by the commission and review and approve the budget
34 for such region prior to its submission to the commissioner.]~~

35 ~~2. Adopt policies, rules and regulations applicable to its park region
36 subject to the general policies formulated by the commissioner and
37 reviewed by the council and in conformity with rules and regulations
38 adopted by the commissioner.~~

39 ~~3.]~~ Act as a central advisory agency on all matters affecting parks,
40 outdoor recreation and historic preservation within the park region it
41 serves.

42 ~~[4.]~~ 2. Represent and convey to the commissioner and council citizen
43 viewpoints as to the programs and needs of the park region it serves.

44 ~~[5.]~~ 3. Maintain close liaison with officials of the office having
45 administrative jurisdiction over the park region which it serves, and
46 advise such officials on local policy, operational and budgetary
47 matters.

48 § 3. Section 7.13 of the parks, recreation and historic preservation
49 law is REPEALED.

50 § 4. This act shall take effect immediately.

51 PART ZZ

1 Section 1. Subsections (e) and (g) of section 7002 of the insurance
2 law, as amended by chapter 188 of the laws of 2003, are amended to read
3 as follows:

4 (e) "Industrial insured" means an insured:

5 (1) whose net worth exceeds one hundred million dollars;

6 (2) who is a member of a holding company system whose net worth
7 exceeds one hundred million dollars;

8 (3) who is the metropolitan transportation authority and its statutory
9 subsidiaries. When filing an application to form a pure captive insur-
10 ance company the metropolitan transportation authority shall submit
11 written notice of such filing to the governor, the temporary president
12 of the senate and the speaker of the assembly; ~~or~~

13 (4) who is the power authority of the state of New York and any statu-
14 tory subsidiary thereof. When filing an application to form a pure
15 captive insurance company the power authority shall submit written
16 notice of such filing to the governor, the temporary president of the
17 senate and the speaker of the assembly; or

18 (5) who is a city with a population of one million or more. When
19 filing an application to form a pure captive insurance company, a city
20 with a population of one million or more shall submit written notice of
21 such filing to the governor, the temporary president of the senate and
22 the speaker of the assembly.

23 (g) "Industrial insured group" means any group of unaffiliated indus-
24 trial insureds that are engaged in similar or related businesses or
25 activities, however, the metropolitan transportation authority, the
26 power authority of the state of New York and any statutory subsidiary
27 thereof and cities with a population of one million or more shall not be
28 a member of an industrial insured group, and that collectively:

29 (1) own, control or hold with power to vote all of the outstanding
30 voting shares of stock of a group captive insurance company incorporated
31 as a stock insurer; or

32 (2) represent one hundred percent of the voting members of a group
33 captive insurance company organized as a mutual insurer.

34 § 2. Section 1005 of the public authorities law is amended by adding a
35 new subdivision 28 to read as follows:

36 28. The authority may establish a subsidiary corporation for the
37 purpose of forming a pure captive insurance company as provided in
38 section seven thousand two of the insurance law. The members of such
39 subsidiary corporation of the authority shall be the same persons hold-
40 ing the offices of members of the authority. The employees of any such
41 subsidiary corporation, except those who are also employees of the
42 authority, shall not be deemed employees of the authority.

43 § 3. Subdivision (a) of section 1500 of the tax law, as amended by
44 section 21 of part A of chapter 59 of the laws of 2014, is amended to
45 read as follows:

46 (a) The term "insurance corporation" includes a corporation, associ-
47 ation, joint stock company or association, person, society, aggregation
48 or partnership, by whatever name known, doing an insurance business,
49 and, notwithstanding the provisions of section fifteen hundred twelve of
50 this article, shall include (1) a risk retention group as defined in
51 subsection (n) of section five thousand nine hundred two of the insur-
52 ance law, (2) the state insurance fund and (3) a corporation, associ-
53 ation, joint stock company or association, person, society, aggregation
54 or partnership doing an insurance business as a member of the New York
55 insurance exchange described in section six thousand two hundred one of
56 the insurance law. The definition of the "state insurance fund"

1 contained in this subdivision shall be limited in its effect to the
2 provisions of this article and the related provisions of this chapter
3 and shall have no force and effect other than with respect to such
4 provisions. The term "insurance corporation" shall also include a
5 captive insurance company doing a captive insurance business, as defined
6 in subsections (c) and (b), respectively, of section seven thousand two
7 of the insurance law; provided, however, "insurance corporation" shall
8 not include the metropolitan transportation authority, the power author-
9 ity of New York or any statutory subsidiary thereof, or a public benefit
10 corporation or not-for-profit corporation formed by a city with a popu-
11 lation of one million or more pursuant to subsection (a) of section
12 seven thousand five of the insurance law, each of which is expressly
13 exempt from the payment of fees, taxes or assessments, whether state or
14 local; and provided further "insurance corporation" does not include any
15 combinable captive insurance company. The term "insurance corporation"
16 shall also include an unauthorized insurer operating from an office
17 within the state, pursuant to paragraph five of subsection (b) of
18 section one thousand one hundred one and subsection (i) of section two
19 thousand one hundred seventeen of the insurance law. The term "insurance
20 corporation" also includes a health maintenance organization required to
21 obtain a certificate of authority under article forty-four of the public
22 health law.

23 § 4. Subdivision (a) of section 1502-b of the tax law, as amended by
24 section 22 of part A of chapter 59 of the laws of 2014, is amended to
25 read as follows:

26 (a) In lieu of the taxes and tax surcharge imposed by sections fifteen
27 hundred one, fifteen hundred two-a, fifteen hundred five-a, and fifteen
28 hundred ten of this article, every captive insurance company licensed by
29 the superintendent of financial services pursuant to the provisions of
30 article seventy of the insurance law, other than the metropolitan trans-
31 portation authority, the power authority of New York or any statutory
32 subsidiary thereof, and a public benefit corporation or not-for-profit
33 corporation formed by a city with a population of one million or more
34 pursuant to subsection (a) of section seven thousand five of the insur-
35 ance law, each of which is expressly exempt from the payment of fees,
36 taxes or assessments whether state or local, and other than combinable
37 captive insurance company, shall, for the privilege of exercising its
38 corporate franchise, pay a tax on (1) all gross direct premiums, less
39 return premiums thereon, written on risks located or resident in this
40 state and (2) all assumed reinsurance premiums, less return premiums
41 thereon, written on risks located or resident in this state. The rate of
42 the tax imposed on gross direct premiums shall be four-tenths of one
43 percent on all or any part of the first twenty million dollars of premi-
44 ums, three-tenths of one percent on all or any part of the second twenty
45 million dollars of premiums, two-tenths of one percent on all or any
46 part of the third twenty million dollars of premiums, and seventy-five
47 thousandths of one percent on each dollar of premiums thereafter. The
48 rate of the tax on assumed reinsurance premiums shall be two hundred
49 twenty-five thousandths of one percent on all or any part of the first
50 twenty million dollars of premiums, one hundred and fifty thousandths of
51 one percent on all or any part of the second twenty million dollars of
52 premiums, fifty thousandths of one percent on all or any part of the
53 third twenty million dollars of premiums and twenty-five thousandths of
54 one percent on each dollar of premiums thereafter. The tax imposed by
55 this section shall be equal to the greater of (i) the sum of the tax

1 imposed on gross direct premiums and the tax imposed on assumed reinsur-
2 ance premiums or (ii) five thousand dollars.
3 § 5. This act shall take effect immediately.

4 PART AAA

5 Section 1. Expenditures of moneys by the New York state energy
6 research and development authority for services and expenses of the
7 energy research, development and demonstration program, including
8 grants, the energy policy and planning program, the zero emissions vehi-
9 cle and electric vehicle rebate program, and the Fuel NY program shall
10 be subject to the provisions of this section. Notwithstanding the
11 provisions of subdivision 4-a of section 18-a of the public service law,
12 all moneys committed or expended in an amount not to exceed \$22,875,000
13 shall be reimbursed by assessment against gas corporations, as defined
14 in subdivision 11 of section 2 of the public service law and electric
15 corporations as defined in subdivision 13 of section 2 of the public
16 service law, where such gas corporations and electric corporations have
17 gross revenues from intrastate utility operations in excess of \$500,000
18 in the preceding calendar year, and the total amount assessed shall be
19 allocated to each electric corporation and gas corporation in proportion
20 to its intrastate electricity and gas revenues in the calendar year
21 2020. Such amounts shall be excluded from the general assessment
22 provisions of subdivision 2 of section 18-a of the public service law.
23 The chair of the public service commission shall bill such gas and/or
24 electric corporations for such amounts on or before August 10, 2022 and
25 such amounts shall be paid to the New York state energy research and
26 development authority on or before September 10, 2022. Upon receipt, the
27 New York state energy research and development authority shall deposit
28 such funds in the energy research and development operating fund estab-
29 lished pursuant to section 1859 of the public authorities law. The New
30 York state energy research and development authority is authorized and
31 directed to: (1) transfer up to \$4 million to the state general fund for
32 climate change related services and expenses of the department of envi-
33 ronmental conservation, \$150,000 to the state general fund for services
34 and expenses of the department of agriculture and markets, and
35 \$1,000,000 to the University of Rochester laboratory for laser energet-
36 ics from the funds received; and (2) commencing in 2016, provide to the
37 chair of the public service commission and the director of the budget
38 and the chairs and secretaries of the legislative fiscal committees, on
39 or before August first of each year, an itemized record, certified by
40 the president and chief executive officer of the authority, or his or
41 her designee, detailing any and all expenditures and commitments ascrib-
42 able to moneys received as a result of this assessment by the chair of
43 the department of public service pursuant to section 18-a of the public
44 service law. This itemized record shall include an itemized breakdown
45 of the programs being funded by this section and the amount committed to
46 each program. The authority shall not commit for any expenditure, any
47 moneys derived from the assessment provided for in this section, until
48 the chair of such authority shall have submitted, and the director of
49 the budget shall have approved, a comprehensive financial plan encom-
50 passing all moneys available to and all anticipated commitments and
51 expenditures by such authority from any source for the operations of
52 such authority. Copies of the approved comprehensive financial plan
53 shall be immediately submitted by the chair to the chairs and secre-
54 taries of the legislative fiscal committees. Any such amount not commit-

1 ted by such authority to contracts or contracts to be awarded or other-
2 wise expended by the authority during the fiscal year shall be refunded
3 by such authority on a pro-rata basis to such gas and/or electric corpo-
4 rations, in a manner to be determined by the department of public
5 service, and any refund amounts must be explicitly lined out in the
6 itemized record described above.

7 § 2. This act shall take effect immediately and shall be deemed to
8 have been in full force and effect on and after April 1, 2022.

9

PART BBB

10 Section 1. Expenditures of moneys appropriated in a chapter of the
11 laws of 2022 to the department of agriculture and markets from the
12 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 department
16 of agriculture and markets' participation in general ratemaking
17 proceedings pursuant to section 65 of the public service law or certif-
18 ication proceedings pursuant to article 7 or 10 of the public service
19 law, shall be deemed expenses of the department of public service within
20 the meaning of section 18-a of the public service law. No later than
21 August 15, 2023, the commissioner of the department of agriculture and
22 markets shall submit an accounting of such expenses, including, but not
23 limited to, expenses in the 2022--2023 state fiscal year for personal
24 and non-personal services and fringe benefits, to the chair of the
25 public service commission for the chair's review pursuant to the
26 provisions of section 18-a of the public service law.

27 § 2. Expenditures of moneys appropriated in a chapter of the laws of
28 2022 to the department of state from the special revenue funds-
29 other/state operations, miscellaneous special revenue fund-339, public
30 service account shall be subject to the provisions of this section.
31 Notwithstanding any other provision of law to the contrary, direct and
32 indirect expenses relating to the activities of the department of
33 state's utility intervention unit pursuant to subdivision 4 of section
34 94-a of the executive law, including, but not limited to participation
35 in general ratemaking proceedings pursuant to section 65 of the public
36 service law or certification proceedings pursuant to article 7 or 10 of
37 the public service law, and expenses related to the activities of the
38 major renewable energy development program established by section 94-c
39 of the executive law, shall be deemed expenses of the department of
40 public service within the meaning of section 18-a of the public service
41 law. No later than August 15, 2023, the secretary of state shall submit
42 an accounting of such expenses, including, but not limited to, expenses
43 in the 2022--2023 state fiscal year for personal and non-personal
44 services and fringe benefits, to the chair of the public service commis-
45 sion for the chair's review pursuant to the provisions of section 18-a
46 of the public service law.

47 § 3. Expenditures of moneys appropriated in a chapter of the laws of
48 2022 to the office of parks, recreation and historic preservation from
49 the special revenue funds-other/state operations, miscellaneous special
50 revenue fund-339, public service account shall be subject to the
51 provisions of this section. Notwithstanding any other provision of law
52 to the contrary, direct and indirect expenses relating to the office of
53 parks, recreation and historic preservation's participation in general
54 ratemaking proceedings pursuant to section 65 of the public service law

1 or certification proceedings pursuant to article 7 or 10 of the public
2 service law, shall be deemed expenses of the department of public
3 service within the meaning of section 18-a of the public service law. No
4 later than August 15, 2023, the commissioner of the office of parks,
5 recreation and historic preservation shall submit an accounting of such
6 expenses, including, but not limited to, expenses in the 2022--2023
7 state fiscal year for personal and non-personal services and fringe
8 benefits, to the chair of the public service commission for the chair's
9 review pursuant to the provisions of section 18-a of the public service
10 law.

11 § 4. Expenditures of moneys appropriated in a chapter of the laws of
12 2022 to the department of environmental conservation from the special
13 revenue funds-other/state operations, environmental conservation special
14 revenue fund-301, utility environmental regulation account shall be
15 subject to the provisions of this section. Notwithstanding any other
16 provision of law to the contrary, direct and indirect expenses relating
17 to the department of environmental conservation's participation in state
18 energy policy proceedings, or certification proceedings pursuant to
19 article 7 or 10 of the public service law, shall be deemed expenses of
20 the department of public service within the meaning of section 18-a of
21 the public service law. No later than August 15, 2023, the commissioner
22 of the department of environmental conservation shall submit an account-
23 ing of such expenses, including, but not limited to, expenses in the
24 2022--2023 state fiscal year for personal and non-personal services and
25 fringe benefits, to the chair of the public service commission for the
26 chair's review pursuant to the provisions of section 18-a of the public
27 service law.

28 § 5. Notwithstanding any other law, rule or regulation to the contra-
29 ry, expenses of the department of health public service education
30 program incurred pursuant to appropriations from the cable television
31 account of the state miscellaneous special revenue funds shall be deemed
32 expenses of the department of public service. No later than August 15,
33 2023, the commissioner of the department of health shall submit an
34 accounting of expenses in the 2022--2023 state fiscal year to the chair
35 of the public service commission for the chair's review pursuant to the
36 provisions of section 217 of the public service law.

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

41 § 7. This act shall take effect immediately and shall be deemed to
42 have been in full force and effect on and after April 1, 2022 and shall
43 expire and be deemed repealed April 1, 2023.

44 PART CCC

45 Section 1. Subdivision 4 of section 31 of the public service law, as
46 added by chapter 713 of the laws of 1981, is amended to read as follows:

47 4. In the case of any application for service to a building which is
48 not supplied with electricity or gas, a utility corporation or munici-
49 pality shall be obligated to provide service to such a building,
50 provided however, that the commission may require applicants for elec-
51 tric service to buildings that are located in excess of one hundred feet
52 from [~~gas or~~] electric transmission lines to pay or agree in writing to
53 pay material and installation costs relating to the applicant's propor-
54 tion of the [~~pipe~~] conduit, duct or wire, or other facilities to be

1 installed. The commission may further require applicants for gas
2 service, regardless of proximity to gas transportation lines to pay or
3 agree in writing to pay all material and installation costs relating to
4 the pipe, conduit, or other facilities to be installed to serve the
5 applicant. Where electrification is not a practical alternative to gas
6 service, the commission may require applicants for gas service to pay
7 material and installation costs relating to the applicant's portion of
8 the pipe, conduit, or other facilities to be installed in excess of one
9 hundred feet.

10 § 2. Subdivision 11 of section 2 of the public service law, as amended
11 by chapter 159 of the laws of 1992, is amended to read as follows:

12 11. The term "gas corporation," when used in this chapter, includes
13 every corporation, company, association, joint-stock association, part-
14 nership and person, their lessees, trustees or receivers appointed by
15 any court whatsoever, owning, operating or managing any gas plant or
16 geothermal plant (a) except where gas is made or produced and distrib-
17 uted by the maker on or through private property solely for its own use
18 or the use of its tenants and not for sale to others, (b) except where
19 compressed natural gas is sold, distributed or furnished solely as a
20 fuel for use in motor vehicles, (c) except where manufactured gas is
21 sold by the producer only for use or resale by a gas corporation and
22 such gas of the producer and any affiliated producers does not exceed in
23 any one year thirty per cent of the total gas sold by any purchaser
24 thereof in the area in which such manufactured gas is resold either as
25 manufactured gas or as a component of mixed gas, and (d) except where
26 gas is made or produced solely from one or more alternate energy
27 production facilities or distributed solely from one or more of such
28 facilities to users located at or near a project site; provided, howev-
29 er, that any producer not included within the meaning of "gas corpo-
30 ration" by reason of exception (c) or (d) shall nevertheless be consid-
31 ered a gas corporation for the purposes of commission jurisdiction
32 relating to the safety of the construction, operation, or maintenance of
33 plants manufacturing pipeline quality gas.

34 § 3. Subdivision 13 of section 2 of the public service law, as amended
35 by chapter 843 of the laws of 1981, is amended to read as follows:

36 13. The term "electric corporation," when used in this chapter,
37 includes every corporation, company, association, joint-stock associ-
38 ation, partnership and person, their lessees, trustees or receivers
39 appointed by any court whatsoever (other than a railroad or street rail-
40 road corporation generating electricity solely for railroad or street
41 railroad purposes or for the use of its tenants and not for sale to
42 others) owning, operating or managing any electric plant or geothermal
43 plant except where electricity or geothermal energy is generated or
44 distributed by the producer solely on or through private property for
45 railroad or street railroad purposes or for its own use or the use of
46 its tenants and not for sale to others; or except where electricity is
47 generated by the producer solely from one or more co-generation, small
48 hydro or alternate energy production facilities or distributed solely
49 from one or more of such facilities to users located at or near a
50 project site.

51 § 4. Section 2 of the public service law is amended by adding a new
52 subdivision 15 to read as follows:

53 15. The term "geothermal plant," when used in this chapter, includes
54 all real estate, fixtures and personal property operated, owned, used or
55 to be used for or in connection with or to facilitate the transmission,
56 distribution, sale or furnishing of geothermal energy to more than one

1 end user on separately owned properties through shared facilities for
2 heat or power.

3 § 5. Paragraphs (c) and (d) of subdivision 6 of section 65 of the
4 public service law, paragraph (c) as amended by chapter 204 of the laws
5 of 2010 and paragraph (d) as amended by chapter 388 of the laws of 2011,
6 are amended and a new paragraph (e) is added to read as follows:

7 (c) for a remote meter reading device upon the request and consent of
8 the customer; ~~[ex]~~

9 (d) for installation of capital improvements and fixtures to promote
10 energy efficiency upon the request and consent of the customer, includ-
11 ing but not limited to the performance of qualified energy efficiency
12 services for customers participating in green jobs-green New York
13 on-bill recovery pursuant to section sixty-six-m of this article~~[-]~~; or
14 (e) for the provision of geothermal service.

15 § 6. This act shall take effect immediately.

16 PART DDD

17 Section 1. Paragraph (a) of subdivision 17 of section 1005 of the
18 public authorities law, as amended by chapter 494 of the laws of 2011,
19 is amended to read as follows:

20 (a) As deemed feasible and advisable by the trustees, to finance and
21 design, develop, construct, implement, provide and administer energy-re-
22 lated projects, programs and services for any public entity, any inde-
23 pendent not-for-profit institution of higher education within the state,
24 any general hospital located in the state, and any recipient of the
25 economic development power, expansion power, replacement power, preser-
26 vation power, high load factor power, municipal distribution agency
27 power, power for jobs, and recharge New York power programs administered
28 by the authority. In establishing and providing high performance and
29 sustainable building programs and services authorized by this subdivi-
30 sion, the authority is authorized to consult standards, guidelines,
31 rating systems, and/or criteria established or adopted by other organ-
32 izations, including but not limited to the United States green building
33 council under its leadership in energy and environmental design (LEED)
34 programs, the green building initiative's green globes rating system,
35 and the American National Standards Institute. The source of any financ-
36 ing and/or loans provided by the authority for the purposes of this
37 subdivision may be the proceeds of notes issued pursuant to section one
38 thousand nine-a of this title, the proceeds of bonds issued pursuant to
39 section one thousand ten of this title, or any other available authority
40 funds.

41 § 2. Paragraph (b) of subdivision 17 of section 1005 of the public
42 authorities law is amended by adding a new subparagraph 3-a to read as
43 follows:

44 (3-a) "General hospital" has the same meaning ascribed to such term in
45 subdivision ten of section twenty-eight hundred one of the public health
46 law.

47 § 3. This act shall take effect immediately.

48 PART EEE

49 Section 1. This act shall be known and may be cited as the "advanced
50 building codes, appliance and equipment efficiency standards, and build-
51 ing benchmarking act of 2022".

§ 2. Subdivision 2 of section 3-101 of the energy law, as amended by chapter 253 of the laws of 2013, is amended to read as follows:

2. to encourage conservation of energy and to promote the clean energy and climate agenda, including but not limited to greenhouse gas reduction, set forth within chapter one hundred six of the laws of two thousand nineteen, also known as the New York state climate leadership and community protection act, in the construction and operation of new commercial, industrial, agricultural and residential buildings, and in the rehabilitation of existing structures, through heating, cooling, ventilation, lighting, insulation and design techniques and the use of energy audits and life-cycle costing analysis;

§ 3. Subdivisions 3 and 9 of section 11-102 of the energy law, as added by chapter 560 of the laws of 2010, are amended, subdivisions 11, 12, 13, 14, and 15 are renumbered to be subdivisions 12, 13, 14, 15, and 16, and a new subdivision 11 is added to read as follows:

3. [~~"ASHRAE 90.1-2007," ANSI/ASHRAE/IESNA~~] "ASHRAE 90.1." ANSI/ASHRAE/IES Standard [90.1-2007] 90.1, entitled "Energy [~~Standards~~] Standard for Buildings Except Low-Rise Residential Buildings," published by American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.

9. "Historic building." Any building or structure that is one or more of the following: (a) listed, or certified as eligible for listing, on the national register of historic places or on the state register of historic places, (b) [~~determined by the commissioner of parks, recreation and historic preservation to be eligible for listing on the state register of historic places~~] designated as historic under applicable state or local law, or (c) [~~determined by the commissioner of parks, recreation and historic preservation to be a contributing building to an historic district that is listed or eligible for listing on the state or national registers of historic places, or (d) otherwise defined as an historic building in regulations adopted by the state fire prevention and building code council~~] certified as a contributing resource within a national register-listed, state register-listed, or locally designated historic district.

11. "Life-cycle cost." An estimate of the total cost of acquisition, operation, maintenance, and construction of any system within or related to a structure over the design life of the structure. "Life-cycle cost" includes, but is not limited to, the cost of fuel, materials, machinery, ancillary devices, labor, service, replacement, and repairs.

§ 4. Paragraph (b) of subdivision 1 and subdivisions 2 and 3 of section 11-103 of the energy law, paragraph (b) of subdivision 1 as added and subdivision 2 as amended by chapter 560 of the laws of 2010 and subdivision 3 as amended by chapter 292 of the laws of 1998, are amended to read as follows:

(b) The code shall apply to the construction of any new building. The code shall also apply to an addition to, and alteration of, any existing building or building system; provided, however, that the code shall not be interpreted to require any unaltered portion of the existing building or building system to comply with the code. The code shall [~~not apply to the following provided that the energy use of the building is not increased:~~

~~(1) storm windows installed over existing fenestration;~~
~~(2) glass only replacements in an existing sash and frame;~~
~~(3) existing ceiling, wall or floor cavities exposed during construction provided that these cavities are filled with insulation;~~

~~(4) construction where the existing roof, wall or floor cavity is not exposed;~~

~~(5) reroofing for roofs where neither the sheathing nor the insulation is exposed; roofs without insulation in the cavity and where the sheathing or insulation is exposed during reroofing shall be insulated either above or below the sheathing;~~

~~(6) replacement of existing doors that separate conditioned space from the exterior shall not require the installation of a vestibule or revolving door, provided, however, that an existing vestibule that separates such conditioned space from the exterior shall not be removed;~~

~~(7) alterations that replace less than fifty percent of the luminaires in a space, provided that such alterations do not increase the installed interior lighting power;~~

~~(8) alterations that replace only the bulb and ballast within the existing luminaires in a space provided that the alteration does not increase the installed interior lighting power; and~~

~~(9) any other exception]~~ be subject to such other exceptions as may be adopted by the state fire prevention and building code council provided that such ~~[exception will]~~ exceptions shall not prevent the attainment of the compliance goals set forth in section 410(2)(c) of the American Recovery and Reinvestment Act of 2009.

2. (a) The state fire prevention and building code council is authorized, from time to time as it deems appropriate and consistent with the purposes of this article, to review and amend the code, or adopt a new code, through rules and regulations provided that the code remains cost effective with respect to building construction in the state. In determining whether the code remains cost effective, the code council shall consider ~~[whether the cost of materials and their installation to meet its standards would be equal to or less than the present value of energy savings that could be expected over a ten year period in the building in which such materials are installed]~~ (i) whether complying with the code would reduce or maintain overall life-cycle costs under a life-cycle cost analysis performed under methodology as established by the New York state energy research and development authority from time to time, and (ii) secondary or societal effects, such as reductions in greenhouse gas emissions. The methodology for assessing cost-effectiveness, including secondary or societal effects, shall be developed through an open and transparent public process. For residential buildings, the code shall meet or exceed the then most recently published International Energy Conservation Code, or achieve equivalent or greater energy savings; and for commercial buildings, the code shall meet or exceed the then most recently published ASHRAE ~~[90.1-2007]~~ 90.1, or achieve equivalent or greater energy savings.

(b) When adopting the first amended version of the code next following the effective date of the chapter of the laws of two thousand twenty-two that added this paragraph, and any subsequent codes, the state fire prevention and building code council shall use its best efforts to adopt provisions for residential buildings that achieve energy savings greater than energy savings achieved by the then most recently published International Energy Conservation Code and to meet the goals of the New York state climate leadership and community protection act pursuant to chapter one hundred six of the laws of two thousand nineteen and to adopt provisions for commercial buildings that achieve energy savings greater than energy savings achieved by the then most recently published ASHRAE 90.1 and to meet the goals of the New York state climate leadership and community protection act pursuant to chapter one hundred six of the laws

1 of two thousand nineteen, both at levels recommended by the New York
2 state energy research and development authority, provided that the state
3 fire prevention and building code council determines that such advanced
4 energy savings can be achieved while still meeting the cost effective-
5 ness considerations contemplated by this subdivision.

6 3. Notwithstanding any other provision of law, the state fire
7 prevention and building code council in accordance with the mandate
8 under this article shall have exclusive authority among state agencies
9 to promulgate a construction code incorporating energy conservation
10 features and clean energy features, including but not limited to green-
11 house gas reduction. Any other code, rule or regulation heretofore
12 promulgated or enacted by any other state agency, incorporating specific
13 energy conservation and clean energy requirements applicable to the
14 construction of any building, shall be superseded by the code promulgat-
15 ed pursuant to this section. The New York state energy research and
16 development authority shall provide meaningful opportunities for public
17 comment from all segments of the population that will be impacted by
18 the promulgated codes, rules, or regulations, including persons living
19 in disadvantaged communities as identified by the climate justice work-
20 ing group established under section 75-0111 of the environmental conser-
21 vation law.

22 § 5. Subdivision 5 of section 11-104 of the energy law, as amended by
23 chapter 560 of the laws of 2010, is amended and a new subdivision 6 is
24 added to read as follows:

25 5. The [~~code shall exempt from such uniform standards and requirements~~
26 ~~any historic building as defined in section 11-102 of this article~~]
27 state fire prevention and building code council, in consultation with
28 the commissioner of the department of parks, recreation, and historic
29 preservation, is authorized to provide exemptions to such uniform stand-
30 ards and requirements for historic buildings as defined in section
31 11-102 of this article, to the extent that the uniform standards and
32 requirements would threaten, degrade, or destroy the historic form,
33 fabric, or function of such historic buildings.

34 6. To the fullest extent feasible, the code shall require new
35 construction statewide to have zero onsite greenhouse gas emissions no
36 later than the year two thousand twenty-seven to help achieve the
37 state's clean energy and climate agenda, including but not limited to
38 greenhouse gas reduction, set forth within chapter one hundred six of
39 the laws of two thousand nineteen, also known as the New York state
40 climate leadership and community protection act, and as further identi-
41 fied by the New York state climate action council established pursuant
42 to section 75-0103 of the environmental conservation law.

43 § 6. The article heading of article 16 of the energy law, as added by
44 chapter 431 of the laws of 2005, is amended to read as follows:

45 APPLIANCE AND EQUIPMENT [~~ENERGY~~] EFFICIENCY STANDARDS

46 § 7. Subdivision 4-a of section 16-102 of the energy law, as added by
47 chapter 222 of the laws of 2010, is amended to read as follows:

48 4-a. [~~"Bottle-type water dispenser" means a water dispenser that uses~~
49 ~~a bottle or reservoir as the source of potable water.~~] The following
50 definitions refer to water coolers:

51 (a) "Bottle-type" means a water dispenser that uses a bottle or reser-
52 voir as the source of potable water.

53 (b) "Water cooler" means a freestanding device that consumes energy to
54 cool and/or heat potable water.

55 (c) "Cold only units" means units that dispense cold water only.

1 (d) "Hot and cold units" means units that dispense both hot and cold
2 water. Some units may also offer room-temperature water.

3 (e) "Cook and cold units" means units that dispense both cold and
4 room-temperature water.

5 (f) "Point of use (POU)" means the water cooler is connected to a
6 pressurized water source.

7 (g) "Conversion-type" means a unit that ships as either bottle-type or
8 POU and includes a conversion kit intended to convert the water cooler
9 from a bottle-type unit to a POU unit or to convert a POU unit to a
10 bottle-type unit.

11 (h) "Storage-type" means thermally conditioned water is stored in a
12 tank in the water cooler and is available instantaneously.

13 (i) "On demand" means the water cooler heats water as it is requested,
14 which typically takes a few minutes to deliver.

15 § 8. Subdivision 11 of section 16-102 of the energy law, as added by
16 chapter 431 of the laws of 2005, is amended to read as follows:

17 11. "Consumer audio and video product" means ~~[televisions,]~~ a mains-
18 connected product that amplifies audio, offers optical, disc player
19 functionality, and/or receives and plays audio and/or video content.
20 Examples of consumer audio and video products include compact audio
21 products, digital versatile disc players, digital versatile disc record-
22 ers, ~~[and]~~ digital television adapters and streaming media players.
23 Televisions are specifically excluded from consumer audio and video
24 products.

25 § 9. Subdivision 18 of section 16-102 of the energy law, as added by
26 chapter 431 of the laws of 2005, is amended to read as follows:

27 18. ~~["Energy efficiency performance standards"]~~ "Efficiency standard"
28 means ~~[performance standards which prescribe a minimum level of energy~~
29 ~~efficiency determined in accordance with test procedures prescribed by~~
30 ~~the secretary in consultation with the president]~~ a standard that
31 defines performance metrics and/or defines prescriptive design require-
32 ments in order to reduce energy consumption, reduce water consumption,
33 reduce greenhouse gas emissions, and/or increase demand flexibility
34 associated with the regulated product category.

35 § 10. Subdivisions 27-a and 27-b of section 16-102 of the energy law,
36 as added by chapter 222 of the laws of 2010, are amended to read as
37 follows:

38 27-a. "Portable electric spa" means a factory-built electric spa or
39 hot tub, ~~[supplied with equipment for heating and circulating water]~~
40 which may or may not include any combination of integral controls, water
41 heating or water circulating equipment.

42 27-b. "Portable light fixture" means a light fixture which has a flex-
43 ible cord and an attachment plug for connection to a nominal one hundred
44 twenty-volt, fifteen- or twenty-ampere branch circuit; which can be
45 relocated by the user without any rewiring; ~~[and]~~ which is typically
46 controlled with a switch located on the light fixture itself or on the
47 power cord; and which are intended for use in accordance with the
48 national electrical code, ANSI/NFPA 70-2002. "Portable light fixture"
49 does not include direct plug-in nightlights; sun and heat lamps; aquari-
50 um lamps; medical and dental lights; portable electric hand lamps; signs
51 and commercial advertising displays; photographic lamps; germicidal
52 lamps; ~~[metal halide lamp fixtures, torchiere lighting fixtures]~~ illumi-
53 nated vanity mirrors; lava lamps not providing general or task illumi-
54 nation; industrial work lights rated for use with a lamp providing
55 greater than seven thousand lumens; portable lamp fixtures for marine
56 use or for use in hazardous locations as defined in the national elec-

1 trical code, ANSI/NFPA 70; or decorative lighting outfits or electric
2 candles and candelabras without lampshades that are covered by the stan-
3 dard for safety of seasonal and holiday decorative products, UL 588.

4 § 11. Subdivision 29-a of section 16-102 of the energy law, as added
5 by chapter 222 of the laws of 2010, is amended to read as follows:

6 29-a. "[~~Residential~~] Replacement dedicated-purpose pool pump motor"
7 means [~~a product which is designed or used to circulate and filter resi-~~
8 ~~dential swimming pool water in order to maintain clarity and sanitation~~
9 ~~and which consists in part of a motor and an impeller~~] an electric motor
10 that:

11 (a) is single-phase or polyphase;

12 (b) has a dedicated purpose pool pump motor total horsepower of less
13 than or equal to five horsepower;

14 (c) is marketed for use as a replacement motor in self-priming pool
15 filter pump, non-self-priming pool filter pump or pressure cleaner
16 booster pump applications; and

17 (d) excludes polyphase replacement dedicated-purpose pool pump motors
18 capable of operating without a drive, and is sold or offered for sale
19 without a drive that converts single-phase power to polyphase power.

20 § 12. Subdivision 33 of section 16-102 of the energy law, as added by
21 chapter 431 of the laws of 2005, is amended to read as follows:

22 33. "Television (TV)" means [~~a commercially available electronic prod-~~
23 ~~uct consisting of a tuner/receiver and a monitor encased in a single~~
24 ~~housing, which is~~] an analog or digital device primarily designed to
25 receive and display [~~an analog or digital video television signal broad-~~
26 ~~cast by an antenna, satellite, cable, or broadband source~~] terrestrial,
27 satellite, cable, Internet Protocol TV (IPTV), or other broadcast or
28 recorded transmissions of analog or digital video and audio signals. TVs
29 include combination TVs, television monitors, component TVs, and any
30 unit that is marketed to the consumer as a TV. "Television" does not
31 include [~~multifunction TVs which have VCR, DVD, DVR, or EPG functions~~]
32 computer monitors.

33 § 13. Section 16-102 of the energy law is amended by adding thirty-
34 eight new subdivisions 18-a, 18-b, 21-c, 21-d, 38, 39, 40, 41, 41-a, 42,
35 42-a, 43, 43-a, 44, 45, 46, 46-a, 47, 48, 49, 50, 51, 52, 53, 54, 55,
36 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66 and 67 to read as follows:

37 18-a. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide,
38 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other
39 substance emitted into the air that may be reasonably anticipated to
40 cause or contribute to anthropogenic climate change.

41 18-b. "Demand flexibility" means the capability to schedule, shift, or
42 curtail the electrical demand of a load-serving entity's customer
43 through direct action by the customer or through action by a third
44 party, the load-serving entity, or a grid balancing authority, with the
45 customer's consent.

46 21-c. "Duv" means a metric that quantifies the distance between the
47 chromaticity of a given light source and a blackbody radiator of equal
48 correlated color temperature (CCT) on a CIE 1976 (u, v) chromatic
49 diagram demonstrating how different two light sources of the same color
50 temperature appear.

51 21-d. "Light Emitting Diode (LED) lamp" means a lamp capable of
52 producing light with Duv between -0.012 and 0.012, and that has an E12,
53 E17, E26, or GU-24 base, including LED lamps that are designed for
54 retrofit within existing recessed can housings that contain one of the
55 preceding bases. LED lamp does not include a lamp with a brightness of
56 more than two thousand six hundred lumens or a lamp that cannot produce

1 light with a correlated color temperature between two thousand two
2 hundred Kelvin and seven thousand Kelvin.

3 38. The following definitions refer to air compressors:

4 (a) "Air compressor" means a compressor designed to compress air that
5 has an inlet open to the atmosphere or other source of air, and is made
6 up of a compression element (bare compressor), driver or drivers mechan-
7 ical equipment to drive the compressor element, and any ancillary equip-
8 ment.

9 (b) "Compressor" means a machine or apparatus that converts different
10 types of energy into the potential energy of gas pressure for displace-
11 ment and compression of gaseous media to any higher-pressure values
12 above atmospheric pressure and has a pressure ratio at full-load operat-
13 ing pressure greater than 1.3.

14 39. The following definitions refer to air purifiers:

15 (a) "Air purifier", also known as "room air cleaner", means an elec-
16 tric, cord-connected, portable appliance with the primary function of
17 removing particulate matter from the air and which can be moved from
18 room to room.

19 (b) "Industrial air purifier" means an indoor air cleaning device
20 manufactured, advertised, marketed, labeled, and used solely for indus-
21 trial use that are marketed solely through industrial supply outlets or
22 businesses and prominently labeled as "Solely for industrial use. Poten-
23 tial health hazard: emits ozone."

24 40. "Commercial dishwasher" means a machine designed to clean and
25 sanitize plates, pots, pans, glasses, cups, bowls, utensils, and trays
26 by applying sprays of detergent solution (with or without blasting media
27 granules) and a sanitizing rinse and is not a "compact dishwasher" or
28 "standard dishwasher" (capacity less than eight place settings plus six
29 serving pieces as specified in ANSI/AHAM DW-1 using the test load speci-
30 fied in section 2.7 of appendix C in subpart B of 10 CFR 430.2).

31 41. "Commercial fryer" means an appliance for non-residential use,
32 including a cooking vessel, in which oil is placed to such a depth that
33 the cooking food is essentially supported by displacement of the cooking
34 fluid rather than by the bottom of the vessel. Heat is delivered to the
35 cooking fluid by means of an immersed electric element of band-wrapped
36 vessel (electric fryers) or by heat transfer from gas burners through
37 either the walls of the fryer or through tubes passing through the cook-
38 ing fluid (gas fryers).

39 41-a. "Commercial oven" means a chamber designed for heating, roast-
40 ing, or baking food by conduction, convection, radiation, and/or elec-
41 tromagnetic energy.

42 42. "Commercial steam cooker" also known as "compartment steamer",
43 means a device for non-residential use with one or more food-steaming
44 compartments in which the energy in the steam is transferred to the food
45 by direct contact. Models may include countertop models, wall-mounted
46 models, and floor models mounted on a stand, pedestal, or cabinet-style
47 base.

48 42-a. "Commercial hot food holding cabinet" means a heated, fully
49 enclosed compartment, with one or more solid or partial glass doors,
50 that is designed to maintain the temperature of hot food that has been
51 cooked in a separate appliance. "Commercial hot food holding cabinet"
52 does not include heated glass merchandising cabinets, drawer warmers or
53 cook-and-hold appliances.

54 43. "Computer" means a device that performs logical operations and
55 processes data. A computer includes both stationary and portable units
56 and includes a desktop computer, a portable all-in-one, a notebook

1 computer, a mobile gaming system, a high-expandability computer, a
2 small-scale server, a thin client, and a workstation. Although a comput-
3 er is capable of using input devices and displays, such devices are not
4 required to be included with the computer when the computer is shipped.
5 A computer is composed of, at a minimum, (a) a central processing unit
6 (CPU) to perform operations or, if no CPU is present, then the device
7 must function as a client gateway to a server, and the server acts as a
8 computational CPU; (b) the ability to support user input devices such as
9 a keyboard, mouse, or touch pad; and (c) an integrated display screen or
10 the ability to support an external display screen to output information.
11 The term "computer" does not include a tablet, a game console, a tele-
12 vision, a device with an integrated and primary display that has a
13 screen size of twenty square inches or less, a server other than a
14 small-scale server, or an industrial computer.

15 43-a. "Computer monitor" means an analog or digital device of size
16 greater than or equal to seventeen inches and less than or equal to
17 sixty-one inches, that has a pixel density of greater than five thousand
18 pixels per square inch, and that is designed primarily for the display
19 of computer-generated signals for viewing by one person in a desk-based
20 environment. A computer monitor is composed of a display screen and
21 associated electronics. A computer monitor does not include, (a)
22 displays with integrated or replaceable batteries designed to support
23 primary operation without AC mains or external DC power (e.g. electronic
24 readers, mobile phones, portable tablets, battery-powered digital
25 picture frames); or (b) a television or signage display.

26 44. "General service lamp" shall include the following definitions:

27 (a) "Compact fluorescent lamp (CFL)" means an integrated or non-inte-
28 grated single-base, low-pressure mercury, electric-discharge source in
29 which a fluorescing coating transforms some of the ultraviolet energy
30 generated by the mercury discharge into light; this term shall not
31 include circline or U-shaped lamps.

32 (b) "General service incandescent lamp" means a standard incandescent
33 or halogen type lamp that is intended for general service applications,
34 has a medium screw base, has a lumen range of not less than three
35 hundred ten lumens and not more than two thousand six hundred lumens, or
36 in the case of a modified spectrum lamp, not less than two hundred thir-
37 ty-two lumens and not more than one thousand nine hundred fifty lumens,
38 and is capable of being operated at a voltage range at least partially
39 within one hundred ten and one hundred thirty volts; provided, however,
40 that this definition shall not apply to the following incandescent
41 lamps:

42 (i) Appliance lamps;

43 (ii) Black light lamps;

44 (iii) Bug lamps;

45 (iv) Colored lamps;

46 (v) G shape lamps (as defined in ANSI C78.20 and C79.1-2002) with a
47 diameter of five inches or more;

48 (vi) Infrared lamps;

49 (vii) Left-hand thread lamps;

50 (viii) Marine lamps;

51 (ix) Marine signal service lamps;

52 (x) Mine service lamps;

53 (xi) Plant light lamps;

54 (xii) Reflector lamps;

55 (xiii) Sign service lamps;

56 (xiv) Silver bowl lamps;

1 (xv) Showcase lamps;
2 (xvi) Rough service lamps;
3 (xvii) Shatter-resistant lamps (including shatter-proof lamps and
4 shatter-protected lamps);
5 (xviii) 3-way incandescent lamps;
6 (xix) Vibration service lamps;
7 (xx) AB, BA, CA, F, G16-1/2, G-25, G30, S, or M-14 lamps (as defined
8 in ANSI C79.1-2002 and ANSI C78.20) of forty watts or less;
9 (xxi) T shape lamps (as defined in ANSI C78.20 and ANSI C79.1-2002)
10 and that uses not more than forty watts or has a length of more than ten
11 inches; and
12 (xxii) Traffic signal lamps.
13 (c) "General service lamp" means a lamp that has an ANSI base, is able
14 to operate at a voltage of twelve volts or twenty-four volts, at or
15 between one hundred to one hundred thirty volts, at or between two
16 hundred twenty to two hundred forty volts, or of two hundred seventy-
17 seven volts for integrated lamps, or is able to operate at any voltage
18 for non-integrated lamps, has an initial lumen output of greater than or
19 equal to three hundred ten lumens (or two hundred thirty-two lumens for
20 modified spectrum general service incandescent lamps) and less than or
21 equal to three thousand three hundred lumens, is not a light fixture, is
22 not an LED downlight retrofit kit, and is used in general lighting
23 applications. General service lamps shall include, but not be limited
24 to, general service incandescent lamps, incandescent reflector lamps,
25 compact fluorescent lamps, general service light emitting diode lamps,
26 and general service organic light emitting diode lamps. General service
27 lamps shall not include:
28 (i) Appliance lamps;
29 (ii) Black light lamps;
30 (iii) Bug lamps;
31 (iv) Colored lamps;
32 (v) G shape lamps with a diameter of five inches or more as defined in
33 ANSI C79.1-2002;
34 (vi) General service fluorescent lamps;
35 (vii) High intensity discharge lamps;
36 (viii) Infrared lamps;
37 (ix) J, JC, JCD, JCS, JCV, JCX, JD, JS, and JT shape lamps that do not
38 have Edison screw bases;
39 (x) Lamps that have a wedge base or prefocus base;
40 (xi) Left-hand thread lamps;
41 (xii) Marine lamps;
42 (xiii) Marine signal service lamps;
43 (xiv) Mine service lamps;
44 (xv) MR shape lamps that have a first number symbol equal to sixteen
45 (diameter equal to two inches) as defined in ANSI C79.1-2002, operate at
46 twelve volts and have a lumen output greater than or equal to 800;
47 (xvi) Other fluorescent lamps;
48 (xvii) Plant light lamps;
49 (xviii) R20 short lamps;
50 (xix) Reflector lamps that have a first number symbol less than
51 sixteen (diameter less than two inches) as defined in ANSI C79.1-2002
52 and that do not have E26/E24, E26d, E26/50x39, E26/53x39, E29/28,
53 E29/53x39, E39, E39d, EP39, or EX39 bases;
54 (xx) S shape or G shape lamps that have a first number symbol less
55 than or equal to 12.5 (diameter less than or equal to 1.5625 inches) as
56 defined in ANSI C79.1-2002;

(xxi) Sign service lamps;
(xxii) Silver bowl lamps;
(xxiii) Showcase lamps;
(xxiv) Specialty MR lamps;
(xxv) T shape lamps that have a first number symbol less than or equal to 8 (diameter less than or equal to one inch) as defined in ANSI C79.1-2002, nominal overall length less than twelve inches, and that are not compact fluorescent lamps; and

(xxvi) Traffic signal lamps.

(d) "General service light-emitting diode (LED) lamp" means an integrated or non-integrated LED lamp designed for use in general lighting applications and that uses light-emitting diodes as the primary source of light.

(e) "General service organic light-emitting diode (OLED) lamp" means a thin-film light-emitting device that typically consists of a series of organic layers between two electrical contacts (electrodes).

(f) "Incandescent reflector lamp" or "reflector lamp" means any lamp in which light is produced by a filament heated to incandescence by an electric current, which: contains an inner reflective coating on the outer bulb to direct the light; is not colored; is not designed for rough or vibration service applications; is not an R20 short lamp; has an R, PAR, ER, BR, BPAR, or similar bulb shapes with an E26 medium screw base; has a rated voltage or voltage range that lies at least partially in the range of one hundred fifteen and one hundred thirty volts; has a diameter that exceeds 2.25 inches; and has a rated wattage that is forty watts or higher.

45. "Federally exempt fluorescent lamp" means any linear lamps excluded from the definition of general service fluorescent lamps in 10 CFR 430.32(n). Federally exempt fluorescent lamps include high-CRI linear fluorescent lamps, impact-resistant linear fluorescent lamps, cold-temperature linear fluorescent lamps, and less than four-foot linear fluorescent lamps.

46. The following definitions refer to portable air conditioners:

(a) "Portable air conditioner" means a portable encased assembly, other than a packaged terminal air conditioner, room air conditioner, or dehumidifier, that delivers cooled, conditioned air to an enclosed space, and is powered by single-phase electric current. Such portable air conditioner includes a source of refrigeration and may include additional means for air circulation and heating and may be a single-duct or a dual-duct portable air conditioner.

(b) "Single-duct portable air conditioner" means a portable air conditioner that draws all of the condenser inlet air from the conditioned space without the means of a duct and discharges the condenser outlet air outside the conditioned space through a single-duct attached to an adjustable window bracket.

(c) "Dual-duct portable air conditioner" means a portable air conditioner that draws some or all of the condenser inlet air from outside the conditioned space through a duct attached to an adjustable window bracket, may draw additional condenser inlet air from the conditioned space, and discharges the condenser outlet air outside the conditioned space by means of a separate duct attached to an adjustable window bracket.

46-a. "Residential ventilating fan" means a fan with the purpose to actively supply air to or remove air from the inside of a residence. This includes ceiling and wall-mounted fans or remotely mounted in-line fans designed to be used in a bathroom or utility room, supply fans

1 designed to provide air to indoor space and kitchen range hoods. Supply
2 fans may also be designed to filter incoming air.

3 47. "Telephone" means an electronic product whose primary purpose is
4 to transmit and receive sound over a distance using a voice or data
5 network.

6 48. The following definitions refer to faucets and showerheads:

7 (a) "Faucet" means a lavatory faucet, kitchen faucet, metering faucet,
8 public lavatory faucet, or replacement aerator for a lavatory, public
9 lavatory or kitchen faucet.

10 (b) "Public lavatory faucet" means a fitting intended to be installed
11 in nonresidential bathrooms that are exposed to walk-in traffic.

12 (c) "Metering faucet" means a faucet that, when turned on, will gradu-
13 ally shut itself off over a period of several seconds.

14 (d) "Replacement aerator" means an aerator sold as a replacement,
15 separate from the faucet to which it is intended to be attached.

16 (e) "Showerhead" means a device through which water is discharged for
17 a shower bath and includes a hand-held showerhead but does not include a
18 safety shower showerhead.

19 (f) "Hand-held showerhead" means a showerhead that can be held or
20 fixed in place for the purpose of spraying water onto a bather and that
21 is connected to a flexible hose.

22 49. The following definitions refer to urinals and water closets:

23 (a) "Plumbing fixture" means an exchangeable device, which connects to
24 a plumbing system to deliver and drain away water and waste.

25 (b) "Urinal" means a plumbing fixture that receives only liquid body
26 waste and, conveys the waste through a trap into a drainage system.

27 (c) "Water closet" means a plumbing fixture having a water-containing
28 receptor that receives liquid and solid body waste through an exposed
29 integral trap into a drainage system.

30 (d) "Dual-flush effective flush volume" means the average flush volume
31 of two reduced flushes and one full flush.

32 (e) "Dual-flush water closet" means a water closet incorporating a
33 feature that allows the user to flush the water closet with either a
34 reduced or a full volume of water.

35 (f) "Trough-type urinal" means a urinal designed for simultaneous use
36 by two or more persons.

37 50. The following definitions refer to spray sprinkler bodies:

38 (a) "Pressure regulator" means a device that maintains constant oper-
39 ating pressure immediately downstream from the device, given higher
40 pressure upstream.

41 (b) "Spray sprinkler body" means the exterior case or shell of a
42 sprinkler incorporating a means of connection to the piping system
43 designed to convey water to a nozzle or orifice.

44 51. "Uninterruptable power supply" means a battery charger consisting
45 of a combination of convertors, switches and energy storage devices
46 (such as batteries), constituting a power system for maintaining conti-
47 nuity of load power in case of input power failure.

48 52. "Commercial battery charger system (BCS)" or "state-regulated BCS"
49 means a battery charger coupled with its batteries or battery chargers
50 coupled with their batteries, which together are referred to as state-
51 regulated battery charger systems. This term covers all rechargeable
52 batteries or devices incorporating a rechargeable battery and the char-
53 gers used with them. Battery charger systems include, but are not
54 limited to:

1 (a) electronic devices with a battery that are normally charged from
2 AC line voltage or DC input voltage through an internal or external
3 power supply and a dedicated battery charger;

4 (b) the battery and battery charger components of devices that are
5 designed to run on battery power during part or all of their operations;

6 (c) dedicated battery systems primarily designed for electrical or
7 emergency backup; and

8 (d) devices whose primary function is to charge batteries, along with
9 the batteries they are designed to charge. These units include chargers
10 for power tool batteries and chargers for automotive, AA, AAA, C, D, or
11 9V rechargeable batteries, as well as chargers for batteries used in
12 larger industrial motive equipment and a la carte chargers.

13 The charging circuitry of battery charger systems may or may not be
14 located within the housing of the end-use device itself. In many cases,
15 the battery may be charged with a dedicated external charger and power
16 supply combination that is separate from the device that runs on power
17 from the battery. State-regulated battery charger systems do not include
18 federally regulated battery chargers that are covered under standards in
19 10 C.F.R. section 430.32(z).

20 53. "Gas fireplace" means a decorative gas fireplace or a heating gas
21 fireplace.

22 (a) "Decorative gas fireplace" means a vented fireplace, including
23 appliances that are freestanding, recessed, zero clearance, or a gas
24 fireplace insert, that is fueled by natural gas or propane, is marked
25 for decorative use only, and is not equipped with a thermostat or
26 intended for use as a heater.

27 (b) "Heating gas fireplace" means a vented fireplace, including
28 appliances that are freestanding, recessed, zero clearance, or a gas
29 fireplace insert, that is fueled by natural gas or propane and is not a
30 decorative fireplace

31 54. "Manufactured home" has the meaning ascribed to that term by
32 subdivision seven of section six hundred one of the executive law.

33 55. "Recreational vehicle" means a van or utility vehicle used for
34 recreational purposes.

35 56. "Uniform code" means the New York state uniform fire prevention
36 and building code adopted pursuant to article eighteen of the executive
37 law.

38 57. "Energy code" means the New York state energy conservation
39 construction code adopted pursuant to article eleven of this chapter.

40 58. "Electric vehicle supply equipment (EVSE)" means equipment that
41 supplies electricity in an appropriate form to storage devices, includ-
42 ing batteries and super capacitors, that are part of electric vehi-
43 cles. Such term shall include equipment that performs this function and
44 equipment that is embedded in electric vehicles.

45 59. "Electric vehicle" means an on-road vehicle that draws electricity
46 for propulsion from a traction battery with a least five kilowatt-hours
47 (kWh) of capacity, and uses an external source of energy to recharge the
48 battery. Such term shall include a plug-in hybrid electric vehicle
49 (PHEV) with a second source of energy for propulsion, and a battery
50 electric vehicle (BEV), which is powered solely by externally supplied
51 electricity stored on-board such electric vehicle.

52 60. "Commercial clothes dryer" means a clothes dryer designed to dry
53 fabrics in a tumble-type drum with forced air circulation and is
54 designed for use in:

1 (a) Applications in which the occupants of more than one household
2 will be using the clothes dryer, including multi-family housing common
3 areas and coin laundries; or

4 (b) Other commercial applications.

5 61. "Commercial and industrial fans and blowers" means a rotary-bladed
6 machine used to convert power to air power, with a brake horsepower
7 greater than or equal to either one kilowatt or one horsepower, and an
8 air horsepower less than or equal to one hundred fifty, and used for
9 commercial and industrial purposes.

10 62. "Imaging equipment" means copiers, printers, scanners, fax
11 machines, and multifunction devices used both in homes and businesses.

12 63. "Landscape irrigation controller" means a device intended to
13 remotely control valves to operate an irrigation system for landscapes,
14 which may consist of grass, shrubs, trees and/or other vegetation. This
15 term shall not include devices that are typically sold separately and
16 used primarily for other purposes, such as a network router, and may be
17 used incidentally for a landscape irrigation controller. This term shall
18 not include battery powered hose-end timers or devices used primarily in
19 agricultural applications.

20 64. "Outdoor lighting" means electrical lighting used to illuminate
21 outdoor areas, including parking lots, streetlights, highways and area
22 luminaires.

23 65. "Plug-in luminous signs" means a self-contained, luminous sign
24 unit that plugs into 120V AC building mains power and is intended for
25 indoor use only. Signs may be intended for use in commercial outlets in
26 business establishments or in residences.

27 66. "Small network equipment" means a device whose primary function is
28 to pass internet protocol (IP) traffic among various network interfaces
29 or ports intended for use in residential and small business settings.

30 67. "Tub spout diverters" means the following definitions:

31 (a) A bath and shower diverter whose diverter mechanism is located in
32 the tub spout; and/or

33 (b) Bath and shower diverter means a device used to direct the flow of
34 water either toward a tub spout or toward a secondary outlet intended
35 for showering purposes, including a showerhead or body spray.

36 § 14. Section 16-104 of the energy law, as added by chapter 431 of the
37 laws of 2005, subdivision 1 as amended by chapter 222 of the laws of
38 2010, is amended to read as follows:

39 § 16-104. Applicability, conduct prohibited. 1. The provisions of
40 this article apply to the establishment of, testing for compliance with,
41 certification of compliance with, and enforcement of efficiency stand-
42 ards for the following new products which are sold, or offered for sale,
43 leased or offered for lease, rented or offered for rent or installed or
44 offered to install in New York state, unless preempting federal appli-
45 ance standards are in effect: (a) automatic commercial ice cube
46 machines; (b) ceiling fan light kits; (c) commercial pre-rinse spray
47 valves; (d) commercial refrigerators, freezers and refrigerator-freez-
48 ers; (e) consumer audio and video products and televisions; (f) illumi-
49 nated exit signs; (g) incandescent reflector lamps; (h) very large
50 commercial packaged air-conditioning and heating equipment; (i) metal
51 halide lamp fixtures; (j) pedestrian traffic signal modules; (k) power
52 supplies; (l) torchiere lighting fixtures; (m) unit heaters; (n) vehicu-
53 lar traffic signal modules; (o) portable light fixtures; (p) bottle-type
54 water dispensers; (q) commercial hot food holding cabinets; (r) portable
55 electric spas; ~~[and]~~ (s) ~~[residential]~~ replacement dedicated-purpose
56 pool ~~[pumps]~~ pump motors; (t) air compressors; (u) air purifiers; (v)

1 commercial dishwashers; (w) commercial fryers; (x) commercial steam
2 cookers; (y) computers and computer monitors; (z) general service lamps;
3 (aa) federally exempt fluorescent lamps; (bb) portable air conditioners;
4 (cc) residential ventilating fans; (dd) telephones; (ee) faucets; (ff)
5 showerheads; (gg) urinals; (hh) water closets; (ii) sprinkler bodies;
6 (jj) uninterruptable power supplies; (kk) light emitting diode lamps;
7 (ll) electric vehicle supply equipment; (mm) commercial battery charger
8 systems; (nn) commercial ovens; (oo) commercial clothes dryers; (pp)
9 commercial and industrial fans and blowers; (qq) imaging equipment; (rr)
10 landscape irrigation controllers; (ss) outdoor lighting; (tt) plug-in
11 luminous signs; (uu) small network equipment; (vv) tub spout diverters;
12 (ww) commercial hot food holding cabinets; (xx) gas fireplaces; (yy)
13 products for which efficiency standards shall have been established
14 pursuant to paragraph (b) or (c) of subdivision one of section 16-106 of
15 this article; and (zz) products that are subject to any federal effi-
16 ciency standard referred to in section 16-105 of this article that shall
17 have been adopted in this state pursuant to such section 16-105.

18 2. No person shall sell~~[r]~~ or offer for sale, lease or offer to lease,
19 or rent or offer to rent, or install or offer to install in New York
20 state any new product of the types enumerated in paragraphs (a) through
21 (xx) of subdivision one of this section, or any ~~[of the]~~ new ~~[products~~
22 ~~identified]~~ product for which efficiency standards shall have been
23 established pursuant to paragraph (b) or (c) of subdivision [four] one
24 of section 16-106 of this article, [unless: (a) the product meets mini-
25 mum energy performance standards adopted pursuant to this article upon
26 the effective date of such standards; and, if required by regulations
27 promulgated] or any new product that is subject to any federal efficien-
28 cy standard that shall have been adopted in this state pursuant to
29 [this] section[, (b) the manufacturer of such product certifies that the
30 product meets said minimum energy performance standards.] 16-105 of this
31 article, unless:

32 (a) the product meets the efficiency standards applicable to such
33 product as of the date of manufacture of such product or as of such
34 other date as may be determined in accordance with the regulation estab-
35 lishing the standard for such product; and

36 (b) if required by regulations adopted pursuant to this article, the
37 manufacturer of such product certifies that the product meets said effi-
38 ciency standards. As used within this subdivision, reference to any new
39 product means any individual product subject to the requirements of this
40 article.

41 3. The prohibitions contained in ~~[subdivisions one and]~~ subdivision
42 two of this section shall not apply to:

43 (a) products manufactured in the state and sold outside the state;

44 (b) products manufactured outside the state and sold at wholesale
45 inside the state for final retail sale outside the state;

46 (c) products installed in ~~[mobile]~~ manufactured homes at the time of
47 construction; ~~[or]~~

48 (d) products designed expressly for installation and use in recre-
49 ational vehicles~~[r]~~; or

50 (e) urinals and water closets designed and marketed exclusively for
51 use at prisons or mental health care facilities.

52 § 15. The energy law is amended by adding a new section 16-105 to read
53 as follows:

54 § 16-105. Adoption of certain federal efficiency standards. 1. The
55 federal efficiency standard established in 10CFR Parts 430 and 431, as
56 in effect on January first, two thousand eighteen shall be applicable to

1 products which are subject to such federal efficiency standards and
2 which are sold, offered for sale, or installed in New York state. So
3 long as such federal efficiency standards remain in effect as federal
4 efficiency standards, they shall be enforced as provided by federal law.

5 2. If any federal efficiency standard referred to in subdivision one
6 of this section is withdrawn, repealed, voided, or otherwise ceases to
7 remain in effect as a federal efficiency standard:

8 (a) such efficiency standard shall be deemed to be continued in this
9 state and shall be deemed to be an efficiency standard adopted pursuant
10 to this article;

11 (b) the president shall file with the secretary a written description
12 of such efficiency standard, the terms and conditions of such efficiency
13 standard, and the product or products that are subject to such efficien-
14 cy standard, such description to be in a format consistent with the
15 regulations adopted pursuant to this article and in form acceptable to
16 the secretary, together with a certificate, in form acceptable to the
17 secretary, signed and dated by the president and certifying that such
18 efficiency standard is no longer in effect as a federal efficiency stan-
19 dard, that such efficiency standard continues in effect in this state
20 pursuant to this section, and that such efficiency standard is adopted
21 pursuant to this section;

22 (c) the secretary shall cause such written description and certif-
23 ication to be published in the state register, and shall cause the offi-
24 cial compilation of codes, rules and regulations of the state of New
25 York to include such written description;

26 (d) the president shall be authorized to adopt regulations establish-
27 ing procedures for testing the energy reduction, water conservation,
28 greenhouse gas reduction, and/or increased demand flexibility associated
29 with such product. In adopting the flexible demand appliance standards,
30 the New York state energy research and development authority shall
31 consider the National Institute of Standards and Technology's reliabil-
32 ity and cybersecurity protocols, relevant New York cybersecurity laws,
33 regulations, and advisories, or other cybersecurity protocols that are
34 equally or more protective, and shall adopt, at a minimum, the North
35 American Electric Reliability Corporation's Critical Infrastructure
36 Protection standards;

37 (e) the president shall be authorized to adopt regulations establish-
38 ing procedures for manufacturers of such product to certify that such
39 product meets such efficiency standard, if the president determines that
40 such manufacturer's certifications should be required; and

41 (f) the president shall be authorized to adopt regulations amending
42 such efficiency standard from time to time, including regulations that
43 repeal such efficiency standard or increase the stringency of such effi-
44 ciency standard.

45 3. The actions to be taken pursuant to paragraphs (b) and (c) of
46 subdivision two of this section to confirm that a federal efficiency
47 standard that shall have been withdrawn, repealed, voided, or that
48 otherwise shall have ceased to remain in effect as a federal efficiency
49 standard, continues to be applicable in this state, and is adopted
50 pursuant to this section, shall be exempt from the provisions of the
51 state administrative procedure act, and the certification to be filed
52 pursuant to paragraph (c) of subdivision two of this section shall so
53 state.

54 4. This section shall not apply to any federal efficiency standard set
55 aside by a court upon the petition of a person who will be adversely
56 affected, as provided in 42 U.S.C. § 6306(b).

§ 16. Section 16-106 of the energy law, as added by chapter 431 of the laws of 2005, paragraph (c) of subdivision 2 as added by chapter 222 of the laws of 2010 and subdivision 4 as amended by chapter 69 of the laws of 2020, is amended to read as follows:

§ 16-106. ~~[Administration of article]~~ Powers and duties of the president and the secretary. 1. The ~~[secretary, in consultation with the]~~ president~~[7]~~ in consultation with the secretary shall have and be entitled to exercise the following powers and duties:

(a) To ~~[establish energy]~~ adopt regulations establishing efficiency ~~[performance]~~ standards for the products listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article, including but not limited to, establishing ~~[energy]~~ efficiency ~~[performance]~~ standards for power supplies in the active mode and no-load mode or other such products while in the active mode and in the standby-passive-mode~~[7]~~.

~~(b) To promulgate regulations to achieve the purposes of this article provided however that no energy efficiency performance standard shall become effective for a product less than one hundred eighty days after it shall become final, provided, however, that no standard adopted pursuant to this article shall go into effect if federal government energy efficiency performance standards regarding such product preempt state standards unless preemption has been waived pursuant to federal law;~~

~~(c) To administer and enforce the provisions of this article and any rule or regulation promulgated thereunder or order issued pursuant thereto;~~

~~(d) To order, pursuant to section 16-104 of this article, the immediate cessation of any distribution, sale or offer for sale, import or installation of any product for which the secretary, in consultation with the president, determines that the certification of such product listed in subdivision one of section 16-104 of this article was achieved in violation of section 16-108 of this article];~~

(b) To adopt regulations establishing efficiency standards for products other than motor vehicles not specifically listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article, provided that the president determines that establishing such efficiency standards would serve to promote energy reduction, water conservation, greenhouse gas reduction, and/or increased demand flexibility associated with the regulated product categories in this state. Any regulation adopted pursuant to this paragraph may include provisions establishing procedures for testing the efficiency of the covered products and provisions establishing procedures for manufacturers of such product to certify that such products meet the efficiency standards, if the president determines that such manufacturer's certifications should be required;

(c) To review efficiency standards as adopted from time to time by other states for products other than motor vehicles not listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article, and to adopt regulations establishing efficiency standards similar to those adopted by any other state for such products, provided that the president determines that establishing such efficiency standards would serve to promote energy reduction, water conservation, greenhouse gas reduction, and/or increased demand flexibility associated with the regulated product categories in this state. Any regulation adopted pursuant to this paragraph may include provisions establishing procedures for testing the efficiency of the covered products and provisions

1 establishing procedures for manufacturers of such product to certify
2 that such products meet the efficiency standards, if the president
3 determines that such manufacturer's certifications should be required;

4 (d) To adopt regulations to achieve the purposes of this article
5 through an open and transparent process to provide meaningful opportu-
6 nities for public comment from all segments of the population that
7 will be impacted by the promulgated codes, rules, or regulations,
8 including persons living in disadvantaged communities as identified by
9 the climate justice working group established in section 75-0111 of the
10 environmental conservation law;

11 (e) To conduct investigations, test, and obtain data with respect to
12 research experiments and demonstrations, and to collect and disseminate
13 information regarding the purposes to be achieved pursuant to this arti-
14 cle;

15 (f) To accept grants or funds for purposes of administration and
16 enforcement of this article. Notwithstanding any other provision of law
17 to the contrary, the president is hereby authorized to accept grants or
18 funds, including funds directed through negotiated settlements or
19 consent orders pursuant to this article, and is authorized to establish
20 the appliance standards administration account to be administered by the
21 New York state energy research and development authority, in consulta-
22 tion with the secretary, and maintained in a segregated account in the
23 custody of the commissioner of taxation and finance. All funds accepted
24 by the president for the purposes of this article shall be deposited in
25 the efficiency standards administration account established by the New
26 York state energy research and development authority and maintained in a
27 segregated account in the custody of the commissioner of taxation and
28 finance. All expenditures from the efficiency standards administration
29 account pursuant to this article shall be made by the New York state
30 energy research and development authority to carry out studies, investi-
31 gations, research, expenses to provide for expert witness, consultant,
32 enforcement, administrative and legal fees, including disbursements to
33 the department of state to support enforcement activities authorized by
34 the secretary pursuant to this section, and other related expenses
35 pursuant to this article. All deposits made to the efficiency standards
36 administration account made by the New York state energy research and
37 development authority, all funds maintained in the efficiency standards
38 administration account, and disbursements therefrom, made pursuant to
39 this article shall be subject to an annual independent audit as part of
40 such authority's audited financial statements, and such authority shall
41 prepare an annual report summarizing efficiency standards administration
42 account balance and activities for each fiscal year ending March thir-
43 ty-first and provide such report to the secretary no later than ninety
44 days after commencement of such fiscal year;

45 ~~(g) [To impose a fine and/or impose injunctive relief for any~~
46 ~~violation of this article after notice and an opportunity to be heard,~~

47 ~~(h) The secretary and the president shall consult with the appropriate~~
48 ~~federal agencies, including, but not limited to, the federal department~~
49 ~~of energy, industry and other potentially affected parties in carrying~~
50 ~~out the provisions of this article]~~ To consult with the appropriate
51 federal agencies, including, but not limited to, the federal department
52 of energy, the federal department of industry and other potentially
53 affected parties in carrying out the provisions of this article; and

54 (h) To conduct investigations, in consultation with the secretary, to
55 determine if products covered by standards adopted pursuant to this
56 article comply with such standards; to conduct tests to determine if

1 products covered by standards adopted pursuant to this article comply
2 with such standards; to prepare written reports of the results of such
3 investigations and tests; to provide such reports to the secretary; in
4 consultation with the secretary, to negotiate settlement agreements with
5 any person that violates the provisions of subdivision two of section
6 16-104 of this article, or fails to perform any duty imposed by this
7 article, or violates or fails to comply with any rule, regulation,
8 determination, or order adopted, made, or issued by the president or the
9 secretary pursuant to this article, pursuant to which such person shall
10 agree to cease such violation and to pay such civil penalty as may be
11 specified in such agreement, the terms of which will be incorporated
12 into a consent order signed by such person, the president, and the
13 secretary; to consult with the secretary in connection with determi-
14 nations made by the secretary pursuant to paragraph (b) of subdivision
15 five of this section; and to cooperate with the secretary in enforcement
16 proceedings conducted by the secretary pursuant to this article.

17 1-a. Notwithstanding any other provision of this article, no efficien-
18 cy standard adopted pursuant to paragraph (a) of subdivision one of this
19 section shall become effective less than one hundred eighty days after
20 publication of the notice of adoption of such standard in the state
21 register; no efficiency standard adopted pursuant to paragraph (b) or
22 (c) of subdivision one of this section shall become effective less than
23 one year after publication of the notice of adoption of such efficiency
24 standard in the state register; no amendment of any efficiency standard
25 adopted pursuant to this article or of any efficiency standard continued
26 in this state pursuant to section 16-105 of this article shall become
27 effective less than one hundred eighty days after publication of the
28 notice of adoption of such amendment in the state register; and no new
29 or amended efficiency standard, or water conservation standard adopted
30 pursuant to this article shall go into effect if federal government
31 efficiency standards regarding such product preempt state standards
32 unless preemption has been waived pursuant to federal law.

33 2. (a) On or before ~~[June thirtieth]~~ January first, two thousand ~~[six]~~
34 ~~twenty-three~~, the ~~[secretary, in consultation with the]~~ president, in
35 consultation with the secretary, shall adopt regulations in accordance
36 with the provisions of this article establishing:

37 (i) ~~[energy]~~ efficiency ~~[performance]~~ standards for new products of
38 the types ~~[set forth]~~ referred to in paragraphs (a) through ~~[(n)]~~ (f)
39 and paragraphs (h) through (y), paragraphs (aa) through (jj) and para-
40 graphs (mm) through (xx) of subdivision one of section 16-104 of this
41 article~~[, with the exception of such paragraph (g) (incandescent reflec-~~
42 ~~tor lamps)]~~;

43 (ii) procedures for testing the ~~[energy]~~ efficiency of the new
44 products ~~[covered by]~~ of the types referred to in paragraphs (a) through
45 ~~[(n)]~~ (f) and paragraphs (h) through (xx) of subdivision one of section
46 16-104 of this article;

47 (iii) procedures for manufacturers to certify that new products
48 ~~[covered under]~~ of the types referred to in paragraphs (a) through (f)
49 and paragraphs (h) through (xx) of subdivision one of section 16-104 of
50 this article meet the ~~[energy]~~ efficiency standards to be ~~[promulgated~~
51 ~~under this article]~~ adopted pursuant to this article, if the president
52 determines that such manufacturer's certifications should be required;
53 and

54 (iv) such further matters as are necessary to insure the proper imple-
55 mentation and enforcement of the provisions of this article.

(b) With respect to ~~[incandescent reflector lamps, included]~~ the types of products referred to in ~~[paragraph]~~ paragraphs (g), (z) or (kk) of subdivision one of section 16-104 of this article ~~(incandescent reflector lamps, general service lamps, and light emitting diode lamps)~~, the ~~[secretary, in consultation with the]~~ president~~[,]~~ shall conduct a study ~~by December thirty-first, two thousand twenty-two~~ to determine whether an ~~[energy]~~ efficiency ~~[performance]~~ standard for such ~~[product]~~ products should be established, taking into account factors including the potential impact on electricity usage, product availability and consumer and environmental benefits. If ~~[it is determined]~~ the president determines based on this study that such a standard would reduce energy use and would not be preempted by the federal law, the ~~[secretary, in consultation with the]~~ president~~[,]~~ shall adopt regulations in accordance with the provisions of this article establishing ~~[energy performance]~~ efficiency standards for such ~~[product on or before January first, two thousand eight]~~ products.

~~[(b) With respect to the products defined in subdivision seven of section 16-102 of this article (very large commercial package air conditioning and heating equipment), subdivision nine of section 16-102 of this article (commercial refrigerators, freezers and refrigerator-freezers), subdivision twenty-three of section 16-102 of this article (metal halide lamp fixtures) and subdivision three of section 16-102 of this article (automatic commercial ice cube makers), the secretary shall issue regulations pursuant to paragraph a of this subdivision establishing energy efficiency performance standards for such products at the following levels and with the following compliance dates:~~

~~(i) very large commercial package air conditioning and heating equipment. Each very large commercial package air conditioning and heating equipment sold, offered for sale or installed in New York state on or after January first, two thousand ten shall, when tested according to the test standard specified in Air Conditioning and Refrigeration Institute standard 340/360-2004, meet the following standards:~~

~~(A) The minimum energy efficiency ratio of air cooled central air conditioners at or above two hundred forty thousand BTU per hour (cooling capacity) and less than seven hundred sixty thousand BTU per hour (cooling capacity) shall be~~

~~(I) 10.0 for equipment with no heating or electric resistance heating and,~~

~~(II) 9.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of ninety-five degrees Fahrenheit dB).~~

~~(B) the minimum energy efficiency ratio of air cooled central air conditioner heat pumps at or above two hundred forty thousand BTU per hour (cooling capacity) and less than seven hundred sixty thousand BTU per hour (cooling capacity) shall be~~

~~(I) 9.5 for equipment with no heating or electric resistance heating, and~~

~~(II) 9.3 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of ninety-five degrees Fahrenheit dB).~~

~~(C) the minimum coefficient of performance in the heating mode of air cooled central air conditioning heat pumps at or above two hundred forty thousand BTU per hour (cooling capacity) and less than seven hundred sixty thousand BTU per hour (cooling capacity) shall be 3.2 (at a high temperature rating of forty-seven degrees Fahrenheit dB);~~

~~(ii) commercial refrigerators and freezers. (A) Each commercial refrigerator, freezer, and refrigerator freezer with a self-contained condensing unit designed for holding temperature applications sold, offered for sale or installed in New York state on or after January first, two thousand ten shall have a daily energy consumption (in kilowatt hours per day) not to exceed:~~

~~(I) refrigerators with solid doors $0.10\text{ V} + 2.04$~~

~~(II) refrigerators with transparent doors $0.12\text{ V} + 3.34$~~

~~(III) freezers with solid doors $0.40\text{ V} + 1.38$~~

~~(IV) freezers with transparent doors $0.75\text{ V} + 4.10$~~

~~(V) refrigerators/freezers with solid doors the greater of: $0.27AV - 0.71$ or 0.70 .~~

~~(B) Each commercial refrigerator with a self-contained condensing unit designed for pull-down temperature applications sold, offered for sale or installed in New York state on or after January first, two thousand ten shall have a daily energy consumption (in kilowatt hours per day) not to exceed: refrigerators with transparent doors $0.126\text{ V} + 3.51$.~~

~~(iii) metal halide lamp fixtures. Each metal halide lamp fixture that is sold, offered for sale or installed in New York state on or after January first, two thousand eight and that operates a lamp in a vertical position (including fixtures that operate lamps rated for use within fifteen degrees of vertical) and that is capable of operating lamps rated equal to or greater than one hundred fifty Watts and less than or equal to five hundred Watts shall not contain a probe start metal-halide ballast.~~

~~(iv) automatic commercial ice cube maker. Each automatic commercial ice cube maker, that produces cube type ice with capacities between fifty and two thousand five hundred pounds per twenty four hour period sold, offered for sale or installed in New York state on or after January first, two thousand ten, when tested according to the test standard specified in air conditioning and refrigeration institute standard 810-2003, as in effect on January first, two thousand five, shall meet the following standard levels:~~

~~(A) H means the harvest rate in pounds per twenty-four hours. For water-cooled equipment, water use is for the condenser only and does not include potable water used to make ice.~~

~~(B) For ice making head water-cooled equipment the maximum condenser water use in gal/one hundred pounds of ice shall be $200 - 0.022H$ and the maximum energy use with a harvest rate of:~~

~~(I) < 500 shall be $7.8 - 0.0055H$;~~

~~(II) 500 and $< 1,436$ shall be $5.58 - 0.0044H$~~

~~(III) $1,436$ and $< 2,500$ shall be 4.0~~

~~(C) For ice making head air-cooled equipment the maximum energy use with a harvest rate of:~~

~~(I) < 450 shall be $10.26 - 0.0086H$;~~

~~(II) 450 and $< 2,500$ shall be $6.89 - 0.0011H$~~

~~(D) For remote condensing but not remote compressor air-cooled equipment the maximum energy use with a harvest rate of:~~

~~(I) $< 1,000$ shall be $8.85 - 0.0038H$;~~

~~(II) $1,000$ and $< 2,500$ shall be 5.10~~

~~(E) For remote condensing and remote compressor air-cooled equipment the maximum energy use with a harvest rate of:~~

~~(I) $< 934\text{ lbs}$ shall be $8.85 - 0.0038H$;~~

~~(II) 934 and $< 2,500$ shall be 5.3~~

~~(F) For self-contained water-cooled equipment the maximum condenser water use in gal/100 lbs of ice shall be 191 - 0.0315H and the maximum energy use with a harvest rate of:~~

~~(I) < 200 shall be 11.4 - 0.019H;~~

~~(II) 200 and < 2,500 shall be 7.6~~

~~(G) For self-contained air-cooled equipment the maximum energy use with a harvest rate of:~~

~~(I) < 175 shall be 18.0 - 0.0469H~~

~~(II) 175 and < 2,500 shall be 9.8~~

~~(e) On or before December thirty-first, two thousand ten, the secretary, in consultation with the president, shall adopt regulations in accordance with the provisions of this article establishing: (i) energy efficiency performance standards for new products of the types set forth in paragraphs (e) through (s) of subdivision one of section 16-104 of this article; (ii) procedures for testing the energy efficiency of the products covered by paragraphs (e) through (s) of subdivision one of section 16-104 of this article; (iii) procedures for manufacturers to certify that products covered by paragraphs (e) through (s) of subdivision one of section 16-104 of this article meet the energy efficiency standards promulgated under this article; and (iv) such further matters as are necessary to insure the proper implementation and enforcement of the provisions of this article with respect to the products covered by paragraphs (e) through (s) of subdivision one of section 16-104 of this article.]~~

3. Subsequent to adopting regulations pursuant to subdivisions one and two of this section, the ~~[secretary, in consultation with the]~~ president, in consultation with the secretary, may amend such regulations, including increasing the stringency of the ~~[energy]~~ efficiency ~~[performance]~~ standards~~[, provided however that no energy efficiency performance standard shall become effective for a product less than one hundred eighty days after it shall become final].~~

4. By March fifteenth of two thousand twenty-one, the secretary and the president shall produce a report to the governor, the speaker of the assembly, the temporary president of the senate, the chair of the assembly committee on energy and the chair of the senate committee on energy and telecommunications on the status of regulations establishing ~~[energy]~~ efficiency ~~[performance]~~ standards pursuant to this article, which shall indicate for each product enumerated in subdivision one of section 16-104 of this article the status of the implementation of ~~[performance]~~ efficiency standards. The report shall also set forth the estimated potential annual reductions in energy use and potential utility bill savings resulting from adopted ~~[performance]~~ efficiency standards for the years two thousand twenty-five and two thousand thirty-five and the potential cumulative reductions in energy use through the year two thousand thirty-five. Such report shall be updated by March fifteenth, two thousand thirty and a copy shall be posted by March fifteenth, two thousand thirty on the websites of the authority and the department of state.

5. (a) In addition to all other powers and authority given to the secretary by this article, the secretary shall have and be entitled to exercise the following powers and duties:

(i) To request the president to conduct investigations to determine if products covered by efficiency standards adopted pursuant to this article comply with such efficiency standards; to consult with the president in connection with the president's performance of such investigations; to request the president to conduct tests to determine if products

1 covered by efficiency standards adopted pursuant to this article comply
2 with such efficiency standards; and to request the president's cooper-
3 ation in connection with enforcement proceedings conducted by the secre-
4 tary pursuant to this article;

5 (ii) To order the immediate cessation of any distribution, sale or
6 offer for sale, lease or offer to lease, rent or offer to rent, import,
7 or offer to import, or installation or offer of installation of any
8 product listed in paragraphs (a) through (xx) of subdivision one of
9 section 16-104 of this article, or of any product for which efficiency
10 standards shall have been established pursuant to paragraph (b) or (c)
11 of subdivision one of this section, or any product that is subject to a
12 federal efficiency standard that shall have been continued in this state
13 pursuant to section 16-105 of this article, if the secretary, in consul-
14 tation with the president, determines that such product does not meet
15 the applicable efficiency standard or if such product does not satisfy
16 the testing procedures or manufacturer's certification procedures
17 adopted pursuant to the regulations authorized by this article;

18 (iii) To accept grants or funds for purposes of administration and
19 enforcement of this article;

20 (iv) To impose, after notice and an opportunity to be heard, civil
21 penalties and/or injunctive relief for any violation of this article or
22 any regulation adopted pursuant to this article. Any penalties collected
23 by the secretary under this section shall be placed in the account
24 established under section ninety-seven-www of the state finance law,
25 relating to the consumer protection account; and

26 (v) To adopt such rules and regulations as the secretary may deem
27 necessary or appropriate for the purpose of carrying out the powers and
28 duties granted to the secretary by this article.

29 (b) The secretary may exercise the powers and authority granted to the
30 secretary by this subdivision, or by any other provision of this arti-
31 cle, through the consumer protection division established by the secre-
32 tary pursuant to section ninety-four-a of the executive law or through
33 such other divisions, officers, or employees of the department of state
34 as the secretary may designate from time to time.

35 § 17. The energy law is amended by adding a new section 16-107 to read
36 as follows:

37 § 16-107. Subpoenas, information and document production, enforcement
38 procedures, referrals. 1. (a) In addition to all other powers provided
39 by this article, the secretary or his or her designee shall have the
40 power and authority to subpoena any person doing business in this state
41 and bring such person before such officer or person in the department of
42 state as may be designated in such subpoena, and to administer an oath
43 to and take testimony of any person or cause any person's deposition to
44 be taken.

45 (b) In addition to all other powers provided by this article, the
46 president or his or her designee shall have the power and authority to
47 subpoena any person in this state to compel testimony, the protection of
48 documents, or both, and bring such person before such officer or person
49 in the authority as may be designated in such subpoena, and to adminis-
50 ter an oath to and take testimony of any person or cause any person's
51 deposition to be taken.

52 (c) A subpoena issued under this subdivision shall be regulated by the
53 civil practice law and rules, and is in addition to and not in limita-
54 tion of the power to make information and document requests under subdi-
55 vision two of this section.

2. Any person that sells or offers for sale, leases or offers for lease, rents or offers for rent, or installs or offers to install, manufactures or tests in New York state any new product of a type listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article, or any new product for which efficiency standards shall have been established pursuant to paragraph (b) or (c) of subdivision one of section 16-106 of this article, or any product that is subject to federal efficiency standards that shall have been continued in this state pursuant to section 16-105 of this article, shall be obliged, on the request of the secretary or his or her designee, or the request of the president or his or her designee, to supply the secretary and/or the president with such information and documentation as may be required concerning such person's business, business practices, or business methods, or proposed business practices or methods. The obligations contained in this subdivision shall not apply to any person that sells or offers for sale, leases or offers for lease, rents or offers for rent, or installs or offers to install only products described in subdivision three of section 16-104 of this article. The power to make information and document requests is in addition to and not in limitation of the power to issue subpoenas.

3. A subpoena may be issued pursuant to subdivision one of this section, and a request for information and documentation may be made pursuant to subdivision two of this section, at any time and in any situation, without regard to whether such subpoena or request is or is not issued or made in connection with an investigation conducted by the president or an enforcement proceeding conducted by the secretary.

4. The secretary shall, before ordering the immediate cessation of any distribution, sale or offer for sale, lease or offer to lease, rent or offer to rent, import or offer to import, or installation or offer of installation of any product, or imposing any civil penalty, injunctive relief, or other relief pursuant to this article upon any person who is alleged to be in violation of any provision of this article or of any regulation adopted pursuant to this article, and at least ten days prior to the date set for the hearing, notify in writing and shall afford such person an opportunity to be heard in person or by counsel in reference thereto. Such written notice may be served by delivery of same personally, or by mailing same by certified mail to the last known business address of such person, or by any method authorized by the civil practice law and rules. The hearing on such charges shall be at such time and place as the department of state shall prescribe. A hearing held by this subdivision shall be held pursuant to the state administrative procedure act, and any applicable regulations adopted by the secretary.

5. A final action of the secretary in imposing a civil penalty, or other order, may be subject to review by a proceeding instituted under article seventy-eight of the civil practice law and rules at the instance of the person aggrieved. Final actions that may be subject to judicial review under article seventy-eight of the civil practice law and rules include:

(a) a determination that a person is in violation of any provision of this article or of any regulation adopted under this article;

(b) an order directing the immediate cessation of the sale or offer for sale, installation or offer to install, lease or offer to lease, rent or offer to rent, or import any product in violation of any provision of this article or of any regulation adopted under this article;

1 (c) an order granting or imposing any other type of injunctive relief;
2 and

3 (d) the imposition of a civil penalty, excluding any consent order,
4 any determination made in a consent order and any civil penalty and/or
5 injunctive relief imposed by a consent order.

6 6. In addition to all other powers provided by this article, the
7 secretary and the president, are authorized, individually or jointly, to
8 refer the results of any investigation conducted by the president pursu-
9 ant to this article to the attorney general and to request the attorney
10 general to institute, in the name of the secretary and/or the president,
11 an action or proceeding to enforce the provisions of this article. The
12 attorney general shall, at the request of the secretary or president, or
13 may, on his or her own initiative, institute proceedings to enforce the
14 provisions of this article including the imposition of civil penalties
15 or injunctive relief. Nothing in this subdivision shall limit or impair
16 the power and authority of the secretary to conduct enforcement
17 proceedings, to issue orders pursuant to paragraph (b) of subdivision
18 five of section 16-106 of this article, and to impose penalties pursuant
19 to section 16-108 of this article.

20 § 18. Section 16-108 of the energy law, as added by chapter 431 of the
21 laws of 2005, is amended to read as follows:

22 § 16-108. Violations, civil liability. 1. Any person who issues:

23 (a) a certification that a product listed in paragraphs (a) through
24 (xx) of subdivision one of section 16-104 of this article complies with
25 the [energy] efficiency standards for such product established by or
26 pursuant to this article[7];

27 (b) a certification that a product not listed in paragraphs (a)
28 through (xx) of subdivision one of section 16-104 of this article
29 complies with efficiency standards for such product established pursuant
30 to paragraph (b) or (c) of subdivision one of section 16-104 of this
31 article; or

32 (c) a certification that a product that is subject to federal effi-
33 ciency standards that shall have been continued in this state pursuant
34 to section 16-105 of this article complies with such efficiency stand-
35 ards, knowing that such product does not comply with ~~[these]~~ such effi-
36 ciency standards, shall be liable for a civil penalty of not more than
37 ten thousand dollars for each such product certified and an additional
38 penalty of not more than ten thousand dollars for each day during which
39 such violation continues.

40 2. Any person who violates the provisions of subdivision two of
41 section 16-104 of this article, or ~~[who]~~ fails to perform any duty
42 imposed by this article, or ~~[who]~~ violates or fails to comply with any
43 rule, regulation, determination, or order ~~[of]~~ adopted, made, or issued
44 by the president or the secretary ~~[of state promulgated]~~ pursuant to
45 this article, shall be liable for a civil penalty of not more than five
46 hundred dollars for each such violation and an additional civil penalty
47 of not more than one hundred dollars for each day during which such
48 violation continues, and, in addition thereto, such person may be
49 enjoined from continuing such violation.

50 ~~3. [The secretary may cause an investigation to be made of complaints~~
51 ~~received concerning violations of this article and may refer the results~~
52 ~~of such investigations to the attorney general. The attorney general~~
53 ~~shall, at the request of the secretary, or may, on his own initiative,~~
54 ~~institute proceedings to enforce the provisions of this article.~~

55 ~~4.]~~ An action or cause of action for the recovery of a penalty under
56 this section may be settled or compromised in an amount to be approved

1 by the secretary either before or after proceedings are brought to
2 recover such penalties and prior to the entry for judgment therefor.

3 § 19. The energy law is amended by adding a new section 16-109 to read
4 as follows:

5 § 16-109. Conflicts with other laws. Nothing in this article or in
6 any regulation adopted pursuant to this article shall limit, impair, or
7 supersede the provisions of subdivision one of section three hundred
8 eighty-three of the executive law or the provisions of subdivision three
9 of section 11-103 of this chapter.

10 § 20. Subparagraphs 14 and 15 of paragraph (a) of subdivision 3 of
11 section 94-a of the executive law, as added by section 21 of part A of
12 chapter 62 of the laws of 2011, are amended and a new subparagraph 16 is
13 added to read as follows:

14 (14) cooperate with and assist consumers in class actions in proper
15 cases; ~~and~~

16 (15) create an internet website or webpage pursuant to section three
17 hundred ninety-c of the general business law~~[-]~~, as added by chapter
18 five hundred nine of the laws of two thousand seven; and

19 (16) exercise such powers and duties granted to the secretary by arti-
20 cle sixteen of the energy law as the secretary may direct, including,
21 but not limited to: consult with such president of the New York state
22 energy research and development authority in connection with investi-
23 gations conducted by such president pursuant to article sixteen of the
24 energy law; make determinations relating to compliance by products with
25 the standards adopted pursuant to article sixteen of the energy law;
26 order the immediate cessation of any distribution, sale or offer for
27 sale, import, or installation of any product that does not meet such
28 standards; and impose civil penalties as contemplated by article sixteen
29 of the energy law.

30 § 21. The opening paragraph and paragraphs a and c of subdivision 1
31 and subdivision 3 of section 374 of the executive law, the opening para-
32 graph of subdivision 1 as amended by chapter 309 of the laws of 1996,
33 paragraph a of subdivision 1 as amended by section 96 of subpart B of
34 part C of chapter 62 of the laws of 2011 and as further amended by
35 section 104 of part A of chapter 62 of the laws of 2011, paragraph c of
36 subdivision 1 as amended by chapter 920 of the laws of 1985, and subdi-
37 vision 3 as added by chapter 707 of the laws of 1981, are amended to
38 read as follows:

39 There is hereby created and established in the department of state a
40 council, to be known as the state fire prevention and building code
41 council. Such council shall consist of the secretary of state, as
42 ~~chairman~~ chair, the state fire administrator, the president of the New
43 York state energy research and development authority, the commissioner
44 of the department of environmental conservation and fifteen other
45 members to be appointed as follows:

46 a. Two members, to be appointed by the governor, from among the
47 commissioners of ~~[the departments of economic development, corrections~~
48 ~~and community supervision, education, health, labor, mental health and~~
49 ~~social services, office of general services, division of housing and~~
50 ~~community renewal,]~~ economic development; corrections and community
51 supervision; education; health; labor; mental health; general services;
52 housing and community renewal; parks, recreation and historic preserva-
53 tion; and temporary and disability assistance; and the superintendent of
54 financial services.

55 c. Seven members, to be appointed by the governor with the advice and
56 consent of the senate, one of whom shall be a fire service official, one

1 of whom shall be a registered architect, one of whom shall be a profes-
2 sional engineer, one of whom shall be a code enforcement official, one
3 of whom shall represent builders, one of whom shall represent trade
4 unions, and one of whom shall be a person with a disability as defined
5 in section two hundred ninety-two of this chapter who would directly
6 benefit from the provisions of [~~article thirteen of~~] the state uniform
7 fire prevention and building code relating to accessibility. The regis-
8 tered architect and professional engineer shall be duly licensed to
9 practice their respective professions in the state of New York. After
10 the certification of code enforcement personnel pursuant to this chapter
11 shall have begun said code enforcement official shall be so certified.

12 3. (a) The council shall meet at least quarterly at the call of the
13 chairman. Additional meetings may be called upon at least five [~~days~~]
14 days' notice by the chairman or by petition of five members of the coun-
15 cil.

16 (b) Notwithstanding the provisions of any other law to the contrary, a
17 majority, but no fewer than seven, of the members of the council then in
18 office, gathered together in the presence of each other or through the
19 use of videoconferencing, at a meeting duly held at a time fixed by law
20 or by any by-law duly adopted by the council, or at any meeting duly
21 held upon reasonable notice to all members of the council then in
22 office, or at any duly adjourned meeting of such meeting, shall consti-
23 tute a quorum, and a majority, but no fewer than seven, of the members
24 of the council then in office may perform and exercise any power,
25 authority, or duty of the council at any such meeting or adjourned meet-
26 ing.

27 § 22. Subdivision 2 of section 97-www of the state finance law, as
28 amended by section 53 of part A of chapter 62 of the laws of 2011, is
29 amended to read as follows:

30 2. Such account shall consist of all penalties received by the depart-
31 ment of state pursuant to section three hundred ninety-nine-z of the
32 general business law, section 16-106 of the energy law and any addi-
33 tional monies appropriated, credited or transferred to such account by
34 the Legislature. Any interest earned by the investment of monies in such
35 account shall be added to such account, become part of such account, and
36 be used for the purposes of such account.

37 § 23. A building code or other requirement applicable to commercial
38 or residential buildings or construction may not prohibit the use of a
39 substance authorized pursuant to 42 U.S.C. 7671k. Substances under
40 review but not yet listed by the United States Environmental Protection
41 Agency pursuant to 42 U.S.C. 7671k may be allowed for use provided that
42 such substance and the refrigeration or air conditioning system or other
43 equipment or products utilizing such substance are designed, installed,
44 and used in accordance with nationally recognized published standards
45 that protect building occupant safety and reduce fire risks.

46 § 24. Section 17-101 of the energy law is amended by adding twenty new
47 subdivisions 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20,
48 21, 22, 23 and 24 to read as follows:

49 5. "Authority" means the New York state energy research and develop-
50 ment authority.

51 6. "Benchmark" means inputting and submitting the total energy and
52 water consumed for a property for the previous calendar year and other
53 descriptive information for such property as required by the benchmark-
54 ing tool. Total energy and water consumption shall not include separate-
55 ly metered uses that are not integral to building operations, such as
56 broadcast antennas, as determined by the president.

1 7. "Benchmarking information" means information generated by the
2 benchmarking tool and descriptive information about the physical proper-
3 ty and its ownership, management, and operational characteristics.

4 8. "Public benchmarking information" means information generated by
5 the benchmarking tool and descriptive information about the physical
6 property and its operational characteristics that is disclosed to the
7 public. The public benchmarking information shall include, but shall not
8 be limited to:

9 (a) descriptive information, including property address; primary use
10 type; gross floor area as defined by the benchmarking tool glossary;

11 (b) output information, including site and source energy use intensi-
12 ty; weather normalized site and source energy use intensity; total annu-
13 al greenhouse gas emissions; water use per gross square foot; the Energy
14 Star score, where available;

15 (c) compliance or noncompliance with this law; and

16 (d) a comparison of the annual summary statistics across calendar
17 years for all years since annual reporting and disclosure has been
18 required for the covered property.

19 9. "Benchmarking submission" means a subset of:

20 (a) information input into the benchmarking tool; and

21 (b) benchmarking information generated by the benchmarking tool, as
22 determined by the president.

23 10. "Benchmarking tool" means the portfolio manager or any similar
24 tool may as determined by the president to be reasonably comparable, and
25 any additional tools specified in regulations adopted by the president.

26 11. "Building energy benchmarking" means the process of measuring a
27 building's energy use, tracking that use over time, and comparing
28 performance to similar buildings nationwide.

29 12. "Covered property" means: on and after the first day of January,
30 two thousand twenty-three, any property that has one or more buildings
31 that together exceed twenty-five thousand gross square feet in total
32 combined floor area.

33 13. "Energy" means electricity, natural gas, steam, hot or chilled
34 water, fuel oil, kerosene, propane, or other fuel product for use in a
35 building, or on-site electricity generation, including renewable and
36 storage technologies for purposes of providing heating, cooling, light-
37 ing, water heating, or for powering or fueling other end-uses in the
38 building and related facilities.

39 14. "Energy Star score" means the one through one hundred (1-100)
40 numeric rating generated by the Energy Star portfolio manager tool.

41 15. "Energy use intensity" means the kBtUs (one thousand British Ther-
42 mal Units) used per square foot of gross floor area.

43 16. "Exempt municipality" means a municipality with a benchmarking
44 requirement in effect that meets or exceeds the benchmarking rules
45 established by the authority.

46 17. "Gross floor area" means the total number of enclosed square feet
47 measured between the exterior surfaces of the fixed walls within any
48 structure used or intended for supporting or sheltering any use or occu-
49 pancy.

50 18. "Owner" means:

51 (a) an individual or entity possessing title to a covered property;

52 (b) the net lessee in the case of a property subject to a triple net
53 lease;

54 (c) the board of managers in the case of a condominium;

55 (d) the board of directors in the case of a cooperative apartment
56 corporation;

1 (e) an agent authorized to act on behalf of any of the above; or
2 (f) the entity in physical possession of the property or having bene-
3 ficial use and occupancy of the property in the case of a covered prop-
4 erty with title possessed by a state entity solely for purposes of
5 securing bonds, notes or other obligations issued by such state entity,
6 in which case, the state entity will not also be deemed the owner here-
7 under. For the purpose of this subparagraph, a "state entity" shall mean
8 any state agency, state authority or subsidiary of a state authority.

9 19. "Portfolio manager" means the Energy Star portfolio manager, the
10 internet-based tool developed and maintained by the United States Envi-
11 ronmental Protection Agency to track and assess the relative energy
12 performance of buildings nationwide, or successor.

13 20. "President" means the president of the authority.

14 21. "Qualified benchmarker" means an individual or entity that
15 possesses a benchmarking certification or other credential or creden-
16 tials approved by the president.

17 22. "Qualifying financial distress" means:

18 (a) the covered property is the subject of a qualified tax lien sale
19 or public auction due to property tax arrearages;

20 (b) the covered property is controlled by a court appointed receiver;

21 (c) a foreclosure action has commenced on the covered property during
22 the calendar year for which benchmarking is required;

23 (d) title to the covered property was transferred by deed in lieu of
24 foreclosure or by a referee's deed in foreclosure during the calendar
25 year for which benchmarking is required;

26 (e) the owner of a covered property has commenced a bankruptcy filing;
27 or

28 (f) other situations as authorized by the president or the president's
29 designee.

30 23. "Tenant" means a person or entity occupying or holding possession
31 of a building, part of a building or premises pursuant to a rental
32 agreement.

33 24. "Utility" means an entity that distributes and sells energy to
34 covered properties.

35 § 25. The energy law is amended by adding a new section 17-107 to read
36 as follows:

37 § 17-107. Benchmarking applicability and submission. 1. No later than
38 the first day of May, two thousand twenty-three, and no later than the
39 first day of May of every year thereafter, each owner shall ensure that
40 such owner's covered properties shall be benchmarked for the previous
41 calendar year and the benchmarking submission shall be provided to the
42 authority as directed by the president.

43 2. The president or the president's designee may temporarily exempt
44 from the benchmarking requirement the owner of a covered property that
45 submits documentation establishing, to the satisfaction of the president
46 or the president's designee, any of the following:

47 (a) the covered property has characteristics that make benchmarking
48 impracticable, including buildings that do not fit any of the property
49 types, definitions or use details listed in the portfolio manager;

50 (b) the covered property had average physical occupancy of less than
51 fifty percent throughout the calendar year for which benchmarking is
52 required;

53 (c) the covered property is a new construction and the covered proper-
54 ty's certificate of occupancy or temporary certificate of occupancy was
55 issued during the calendar year for which benchmarking is required;

1 (d) the covered property experienced qualifying financial distress
2 during the year for which benchmarking is required; or

3 (e) the covered property has been issued a full demolition permit for
4 the prior calendar year, provided that demolition work has commenced,
5 some energy-related systems have been compromised and legal occupancy is
6 no longer possible prior to the first day of May of the year in which
7 the benchmarking report is due.

8 3. The president or the president's designee may exempt from the
9 benchmarking requirement the owners of all covered properties located
10 within an exempt municipality that comply with the municipality's bench-
11 marking requirement.

12 4. The president or the president's designee may exempt from the
13 benchmarking requirement related to water the owner of a covered proper-
14 ty in jurisdictions where whole building water use data is not available
15 in increments required by the benchmarking tool or as defined by the
16 president or the president's designee.

17 5. The president or the president's designee may grant an extension of
18 time if the owner of the covered property demonstrates, to the satisfac-
19 tion of the president or the president's designee, that despite good
20 faith efforts, the owner could not satisfy the requirements of this
21 article by the imposed deadlines.

22 6. The president or the president's designee may require that data be
23 validated by a qualified benchmarker or that benchmarking be performed
24 by a qualified benchmarker.

25 § 26. The energy law is amended by adding a new section 17-108 to read
26 as follows:

27 § 17-108. Benchmarking notification and posting. 1. Between September
28 first and December thirty-first of each year, the authority shall notify
29 owners of their obligation to benchmark pursuant to section 17-107 of
30 this article.

31 2. By December first of each year, the authority shall post the list
32 of the addresses of covered properties on the authority's website.

33 § 27. The energy law is amended by adding a new section 17-109 to read
34 as follows:

35 § 17-109. Disclosure, analysis, and publication of benchmarking infor-
36 mation. 1. No later than the thirty-first day of December, two thousand
37 twenty-three and by the fifteenth day of September of each year there-
38 after, the authority shall publish public benchmarking information
39 regarding all covered properties for the previous calendar year; except
40 that public benchmarking information regarding a covered property for
41 such property's first year of required compliance, other than whether or
42 not the property complied, shall not be published by the authority.

43 2. In addition to the publishing of public benchmarking information
44 required by subdivision one of this section, the authority shall annual-
45 ly publish:

46 (a) summary statistics and trend analyses regarding energy consumption
47 for covered properties derived from aggregation of benchmarking informa-
48 tion; and

49 (b) information regarding how each covered property compares with
50 comparable covered properties in New York State, and how each covered
51 property's performance has changed over time.

52 3. No later than the thirty-first day of December, two thousand twen-
53 ty-two, and no later than the fifteenth day of September of each year
54 thereafter, each exempted municipality shall make available to the
55 authority, in a form as required by the authority, any benchmarking
56 information possessed by such municipality.

4. Any analysis or possession of information concerning covered properties by the authority is subject to rules regarding personal, private or sensitive information as defined by the New York state office of information technology services and article six of the public officers law.

5. The authority may provide an owner or manager of a covered property with benchmarking information related to such covered building that is not public benchmarking information.

6. Nothing in this section should be construed to supersede sections eighty-four through section ninety of the public officers law, except with respect to the authority's publishing of public benchmarking information as required in this section.

§ 28. The energy law is amended by adding a new section 17-110 to read as follows:

§ 17-110. Maintenance of benchmarking records. 1. Owners shall maintain records sufficient to provide for the reporting of public benchmarking information to the authority. Such records shall be preserved for a period of at least three years. At the request of the president such records shall be made available for inspection and audit.

2. At the time legal title of any covered property is transferred, the buyer and seller shall arrange for the seller to provide to the buyer, at or before closing, all information necessary for the buyer to report benchmarking information for the entire year in a timely manner.

§ 29. The energy law is amended by adding a new section 17-111 to read as follows:

§ 17-111. Benchmarking enforcement and administration. 1. The president may promulgate rules and regulations necessary for the administration and enforcement of the requirements of this article.

2. It shall be unlawful for any entity or person to fail to comply with the requirements of this article or any rule or regulation promulgated by the authority of this article or to misrepresent any material fact in a document required to be prepared or disclosed pursuant to this article or any rule or regulation promulgated by the authority of this article.

3. Any person or entity who violates the benchmarking provisions of this article, not including sections 17-103 and 17-105 of this article, shall be subject to a civil penalty not to exceed five thousand dollars per violation.

4. The attorney general may bring an action to recover the civil penalties provided by subdivision three of this section and for such other relief as may be deemed necessary.

§ 30. This act shall take effect immediately; provided, however, that sections six through twenty and section twenty-two of this act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the amendments to subdivision 4 of section 16-106 of the energy law made by section sixteen of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith. Effective immediately, the addition, amendment, and/or repeal of any rule or regulation necessary for the timely implementation of this act on or before its effective date are hereby authorized to be made and completed on or before such effective date.

PART FFF

Section 1. Section 1005 of the public authorities law is amended by adding a new subdivision 29 to read as follows:

1 29. Notwithstanding any other provision of law, the authority is
2 further authorized, as deemed feasible and advisable by the trustees, to
3 lease or otherwise dispose of interests in excess capacity in the
4 authority's broadband technologies and infrastructure to other instru-
5 mentalities of the state to support broadband and other initiatives of
6 the state.

7 § 2. This act shall take effect immediately and shall be deemed to
8 have been in full force and effect on and after April 1, 2022.

9 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
10 sion, section or part of this act shall be adjudged by any court of
11 competent jurisdiction to be invalid, such judgment shall not affect,
12 impair, or invalidate the remainder thereof, but shall be confined in
13 its operation to the clause, sentence, paragraph, subdivision, section
14 or part thereof directly involved in the controversy in which such judg-
15 ment shall have been rendered. It is hereby declared to be the intent of
16 the legislature that this act would have been enacted even if such
17 invalid provisions had not been included herein.

18 § 3. This act shall take effect immediately; provided, however, that
19 the applicable effective date of Parts A through FFF of this act shall
20 be as specifically set forth in the last section of such Parts.