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 (Subart 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.

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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 brownfield 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:

Section 1. This act enacts into law major components of legislation necessary to implement the state transportation, economic development and environmental conservation budget for the 2022-2023 state fiscal year. Each component is wholly contained within a Part identified as Parts A through FFF. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

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

SUBPART A

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

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

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

§ 3. Subdivision (d) 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:

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

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

SUBPART C

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

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

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

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

§ 3. This act shall take effect immediately.

SUBPART D

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

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

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

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

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

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

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

(b) It shall be unlawful to operate or cause to be operated a stretch limousine [~~or~~], charter bus, or commercial motor vehicle registered in this state on any public highway or private road open to public motor vehicle traffic unless such stretch limousine [~~or~~], charter bus, or commercial motor vehicle is equipped with commercial global positioning system (GPS) technology as required by this subdivision and such commercial global positioning system (GPS) technology is used. The presence in such stretch limousine [~~or~~], charter bus, or commercial motor vehicle of commercial global positioning system (GPS) technology connected to a power source and in an operable condition is presumptive evidence of its use by any person operating such stretch limousine [~~or~~], charter bus, or commercial motor vehicle. Such presumption may be rebutted by any credible and reliable evidence which tends to show that such commercial global positioning system (GPS) technology was not in use.

(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:

§ 396-zz. Commercial vehicle owner notifications of parkway prohibitions. (a) All rental vehicle companies, as defined in section three hundred ninety-six-z of this article, must notify in writing all authorized drivers or renters, as defined in section three hundred ninety-six-z of this article, of the prohibition against commercial motor vehicles operating on parkways for any rentals or leases of commercial motor vehicles. For purposes of this section "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 to transport property or persons and shall include a tow truck with a gross vehicle weight rating of at least eighty-six hundred pounds.

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

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

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

SUBPART F

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

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

§ 52. Permits for work within the state highway right of way. **1.** Except in connection with the construction, reconstruction, maintenance or improvement of a state highway, no person, firm, corporation, municipality, or state department or agency shall construct or improve, within the state highway right of way an entrance or connection to such highway, or construct within the state highway right of way any works, structure or obstruction, or any overhead or underground crossing thereof, or lay or maintain therein underground wires or conduits or drainage, sewer or water pipes, except in accordance with the terms and conditions of a work permit issued by the commissioner of transportation or his duly designated agent, notwithstanding any consent or franchise granted by any town or county superintendent, or by any other municipal authority. Any municipal corporation may enter upon any state highway for the purpose of widening the pavement or for any other purpose authorized by this section, but only after securing a permit as provided herein. Notwithstanding the limitations in any general or special law, every municipal corporation shall have and is hereby given authority to deposit with the department of transportation, such a sum of money or a security bond as may be required by the commissioner of transportation as a condition precedent to the granting of the permit provided in this section.

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

(b) Upon completion of the work within the state highway right of way, authorized by the work permit, the person, firm, corporation, municipality, or state department or agency, and his or its successors in interest, shall be responsible for the maintenance and repair of such work or portion of such work as set forth within the terms and conditions of the work permit.

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

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

4. The term "state highway right of way" shall, for the purposes of this section, mean the entire width between the boundary line of all property which has been purchased or appropriated by the state for state highway purposes, all property over which the commissioner of transportation or his predecessors has assumed jurisdiction for state highway purposes, all property over which the commissioner of transportation has assumed jurisdiction during the period of construction, reconstruction or improvement and all property which has become part of the state highway system through dedication or use.

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

§ 2. This act shall take effect immediately.

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

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

PART B

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

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

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

§ 2. This act shall take effect immediately.

PART C

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

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

2. (a) Assistance may consist of grants [~~and loans~~] for capital improvements and technical assistance provided by the department pursuant to this section.

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

(b) Improvements pursuant to this section may be made for the following purposes:

(i) construction, reconstruction, improvement, reconditioning and preservation of capital facilities where the service life of the project is at least ten years, and related engineering services provided, however, that for pavement management projects the service life of the project shall be at least five years; **and**

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

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

(c) Assistance pursuant to this section shall be provided pursuant to contract with the commissioner. Contracts for capital improvements shall insure the availability to the public of any airport improved hereunder for the useful life of such improvement as defined in section sixty-one of the state finance law. The commissioner shall establish standards governing the form, content and submission of applications for participation 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.

PART D

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

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

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.

PART E

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

Section 1. Notwithstanding any other law, rule or regulation to the 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:

Local Jurisdiction	Percentage of Matching Payment
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 Transportation District:	
Albany	[~~56.10~~] 55.27
Rensselaer	[~~23.30~~] 22.96
Saratoga	[~~4.10~~] 4.04
Schenectady	[~~16.50~~] 16.26
Montgomery	1.47
In the Central New York Regional Transportation District:	
Cayuga	5.11
Onondaga	75.83
Oswego	2.85
Oneida	16.21
In the Rochester-Genesee Regional Transportation District:	
Genesee	1.36
Livingston	.90
Monroe	90.14
Wayne	.98

Wyoming	.51	
Seneca	.64	
Orleans	.77	
Ontario	4.69	
In the Niagara Frontier Transportation District: Erie		89.20
Niagara	10.80	

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

Notwithstanding the reporting date provision of section 17-a of the transportation law, the reports of each regional transportation authority and other major public transportation systems receiving mass transportation operating assistance shall be submitted on or before July 15 of each year in the format prescribed by the commissioner of transportation. Copies of such reports shall also be filed with the chairpersons of the senate finance committee and the assembly ways and means committee and the director of the budget. The commissioner of transportation may withhold future state operating assistance payments to public transportation systems or private operators that do not provide such reports.

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

The commissioner of transportation shall be required to annually evaluate the operating and financial performance of each major public transportation system. Where the commissioner's evaluation process has identified a problem related to system performance, the commissioner may request the system to develop plans to address the performance deficiencies. The commissioner of transportation may withhold future state operating assistance payments to public transportation systems or private operators that do not provide such operating, financial, or other information as may be required by the commissioner to conduct the evaluation process.

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

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

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

Notwithstanding the provisions of subdivision 4 of section 18-b of the transportation law, the commissioner of transportation is authorized to continue to use prior quarter statistics to determine current quarter payment amounts, as initiated in the April to June quarter of 1981. In the event that actual revenue passengers and actual total number of vehicle, nautical or car miles are not available for the preceding quarter, estimated statistics may be used as the basis of payment upon approval by the commissioner of transportation. In such event, the succeeding payment shall be adjusted to reflect the difference between the actual and estimated total number of revenue passengers and vehicle, nautical or car miles used as the basis of the estimated payment. The chief executive officer may apply for less aid than the system is eligible to receive. Each quarterly payment shall be attributable to operating expenses incurred during the quarter in which it is received, unless otherwise specified by such commissioner. In the event that a public transportation system ceases to participate in the program, operating assistance due for the final quarter that service is provided shall be based upon the actual total number of revenue passengers and the actual total number of vehicle, nautical or car miles carried during that quarter.

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

In the event that an audit of a public transportation system or private operator receiving funds discloses the existence of an overpayment of state operating assistance, regardless of whether such an overpayment results from an audit of revenue passengers and the actual number of revenue vehicle miles statistics, or an audit of private operators in cases where more than a reasonable return based on equity or operating revenues and expenses has resulted, the commissioner of transportation, in addition to recovering the amount of state operating assistance overpaid, shall also recover interest, as defined by the department of taxation and finance, on the amount of the overpayment.

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

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

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

PART F

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

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

§ 2. This act shall take effect immediately.

PART G

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

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

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

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

(a) Advertisement for bids, when required by this section, shall be published at least once in a newspaper of general circulation in the area served by the authority and in the procurement opportunities newsletter published pursuant to article four-C of the economic development law provided that, notwithstanding the provisions of article four-C of the economic development law, an advertisement shall only be required when required by this section. Publication in a newspaper of general circulation in the area served or in the procurement opportunities newsletter shall not be required if bids for contracts for supplies, materials or equipment are of a type regularly purchased by the authority and are to be solicited from a list of potential suppliers, if such list is or has been developed consistent with the provisions of subdivision eleven of this section. Any such advertisement shall contain a statement of: (i) the time and place where bids received pursuant to any notice requesting sealed bids will be publicly opened and read; (ii) the name of the contracting agency; (iii) the contract identification number; (iv) a brief description of the public work, supplies, materials, or equipment sought, the location where work is to be performed, goods are to be delivered or services provided and the contract term; (v) the address where bids or proposals are to be submitted; (vi) the date when bids or proposals are due; (vii) a description of any eligibility or qualification requirement or preference; (viii) a statement as to whether the contract requirements may be fulfilled by a subcontracting, joint venture, or co-production arrangement; (ix) any other information deemed useful to potential contractors; and (x) the name, address, and telephone number of the person to be contacted for additional information. At least [~~fifteen~~] ten business days shall elapse between the first publication of such advertisement or the solicitation of bids, as the case may be, and the date of opening and reading of bids provided that at least fifteen business days shall elapse between the first publication of such advertisement or the solicitation of bids, as the case may be, and the date of opening and reading of bids for public work contracts.

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

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

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

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

10. 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 modifications thereto. 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.

§ 5. Paragraph (b) of subdivision 2 of section 1265-a of the public authorities law, as amended by section 3-a 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 (i) that 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 guidelines which shall be made publicly available for the awarding of such contract without a formal competitive process.

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

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

law provided that, notwithstanding the provisions of article four-C of the economic development law, an advertisement shall only be required for a purchase contract for supplies, materials or equipment when required by this section. Publication in a newspaper of general circulation in the area served or in the procurement opportunities newsletter shall not be required if bids for contracts for supplies, materials or equipment are of a type regularly purchased by the authority and are to be solicited from a list of potential suppliers, if such list is or has been developed consistent with the provisions of subdivision six of this section. Any such advertisement shall contain a statement of: (i) the time and place where bids received pursuant to any notice requesting sealed bids will be publicly opened and read; (ii) the name of the contracting agency; (iii) the contract identification number; (iv) a brief description of the public work, supplies, materials, or equipment sought, the location where work is to be performed, goods are to be delivered or services provided and the contract term; (v) the address where bids or proposals are to be submitted; (vi) the date when bids or proposals are due; (vii) a description of any eligibility or qualification requirement or preference; (viii) a statement as to whether the contract requirements may be fulfilled by a subcontracting, joint venture, or co-production arrangement; (ix) any other information deemed useful to potential contractors; and (x) the name, address, and telephone number of the person to be contacted for additional information. At least [~~fifteen~~] ten business days shall elapse between the first publication of such advertisement or the solicitation of bids, as the case may be, and the date of opening and reading of bids **provided that at least fifteen business days shall elapse between the first publication of such advertisement or the solicitation of bids, as the case may be, and the date of opening and reading of bids for public work contracts**.

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

(e) the item is available through an existing contract [~~between a vendor and (i) another public authority provided that such other authority utilized a process of competitive bidding or a process of competitive requests for proposals to award such contracts or (ii) Nassau county, or (iii) the state of New York or (iv) the city of New York, provided that in any case when under this paragraph the authority determines that obtaining such item thereby would be in the public interest and sets forth the reasons for such determination~~] **let by any department, agency or instrumentality of the United States government and/or any department, agency, office, political subdivision or instrumentality of any state or states. The authority shall document in the procurement record its rationale for the use of such a contract. Such rationale shall include, but need not be limited to, a determination of need, a consideration of the procurement method by which the contract was awarded, an analysis of alternative procurement sources including an explanation why a competitive procurement or the use of a centralized contract let by the commissioner of the office of general services is not in the best interest of the authority, and the reasonableness of cost**. The authority shall accept sole responsibility for any payment due the vendor as a result of the authority's order; or

§ 8. Subdivision 5 of section 1265-a of the public authorities law, as 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

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

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

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

§ 2. This act shall take effect immediately.

PART L

Section 1. Subdivision 11 of section 120.05 of the penal law, as separately amended by chapters 268 and 281 of the laws of 2016, is amended to read as follows:

11. With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner [~~or~~], terminal cleaner, station customer assistant; person whose official duties include the sale or collection of tickets, passes, vouchers, or other fare payment media for use on a train or bus; a person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of a transit signal system, elevated or underground subway tracks, transit station structure, commuter rail tracks or stations, train yard, revenue train in passenger service, bus while on the road, or a train or bus station or terminal; or a supervisor of such personnel, employed by any transit or commuter railroad agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer, traffic enforcement agent, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, sanitation enforcement agent, New York city sanitation worker, public health sanitarian, New York city public health sanitarian, registered nurse, licensed practical nurse, emergency medical service paramedic, or emergency medical service technician, he or she causes physical injury to such train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner [~~or~~], terminal cleaner, station customer assistant; person whose official duties include the sale or collection of tickets, passes, vouchers or other fare payment media for use on a train or bus; a person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of a transit signal system, elevated or underground subway tracks, transit station structure, commuter rail tracks or stations, train yard, revenue train in passenger service, bus while on the road, or a train or bus station or terminal; or a supervisor of such personnel, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement agent, 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, **assisting customers, the sale or collection of tickets, passes, vouchers, or other fare media for use on a train or bus, or maintenance of a train or bus station or terminal, signal system, elevated or underground subway tracks, transit station structure, commuter rail tracks or stations, train yard, revenue train in passenger service or bus while on the road**, or such city marshal, school crossing guard, traffic enforcement officer, traffic enforcement agent, 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. Section 240.30 of the penal law is amended by adding a new subdivision 3-a to read as follows:

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

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

PART M

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

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

(b) Any image or images captured by photo devices shall be inadmissible in any disciplinary proceeding convened by the applicable mass transit agency or any subsidiary thereof and any proceeding initiated by the

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

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

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

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

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

(ii) as required by court order;

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

(iv) as otherwise required by law;

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

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

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

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

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

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

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

3. "applicable bus operation-related local law or regulation traffic restrictions" shall mean the restrictions set forth in chapter four of 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

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

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

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

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

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

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

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

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

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

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

maintain an action for indemnification against the operator of the vehicle at the time of such violation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART N

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

3. With intent to obtain railroad, subway, bus, air, taxi or any other public transportation service **or 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**:**

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

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

d. It shall be unlawful for any person to register, reregister, renew, replace or transfer the registration, change the name, address or other information of the registered owner, or change the registration classification of any vehicle whose vehicle identification number is associated with a vehicle whose registration has been suspended, or is subject to a pending request from a tolling authority to suspend the registration, under paragraph d of subdivision three of section five hundred ten of this chapter and 15 NYCRR 127.14. The commissioner or the commissioner's agent shall impose a vehicle identification number block and deny the registration, reregistration, renewal, replacement or transfer of the registration for such vehicle and vehicle identification number until the tolling authority advises, in such form and manner as the commissioner shall prescribe, that notices of violation have been responded to and any unpaid tolls, fees or other charges associated with the vehicle and the vehicle identification number have been paid to the tolling authority. Where an application is denied pursuant to this paragraph, the commissioner may, in the commissioner's discretion, deny a registration, reregistration, renewal, replacement or transfer of the registration for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this paragraph and where the commissioner has reasonable grounds to believe that such registration, reregistration, renewal, replacement or transfer of registration will have the effect of defeating the purposes of this paragraph. Such vehicle identification number block and denial shall only remain in effect until the tolling authority advises, in such form and manner as the commissioner shall prescribe, that notices of violation have been responded to and any unpaid tolls, fees or other charges associated with the vehicle and the vehicle identification number have been paid to the tolling authority.

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

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

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

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

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

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

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

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

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

PART O

Section 1. Section 5 of 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, as amended by section 4 of part ZZ of chapter 58 of the laws of 2020, is amended to read as follows:

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

§ 2. This act shall take effect immediately.

PART P

Section 1. Section 13 of part U1 of chapter 62 of the laws of 2003, amending the vehicle and traffic law and other laws relating to increasing 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.

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

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

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

§ 3. This act shall take effect immediately.

PART S

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

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

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

§ 2. This act shall take effect immediately.

PART T

Section 1. Section 4 of 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, as amended by section 1 of part KK of chapter 57 of the laws of 2021, is amended to read as follows:

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

§ 2. This act shall take effect immediately.

PART U

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

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

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

(11) descriptions of possible remediation strategies, reuse opportunities, brownfield redevelopment, necessary infrastructure improvements and other public or private measures needed to stimulate investment, promote revitalization, [~~and~~] **support job growth, reduce greenhouse gas emissions, increase climate resilience,** enhance community health and environmental conditions**, and achieve environmental justice**;

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

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

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

c. Brownfield site assessment activities eligible for funding include, but are not limited to, testing of properties to determine the nature and extent of the contamination (including soil and groundwater), environmental assessments, the development of a proposed remediation strategy to address any identified contamination, and any other activities deemed appropriate by the [~~commissioner~~] **secretary of state** in consultation with the [~~secretary of state~~] **commissioner**. Any environmental assessment shall be subject to the review and approval of such **secretary in consultation with such** commissioner.

d. Applications for such assistance shall be submitted to the [~~commissioner~~] **secretary** in a format, and containing such information, as prescribed by the [~~commissioner~~] **secretary** in consultation with the [~~secretary of state~~] **commissioner**.

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

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

g. Prior to making an award for assistance, the [~~commissioner~~] **secretary** shall notify the temporary president of the senate and the speaker of the assembly.

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

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

8. [~~Applications~~] **Community participation requirements**. a. All applications **for financial assistance** for pre-nomination **or nomination** study [~~assistance~~] or applications for designation of a brownfield opportunity area shall demonstrate that the following community participation activities have been or will be performed by the applicant:

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

(2) identification of major issues of public concern;

(3) [~~public access to (i) the draft and final application for pre-nomination assistance and brownfield opportunity area designation, and (ii) any supporting documents in a manner convenient to the public;~~

~~(4)~~] public notice and newspaper notice of (i) the intent of the municipality and/or community based organization to undertake a pre-nomination [~~process~~] **or nomination study** or [~~prepare~~] **apply for designation of** a brownfield opportunity area [~~plan~~], and (ii) the availability of such application **and any supporting documents in a manner convenient to the public**.

b. Application for [~~nomination~~] **designation** of a brownfield opportunity area shall provide the following minimum community participation activities:

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

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

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

11. All applicants for financial assistance and participation in any 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

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

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

32. Receive and disburse federal moneys allotted to the state by or pursuant to the federal agricultural marketing act of nineteen hundred forty-six as amended, or any other act of the congress making appropriation for the allocation among the states for research into basic laws and principles relating to agriculture [~~and~~], to improve and facilitate the marketing and distribution of agricultural products, [~~and~~] or for any other purpose relating to agriculture or marketing agricultural products; on behalf of the state, to adopt, execute and administer plans and programs and to put into effect such measures as may be necessary for such research [~~into basic laws and principles~~], plans, or programs relating to agriculture and to improve and facilitate the marketing and distribution of agricultural products; on behalf of the state, to make and execute such contracts, agreements, covenants or conditions, not inconsistent with law, as may be necessary or required by any duly constituted agency of the federal government as a condition precedent to receiving such funds or in connection with such research; to cooperate with all federal, state or local authorities, or other agencies, authorized under such acts of congress to carry out the purposes thereof; to adopt and from time to time to amend such rules and regulations and to prescribe such conditions, not inconsistent with law, as may be necessary to make available to the people of the state the benefits afforded by such acts of congress; and to enforce all the provisions of this subdivision and the rules adopted pursuant hereto. The department of taxation and finance is designated as custodian of all federal-aid funds allotted to the state for the purposes of this subdivision by the United States and such funds shall be payable only on the audit and warrant of the comptroller on certificate of the commissioner as provided in section one hundred ten of the state finance law.

§ 3. Paragraph (v) of subdivision c 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, as separately amended by chapters 260 and 615 of the laws of 1993, is amended to read as follows:

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

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

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

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

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

§ 7. Subdivisions a, b and c of section 5 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. Notwithstanding any monetary limitations with respect to school lunch programs contained in any law or regulation, for school lunch meals served in the school year commencing [~~July 1, 2019 and~~] **on the first July 1 following the department's receipt of authority to administer the programs herein and** each July 1 thereafter, a school food authority shall be eligible for a lunch meal State subsidy of twenty-five cents, which shall include any annual State subsidy received by such school food authority under any other provision of State law, for any school lunch meal served by such school food authority; provided that the school food authority certifies to the [~~State Education Department~~] **Department of Agriculture and Markets** through the application submitted pursuant to subdivision b of this section that such food authority has purchased at least thirty percent of its total cost of food products for its school lunch service program from New York state farmers, growers, producers or processors in the preceding school year.

b. The [~~State Education Department, in cooperation with the~~] Department of Agriculture and Markets[~~,~~] shall develop an application for school food authorities to seek an additional State subsidy pursuant to this section in a timeline and format prescribed by [~~the commissioner of education~~] **such department**. Such application shall include, but not be limited to, documentation demonstrating the school food authority's total food purchases for its school lunch service program, and documentation demonstrating its total food purchases and percentages for such program from New York State farmers, growers, producers or processors in the preceding school year. The application shall also include an attestation from the school food authority's chief operating officer that it purchased at least thirty percent of its total cost of food products for its school lunch service program from New York State farmers, growers, producers or processors in the preceding school year in order to meet the requirements for this additional State subsidy. School food authorities shall be required to annually apply for this subsidy.

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

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

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

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

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

(i) the rights of employees pursuant to a collective bargaining agreement;

(ii) the representational relationships among employee organizations or the bargaining relationships between the state and an employee organization; or

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

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

§ 9. This act shall take effect on the one hundred eightieth day after the Department of Agriculture and Markets is notified by the United States Department of Agriculture of the approval of the authority of the Department of Agriculture and Markets to administer the National School Lunch Program, provided that the commissioner of the Department of Agriculture and Markets shall notify the legislative bill drafting commission upon receipt of approval from the United States Department of Agriculture of the authority of the Department of Agriculture and Markets to administer the National School Lunch Program in order that the commission may maintain an accurate and timely effective database of the official text of laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART W

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

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

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

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

mechanical appliances shall also be required to obtain a license pursuant to this article.

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

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

1. No person shall engage in the practice of nail specialty, waxing, [~~natural hair styling,~~] esthetics or cosmetology, as defined in section four hundred of this article, **or offer the services of a salon assistant, as defined in section four hundred of this article,** without having received a license to engage in such practice in the manner prescribed in this article. No person shall act as a trainee or perform any service as such unless he or she has obtained a certificate of registration pursuant to this article.

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

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

1. There shall be established within the department an advisory committee which shall consist of nine members broadly representative of the appearance enhancement industry; including one person engaged in the practice of either nail specialty or waxing; [~~two persons engaged in natural hair styling; one of whom shall be knowledgeable in the practice of styling techniques which place tension on the hair roots, and one of whom shall ensure strict adherence to quality services for all clients of all hair types, including, but not limited to, curl pattern, hair strand thickness, and volume of hair;~~] one person engaged in esthetics; [~~two~~] **four** persons engaged in cosmetology; two persons engaged in training of persons for such practices and one person licensed as a dermatologist. The secretary shall appoint such persons to serve on the advisory committee, provided, that two shall be appointed by the secretary on the recommendation of the temporary president of the senate and two shall be appointed by the secretary on the recommendation of the speaker of the assembly. Each member of the committee shall be appointed for terms of two years. Any member may be reappointed for additional terms. The secretary shall designate from among the members of the committee a chairperson who shall serve at the pleasure of the secretary.

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

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

they are working within such establishments. Such rules and regulations shall include, but not be limited to, the sanitary conditions and procedures required to be maintained, a minimum standard of training appropriate to the duties of nail specialists, trainees, waxers, [~~natural hair stylists~~] salon assistants, estheticians, and cosmetologists and the provision of service by nail specialists, trainees, waxers, [~~natural hair stylists~~] salon assistants, estheticians or cosmetologists at remote locations other than the licensee's home provided that such practitioner holds an appearance enhancement business license to operate at a fixed location or is employed by the holder of an appearance enhancement business license. Regulations setting forth the educational requirements for nail specialists and trainees shall include education in the area of causes of infection and bacteriology. In promulgating such rules and regulations the secretary shall consult with the state education department, the advisory committee established pursuant to this article, any other state agencies and private industry representatives as may be appropriate in determining minimum training requirements.

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

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

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

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

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

c. Any applicant for a license to practice nail specialty, waxing, [~~natural hair styling~~] or to provide salon assistant services, esthetics or cosmetology may submit satisfactory evidence of licensure to practice an equivalent occupation issued by any other state, territory, protectorate or dependency of the United States or any other country in lieu of the evidence of schooling and examination required by this subdivision, provided that such license was granted in compliance with standards which were, in the judgment of the secretary, not lower than those

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

d. Notwithstanding the educational requirements of this section and the testing requirements of this section, an applicant who otherwise has met the licensing requirements of this article for a nail specialist, waxer, [~~natural hair stylist,~~] esthetician or cosmetologist who shall provide satisfactory evidence he or she has been actively and continuously engaged in the practice of nail specialty, waxing, [~~natural hair styling,~~] esthetics or cosmetology for at least one year prior to the effective date of this article, may be issued a license for nail specialty, waxing, [~~natural hair styling,~~] esthetics or cosmetology pursuant to this article. Notwithstanding the educational and testing requirements of this section, a person licensed to practice barbering under article twenty-eight of this chapter who otherwise has met the licensing requirements of this article may be issued a license to [~~practice natural hairstyling~~] **provide salon assistant services**. Other than applicants licensed under article twenty-eight of this chapter, those persons who apply after a twelve month period from the effective date of this article will be required to provide evidence of training and to take the examination or examinations as required for other licenses pursuant to this article.

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

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

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

1. The examinations for the license to practice [~~natural hair styling,~~] esthetics, nail specialty and cosmetology shall be practical and written. The examinations for the license to practice waxing shall be limited to a written examination only. **The examinations to provide salon assistant services shall be limited to a practical examination only.** The secretary shall determine reasonable standards of performance for each license and shall evaluate the prospective applicants and applicants on the basis of such standards. The objectives of the examinations shall be to insure that prospective applicants and applicants have sufficient

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

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

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

§ 8. Paragraph a of subdivision 2 of section 410 of the general business law, as amended by chapter 80 of the laws of 2015, is amended to read as follows:

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

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

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

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

PART X

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

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

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

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

PART Y

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

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

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

PART Z

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) (i) The following costs incurred by a micro-business and small 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-

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

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

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

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

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

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

31. (a) To form one or more subsidiaries for the purpose of limiting the potential liability of the authority when exercising the powers and duties conferred upon the authority by subdivision thirty of this section in connection with certain work performed on behalf of 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. Such subsidiary created pursuant to this subdivision may exercise and perform one or more of the purposes, powers, duties, functions, rights and responsibilities of the authority other than the issuance of indebtedness, in connection with real and personal property with respect to which the authority holds title or a leasehold interest including, but not limited to: (i) bidding for, taking, holding, selling, conveying, assigning or transferring title to such property; (ii) entering into leases, subleases, or other arrangements with regard to such property and acting in a manner consistent with the rights, obligations or responsibilities of the owner, landlord or tenant of such property pursuant to such lease or sublease agreements; (iii) servicing loan payments; (iv) furnishing property management services; and (v) providing general operational and administrative support services.

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

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

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

(d) Such subsidiary created pursuant to this subdivision shall be subject to any other provision of this chapter pertaining to subsidiaries of public authorities.

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

the office of cannabis management.

the cannabis control board.

any private debt or equity fund in which the state or any state agency, public authority or 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.

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

the office of cannabis management.

the cannabis control board.

any private debt or equity fund in which the state or any agency, authority 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.

§ 6. This act shall take effect immediately.

PART JJ

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

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

ity infrastructure, shall be subject to a fee for use and occupancy. Any fee for use or occupancy charged to a fiber optic utility shall not be passed through in whole or in part as a fee, charge, increased service cost, or by any other means by a fiber optic utility to any person or entity that contracts with such fiber optic utility for service. Any compensation received by the state pursuant to such agreement shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law. Nothing herein shall impair, inhibit, or otherwise affect the ability of any municipality to regulate zoning, land use, or any other power or authority granted under the law. For purposes of this subdivision, "municipality" shall include a county, city, village, or town.

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

§ 7. Agreement for fiber optic utility use and occupancy of state right of way. The commissioner of transportation is hereby authorized to enter into an agreement with any fiber optic utility for use and occupancy of the state right of way for the purposes of installing, modifying, relocating, repairing, operating, or maintaining fiber optic facilities. Such agreement may include a fee for use and occupancy of the right of way, provided, however, such fee shall not be greater than fair market value. Any provider using or occupying a right of way in fulfillment of a state grant award through **either** the New NY Broadband Program **or any successor office** shall not be subject to a fee for such use or occupancy. **Such exemption shall be applied to the entirety of an award recipient's built footprint, and no portion of such footprint, notwithstanding current status as it relates to access to broadband and other connectivity infrastructure, shall be subject to a fee for use and occupancy.** Any fee for use or occupancy charged to a fiber optic utility shall not be passed through in whole or in part as a fee, charge, increased service cost, or by any other means by a fiber optic utility to any person or entity that contracts with such fiber optic utility for service. Any compensation received by the state pursuant to such agreement shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law. Nothing herein shall impair, inhibit, or otherwise affect the ability of any municipality to regulate zoning, land use, or any other power or authority granted under the law. For purposes of this section, "municipality" shall include a county, city, village, or town.

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

PART KK

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

2. [~~The~~] **Appropriations for the** solid waste mitigation program [~~shall receive no more than twenty-five million dollars~~] from the clean water 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; [~~or~~] (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

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

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

(2) Site preparation credit component. The site preparation credit component shall be equal to the applicable percentage of the site preparation costs paid or incurred by the taxpayer with respect to a qualified site. The credit component amount so determined with respect to a site's qualification for a certificate of completion shall be allowed for the taxable year in which the effective date of the certificate of completion occurs. The credit component amount determined other than with respect to such qualification shall be allowed for the taxable year in which the improvement to which the applicable costs apply is placed in service for up to five taxable years after the issuance of such certificate of completion; provided, however, that for any qualified site to which a certificate of completion is issued on or after March twentieth, two thousand fifteen but on or before June twenty-fourth, two thousand twenty-one, the site preparation credit component for such costs shall be allowed for up to seven taxable years after the issuance of such certificate of completion.

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

(4) On-site groundwater remediation credit component. The on-site groundwater remediation credit component shall be equal to the applicable percentage of the on-site groundwater remediation costs paid or incurred by the taxpayer with respect to a qualified site (to the extent that such groundwater remediation costs are not included in the determination of the site preparation credit or the cost or other basis included in the determination of the tangible property credit). The credit component so determined for costs incurred and paid with respect to and prior to the issuance of a certificate of completion shall be allowed for the taxable year in which the effective date of the issuance of a certificate of completion occurs. The credit component amount determined in taxable years after the effective date of the issuance of a certificate of completion shall be allowed in the taxable year such qualified costs are incurred and paid for up to five taxable years after the issuance of such certificate of completion; provided, however, that with respect to any qualified site for which a certificate of completion has been issued on or after July first, two thousand fifteen but on or before June twenty-fourth, two thousand twenty-one, the credit component amount determined in taxable years after the effective date of the issuance of a certificate of completion shall be allowed in the taxable year such qualified costs are incurred and paid for up to seven taxable years after the issuance of such certificate of completion.

§ 6. Subparagraph (B) of paragraph 5 of subdivision (a) of section 21 of the tax law, as amended by section 21 of part BB of chapter 56 of the 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;

transportation, disposal, treatment or containment of contaminated soil; remediation measures taken to address contaminated soil vapor; cover systems consistent with applicable regulations; physical support of excavation; dewatering and other work to facilitate or enable remediation activities; sheeting, shoring, and other engineering controls required to prevent off-site migration of contamination from the qualified site or migrating onto the qualified site; and the costs of fencing, temporary electric wiring, scaffolding, and security facilities until such time as the certificate of completion has been issued. Site preparation shall include all costs paid or incurred within sixty months after the last day of the tax year in which the certificate of completion is issued that are necessary for compliance with the certificate of completion or subsequent modifications thereof, or the remedial program defined in such certificate of completion including but not limited to institutional controls, engineering controls, an approved site management plan, and an environmental easement with respect to the qualified site. **Provided, however, with respect to any qualified site for which a certificate of completion has been issued on or after July first, two thousand fifteen but on or before June twenty-fourth, two thousand twenty-one, site preparation costs shall include all such costs paid or incurred within eighty-four months after the last day of the tax year in which the certificate of completion is issued.** Site preparation cost shall not include the costs of foundation systems that exceed the cover system requirements in the regulations applicable to the qualified site.

§ 8. Paragraph 4 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:

(4) On-site groundwater remediation costs. The term "on-site groundwater remediation costs" shall mean all amounts properly chargeable to a capital account, which are paid or incurred which are necessary to implement a site's groundwater investigation, remediation, or qualification for a certificate of completion not already covered under site preparation costs, and shall include costs of: environmental consulting; engineering; legal costs; transportation, disposal, treatment or containment of contaminated groundwater; sheeting, shoring, and other engineering controls required to prevent off-site migration of groundwater contamination from the qualified site or migrating onto the qualified site; and the costs of fencing, temporary electric wiring and security facilities until such time as the certificate of completion is issued. On-site groundwater remediation costs shall include all costs paid or incurred within sixty months after the last day of the tax year in which the certificate of completion is issued that are necessary for compliance with the certificate of completion or subsequent modifications thereof, or the groundwater remedial program defined in such certificate of completion including but not limited to institutional controls, engineering controls, an approved site management plan specific to on-site groundwater remediation, and an environmental easement with respect to the qualified site. **Provided, however, with respect to any qualified site for which a certificate of completion has been issued on or after July first, two thousand fifteen but on or before June twenty-fourth, two thousand twenty-one, on-site groundwater remediation costs shall include all such costs paid or incurred within eighty-four months after the last day of the tax year in which the certificate of 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

remit such fee to the department of taxation and finance with the quarterly report filed pursuant to subdivision three of this section.

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

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

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

(a) Each return shall include:

(i) the name of the tire service;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART NN

Section 1. Sections 1, 2, and 3 of section 1 and section 2 of 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, are amended to read as follows:

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

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

§ 3. Bonds of the state. The state comptroller is hereby authorized and empowered to issue and sell bonds of the state up to the aggregate amount of [~~three~~] **four** billion dollars [~~($3,000,000,000)~~] **($4,000,000,000)** for the purposes of this act, subject to the provisions of article 5 of the state finance law. The aggregate principal amount of such bonds shall not exceed [~~three~~] **four** billion dollars [~~($3,000,000,000)~~] **($4,000,000,000)** excluding bonds issued to refund or otherwise repay bonds heretofore issued for such purpose; provided, however, that upon any such refunding or repayment, the total aggregate principal amount of outstanding bonds may be greater than [~~three~~] **four** billion dollars [~~($3,000,000,000)~~] **($4,000,000,000)** only if the present value of the aggregate debt service of the refunding or repayment bonds to be issued shall not exceed the present value of the aggregate debt service of the bonds to be refunded or repaid. The method for calculating present value shall be determined by law.

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

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

§ 2. This act shall take effect immediately.

PART OO

Section 1. The article heading of article 58 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:

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

§ 2. Subdivision 1 of section 58-0101 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. "Bonds" shall mean general obligation bonds issued pursuant to the environmental bond act of 2022 "[~~restore mother nature~~] **clean water, clean air, and green jobs**" in accordance with article VII of the New York state constitution and article five of the state finance law.

§ 3. Section 58-0103 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:

§ 58-0103. Allocation of moneys.

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

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

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

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

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

§ 4. Subdivision 1 of section 58-0105 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. Administer funds generated pursuant to the environmental bond act of 2022 "[~~restore mother nature~~] **clean water, clean air, and green jobs**".

§ 5. Section 58-0301 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:

§ 58-0301. Allocation of moneys.

Of the moneys received by the state from the sale of bonds pursuant to the environmental bond act of 2022, not less than one billion **two hundred million** dollars [~~($1,000,000,000)~~] **($1,200,000,000)** shall be available for disbursements for restoration and flood risk reduction projects developed pursuant to section 58-0303 of this title. Not more 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. No later than sixty days following the end of each fiscal year, each department, agency, public benefit corporation, and public authority receiving an allocation or allocations of appropriation financed from the [~~restore mother nature~~] clean water, clean air, and green jobs environmental bond act of 2022 shall submit to the commissioner in a manner and form prescribed by the department, the following information as of March thirty-first of such fiscal year, within each category listed in this title: the total appropriation; total commitments; year-to-date disbursements; remaining uncommitted balances; and a description of each project.

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

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

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

3. Moneys in the [~~restore mother nature~~] clean water, clean air, and green jobs bond fund, following appropriation by the legislature and allocation by the director of the budget, shall be available only for reimbursement of expenditures made from appropriations from the capital projects fund for the purpose of the [~~restore mother nature~~] clean water, clean air, and green jobs bond fund, as set forth in the environmental bond act of 2022 "[~~restore mother nature~~] clean water, clean air, and green jobs".

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

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

32. Thirty years. For the payment of "[~~restore mother nature~~] clean water, clean air, and green jobs" projects, as defined in article fifty-eight of the environmental conservation law and undertaken pursuant to a chapter of the laws of two thousand twenty-one, enacting and constituting the environmental bond act of 2022 "[~~restore mother nature~~] clean water, clean air, and green jobs". Thirty years for flood control infrastructure, other environmental infrastructure, wetland and other habitat restoration, water quality projects, acquisition of land, including acquisition of real property, and renewable energy projects. Notwithstanding the foregoing, for the purposes of calculating annual debt service, the state comptroller shall apply a weighted average period of probable life of [~~restore mother nature~~] clean water, clean air, and green jobs projects, including any other works or purposes to be financed with state debt. Weighted average period of probable life shall 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 OOO 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

section one hundred seventy-one-a of this chapter at the close of business on the last day of the preceding month, an amount equal to one-tenth of the annual amount required to be deposited in such fund pursuant to this section for the fiscal year in which such deposit is required to be made. In the event such amount of taxes, interest and penalties so remaining to the comptroller's credit is less than the amount required to be deposited in such fund by the comptroller, an amount equal to the shortfall shall be deposited in such fund by the comptroller with subsequent deposits, as soon as the revenue is available. Beginning April first, nineteen hundred ninety-seven, the comptroller shall transfer monthly to the clean water/clean air fund established pursuant to section ninety-seven-bbb of the state finance law, all moneys remaining from such taxes, interest and penalties collected that are not required for deposit in the environmental protection fund.

§ 2. This act shall take effect immediately.

PART QQ

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

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

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

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

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

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

(c) protection of subsurface water resources and provision for valuable watersheds and recharging ground water supplies;

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

(e) pollution treatment by serving as biological and chemical oxidation basins;

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

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

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

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

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

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

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

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

(c) lands and waters substantially enclosed by aquatic or semi-aquatic vegetation as set forth in paragraph (a) **of this subdivision** or by dead vegetation as set forth in paragraph (b) **of this subdivision**, the regulation of which is necessary to protect and preserve the aquatic and semi-aquatic vegetation; and

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

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

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

8. "Pollution" shall mean the presence in the environment of [~~man-induced~~] **human-induced** conditions**,** or contaminants in quantities or characteristics which are or may be injurious to human, plant or wildlife, or other animal life or to property.

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

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

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

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

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

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

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

(g) it is determined by the commissioner to be of significant importance to protecting the state's water quality.

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

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

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

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

[~~7.~~] 2. Except as provided in subdivision [~~eight~~] three of this section, the commissioner may, upon [~~his~~] their own initiative, and shall, upon a written request by a landowner whose land or a portion thereof may be included within a wetland, or upon the written request of another person or persons or an official body whose interests are shown to be affected, cause to be delineated [~~more precisely~~] the boundary line or lines of a freshwater wetland or a portion thereof. [~~Such more precise delineation of a freshwater wetland boundary line or lines shall be of appropriate scale and sufficient clarity to permit the ready identification of individual buildings and of other major man-made structures or facilities or significant geographical features with respect to the boundary of any freshwater wetland.~~] The commissioner shall undertake to delineate the boundary of a particular wetland or wetlands, or a particular part of the boundary thereof only upon a showing by the

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

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

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

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

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

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

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

direct the violator to cease [~~his violation of~~] **violating** the act and to restore the affected freshwater wetland to its condition prior to the violation, insofar as that is possible within a reasonable time and under the supervision of the commissioner or local government. Any such order of the commissioner or local government shall be enforceable 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. Any civil penalty or order issued by the commissioner or local government pursuant to this subdivision shall be reviewable in a proceeding pursuant to article seventy-eight of the civil practice law and rules.

b. Upon determining that significant damage to the functions and benefits of a freshwater wetland is occurring or is imminent as a result of any violation of article twenty-four of this chapter, including but not limited to (i) activity taking place requiring a permit under article twenty-four of this chapter but for which no permit has been granted or (ii) failure on the part of a permittee to adhere to permit conditions, the commissioner or local government 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.

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

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

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

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

ENFORCEMENT OF ARTICLE 25 **AND ARTICLE 34**

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

§ 71-2501. Applicability of this title.

The provisions of this title shall be applicable to the enforcement of 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

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

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

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

§ 71-2505. Enforcement.

The attorney general, on [~~his~~] **their** own initiative or at the request of the commissioner, shall prosecute persons who violate article twenty-five **or article thirty-four**. In addition the attorney general, on [~~his~~] **their** own initiative or at the request of the commissioner, shall have the right to recover a civil penalty of up to ten thousand dollars for every violation of any provision of such [~~article~~] **articles**, and to seek equitable relief to restrain any violation or threatened violation of such [~~article~~] **articles** and to require the restoration of any 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. In the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation.

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

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

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

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

PART RR

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

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

TITLE 33
EXTENDED PRODUCER RESPONSIBILITY ACT

Section 27-3301. Definitions.
27-3303. Needs assessment and establishment of a packaging and paper products program.
27-3305. Advisory committee.
27-3307. Producer responsibility program plan.
27-3309. Reporting requirements and audits.
27-3311. Antitrust protections.
27-3313. Penalties.
27-3315. State preemption.
27-3317. Authority to promulgate rules and regulations.
27-3319. Extended producer responsibility reporting to the governor and legislature.
27-3321. Severability.

§ 27-3301. Definitions.

When used in this title:

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

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

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

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

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

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

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

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

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

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

(b) Paper products means:

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

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

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

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

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

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

(iii) newspapers, magazines, and periodicals;

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

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

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

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

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

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

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

8. (a) "Producer" means an entity that shall be determined to be the producer, for the purposes of this title, based on the following hierarchy:

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

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

(iii) the person or company that offers for sale, sells, or distributes the packaging or paper product in the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. (a) By April first, two thousand twenty-five, any producer implementing an individual extended producer responsibility program or any 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 responsibility organization.

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

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

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

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

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

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

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

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

§ 27-3305. Advisory committee.

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

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

(b) a municipality operating a recycling program;

(c) a statewide environmental organization;

(d) a representative of an environmental justice community or organization;

(e) a statewide waste disposal association;

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

(g) a recycling collection provider;

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

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

(j) a consumer advocate;

(k) a retail organization; and

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

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

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

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

5. The advisory committee shall work with all producers implementing an individual extended producer responsibility program and all producer responsibility organizations to ensure consistent messaging and coordination across program plans.

6. The advisory committee shall review the producer responsibility program plans required under this title and prepare specific written recommendations on all portions of the producer responsibility program plans and on all updates or revisions to approved producer responsibility program plans. Such recommendation shall be approved by a majority of the advisory committee's members. The producer implementing an individual extended producer responsibility program or producer responsibility organization shall consider and respond to those written recommendations in writing, and such recommendations and responses shall be provided to the department at the time of plan submission.

7. By April first, two thousand twenty-four, the advisory committee 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.

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

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

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

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

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

(e) Funding mechanism. A description of the proposed funding mechanism that is necessary to meet the requirements of this title and is sufficient to cover the cost of operating the program, updating the plan, and maintaining a financial reserve sufficient to operate the program in a fiscally prudent and responsible manner. The department may promulgate regulations necessary for a producer implementing an individual extended producer responsibility program or a producer responsibility organization to develop and manage a funding mechanism and activity-based costs. The following funding mechanism details shall be provided in the producer responsibility plan:

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

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

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

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

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

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

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

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

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

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

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

(v) how activity-based costs are calculated and dispersed for services utilized by a producer implementing an individual extended producer responsibility program or producer responsibility organization if the waste haulers, recyclables handling and recovery facilities, recyclers, and municipalities, and other service providers elect to participate and be compensated by the producer implementing an individual extended producer responsibility program or producer responsibility organization in the recovery, recycling, and processing of packaging and paper products. The activity-based cost mechanism shall be based on the cost of consumer recycling collection, on-site processing cost for each readily-recyclable material, processing cost of non-readily recyclable material types, transportation cost of recycling for each material type, disposal costs for any residual or non-recyclable material, and any other cost factors as determined by the advisory committee or department.

(f) Municipal and private entity reimbursement. A description of the process for municipalities or private entities (such as solid waste collection, transportation, sorting, and processing companies, and other participating service providers) operating under the producer or producer responsibility organization's plan, to recoup reasonable costs from the producer or producer responsibility organization for the activity-based costs, including, as applicable, any administrative, collection, sorting, transportation, capital improvement, or processing costs. The municipality or private entity may not pass on to the consumer costs for which it has been paid by the producer or producer responsibility organization. To facilitate the producer's or producer responsibility organization's determination of activity-based costs, participating municipalities and private entities shall report data related to their costs and the value of materials to the producer or producer responsibility organization. Cost calculations shall account for revenue generated from recyclable materials.

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

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

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

(B) be coordinated across producer and producer responsibility organization programs to avoid confusion for consumers; and

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

solid waste collection companies, and other entities providing services, and develop and provide outreach and education to the diverse populations in the state, including utilizing a variety of outreach and education tools and ensuring materials are accessible to all persons and are provided in multiple languages.

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

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

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

(B) the location and availability of recycling collection;

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

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

(E) recycling and composting instructions that are: consistent statewide, except as necessary to take into account differences among local laws and processing capabilities; easy to understand; and easily accessible; and

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

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

(h) Existing infrastructure. How the producer implementing an individual extended producer responsibility program or the producer responsibility organization will work with existing waste haulers, recyclables handling and recovery facilities, recyclers, and municipalities to operate or expand current collection programs to address material collection methods.

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

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

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

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

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

(A) The category of packaging and paper products is suitable for recycling collection and can be effectively sorted by the facilities receiving the collected material;

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

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

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

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

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

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

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

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

(n) Packaging and paper products reduction. A description of how a producer responsibility organization will work with producers to reduce packaging and paper products through product design and program innovations.

(o) Consumer concerns process. A process to address concerns and questions from consumers.

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

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

the plan as submitted; approve the plan with conditions; or deny the plan.

(b) The department shall consider the following in determining whether to approve a plan:

(i) whether the plan adequately addresses all elements described in this section;

(ii) whether the producer has undertaken satisfactory consultation with the advisory committee and has provided an opportunity for advisory committee input in the development of the plan prior to submission of the plan;

(iii) whether the plan adequately provides for:

(A) the producer responsibility organization collecting and funding the costs of collecting and processing packaging and paper products covered by the plan and reimbursing a municipality or private entity;

(B) the funding mechanism to cover the entire cost of the producer responsibility organization's program;

(C) convenient and free consumer access to collection facilities or collection services;

(D) an evaluation system for the program charge structure, which shall be evaluated on an annual basis by the producer responsibility organization and advisory committee and resubmitted to the department annually; and

(E) effective consumer outreach and education.

(iv) whether the plan satisfactorily provides for how the producer implementing an individual extended producer responsibility program or the producer responsibility organization will meet the minimum post-consumer content rates, recovery rates, and recycling rates, as specified by the department in regulation, which will create or enhance markets for recycled materials; and

(v) whether the plan creates a convenient system for consumers to recycle covered packaging and paper products that meets or exceeds the convenience criteria set forth in paragraph (i) of subdivision three of section 27-3307 of this title.

(c) The department may deny a plan. (i) If a plan is denied, the department shall inform the producer implementing an individual extended producer responsibility program or producer responsibility organization in writing as to any deficiencies in said plan. A producer implementing an individual extended producer responsibility program or producer responsibility organization shall amend and resubmit any denied plans for reconsideration within sixty days of notification of the denial of said plan. The department shall approve or deny said plan within thirty days of resubmission.

(ii) If a plan is denied a second time, the department will provide the producer implementing an individual extended producer responsibility program or producer responsibility organization with direction for meeting any additional required elements of the plan it deems necessary.

(d) The department may rescind the approval of an approval plan at any time for just cause. If a plan is rescinded, the department shall inform the producer implementing an individual extended producer responsibility program or producer responsibility organization in writing as to any and all reasons why the plan was rescinded. A producer implementing an individual extended producer responsibility program or producer responsibility organization shall amend and resubmit any rescinded plans for reconsideration within sixty days of notification of the rescission of said plan. The department shall approve or reject said plan within thirty days of resubmission.

5. The producer implementing an individual extended producer responsibility program or producer responsibility organization shall notify the department of any modification to the program. If the department determines that the producer responsibility plan has been substantially modified, the producer implementing an individual extended producer responsibility program or producer responsibility organization, after consultation with the advisory committee, shall submit a proposed plan amendment describing the changes to the department within ninety days of the determination. Within ninety days of receipt of a proposed amended plan, the department shall determine whether the amended plan complies with this title. The department shall send a letter notifying the producer implementing an individual extended producer responsibility program or producer responsibility organization of: (a) approval; or (b) disapproval, including the reasons for rejecting the plan. The producer implementing an individual extended producer responsibility program or producer responsibility organization shall provide the department's letter of disapproval to the advisory committee. The producer implementing an individual extended producer responsibility program or producer responsibility organization shall submit a revised plan within sixty days after receipt of the letter of disapproval.

6. The producer implementing an individual extended producer responsibility program or producer responsibility organization shall reimburse the department annually at the time of annual reporting for all administrative costs associated with oversight of the program, which shall be deposited to the credit of the stewardship organization fund established pursuant to section ninety-two-kk of the state finance law.

§ 27-3309. Reporting requirements and audits.

1. Fifteen months after the first plan of a producer implementing an individual extended producer responsibility program or producer responsibility organization is implemented, and annually thereafter, each producer implementing an individual extended producer responsibility program, or each producer responsibility organization, shall submit a report to the department that details the prior calendar year's program. The report shall be posted on the website of the producer implementing an individual extended producer responsibility program or producer responsibility organization.

2. Such annual report shall include:

(a) a detailed description of the methods used to collect, transport, and process packaging and paper products including detailing collection methods made available to consumers and an evaluation of the program's collection convenience;

(b) a detailed description of the amount of packaging and paper products sold, offered for sale, or distributed to consumers in the state on an annual basis, including a percentage of packaging and paper products sold, offered for sale, or distributed to consumers in the state through internet transactions;

(c) the weight of packaging and paper products collected for reuse or recycling in the state, by material type;

(d) the weight, by material type, of packaging and paper products collected for reuse or recycling in the state by the method of disposition;

(e) the total cost of implementing the program;

(f) financial statements detailing all deposits received and reimbursements paid by the producers covered by the approved plan;

(g) a detailed accounting of how the program compensated municipalities, solid waste collection, transportation, sorting, and reproc-

essing companies, and other entities, for their recycling efforts and other related services;

(h) a description of investments made in infrastructure and market development in New York state as related to the needs identified, including the amount spent expressed as a percentage of the program's total annual expenditures;

(i) a description of investment made and an evaluation of the effectiveness of outreach and education efforts to determine whether changes are necessary to improve those outreach and education efforts. If the department determines improvements are necessary, the producer implementing an individual extended producer responsibility program or producer responsibility organization shall develop new and improved outreach and education methods for approval by the department;

(j) samples of all educational materials provided to consumers or other entities;

(k) a detailed list of efforts undertaken and an evaluation of the methods used to disseminate such materials including recommendations, if any, for how the educational component of the program can be improved;

(l) the achieved post-consumer recycled content rates, recovery rates, and recycling rates for packaging and paper product material types, how the rates were derived, and a discussion of how these rates may be improved. If, upon consultation with the advisory committee, there is reason to adjust minimum rates, the annual report shall include suggestions and justifications for the department to consider revision of such rates in regulation;

(m) a detailed description of any efforts undertaken to reduce the amount of packaging used; changes in material types used in packaging that have helped to improve recyclability, post-consumer recycled content rates, recovery rates, recycling rates for packaging, greenhouse gas emissions, and the result on program implementation costs through such efforts;

(n) a discussion on the feasibility to increase consumer convenience through curbside collection, facility drop-off, events or other alternatives, and to expand the program, for example, to include additional service to consumers without previous access to recycling collection, and public spaces, as well as a discussion on how the producer implementing an individual extended producer responsibility program or producer responsibility organization plans for continuous improvement; and

(o) an evaluation of the feasibility and recommendation for adding beverages in beverage containers as defined in title ten of this article to the covered packaging and paper products definition of this title.

3. Prior to the submission of the annual report, all data and information that is material to the department's review of the program's compliance with the requirements of this title shall be annually audited and verified by an independent third-party auditor, approved by the department. This includes, but is not limited to, a review and verification of all financial documentation and all information related to the material recycling rates, recovery rates, and the post-consumer recycled content rates. A copy of the independent audit shall be included in the annual report.

4. The department shall not require public reporting of any confidential information that the department determines to be trade secrets, confidential commercial information or critical infrastructure information, in accordance with article six of the public officers law and the department's rules and regulations promulgated pursuant thereto.

§ 27-3311. Antitrust protections.

A producer implementing an individual extended producer responsibility program or producer responsibility organization that organizes the collection, transportation, and processing of packaging and paper products, in accordance with a producer responsibility program plan approved under this title, shall not be liable for any claim of a violation of antitrust, restraint of trade, or unfair trade practice arising from conduct undertaken in accordance with the program pursuant to this title; provided, however, this section shall not apply to any agreement establishing or affecting the price of packaging or a paper product, or the output or production of any agreement restricting the geographic area or customers to which packaging or a paper product will be sold.

§ 27-3313. Penalties.

1. Except as otherwise provided in this section, any person or entity that violates any provision of or fails to perform any duty imposed pursuant to this title or any rule or regulation promulgated pursuant thereto, or any final determination or order of the commissioner made pursuant to this article or article seventy-one of this chapter shall be liable for a civil penalty not to exceed five hundred dollars for each violation and an additional penalty of not more than five hundred dollars for each day during which such violation continues.

2. (a) Any producer or producer responsibility organization who violates any provision of or fails to perform any duty imposed pursuant to this title or any rule or regulation promulgated pursuant thereto, or any term or condition of any registration or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this article or article seventy-one of this chapter shall be liable for a civil penalty not to exceed five thousand dollars for each violation and an additional penalty of not more than one thousand five hundred dollars for each day during which such violation continues. For a second violation committed within twelve months of a prior violation, the producer implementing an individual extended producer responsibility program or producer responsibility organization shall be liable for a civil penalty not to exceed ten thousand dollars and an additional penalty of not more than three thousand dollars for each day during which such violation continues. For a third or subsequent violation committed within twelve months of any prior violation, the producer implementing an individual extended producer responsibility program or producer responsibility organization shall be liable for a civil penalty not to exceed twenty thousand dollars and an additional penalty of six thousand dollars for each day during which such violation continues.

(b) All producers participating in a producer responsibility organization shall be jointly and severally liable for any penalties assessed against the producer responsibility organization pursuant to this title and article seventy-one of this chapter.

3. Civil penalties under this section shall be assessed by the department after an opportunity to be heard pursuant to the provisions of section 71-1709 of this chapter, or by the court in any action or proceeding pursuant to section 71-2727 of this chapter, and in addition thereto, such person or entity may by similar process be enjoined from continuing such violation and any permit, registration or other approval issued by the department may be revoked or suspended or a pending renewal denied.

4. The department and the attorney general are hereby authorized to enforce the provisions of this title and all monies collected shall be

deposited to the credit of the environmental protection fund as established pursuant to section ninety-two-s of the state finance law.

§ 27-3315. State preemption.

Jurisdiction in all matters pertaining to activity-based costs and funding mechanisms of producer responsibility organizations relating to the recovery of packaging and paper products by this title, is vested exclusively in the state. Any provision of any local law or ordinance, or any rule or regulation promulgated thereto, governing packaging and paper products recycling shall, upon the effective date of this title, be preempted; provided however, that nothing in this section shall preclude a person from coordinating, for recycling or reuse, the collection of packaging and paper products.

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

The department shall have the authority to promulgate rules and regulations necessary and appropriate for the administration of this title.

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

1. (a) By November first, two thousand twenty-four, and biennially thereafter, the department shall submit to the governor and legislature a report that includes the following:

(i) a review and evaluation of the performance of existing extended producer responsibility programs in the state;

(ii) recommendations the department would propose through legislation to improve existing extended producer responsibility programs;

(iii) recommendations the department would propose through legislation to promote the reduction targets through the promotion of reusable products or source reduction; and

(iv) draft legislation required to amend an existing extended producer responsibility program based on recommendations in paragraph (b) of this subdivision.

(b) The report submitted in accordance with this section shall fulfill the requirements found in subdivision four of section 27-1807, subdivision two of section 27-2005, and subdivision four of section 27-2617 of this article, and future biennial reports on extended producer responsibility programs required of the department to be provided to the governor and legislature.

2. The department shall collect information available in the public domain regarding potential products in the waste stream to assist in designating products or product categories for extended producer responsibility programs in accordance with this title. At the department's discretion, a report shall be submitted to the governor and legislature which shall contain the following:

(a) Recommendations for establishing new extended producer responsibility programs. The department may identify a potential product or product category as a candidate for an extended producer responsibility program if it is determined after evaluation of each of the following that:

(i) the potential product or product category is found to contain toxins that pose the risk of an adverse impact to the environment or public health and safety; or

(ii) an extended producer responsibility program for the potential product or product category will increase the recovery of materials for reuse and recycling and reduce the need for use of virgin materials; or

(iii) an extended producer responsibility program for the potential product or product category will reduce the costs of waste management to 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 manufacturers 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.

§ 37-0211. Regulations.

The department is authorized to promulgate any other such rules and regulations as it shall deem necessary to implement the provisions of this title. The department is authorized to evaluate other chemicals to review for potential regulation under this title. The department may provide a report based upon that evaluation to the governor and legislature which may contain recommendations to add other chemicals contained in a package or packaging component to regulate in order to further reduce the toxicity of packaging waste.

§ 37-0213. Severability.

If any clause, sentence, paragraph, section or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 2. Subdivisions 1 and 2 of section 72-1009 of the environmental conservation law, subdivision 1 as amended by chapter 60 of the laws of 1993 and subdivision 2 as added by chapter 166 of the laws of 1991, are amended to read as follows:

1. The environmental regulatory account shall be credited with all moneys received from fees and fee interest collected; all other moneys collected by the department pursuant to title twenty-seven of article twenty-three of this chapter, except as identified under article six of the public officers law; all moneys collected or received by the department pursuant to title two of article thirty-seven of this chapter; and any other contributions or donations by the public to such account.

2. Moneys in the account, following appropriation by the legislature, shall be allocated upon the certification of approval for availability by the director of the budget for the administration and enforcement of title twenty-seven of article twenty-three and title two of article thirty-seven of this chapter, including but not limited to monitoring, surveillance, enforcement, training, research, administration and cooperation with any federal, state or local agency.

§ 3. This act shall take effect immediately.

PART TT

Section 1. Short title. This act shall be known and may be cited as the "Suffolk County water quality restoration act".

§ 2. Legislative intent. The county of Suffolk ("county"), with a population of one million five hundred thousand persons, has in excess of three hundred eighty thousand existing onsite systems, comprised mostly of cesspools and septic systems, with two hundred nine thousand of these onsite systems in environmentally sensitive areas which could benefit from nitrogen-reducing technologies. The United States Environmental Protection Agency recognizes Long Island as having a sole source aquifer system for its drinking water supply. Suffolk county has an imminent need to preserve this valuable water resource by reducing the amount of nitrogen discharged into the groundwater by onsite systems. The full water cycle is impacted by increasing quantities of nutrients, pathogens, pesticides, volatile organic contaminants and saltwater intrusion, as well as a number of emerging threats such as prescription drugs and sea level rise.

The Suffolk county subwatersheds wastewater plan ("SWP"), certified by the department of environmental conservation as a Nine Elements Watershed (9E) plan, has documented the devastating effects of high levels of nitrogen pollution, not only on the drinking water quality, but also on coastal ecosystems, dissolved oxygen, water clarity, eelgrass, wetlands, shellfish, coastal resilience and in triggering harmful algal blooms. The Suffolk county subwatersheds wastewater plan, or SWP, is a long-term plan to address the need for wastewater treatment infrastructure throughout the county comprehensively over a period of fifty years. The SWP delineates the source and concentration of nitrogen loading in one hundred ninety-one subwatersheds throughout the county, and established nitrogen reduction goals for each watershed.

For many areas of the county, installing or connecting sewers is not a practical or cost-effective method of treating wastewater. For that reason, the SWP prescribes a hybrid approach that relies on sewering where feasible, and the replacement of cesspools and septic systems with innovative/alternative onsite wastewater treatment systems. The consolidation of any or all of the twenty-seven county sewer districts, as well as unsewered areas of the county, into a county-wide wastewater management district allows for the implementation of a much needed integrated long-term wastewater solution for the county through comprehensive planning and management, the establishment of a water quality restoration fund and county-wide district board of trustees to monitor progress and the allocation of resources consistent with the goals of the SWP.

The purpose of this act is to create a water quality restoration fund to finance projects for the protection, preservation, and rehabilitation of groundwater and surface waters as recommended by the SWP. This act would allow the funding of projects that will mitigate wastewater pollutants utilizing the best available technology consistent with the SWP.

A county-wide wastewater management district, supported by a dedicated and recurring revenue source, will provide an integrated and efficient approach to managing wastewater services across the county; allow the county to enhance and expand its incentive program to property owners to upgrade their wastewater treatment systems without risk of adverse personal income tax consequences; to manage, monitor and enforce nitrogen reduction programs throughout the county; to complete additional sewer extension projects; and provide an opportunity to consolidate and streamline the county's existing sewer district system and normalize the inequitable rate structure that has long existed.

§ 3. The county law is amended by adding a new section 256-b to read as follows:

§ 256-b. Suffolk county wastewater management district. 1. (a) Notwithstanding the provisions of any general, special or local law to the contrary, including this article, the county legislature of Suffolk county is hereby authorized to establish by resolution a Suffolk county wastewater management district, hereinafter referred to in this section as the "district", which shall include all powers of a sewer district and a wastewater disposal district as provided in section two hundred fifty of this article and as set forth in this subdivision, pursuant to the procedure contained in this section.

(b) In addition to the powers provided in section two hundred fifty of this article, the district shall have the power, as determined by the county legislature, to: (i) consolidate all of the original sewer districts within the county as well as unsewered areas of the county, under the jurisdiction of the district; (ii) establish one or more zones

of assessment within the district based upon territorial boundaries, the method of wastewater collection, treatment and disposal, existing or proposed, or both, and make changes to such zones of assessments; (iii) acquire interests in real property which may be completed by the transfer of property of original sewer districts to the district, necessary for the installation and maintenance of district facilities; (iv) prioritize district projects in accordance with the Suffolk county subwatershed wastewater plan (SWP) adopted by the county legislature, and any amendments thereto; (v) receive funds from the county or the water quality restoration fund, as established by subdivision twelve of this section, and distribute grant proceeds within the district in accordance with the goals established in the Suffolk county subwatershed wastewater plan; (vi) assume and pay any remaining indebtedness of each original sewer district; (vii) establish and provide for the collection of charges, rates, taxes or assessments to provide for the costs of operation, expenses, interest payments, maintenance and improvements of the district, including but not limited to: (A) special assessment as defined in subdivision fifteen of section one hundred two of the real property tax law; (B) special ad valorem levy as defined in subdivision fourteen of section one hundred two of the real property tax law; (C) sewer rent as provided under article fourteen-F of the general municipal law; and (viii) distribute grant proceeds within the district in accordance with the goals established in the SWP.

2. Boundaries. The boundaries of the district shall coincide with the territorial boundaries of the county of Suffolk.

3. County agency review and report. The county legislature shall direct the county agency, appointed or established pursuant to section two hundred fifty-one of this article, to review and report thereon to the county legislature on the creation of the district and the merger therewith of any or all existing county sewer districts in accordance with this section and such other details as may be directed by the county legislature consistent with this article. When the agency has caused such report to be prepared, it shall transmit it to the county legislature. Upon receipt of the report, the county legislature shall call a public hearing pursuant to subdivision five of this section to create a Suffolk county wastewater management district in accordance with this section. Such report shall be filed in the office of the clerk of the legislature of Suffolk county.

4. Resolution. The county legislature of Suffolk county may adopt a resolution calling a public hearing upon the proposed creation of the district.

5. Notice. The clerk of the county legislature shall give notice of the hearing described in subdivision four of this section in such newspapers and within such time period as set forth in section two hundred fifty-four of this article. Such notice shall specify the time, date and location of such hearing and, in general terms, describe the proposed establishment of the district and the proposed basis of the future assessment of all costs of operation, maintenance and improvements of the district.

6. Hearing and resolution to establish. (a) The county legislature shall meet at the time, date and location specified in such notice and hear all persons interested in the subject matter thereof concerning the same. If the county legislature determines that it is in the public interest to establish the district as specified in such notice, the county legislature may adopt a resolution, subject to a mandatory referendum, establishing the district.

(b) The permission of the state comptroller shall not be required to establish a district created pursuant to this section.

7. Notice of adoption of resolution. Within ten days after the adoption by the county legislature of the resolution to establish the district described in subdivision six of this section, the county legislature shall give notice thereof, at the expense of the county, by the publication of a notice in such newspapers and within such time period as set forth in section one hundred of this chapter. Such notice shall set forth the date of adoption of the resolution and contain an abstract of such resolution, describing, in general terms, the district, the basis for the future assessment of all costs of operation, maintenance and improvements, and that such resolution was adopted subject to a mandatory referendum.

8. Assessments, levys and charges. After the establishment of the district in accordance with this section, the county is hereby authorized by resolution approved by majority vote of the total membership of the county legislature to assess, levy and collect upon each lot or parcel of land subject to taxation within the district: (a) special assessment as that term is defined in subdivision fifteen of section one hundred two of the real property tax law; (b) special ad valorem levy as that term is defined in subdivision fourteen of section one hundred two of the real property tax law; and (c) sewer rents as provided by article fourteen-F of the general municipal law. Such costs and expenses may include, but shall not be limited to, the amount of money required to pay the annual expenses of maintenance, operation, personnel services of the district and the sums sufficient to pay the annual installment of principal of, and interest on, obligations for improvements of the district. Such sums so levied shall be collected by the local tax collectors or receivers of taxes and assessments and shall be paid over to the chief fiscal officer of the county, in the same manner and at the same time as taxes levied for general county purposes. The chief fiscal officer shall keep a separate account of such moneys and they shall be used only for purposes set forth in this section, and in addition, all monies collected from each zone of assessment established or amended in accordance with this section shall be further segregated and shall not be commingled with monies of other zones of assessment except upon approval by resolution of the county legislature upon recommendation of the district board of trustees established in accordance with the Suffolk county water quality restoration act.

8-a. Recording determination. The clerk of the county legislature shall within ten days after the effective date of the resolution creating the district cause a certified copy to be recorded in the office of the clerk of the county and when so recorded such order shall be presumptive evidence of the regularity of the proceedings for the creation of the district and of all other action taken by the county legislature pursuant to this section. A certified copy shall also be filed in the office of the state department of audit and control in Albany, New York.

9. Other laws. All provisions of the real property tax law and the Suffolk county tax act, as the same may be amended from time to time, not inconsistent with the provisions of this article, relating to the assessing, levy and collection and enforcement of special assessments, ad valorem levies and sewer rents in the county shall apply and be of equal force and applicability to special assessments, ad valorem levies and sewer rents authorized pursuant to this section.

10. Towns and villages. This section shall not be construed as merging the sewer districts of towns and villages within the county of Suffolk into the district created by this section, however the merger of any town or village sewer district with the district shall be in accordance with section two hundred seventy-seven of this article.

11. Water quality restoration fee. (a) Notwithstanding any provision of law to the contrary, the county of Suffolk is authorized to establish a water quality restoration fund pursuant to subdivision twelve of this section, to be financed by the water quality restoration fee as provided by this subdivision. Said fund shall be enacted by local law, subject to mandatory referendum, pursuant to section twenty-three of the municipal home rule law.

(b) For each residential dwelling unit, the fee shall be five dollars per month. For all other properties, the fee shall be five dollars per month for each "equivalent dwelling unit" (EDU). An EDU shall be defined as three hundred gallons of wastewater generated per day. The number of EDUs for each property shall be determined by the actual amount of wastewater generated per day. Where such amount of actual wastewater generated per day cannot be determined for a property, the county, by local law, shall establish a schedule of EDUs for each category of land use consistent with the Suffolk County Sanitary Code. The local law may provide for subcategories for each land use.

(c) Such fee shall be collected on all properties in the county of Suffolk except as provided herein. Water usage on public land shall be excluded from such fee. Land utilized as part of a farm operation: (i) located in an agricultural district; or (ii) benefitted by an agricultural assessment, pursuant to article twenty-five-AA of the agriculture and markets law; or (iii) subject to a government purchase of development rights program; or (iv) otherwise protected for agricultural purposes shall be exempt from the fee. For the purposes of this act "public land" shall mean any land exempt from real property taxation pursuant to title one of article four of the real property tax law. For the purposes of this section, "farm operation" shall have the same meaning as provided for in section three hundred one of the agriculture and markets law.

(d) The local law shall also provide for an exemption from the water restoration fee based upon substantial financial hardship.

(e) The county, by local law, shall determine the criteria for establishing such substantial financial hardship. The county, by local law, shall determine the means and manner of collection for the fee authorized pursuant to this section.

12. Water quality restoration fund. (a) Notwithstanding any provision of law to the contrary, the net collections from the fee imposed pursuant to subdivision eleven of this section shall be deposited in a special fund by the county of Suffolk, to be designated as the water quality restoration fund, to be created by said county therefor, separate and apart from any other funds and accounts of the county. In no event shall monies deposited in the fund be transferred to any other account. Deposits into the fund may include revenues of Suffolk county from whatever source and shall include, at a minimum, all net revenues from the water quality restoration fee imposed pursuant to subdivision eleven of this section. The fund shall also be authorized to accept gifts of funds. Interest accrued by monies deposited into the fund shall be credited to the fund. Nothing contained in this section shall be construed to prevent the financing in whole or in part, pursuant to the local finance law, of any project authorized pursuant to this section.

Monies from the fund may be utilized to repay any indebtedness or obligations incurred pursuant to the local finance law consistent with effectuating the purposes of this section. Where Suffolk county finances a project, in whole, or in part, pursuant to the local finance law, the resolution authorizing such indebtedness shall be accompanied by a report from the county executive demonstrating how said indebtedness will be repaid by the fund. Said report shall include an estimate of projected revenues of the fund during the period of indebtedness. The report shall also provide an accounting of all other indebtedness incurred against the fund to be repaid for the same period. The county legislature shall make findings by resolution that there will be sufficient revenue to repay such indebtedness in its entirety from the fund before authorizing such indebtedness. Monies in said fund may be appropriated from or expended in any fiscal year to implement the powers set forth in this section and to repay any indebtedness or obligations incurred pursuant to the local finance law for the purposes authorized pursuant to this section.

(b) (i) For purposes of this section: "water quality improvement project" shall mean the planning, design, construction, acquisition, enlargement, extension, or alteration of a wastewater treatment facility, including individual hookups, or an individual septic system, including an alternative wastewater treatment facility or an individual septic system with active treatment, to treat, neutralize, stabilize, eliminate or partially eliminate sewage or reduce pollutants, including permanent or pilot demonstration wastewater treatment projects, or equipment or furnishings thereof. Such projects shall have as their purpose the remediation of existing water quality to meet specific water quality standards consistent with the SWP. Projects consistent with or listed in the SWP that are part of a plan adopted by a local government resulting in a net nitrogen reduction shall be eligible for consideration by the district board of trustees, established in accordance with subdivision six of this section. Projects designed primarily to increase density shall not be included within this definition. Of the annual collections of the fund, seventy-five percent of the annual funds shall be used toward individual septic systems purposes, inclusive of: (A) the preparation of an annual SWP implementation action plan to protect, preserve, and rehabilitate groundwater, surface water, and drinking water; (B) the construction of water quality improvement projects; (C) the establishment of a program for residents of the county of Suffolk for grants and low-interest loans as incentives to construct individual septic systems which qualify as water quality improvement projects; and (D) administration of the county wastewater management district not to exceed ten percent of the annual funds.

(ii) Other than for the payment of indebtedness or obligations incurred as set forth in paragraph (a) of this subdivision, and except for the preparation of the annual SWP implementation plan, itself, no monies may be expended until the annual SWP implementation plan has been prepared and approved as provided for in this section.

(c) (i) Within the local law establishing the water quality restoration fund, the county shall establish a district board of trustees of seventeen members to review and approve the action plan for submission to the county executive and county legislature. Such approval shall be in addition to all other approvals required by law. The board of trustees shall consist of: (A) a representative from the department of environmental conservation; (B) a representative from the East End supervisors and mayors association; (C) a representative of the Suffolk town

supervisors association; (D) a representative of the Suffolk County Village Officials Association; (E) a town representative from the State Central Pine Barrens Joint Planning and Policy Commission to be designated by the commission; (F) a municipal representative from the Peconic Estuary Partnership; (G) a municipal representative from the State South Shore Estuary Reserve; (H) a municipal representative from the Long Island Sound Estuary; (I) a representative of the Long Island Federation of Labor; (J) a representative of Building and Construction Trades Council of Nassau & Suffolk counties; (K) a representative from a regional environmental organization; (L) the chair of the Suffolk county planning commission; (M) the county executive or designee; (N) the presiding officer of the county legislature or designee; (O) the minority leader of the county legislature or designee; (P) the county department of public works commissioner or designee; and (Q) the county department of health services commissioner or designee.

(ii) The powers and duties of the district board of trustees shall include auditing fiscal allocations as it relates to the goals of the Suffolk county subwatersheds wastewater plan, making prudent recommendations for resource allocations for county-approved alternative wastewater treatment technologies not contemplated in the Suffolk county subwatersheds wastewater plan and long-term progress monitoring of the implementation of the Suffolk county subwatersheds wastewater plan regarding achievements of nitrogen load reductions and ecological endpoints.

(d) Water quality restoration citizens advisory committee. Within the local law establishing the district board of trustees, the county is authorized to establish a water quality restoration citizens advisory committee ("advisory committee") to actively assist and advise the board of trustees in the preparation, adoption and implementation of the annual SWP implementation plan. The committee shall consist of not more than twenty-five members which shall include representatives of environmental groups, economic development and real estate interests, farmers, water suppliers, civic groups, planners, biologists, and water quality scientists and recreational interests. The members of the committee shall serve without compensation. The committee by a majority vote shall elect a chairperson. The advisory committee shall meet periodically with the board of trustees, make available working drafts of such plan and other documents, and shall provide services to the district board of trustees, as are necessary and appropriate to carry out its functions under this section. The county by resolution of the county legislature, shall appoint the members of the advisory committee.

(e) Annual SWP implementation plan. The water quality restoration fund and district board of trustees shall prepare, review and approve and submit to the county executive the annual SWP implementation plan within one year of the effective date of this section, and in every year thereafter in a like manner. The board of trustees shall conduct a public hearing on said plan before its adoption or subsequent amendment. Each year, said plan shall list every water quality restoration project which the county plans to undertake pursuant to the fund and shall state how such project would improve existing water quality. Funds may only be expended pursuant to this section for projects which have been included in said plan. Said plan shall be consistent with state, federal, county, and local government land use and wastewater management plans. After submission and approval by the county executive, such plan shall be submitted to the county legislature. Such plan shall not become effective until approved by local law.

(f) Annual audit. The county shall annually commission an independent audit of the fund. The audit shall be conducted by an independent certified public accountant or an independent public accountant. Said audit shall be performed by a certified public accountant or an independent public accountant other than the one that performs the general audit of the county's finances. Such audit shall be an examination of the fund and shall determine whether the fund has been administered consistent with the provisions of this section and all other applicable provisions of state law. Said audit shall be initiated within sixty days of the close of the fiscal year of the county and shall be completed within one hundred twenty days of the close of the fiscal year. A copy of the audit shall be submitted annually to the state comptroller and the county comptroller. A copy of the audit shall be made available to the public within thirty days of its completion. A notice of the completion of the audit shall be published in the official newspaper of the county and shall also be posted on the internet website for the county. The cost of the audit may be a charge to the fund.

(g) Annual report. In addition to any other report required by this section, the water quality restoration fund and district board of trustees, through its chairperson, shall deliver annually, in oral and written form, a report to the county legislature. Such report shall be presented by May fifteenth of each year. The report shall describe in detail the projects undertaken, the monies expended, and the administrative activities of the water quality fund and district established in accordance with this section, during the prior year. At the conclusion of the report, the chairperson of the water quality restoration fund and district board of trustees shall be prepared to answer the questions of the county legislature with respect to the projects undertaken, the monies expended, and the administrative activities during the past year.

13. Amendment by mandatory referendum only. Where the provisions of this section have been adopted by local law subject to mandatory referendum, said local law may only be amended, modified, repealed, or altered by enactment of another local law subject to mandatory referendum under the municipal home rule law.

§ 4. This act shall take effect immediately.

PART UU

Section 1. Paragraph h of subdivision 1 of section 17-1909 of the environmental conservation law, as added by chapter 565 of the laws of 1989, is amended to read as follows:

h. "Municipality" means any county, city, town, village, district corporation, county or town improvement district, school district, Indian reservation wholly within New York state, any public benefit corporation or public authority established pursuant to the laws of New York or any agency of New York state which is empowered to construct and operate an eligible project, or any two or more of the foregoing which are acting jointly in connection with an eligible project.

§ 2. This act shall take effect immediately.

PART VV

Section 1. Subdivisions 2, 3, 4 and 5 of section 381 of the executive law, as added by chapter 707 of the laws of 1981, subdivision 2 as amended by chapter 560 of the laws of 2010, are amended, subdivision 6

is renumbered subdivision 8, and two new subdivisions 6 and 7 are added to read as follows:

2. Except as may be provided in regulations of the secretary pursuant to subdivision one of this section, every local government shall administer and enforce the uniform fire prevention and building code and the state energy conservation construction code on and after the first day of January, nineteen hundred eighty-four, provided, however, that a local government may enact a local law prior to the first day of July in any year providing that it will not enforce such codes on and after the first day of [~~January~~] April next succeeding. In such event the county in which said local government is situated shall administer and enforce such codes within such local government from and after the first day of [~~January~~] April next succeeding the effective date of such local law, in accordance with the provisions of paragraph b of subdivision five of this section unless the county shall have previously enacted a local law providing that it will not enforce such codes within that county. In such event the secretary in the place and stead of the local government shall, directly or by [~~contract~~] using the services of any contractors or other third-party providers as the secretary may deem to be qualified, administer and enforce the uniform code and the state energy conservation construction code within such local government on and after the first day of April next succeeding. A county that is responsible for administering and enforcing such codes within a local government pursuant to the foregoing provisions of this subdivision may enact a local law prior to the first day of October in any year providing that it will not enforce such codes within such local government on and after the first day of April next succeeding. In such event, the secretary, in the place and stead of such local government, shall, directly or by using the services of any contractors or other third-party providers as the secretary may deem to be qualified, administer and enforce such codes in such local government from and after the first day of April next succeeding. A local government that adopts a local law providing that it will not enforce such codes on and after the first day of April next succeeding shall promptly notify the county in which such local government is located and the secretary of the adoption of such local law. A county that adopts a local law providing that it will not enforce such codes on and after the first day of April next succeeding shall promptly notify each local government in which such county is administering and enforcing such codes and the secretary of the adoption of such local law. A local government or a county may repeal a local law which provides that it will not enforce such codes and shall thereafter administer and enforce such codes as provided above. Two or more local governments may provide for joint administration and enforcement of the uniform code, the state energy conservation construction code, or both, by agreement pursuant to article five-G of the general municipal law. Any local government may enter into agreement with the county in which such local government is situated to administer and enforce the uniform code, the state energy conservation construction code, or both, within such local government. Local governments or counties that administer and enforce the uniform code, the state energy conservation construction code, or both, may charge and collect fees to defray the costs of administration and enforcement. Where the secretary is responsible for administration and enforcement of the uniform code and state energy conservation construction code within a local government pursuant to this subdivision or pursuant to paragraph e of subdivision four of this section, (a) the secretary shall administer and enforce the codes in

accordance with the provisions of rules and regulations promulgated pursuant to subdivision one of this section; (b) any person or entity who knowingly violates any provision of such rules and regulations shall be punishable by a fine not to exceed one thousand dollars per day of violation, imprisonment not to exceed one year, or both, and (c) the secretary may charge and collect fees to defray the costs of administration and enforcement.

3. a. On and after the first day of July, nineteen hundred eighty-five, the secretary shall have power to investigate [~~and conduct hearings relative to~~] whether administration and enforcement of the uniform fire prevention and building code and the state energy conservation construction code complies with the minimum standards promulgated pursuant to subdivision one of this section. In connection with any such investigation, the secretary shall have the power to issue subpoenas compelling the testimony of witnesses, the production of documents, or both, and the power, at the secretary's discretion, to conduct one or more hearings. At least ten days written notice of any such hearing shall be provided to the elective or appointive chief executive officer or, if there be none, the chairman of the legislative body of the local government or county whose administration and enforcement of the uniform code and state energy conservation construction code is at issue.

b. The elective or appointive chief executive officer or, if there be none, the chairman of the legislative body of a county may, with approval of a majority vote of the legislative body of such county, submit to the secretary a written notice requesting the secretary to authorize such county to investigate whether administration and enforcement of the uniform fire prevention and building code and the state energy conservation construction code by a local government located in such county complies with the minimum standards promulgated pursuant to subdivision one of this section. Upon receipt of such notice, the secretary may authorize such county to conduct such investigation and to provide a written report upon completion of such investigation to the secretary. In connection with any such investigation, the county shall have the power to issue subpoenas compelling the testimony of witnesses, the production of documents, or both, and the power, at the county's discretion, to conduct one or more hearings. At least ten days written notice of any such hearing shall be provided to the elective or appointive chief executive officer or, if there be none, the chairman of the legislative body of the local government whose administration and enforcement of the uniform code and state energy conservation construction code is at issue. Upon receipt of the county's report, the secretary may issue a determination based on such report, conduct further investigations, or take such other action as the secretary deems appropriate, and the secretary shall notify the county and the local government of the actions to be taken by the secretary. Nothing in this paragraph shall limit or impair the secretary's power to investigate, issue subpoenas, and conduct hearings as provided in paragraph a of this subdivision. Nor shall the power of the secretary to investigate, issue subpoenas, and conduct hearings as provided in paragraph a of this subdivision be diminished or otherwise affected by reason of a county submitting, or not submitting, a notice pursuant to this paragraph.

4. If the secretary determines that a local government has failed to administer and enforce the uniform fire prevention and building code and/or the state energy conservation construction code in accordance with the minimum standards promulgated pursuant to subdivision one of

this section, the secretary shall take any of the following actions, either individually or in combination in any sequence:

a. The secretary may issue an order compelling compliance by such local government with the minimum standards [~~for administration and enforcement of the uniform code~~] promulgated pursuant to subdivision one of this section.

b. The secretary may appoint and remove any person deemed qualified by the secretary as an oversight officer, who shall have the power and authority to do any or all of the following, at the discretion of the oversight officer and at the expense of such local government:

(i) observe and report on compliance by such local government with the minimum standards promulgated pursuant to subdivision one of this section;

(ii) direct all or any part of the code enforcement activities of the local government's code enforcement personnel;

(iii) hire, contract for, or otherwise obtain the services of qualified third parties to review building permit applications and plans and specifications submitted therewith, conduct construction inspections and periodic fire safety and property maintenance inspections, and perform other code enforcement activities within the local government;

(iv) issue notices of violation, appearance tickets, orders to remedy, and other instruments related to code violations within the local government, or direct the local government to do so, and refer such violations to counsel for the local government or the district attorney for the county in which the local government is located for appropriate prosecution; and

(v) take any other steps deemed by the oversight officer to be necessary or appropriate to ensure that the uniform code and state energy conservation construction code are administered and enforced within such local government in a due and proper manner and in compliance with the minimum standards promulgated pursuant to subdivision one of this section. Any person who is appointed as an oversight officer pursuant to this paragraph shall be deemed to be a state officer under section two of the public officers law.

c. The secretary may ask the attorney general to institute in the name of the secretary an action or proceeding seeking appropriate legal or equitable relief to require such local government to administer and enforce the uniform code and state energy conservation construction code in a due and proper manner and in compliance with the minimum standards promulgated pursuant to subdivision one of this section, including but not limited to requiring such local government to take specific remedial actions, such as establishing and enforcing an effective code enforcement program, conducting fire safety and property maintenance inspections, increasing the frequency of fire safety and property maintenance inspections, and taking enforcement actions that are timely and responsive to circumstances associated with the property in question when violations are identified.

[~~c. the~~] d. The secretary may designate the county in which such local government is located, or any other local government that adjoins or is reasonably proximate to such local government, to administer and enforce the uniform code and state energy conservation construction code in such local government. In the case of such designation, the provisions of subdivision five of this section shall apply.

[~~d.~~] e. The secretary may, in the place and stead of the local government, directly or by using the services of any contractors or other third-party providers as the secretary may deem to be qualified, admin-

ister and enforce the uniform code **and state energy conservation construction code in such local government** in accordance with the minimum standards promulgated pursuant to subdivision one of this section. In such event, the provisions of subdivision five of this section shall apply.

f. The secretary may designate the county in which such local government is located, any other local government that adjoins or is reasonably proximate to such local government, or the department of state to perform within such local government such types and classes of code enforcement activities, such as permit application review and approval, construction inspections, and fire safety and property maintenance inspections, as the secretary may specify. In the case of such designation, the provisions of subdivision seven of this section shall apply.

5. Where the secretary has designated a county **or adjoining or reasonably proximate local government** to administer and enforce the uniform fire prevention and building code **and state energy conservation construction code** within a local government **pursuant to paragraph d of subdivision four of this section,** or has assumed authority for administration and enforcement **of the uniform fire prevention and building code and state energy conservation construction code within a local government** pursuant to [~~subdivision two or~~] paragraph [~~d~~] **e** of subdivision four of this section:

a. [~~Such~~] **The** local government [~~or county government~~] **that is not administering or enforcing the uniform code and state energy conservation construction code in accordance with minimum standards** shall not administer and enforce the uniform code **or state energy conservation construction code**, and shall not charge or collect fees for such administration and enforcement.

b. [~~Such~~] **The designated** county **or local government or the secretary** shall administer and enforce the uniform code within [~~such~~] **the** local government **whose administration and enforcement of the uniform code and state energy conservation construction code has not met the minimum standards** from and after the date of such designation **or assumption**. Such administration and enforcement shall apply the minimum standards promulgated by the secretary pursuant to subdivision one of this section. Notwithstanding any other provisions of law, such **designated** county **or local government or the secretary** shall have full power to administer and enforce the uniform code [~~in accordance with such~~] **and state energy conservation construction code in the local government whose administration and enforcement of the uniform code and state energy conservation construction code has not met the** minimum standards, including the power to charge and collect fees for such administration and enforcement.

c. The secretary shall designate the local government [~~or county government~~] **whose administration and enforcement of the uniform code and state energy conservation construction code did not meet the minimum standards** to resume administration and enforcement of the uniform code when the secretary is satisfied that such local government [~~or county~~] will provide such administration and enforcement in compliance with the minimum standards promulgated pursuant to subdivision one of this section.

d. The provisions of subdivisions three and four of this section shall apply to counties [~~which have been designated to administer and enforce the uniform code in such local government~~] **that are responsible for administration and enforcement of the uniform code and state energy conservation construction code within a local government pursuant to**

subdivision two of this section, to counties that have been designated to administer and enforce the uniform code and state energy conservation construction code within a local government pursuant to paragraph d of subdivision four of this section, and to local governments that have been designated to administer and enforce the uniform code and state energy conservation construction code within another local government pursuant to paragraph d of subdivision four of this section. Where the provisions of subdivisions three and four of this section are applicable to a county, references in those subdivisions to a local government whose administration and enforcement of the uniform code and state energy conservation construction code have been determined by the secretary to have not met the minimum standards shall be construed as references to such county.

6. Where the secretary has designated a county, another local government, or the department to perform specified types and classes of code enforcement activities within a local government pursuant to paragraph f of subdivision four of this section:

a. The local government whose administration and enforcement of the uniform code and state energy conservation construction code has not met the minimum standards shall not perform the types and classes of code enforcement activities specified in such designation and shall accept performance of such types and classes of code enforcement activities by the designee;

b. The local government whose administration and enforcement of the uniform code and state energy conservation construction code has not met the minimum standards shall reimburse the designee for the costs and expenses incurred by the designee in performing the designated types and classes of code enforcement activities; and

c. The secretary shall designate the local government whose administration and enforcement of the uniform code and state energy conservation construction code has not met the minimum standards to resume performance of the designated types and classes of code enforcement activities when the secretary is satisfied that such local government will perform such activities in a due and proper manner and will otherwise provide administration and enforcement of the uniform code and state energy conservation construction code in compliance with the minimum standards promulgated pursuant to subdivision one of this section.

7. a. The term "authority having jurisdiction" as used in this subdivision shall mean a local government or county that is responsible for administering and enforcing the uniform code and/or the energy code within such local government; the term "default code enforcement program" shall mean the code enforcement program established by the rules and regulations promulgated pursuant to paragraph b of this subdivision; and the term "required features" shall mean the features required by the rules and regulations promulgated pursuant to subdivision one of this section to be included in a code enforcement program.

b. The secretary is authorized to promulgate, and to amend from time to time, rules and regulations establishing a default code enforcement program. Such default code enforcement program shall include provisions establishing the required features and such other provisions as the secretary may deem to be appropriate for inclusion in a code enforcement program. Such default code enforcement program shall also establish fees to be charged by any authority having jurisdiction that administers and enforces the uniform code and/or energy code in accordance with the provisions of the default code enforcement program.

c. Any authority having jurisdiction that has not established its own code enforcement program shall administer and enforce the uniform code and/or energy code in accordance with the provisions of the default code enforcement program.

d. Any authority having jurisdiction that administers and enforces the uniform code and/or energy code in accordance with the provisions of the default code enforcement program pursuant to paragraph c of this subdivision shall, through its chief executive officer, have full power and authority to designate the public officer or agency authorized to issue an appearance ticket, and a public officer who, by virtue of office, title or position, is authorized or required to enforce the provisions of the uniform code and the state energy conservation construction code and the provisions of the default code enforcement program as fully and with the same force and effect as such authority having jurisdiction would have to enforce provisions established by a local law, ordinance, or regulation enacted or adopted by such authority having jurisdiction. The designation authorized by this paragraph shall not take effect until it has been filed with the department of state, and must be maintained on the website of such authority having jurisdiction unless and until such authority having jurisdiction passes a local law delegating the enforcement authority referenced in this paragraph.

e. Where an authority having jurisdiction is administering and enforcing the uniform code and/or energy code in accordance with the provisions of the default code enforcement program pursuant to paragraph c of this subdivision, any person or entity who knowingly violates any applicable provision of the default code enforcement program shall be punishable by a fine of not more than one thousand dollars per day of violation, or imprisonment not exceeding one year, or both.

§ 2. Section 382 of the executive law is amended by adding two new subdivisions 5 and 6 to read as follows:

5. Notwithstanding any other provision of law, all fines imposed and collected for any violation of this section shall be paid at least monthly into the treasury of the local government in which such violation occurred, unless: (i) the county is administering and enforcing the uniform fire prevention and building code and state energy conservation construction code in such local government as provided by subdivision two or four of section three hundred eighty-one of this article, in which case such fines and penalties collected in cases arising out of the violation of this section shall be paid at least monthly into the treasury of the county, (ii) an adjoining or reasonably proximate local government is administering and enforcing the uniform fire prevention and building code and state energy conservation construction code in such local government as provided by subdivision four of section three hundred eighty-one of this article, in which case such fines and penalties collected in cases arising out of the violation of this section shall be paid at least monthly into the treasury of such adjoining or reasonably proximate local government, or (iii) the secretary is administering and enforcing the uniform fire prevention and building code and state energy conservation construction code in such local government as provided by subdivision two or four of section three hundred eighty-one of this article, in which case such fines and penalties collected in cases arising out of the violation of this section shall be paid at least monthly into the general fund established by section seventy-two of the state finance law. Where two or more local governments have provided for joint administration and enforcement of the uniform code, the state energy conservation construction code, or

both, by agreement pursuant to article five-G of the general municipal law, such local governments may provide in such agreement for a different distribution of such fines.

6. The civil penalties provided in subdivision four of this section may be recovered in an appropriate action or proceeding commenced by the local government, county, or state agency responsible for administration and enforcement of the uniform code with respect to the building that was altered in violation of any provision of the uniform code or any lawful order obtained thereunder, and shall be payable to the treasury of such local government, the treasury of such county, or the general fund of the state of New York, as applicable.

§ 3. This act shall take effect immediately.

PART WW

Section 1. Subdivision 3 of section 2251 of the vehicle and traffic law, as amended by section 5 of part G of chapter 59 of the laws of 2009, is amended to read as follows:

3. Fees. The triennial fee for registration of a vessel shall be: twenty-two dollars and fifty cents [~~and a vessel surcharge of three dollars and seventy-five cents,~~] if less than sixteen feet in length; forty-five dollars [~~and a vessel surcharge of twelve dollars and fifty cents,~~] if sixteen feet or over but less than twenty-six feet in length; seventy-five dollars [~~and a vessel surcharge of eighteen dollars and seventy-five cents,~~] if twenty-six feet or over. [~~All funds derived from the collection of the vessel access surcharge pursuant to this subdivision are to be deposited in a subaccount of the "I love NY waterways" vessel access account established pursuant to section ninety-seven-nn of the state finance law. The vessel access surcharge shall not be considered a registration fee for purposes of section seventy-nine-b of the navigation law.~~

~~Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in this subdivision in effect on and after September first, two thousand nine and the fees set forth in this subdivision prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. Notwithstanding any inconsistent provision of this section, the difference collected between the vessel surcharge set forth in this subdivision in effect on and after September first, two thousand nine and the vessel surcharge set forth in this subdivision in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.~~]

§ 2. Subdivision 2 of section 97-nn of the state finance law, as added by chapter 524 of the laws of 2008, is amended to read as follows:

2. The "I love NY waterways" fund shall consist of [~~two accounts: (a)~~] the "I love NY waterways" boating safety account[~~; and (b) the "I love NY waterways" vessel access account. Moneys in each account shall be kept separate and not commingled with any other moneys of the state~~].

§ 3. Subdivision 4 of section 97-nn of the state finance law, as amended by chapter 524 of laws of 2008, is REPEALED.

§ 4. This act shall take effect immediately; provided, however, that sections two and three of this act shall take effect April 1, 2024.

PART XX

Section 1. Section 15-2115 of the environmental conservation law is amended to read as follows:

§ 15-2115. Taxation of real estate.

Lands owned by the state and acquired pursuant to the provisions of title 21 of this article, exclusive of the improvements erected thereon by the regulating districts, shall be assessed and taxed in the same manner as state lands subject to taxation pursuant to title 2 of article 5 of the Real Property Tax Law, provided, however, that the aggregate assessed valuations of such lands in any town shall not be reduced below the aggregate assessed valuations thereof with the improvements thereon at the time of their acquisition by the regulating districts, and provided further that in case of a general increase in assessments in any town the assessed valuations of the lands and improvements at the time of their acquisition by the regulating districts shall be deemed to have been increased proportionately with the increase of other real property in such tax district. [~~The taxes levied thereon shall be paid by the river regulating district under whose authority the land was acquired.~~]

§ 2. Section 532 of the real property tax law is amended by adding a new subdivision (l) to read as follows:

(l) lands owned by the state and acquired pursuant to the provisions of title twenty-one of article fifteen of the environmental conservation law exclusive of the improvements erected thereon erected by the regulating districts.

§ 3. This act shall take effect immediately.

PART YY

Section 1. Subdivision 6 of section 5.09 of the parks, recreation and historic preservation law is REPEALED.

§ 2. Section 7.11 of the parks, recreation and historic preservation law, as amended by chapter 679 of the laws of 1981, is amended to read as follows:

§ 7.11 Powers and duties of commissions. Each regional park, recreation and historic preservation commission shall:

1. [~~Review the application of policy and plans of the office to the park region served by the commission and review and approve the budget for such region prior to its submission to the commissioner.~~

~~2. Adopt policies, rules and regulations applicable to its park region subject to the general policies formulated by the commissioner and reviewed by the council and in conformity with rules and regulations adopted by the commissioner.~~

~~3.~~] Act as a central advisory agency on all matters affecting parks, outdoor recreation and historic preservation within the park region it serves.

[~~4.~~] **2.** Represent and convey to the commissioner and council citizen viewpoints as to the programs and needs of the park region it serves.

[~~5.~~] **3.** Maintain close liaison with officials of the office having administrative jurisdiction over the park region which it serves, and advise such officials on local policy, operational and budgetary matters.

§ 3. Section 7.13 of the parks, recreation and historic preservation law is REPEALED.

§ 4. This act shall take effect immediately.

PART ZZ

Section 1. Subsections (e) and (g) of section 7002 of the insurance law, as amended by chapter 188 of the laws of 2003, are amended to read as follows:

(e) "Industrial insured" means an insured:

(1) whose net worth exceeds one hundred million dollars;

(2) who is a member of a holding company system whose net worth exceeds one hundred million dollars;

(3) who is the metropolitan transportation authority and its statutory subsidiaries. When filing an application to form a pure captive insurance company the metropolitan transportation authority shall submit written notice of such filing to the governor, the temporary president of the senate and the speaker of the assembly; [~~or~~]

(4) **who is the power authority of the state of New York and any statutory subsidiary thereof. When filing an application to form a pure captive insurance company the power authority shall submit written notice of such filing to the governor, the temporary president of the senate and the speaker of the assembly; or**

(5) who is a city with a population of one million or more. When filing an application to form a pure captive insurance company, a city with a population of one million or more shall submit written notice of such filing to the governor, the temporary president of the senate and the speaker of the assembly.

(g) "Industrial insured group" means any group of unaffiliated industrial insureds that are engaged in similar or related businesses or activities, however, the metropolitan transportation authority**, the power authority of the state of New York and any statutory subsidiary thereof** and cities with a population of one million or more shall not be a member of an industrial insured group, and that collectively:

(1) own, control or hold with power to vote all of the outstanding voting shares of stock of a group captive insurance company incorporated as a stock insurer; or

(2) represent one hundred percent of the voting members of a group captive insurance company organized as a mutual insurer.

§ 2. Section 1005 of the public authorities law is amended by adding a new subdivision 28 to read as follows:

28. The authority may establish a subsidiary corporation for the purpose of forming a pure captive insurance company as provided in section seven thousand two of the insurance law. The members of such subsidiary corporation of the authority shall be the same persons holding the offices of members of the authority. The employees of any such subsidiary corporation, except those who are also employees of the authority, shall not be deemed employees of the authority.

§ 3. Subdivision (a) of section 1500 of the tax law, as amended by section 21 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(a) The term "insurance corporation" includes a corporation, association, joint stock company or association, person, society, aggregation or partnership, by whatever name known, doing an insurance business, and, notwithstanding the provisions of section fifteen hundred twelve of this article, shall include (1) a risk retention group as defined in subsection (n) of section five thousand nine hundred two of the insurance law, (2) the state insurance fund and (3) a corporation, association, joint stock company or association, person, society, aggregation or partnership doing an insurance business as a member of the New York insurance exchange described in section six thousand two hundred one of the insurance law. The definition of the "state insurance fund"

contained in this subdivision shall be limited in its effect to the provisions of this article and the related provisions of this chapter and shall have no force and effect other than with respect to such provisions. The term "insurance corporation" shall also include a captive insurance company doing a captive insurance business, as defined in subsections (c) and (b), respectively, of section seven thousand two of the insurance law; provided, however, "insurance corporation" shall not include the metropolitan transportation authority, **the power authority of New York or any statutory subsidiary thereof,** or a public benefit corporation or not-for-profit corporation formed by a city with a population of one million or more pursuant to subsection (a) of section seven thousand five of the insurance law, each of which is expressly exempt from the payment of fees, taxes or assessments, whether state or local; and provided further "insurance corporation" does not include any combinable captive insurance company. The term "insurance corporation" shall also include an unauthorized insurer operating from an office within the state, pursuant to paragraph five of subsection (b) of section one thousand one hundred one and subsection (i) of section two thousand one hundred seventeen of the insurance law. The term "insurance corporation" also includes a health maintenance organization required to obtain a certificate of authority under article forty-four of the public health law.

§ 4. Subdivision (a) of section 1502-b of the tax law, as amended by section 22 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(a) In lieu of the taxes and tax surcharge imposed by sections fifteen hundred one, fifteen hundred two-a, fifteen hundred five-a, and fifteen hundred ten of this article, every captive insurance company licensed by the superintendent of financial services pursuant to the provisions of article seventy of the insurance law, other than the metropolitan transportation authority**, the power authority of New York or any statutory subsidiary thereof,** and a public benefit corporation or not-for-profit corporation formed by a city with a population of one million or more pursuant to subsection (a) of section seven thousand five of the insurance law, each of which is expressly exempt from the payment of fees, taxes or assessments whether state or local, and other than combinable captive insurance company, shall, for the privilege of exercising its corporate franchise, pay a tax on (1) all gross direct premiums, less return premiums thereon, written on risks located or resident in this state and (2) all assumed reinsurance premiums, less return premiums thereon, written on risks located or resident in this state. The rate of the tax imposed on gross direct premiums shall be four-tenths of one percent on all or any part of the first twenty million dollars of premiums, three-tenths of one percent on all or any part of the second twenty million dollars of premiums, two-tenths of one percent on all or any part of the third twenty million dollars of premiums, and seventy-five thousandths of one percent on each dollar of premiums thereafter. The rate of the tax on assumed reinsurance premiums shall be two hundred twenty-five thousandths of one percent on all or any part of the first twenty million dollars of premiums, one hundred and fifty thousandths of one percent on all or any part of the second twenty million dollars of premiums, fifty thousandths of one percent on all or any part of the third twenty million dollars of premiums and twenty-five thousandths of one percent on each dollar of premiums thereafter. The tax imposed by this section shall be equal to the greater of (i) the sum of the tax

imposed on gross direct premiums and the tax imposed on assumed reinsurance premiums or (ii) five thousand dollars.

§ 5. This act shall take effect immediately.

PART AAA

Section 1. Expenditures of moneys by the New York state energy research and development authority for services and expenses of the energy research, development and demonstration program, including grants, the energy policy and planning program, the zero emissions vehicle and electric vehicle rebate program, and the Fuel NY program shall be subject to the provisions of this section. Notwithstanding the provisions of subdivision 4-a of section 18-a of the public service law, all moneys committed or expended in an amount not to exceed $22,875,000 shall be reimbursed by assessment against gas corporations, as defined in subdivision 11 of section 2 of the public service law and electric corporations as defined in subdivision 13 of section 2 of the public service law, where such gas corporations and electric corporations have gross revenues from intrastate utility operations in excess of $500,000 in the preceding calendar year, and the total amount assessed shall be allocated to each electric corporation and gas corporation in proportion to its intrastate electricity and gas revenues in the calendar year 2020. Such amounts shall be excluded from the general assessment provisions of subdivision 2 of section 18-a of the public service law. The chair of the public service commission shall bill such gas and/or electric corporations for such amounts on or before August 10, 2022 and such amounts shall be paid to the New York state energy research and development authority on or before September 10, 2022. Upon receipt, the New York state energy research and development authority shall deposit such funds in the energy research and development operating fund established pursuant to section 1859 of the public authorities law. The New York state energy research and development authority is authorized and directed to: (1) transfer up to $4 million to the state general fund for climate change related services and expenses of the department of environmental conservation, $150,000 to the state general fund for services and expenses of the department of agriculture and markets, and $1,000,000 to the University of Rochester laboratory for laser energetics from the funds received; and (2) commencing in 2016, provide to the chair of the public service commission and the director of the budget and the chairs and secretaries of the legislative fiscal committees, on or before August first of each year, an itemized record, certified by the president and chief executive officer of the authority, or his or her designee, detailing any and all expenditures and commitments ascribable to moneys received as a result of this assessment by the chair of the department of public service pursuant to section 18-a of the public service law. This itemized record shall include an itemized breakdown of the programs being funded by this section and the amount committed to each program. The authority shall not commit for any expenditure, any moneys derived from the assessment provided for in this section, until the chair of such authority shall have submitted, and the director of the budget shall have approved, a comprehensive financial plan encompassing all moneys available to and all anticipated commitments and expenditures by such authority from any source for the operations of such authority. Copies of the approved comprehensive financial plan shall be immediately submitted by the chair to the chairs and secretaries of the legislative fiscal committees. Any such amount not commit-

ted by such authority to contracts or contracts to be awarded or otherwise expended by the authority during the fiscal year shall be refunded by such authority on a pro-rata basis to such gas and/or electric corporations, in a manner to be determined by the department of public service, and any refund amounts must be explicitly lined out in the itemized record described above.

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

PART BBB

Section 1. Expenditures of moneys appropriated in a chapter of the laws of 2022 to the department of agriculture and markets from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the department of agriculture and markets' participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2023, the commissioner of the department of agriculture and markets shall submit an accounting of such expenses, including, but not limited to, expenses in the 2022--2023 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 2. Expenditures of moneys appropriated in a chapter of the laws of 2022 to the department of state from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the activities of the department of state's utility intervention unit pursuant to subdivision 4 of section 94-a of the executive law, including, but not limited to participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, and expenses related to the activities of the major renewable energy development program established by section 94-c of the executive law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2023, the secretary of state shall submit an accounting of such expenses, including, but not limited to, expenses in the 2022--2023 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 3. Expenditures of moneys appropriated in a chapter of the laws of 2022 to the office of parks, recreation and historic preservation from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the office of parks, recreation and historic preservation's participation in general ratemaking proceedings pursuant to section 65 of the public service law

or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2023, the commissioner of the office of parks, recreation and historic preservation shall submit an accounting of such expenses, including, but not limited to, expenses in the 2022--2023 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 4. Expenditures of moneys appropriated in a chapter of the laws of 2022 to the department of environmental conservation from the special revenue funds-other/state operations, environmental conservation special revenue fund-301, utility environmental regulation account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the department of environmental conservation's participation in state energy policy proceedings, or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2023, the commissioner of the department of environmental conservation shall submit an accounting of such expenses, including, but not limited to, expenses in the 2022--2023 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 5. Notwithstanding any other law, rule or regulation to the contrary, expenses of the department of health public service education program incurred pursuant to appropriations from the cable television account of the state miscellaneous special revenue funds shall be deemed expenses of the department of public service. No later than August 15, 2023, the commissioner of the department of health shall submit an accounting of expenses in the 2022--2023 state fiscal year to the chair of the public service commission for the chair's review pursuant to the provisions of section 217 of the public service law.

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

§ 7. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2022 and shall expire and be deemed repealed April 1, 2023.

PART CCC

Section 1. Subdivision 4 of section 31 of the public service law, as added by chapter 713 of the laws of 1981, is amended to read as follows:

4. In the case of any application for service to a building which is not supplied with electricity or gas, a utility corporation or municipality shall be obligated to provide service to such a building, provided however, that the commission may require applicants for **electric** service to buildings **that are** located in excess of one hundred feet from [~~**gas or**~~] electric transmission lines to pay or agree in writing to pay material and installation costs relating to the applicant's proportion of the [~~**pipe,**~~] conduit, duct or wire, or other facilities to be

installed. **The commission may further require applicants for gas service, regardless of proximity to gas transportation lines to pay or agree in writing to pay all material and installation costs relating to the pipe, conduit, or other facilities to be installed to serve the applicant. Where electrification is not a practical alternative to gas service, the commission may require applicants for gas service to pay material and installation costs relating to the applicant's portion of the pipe, conduit, or other facilities to be installed in excess of one hundred feet.**

§ 2. Subdivision 11 of section 2 of the public service law, as amended by chapter 159 of the laws of 1992, is amended to read as follows:

11. The term "gas corporation," when used in this chapter, includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any gas plant **or geothermal plant** (a) except where gas is made or produced and distributed by the maker on or through private property solely for its own use or the use of its tenants and not for sale to others, (b) except where compressed natural gas is sold, distributed or furnished solely as a fuel for use in motor vehicles, (c) except where manufactured gas is sold by the producer only for use or resale by a gas corporation and such gas of the producer and any affiliated producers does not exceed in any one year thirty per cent of the total gas sold by any purchaser thereof in the area in which such manufactured gas is resold either as manufactured gas or as a component of mixed gas, and (d) except where gas is made or produced solely from one or more alternate energy production facilities or distributed solely from one or more of such facilities to users located at or near a project site; provided, however, that any producer not included within the meaning of "gas corporation" by reason of exception (c) or (d) shall nevertheless be considered a gas corporation for the purposes of commission jurisdiction relating to the safety of the construction, operation, or maintenance of plants manufacturing pipeline quality gas.

§ 3. Subdivision 13 of section 2 of the public service law, as amended by chapter 843 of the laws of 1981, is amended to read as follows:

13. The term "electric corporation," when used in this chapter, includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad corporation generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others) owning, operating or managing any electric plant **or geothermal plant** except where electricity **or geothermal energy** is generated or distributed by the producer solely on or through private property for railroad or street railroad purposes or for its own use or the use of its tenants and not for sale to others; or except where electricity is generated by the producer solely from one or more co-generation, small hydro or alternate energy production facilities or distributed solely from one or more of such facilities to users located at or near a project site.

§ 4. Section 2 of the public service law is amended by adding a new subdivision 15 to read as follows:

15. The term "geothermal plant," when used in this chapter, includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the transmission, distribution, sale or furnishing of geothermal energy to more than one

end user on separately owned properties through shared facilities for heat or power.

§ 5. Paragraphs (c) and (d) of subdivision 6 of section 65 of the public service law, paragraph (c) as amended by chapter 204 of the laws of 2010 and paragraph (d) as amended by chapter 388 of the laws of 2011, are amended and a new paragraph (e) is added to read as follows:

(c) for a remote meter reading device upon the request and consent of the customer; [~~or~~]

(d) for installation of capital improvements and fixtures to promote energy efficiency upon the request and consent of the customer, including but not limited to the performance of qualified energy efficiency services for customers participating in green jobs-green New York on-bill recovery pursuant to section sixty-six-m of this article[~~.~~]**; or**

(e) for the provision of geothermal service.

§ 6. This act shall take effect immediately.

PART DDD

Section 1. Paragraph (a) of subdivision 17 of section 1005 of the public authorities law, as amended by chapter 494 of the laws of 2011, is amended to read as follows:

(a) As deemed feasible and advisable by the trustees, to finance and design, develop, construct, implement, provide and administer energy-related projects, programs and services for any public entity, any independent not-for-profit institution of higher education within the state, **any general hospital located in the state,** and any recipient of the economic development power, expansion power, replacement power, preservation power, high load factor power, municipal distribution agency power, power for jobs, and recharge New York power programs administered by the authority. In establishing and providing high performance and sustainable building programs and services authorized by this subdivision, the authority is authorized to consult standards, guidelines, rating systems, and/or criteria established or adopted by other organizations, including but not limited to the United States green building council under its leadership in energy and environmental design (LEED) programs, the green building initiative's green globes rating system, and the American National Standards Institute. The source of any financing and/or loans provided by the authority for the purposes of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

§ 2. Paragraph (b) of subdivision 17 of section 1005 of the public authorities law is amended by adding a new subparagraph 3-a to read as follows:

(3-a) "General hospital" has the same meaning ascribed to such term in subdivision ten of section twenty-eight hundred one of the public health law.

§ 3. This act shall take effect immediately.

PART EEE

Section 1. This act shall be known and may be cited as the "advanced building codes, appliance and equipment efficiency standards, and building 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

of two thousand nineteen, both at levels recommended by the New York state energy research and development authority, provided that the state fire prevention and building code council determines that such advanced energy savings can be achieved while still meeting the cost effectiveness considerations contemplated by this subdivision.

3. Notwithstanding any other provision of law, the state fire prevention and building code council in accordance with the mandate under this article shall have exclusive authority among state agencies to promulgate a construction code incorporating energy conservation features and clean energy features, including but not limited to greenhouse gas reduction. Any other code, rule or regulation heretofore promulgated or enacted by any other state agency, incorporating specific energy conservation and clean energy requirements applicable to the construction of any building, shall be superseded by the code promulgated pursuant to this section. The New York state energy research and development authority shall provide meaningful opportunities for public comment from all segments of the population that will be impacted by the promulgated codes, rules, or regulations, including persons living in disadvantaged communities as identified by the climate justice working group established under section 75-0111 of the environmental conservation law.

§ 5. Subdivision 5 of section 11-104 of the energy law, as amended by chapter 560 of the laws of 2010, is amended and a new subdivision 6 is added to read as follows:

5. The [~~code shall exempt from such uniform standards and requirements any historic building as defined in section 11-102 of this article~~] state fire prevention and building code council, in consultation with the commissioner of the department of parks, recreation, and historic preservation, is authorized to provide exemptions to such uniform standards and requirements for historic buildings as defined in section 11-102 of this article, to the extent that the uniform standards and requirements would threaten, degrade, or destroy the historic form, fabric, or function of such historic buildings.

6. To the fullest extent feasible, the code shall require new construction statewide to have zero onsite greenhouse gas emissions no later than the year two thousand twenty-seven to help achieve the state's 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, and as further identified by the New York state climate action council established pursuant to section 75-0103 of the environmental conservation law.

§ 6. The article heading of article 16 of the energy law, as added by chapter 431 of the laws of 2005, is amended to read as follows:

APPLIANCE AND EQUIPMENT [~~ENERGY~~] EFFICIENCY STANDARDS

§ 7. Subdivision 4-a of section 16-102 of the energy law, as added by chapter 222 of the laws of 2010, is amended to read as follows:

4-a. [~~"Bottle-type water dispenser" means a water dispenser that uses a bottle or reservoir as the source of potable water.~~] The following definitions refer to water coolers:

(a) "Bottle-type" means a water dispenser that uses a bottle or reservoir as the source of potable water.

(b) "Water cooler" means a freestanding device that consumes energy to cool and/or heat potable water.

(c) "Cold only units" means units that dispense cold water only.

(d) "Hot and cold units" means units that dispense both hot and cold water. Some units may also offer room-temperature water.

(e) "Cook and cold units" means units that dispense both cold and room-temperature water.

(f) "Point of use (POU)" means the water cooler is connected to a pressurized water source.

(g) "Conversion-type" means a unit that ships as either bottle-type or POU and includes a conversion kit intended to convert the water cooler from a bottle-type unit to a POU unit or to convert a POU unit to a bottle-type unit.

(h) "Storage-type" means thermally conditioned water is stored in a tank in the water cooler and is available instantaneously.

(i) "On demand" means the water cooler heats water as it is requested, which typically takes a few minutes to deliver.

§ 8. Subdivision 11 of section 16-102 of the energy law, as added by chapter 431 of the laws of 2005, is amended to read as follows:

11. "Consumer audio and video product" means [~~televisions,~~] a mains-connected product that amplifies audio, offers optical, disc player functionality, and/or receives and plays audio and/or video content. Examples of consumer audio and video products include compact audio products, digital versatile disc players, digital versatile disc recorders, [~~and~~] digital television adapters and streaming media players. Televisions are specifically excluded from consumer audio and video products.

§ 9. Subdivision 18 of section 16-102 of the energy law, as added by chapter 431 of the laws of 2005, is amended to read as follows:

18. [~~"Energy efficiency performance standards"~~] "Efficiency standard" means [~~performance standards which prescribe a minimum level of energy efficiency determined in accordance with test procedures prescribed by the secretary in consultation with the president~~] a standard that defines performance metrics and/or defines prescriptive design requirements in order to reduce energy consumption, reduce water consumption, reduce greenhouse gas emissions, and/or increase demand flexibility associated with the regulated product category.

§ 10. Subdivisions 27-a and 27-b of section 16-102 of the energy law, as added by chapter 222 of the laws of 2010, are amended to read as follows:

27-a. "Portable electric spa" means a factory-built electric spa or hot tub, [~~supplied with equipment for heating and circulating water~~] which may or may not include any combination of integral controls, water heating or water circulating equipment.

27-b. "Portable light fixture" means a light fixture which has a flexible cord and an attachment plug for connection to a nominal one hundred twenty-volt, fifteen- or twenty-ampere branch circuit; which can be relocated by the user without any rewiring; [~~and~~] which is typically controlled with a switch located on the light fixture itself or on the power cord; and which are intended for use in accordance with the national electrical code, ANSI/NFPA 70-2002. "Portable light fixture" does not include direct plug-in nightlights; sun and heat lamps; aquarium lamps; medical and dental lights; portable electric hand lamps; signs and commercial advertising displays; photographic lamps; germicidal lamps; [~~metal halide lamp fixtures; torchiere lighting fixtures~~] illuminated vanity mirrors; lava lamps not providing general or task illumination; industrial work lights rated for use with a lamp providing greater than seven thousand lumens; portable lamp fixtures for marine use or for use in hazardous locations as defined in the national elec-

trical code, ANSI/NFPA 70; or decorative lighting outfits or electric candles and candelabras without lampshades that are covered by the standard for safety of seasonal and holiday decorative products, UL 588.

§ 11. Subdivision 29-a of section 16-102 of the energy law, as added by chapter 222 of the laws of 2010, is amended to read as follows:

29-a. "[~~Residential~~] Replacement dedicated-purpose pool pump motor" means [~~a product which is designed or used to circulate and filter residential swimming pool water in order to maintain clarity and sanitation and which consists in part of a motor and an impeller~~] an electric motor that:

(a) is single-phase or polyphase;

(b) has a dedicated purpose pool pump motor total horsepower of less than or equal to five horsepower;

(c) is marketed for use as a replacement motor in self-priming pool filter pump, non-self-priming pool filter pump or pressure cleaner booster pump applications; and

(d) excludes polyphase replacement dedicated-purpose pool pump motors capable of operating without a drive, and is sold or offered for sale without a drive that converts single-phase power to polyphase power.

§ 12. Subdivision 33 of section 16-102 of the energy law, as added by chapter 431 of the laws of 2005, is amended to read as follows:

33. "Television (TV)" means [~~a commercially available electronic product consisting of a tuner/receiver and a monitor encased in a single housing, which is~~] an analog or digital device primarily designed to receive and display [~~an analog or digital video television signal broadcast by an antenna, satellite, cable, or broadband source~~] terrestrial, satellite, cable, Internet Protocol TV (IPTV), or other broadcast or recorded transmissions of analog or digital video and audio signals. TVs include combination TVs, television monitors, component TVs, and any unit that is marketed to the consumer as a TV. "Television" does not include [~~multifunction TVs which have VCR, DVD, DVR, or EPG functions~~] computer monitors.

§ 13. Section 16-102 of the energy law is amended by adding thirty-eight new subdivisions 18-a, 18-b, 21-c, 21-d, 38, 39, 40, 41, 41-a, 42, 42-a, 43, 43-a, 44, 45, 46, 46-a, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66 and 67 to read as follows:

18-a. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other substance emitted into the air that may be reasonably anticipated to cause or contribute to anthropogenic climate change.

18-b. "Demand flexibility" means the capability to schedule, shift, or curtail the electrical demand of a load-serving entity's customer through direct action by the customer or through action by a third party, the load-serving entity, or a grid balancing authority, with the customer's consent.

21-c. "Duv" means a metric that quantifies the distance between the chromaticity of a given light source and a blackbody radiator of equal correlated color temperature (CCT) on a CIE 1976 (u, v) chromatic diagram demonstrating how different two light sources of the same color temperature appear.

21-d. "Light Emitting Diode (LED) lamp" means a lamp capable of producing light with Duv between -0.012 and 0.012, and that has an E12, E17, E26, or GU-24 base, including LED lamps that are designed for retrofit within existing recessed can housings that contain one of the preceding bases. LED lamp does not include a lamp with a brightness of more than two thousand six hundred lumens or a lamp that cannot produce

light with a correlated color temperature between two thousand two hundred Kelvin and seven thousand Kelvin.

38. The following definitions refer to air compressors:

(a) "Air compressor" means a compressor designed to compress air that has an inlet open to the atmosphere or other source of air, and is made up of a compression element (bare compressor), driver or drivers mechanical equipment to drive the compressor element, and any ancillary equipment.

(b) "Compressor" means a machine or apparatus that converts different types of energy into the potential energy of gas pressure for displacement and compression of gaseous media to any higher-pressure values above atmospheric pressure and has a pressure ratio at full-load operating pressure greater than 1.3.

39. The following definitions refer to air purifiers:

(a) "Air purifier", also known as "room air cleaner", means an electric, cord-connected, portable appliance with the primary function of removing particulate matter from the air and which can be moved from room to room.

(b) "Industrial air purifier" means an indoor air cleaning device manufactured, advertised, marketed, labeled, and used solely for industrial use that are marketed solely through industrial supply outlets or businesses and prominently labeled as "Solely for industrial use. Potential health hazard: emits ozone."

40. "Commercial dishwasher" means a machine designed to clean and sanitize plates, pots, pans, glasses, cups, bowls, utensils, and trays by applying sprays of detergent solution (with or without blasting media granules) and a sanitizing rinse and is not a "compact dishwasher" or "standard dishwasher" (capacity less than eight place settings plus six serving pieces as specified in ANSI/AHAM DW-1 using the test load specified in section 2.7 of appendix C in subpart B of 10 CFR 430.2).

41. "Commercial fryer" means an appliance for non-residential use, including a cooking vessel, in which oil is placed to such a depth that the cooking food is essentially supported by displacement of the cooking fluid rather than by the bottom of the vessel. Heat is delivered to the cooking fluid by means of an immersed electric element of band-wrapped vessel (electric fryers) or by heat transfer from gas burners through either the walls of the fryer or through tubes passing through the cooking fluid (gas fryers).

41-a. "Commercial oven" means a chamber designed for heating, roasting, or baking food by conduction, convection, radiation, and/or electromagnetic energy.

42. "Commercial steam cooker" also known as "compartment steamer", means a device for non-residential use with one or more food-steaming compartments in which the energy in the steam is transferred to the food by direct contact. Models may include countertop models, wall-mounted models, and floor models mounted on a stand, pedestal, or cabinet-style base.

42-a. "Commercial hot food holding cabinet" means a heated, fully enclosed compartment, with one or more solid or partial glass doors, that is designed to maintain the temperature of hot food that has been cooked in a separate appliance. "Commercial hot food holding cabinet" does not include heated glass merchandising cabinets, drawer warmers or cook-and-hold appliances.

43. "Computer" means a device that performs logical operations and processes data. A computer includes both stationary and portable units and includes a desktop computer, a portable all-in-one, a notebook

computer, a mobile gaming system, a high-expandability computer, a small-scale server, a thin client, and a workstation. Although a computer is capable of using input devices and displays, such devices are not required to be included with the computer when the computer is shipped. A computer is composed of, at a minimum, (a) a central processing unit (CPU) to perform operations or, if no CPU is present, then the device must function as a client gateway to a server, and the server acts as a computational CPU; (b) the ability to support user input devices such as a keyboard, mouse, or touch pad; and (c) an integrated display screen or the ability to support an external display screen to output information. The term "computer" does not include a tablet, a game console, a television, a device with an integrated and primary display that has a screen size of twenty square inches or less, a server other than a small-scale server, or an industrial computer.

43-a. "Computer monitor" means an analog or digital device of size greater than or equal to seventeen inches and less than or equal to sixty-one inches, that has a pixel density of greater than five thousand pixels per square inch, and that is designed primarily for the display of computer-generated signals for viewing by one person in a desk-based environment. A computer monitor is composed of a display screen and associated electronics. A computer monitor does not include, (a) displays with integrated or replaceable batteries designed to support primary operation without AC mains or external DC power (e.g. electronic readers, mobile phones, portable tablets, battery-powered digital picture frames); or (b) a television or signage display.

44. "General service lamp" shall include the following definitions:

(a) "Compact fluorescent lamp (CFL)" means an integrated or non-integrated single-base, low-pressure mercury, electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light; this term shall not include circline or U-shaped lamps.

(b) "General service incandescent lamp" means a standard incandescent or halogen type lamp that is intended for general service applications, has a medium screw base, has a lumen range of not less than three hundred ten lumens and not more than two thousand six hundred lumens, or in the case of a modified spectrum lamp, not less than two hundred thirty-two lumens and not more than one thousand nine hundred fifty lumens, and is capable of being operated at a voltage range at least partially within one hundred ten and one hundred thirty volts; provided, however, that this definition shall not apply to the following incandescent lamps:

(i) Appliance lamps;

(ii) Black light lamps;

(iii) Bug lamps;

(iv) Colored lamps;

(v) G shape lamps (as defined in ANSI C78.20 and C79.1-2002) with a diameter of five inches or more;

(vi) Infrared lamps;

(vii) Left-hand thread lamps;

(viii) Marine lamps;

(ix) Marine signal service lamps;

(x) Mine service lamps;

(xi) Plant light lamps;

(xii) Reflector lamps;

(xiii) Sign service lamps;

(xiv) Silver bowl lamps;

(xv) Showcase lamps;
(xvi) Rough service lamps;
(xvii) Shatter-resistant lamps (including shatter-proof lamps and shatter-protected lamps);
(xviii) 3-way incandescent lamps;
(xix) Vibration service lamps;
(xx) AB, BA, CA, F, G16-1/2, G-25, G30, S, or M-14 lamps (as defined in ANSI C79.1-2002 and ANSI C78.20) of forty watts or less;
(xxi) T shape lamps (as defined in ANSI C78.20 and ANSI C79.1-2002) and that uses not more than forty watts or has a length of more than ten inches; and
(xxii) Traffic signal lamps.
(c) "General service lamp" means a lamp that has an ANSI base, is able to operate at a voltage of twelve volts or twenty-four volts, at or between one hundred to one hundred thirty volts, at or between two hundred twenty to two hundred forty volts, or of two hundred seventy-seven volts for integrated lamps, or is able to operate at any voltage for non-integrated lamps, has an initial lumen output of greater than or equal to three hundred ten lumens (or two hundred thirty-two lumens for modified spectrum general service incandescent lamps) and less than or equal to three thousand three hundred lumens, is not a light fixture, is not an LED downlight retrofit kit, and is used in general lighting applications. General service lamps shall include, but not be limited to, general service incandescent lamps, incandescent reflector lamps, compact fluorescent lamps, general service light emitting diode lamps, and general service organic light emitting diode lamps. General service lamps shall not include:
(i) Appliance lamps;
(ii) Black light lamps;
(iii) Bug lamps;
(iv) Colored lamps;
(v) G shape lamps with a diameter of five inches or more as defined in ANSI C79.1-2002;
(vi) General service fluorescent lamps;
(vii) High intensity discharge lamps;
(viii) Infrared lamps;
(ix) J, JC, JCD, JCS, JCV, JCX, JD, JS, and JT shape lamps that do not have Edison screw bases;
(x) Lamps that have a wedge base or prefocus base;
(xi) Left-hand thread lamps;
(xii) Marine lamps;
(xiii) Marine signal service lamps;
(xiv) Mine service lamps;
(xv) MR shape lamps that have a first number symbol equal to sixteen (diameter equal to two inches) as defined in ANSI C79.1-2002, operate at twelve volts and have a lumen output greater than or equal to 800;
(xvi) Other fluorescent lamps;
(xvii) Plant light lamps;
(xviii) R20 short lamps;
(xix) Reflector lamps that have a first number symbol less than sixteen (diameter less than two inches) as defined in ANSI C79.1-2002 and that do not have E26/E24, E26d, E26/50x39, E26/53x39, E29/28, E29/53x39, E39, E39d, EP39, or EX39 bases;
(xx) S shape or G shape lamps that have a first number symbol less than or equal to 12.5 (diameter less than or equal to 1.5625 inches) as 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

designed to provide air to indoor space and kitchen range hoods. Supply fans may also be designed to filter incoming air.

47. "Telephone" means an electronic product whose primary purpose is to transmit and receive sound over a distance using a voice or data network.

48. The following definitions refer to faucets and showerheads:

(a) "Faucet" means a lavatory faucet, kitchen faucet, metering faucet, public lavatory faucet, or replacement aerator for a lavatory, public lavatory or kitchen faucet.

(b) "Public lavatory faucet" means a fitting intended to be installed in nonresidential bathrooms that are exposed to walk-in traffic.

(c) "Metering faucet" means a faucet that, when turned on, will gradually shut itself off over a period of several seconds.

(d) "Replacement aerator" means an aerator sold as a replacement, separate from the faucet to which it is intended to be attached.

(e) "Showerhead" means a device through which water is discharged for a shower bath and includes a hand-held showerhead but does not include a safety shower showerhead.

(f) "Hand-held showerhead" means a showerhead that can be held or fixed in place for the purpose of spraying water onto a bather and that is connected to a flexible hose.

49. The following definitions refer to urinals and water closets:

(a) "Plumbing fixture" means an exchangeable device, which connects to a plumbing system to deliver and drain away water and waste.

(b) "Urinal" means a plumbing fixture that receives only liquid body waste and, conveys the waste through a trap into a drainage system.

(c) "Water closet" means a plumbing fixture having a water-containing receptor that receives liquid and solid body waste through an exposed integral trap into a drainage system.

(d) "Dual-flush effective flush volume" means the average flush volume of two reduced flushes and one full flush.

(e) "Dual-flush water closet" means a water closet incorporating a feature that allows the user to flush the water closet with either a reduced or a full volume of water.

(f) "Trough-type urinal" means a urinal designed for simultaneous use by two or more persons.

50. The following definitions refer to spray sprinkler bodies:

(a) "Pressure regulator" means a device that maintains constant operating pressure immediately downstream from the device, given higher pressure upstream.

(b) "Spray sprinkler body" means the exterior case or shell of a sprinkler incorporating a means of connection to the piping system designed to convey water to a nozzle or orifice.

51."Uninterruptable power supply" means a battery charger consisting of a combination of convertors, switches and energy storage devices (such as batteries), constituting a power system for maintaining continuity of load power in case of input power failure.

52. "Commercial battery charger system (BCS)" or "state-regulated BCS" means a battery charger coupled with its batteries or battery chargers coupled with their batteries, which together are referred to as state-regulated battery charger systems. This term covers all rechargeable batteries or devices incorporating a rechargeable battery and the chargers used with them. Battery charger systems include, but are not limited to:

(a) electronic devices with a battery that are normally charged from AC line voltage or DC input voltage through an internal or external power supply and a dedicated battery charger;

(b) the battery and battery charger components of devices that are designed to run on battery power during part or all of their operations;

(c) dedicated battery systems primarily designed for electrical or emergency backup; and

(d) devices whose primary function is to charge batteries, along with the batteries they are designed to charge. These units include chargers for power tool batteries and chargers for automotive, AA, AAA, C, D, or 9V rechargeable batteries, as well as chargers for batteries used in larger industrial motive equipment and a la carte chargers.

The charging circuitry of battery charger systems may or may not be located within the housing of the end-use device itself. In many cases, the battery may be charged with a dedicated external charger and power supply combination that is separate from the device that runs on power from the battery. State-regulated battery charger systems do not include federally regulated battery chargers that are covered under standards in 10 C.F.R. section 430.32(z).

53. "Gas fireplace" means a decorative gas fireplace or a heating gas fireplace.

(a) "Decorative gas fireplace" means a vented fireplace, including appliances that are freestanding, recessed, zero clearance, or a gas fireplace insert, that is fueled by natural gas or propane, is marked for decorative use only, and is not equipped with a thermostat or intended for use as a heater.

(b) "Heating gas fireplace" means a vented fireplace, including appliances that are freestanding, recessed, zero clearance, or a gas fireplace insert, that is fueled by natural gas or propane and is not a decorative fireplace

54. "Manufactured home" has the meaning ascribed to that term by subdivision seven of section six hundred one of the executive law.

55. "Recreational vehicle" means a van or utility vehicle used for recreational purposes.

56. "Uniform code" means the New York state uniform fire prevention and building code adopted pursuant to article eighteen of the executive law.

57. "Energy code" means the New York state energy conservation construction code adopted pursuant to article eleven of this chapter.

58. "Electric vehicle supply equipment (EVSE)" means equipment that supplies electricity in an appropriate form to storage devices, including batteries and super capacitators, that are part of electric vehicles. Such term shall include equipment that performs this function and equipment that is embedded in electric vehicles.

59. "Electric vehicle" means an on-road vehicle that draws electricity for propulsion from a traction battery with a least five kilowatt-hours (kWh) of capacity, and uses an external source of energy to recharge the battery. Such term shall include a plug-in hybrid electric vehicle (PHEV) with a second source of energy for propulsion, and a battery electric vehicle (BEV), which is powered solely by externally supplied electricity stored on-board such electric vehicle.

60. "Commercial clothes dryer" means a clothes dryer designed to dry fabrics in a tumble-type drum with forced air circulation and is designed for use in:

(a) Applications in which the occupants of more than one household will be using the clothes dryer, including multi-family housing common areas and coin laundries; or

(b) Other commercial applications.

61. "Commercial and industrial fans and blowers" means a rotary-bladed machine used to convert power to air power, with a brake horsepower greater than or equal to either one kilowatt or one horsepower, and an air horsepower less than or equal to one hundred fifty, and used for commercial and industrial purposes.

62. "Imaging equipment" means copiers, printers, scanners, fax machines, and multifunction devices used both in homes and businesses.

63. "Landscape irrigation controller" means a device intended to remotely control valves to operate an irrigation system for landscapes, which may consist of grass, shrubs, trees and/or other vegetation. This term shall not include devices that are typically sold separately and used primarily for other purposes, such as a network router, and may be used incidentally for a landscape irrigation controller. This term shall not include battery powered hose-end timers or devices used primarily in agricultural applications.

64. "Outdoor lighting" means electrical lighting used to illuminate outdoor areas, including parking lots, streetlights, highways and area luminaires.

65. "Plug-in luminous signs" means a self-contained, luminous sign unit that plugs into 120V AC building mains power and is intended for indoor use only. Signs may be intended for use in commercial outlets in business establishments or in residences.

66. "Small network equipment" means a device whose primary function is to pass internet protocol (IP) traffic among various network interfaces or ports intended for use in residential and small business settings.

67. "Tub spout diverters" means the following definitions:

(a) A bath and shower diverter whose diverter mechanism is located in the tub spout; and/or

(b) Bath and shower diverter means a device used to direct the flow of water either toward a tub spout or toward a secondary outlet intended for showering purposes, including a showerhead or body spray.

§ 14. Section 16-104 of the energy law, as added by chapter 431 of the laws of 2005, subdivision 1 as amended by chapter 222 of the laws of 2010, is amended to read as follows:

§ 16-104. Applicability, conduct prohibited. 1. The provisions of this article apply to the establishment of, testing for compliance with, certification of compliance with, and enforcement of efficiency standards for the following new products which are sold, or offered for sale, leased or offered for lease, rented or offered for rent or installed or offered to install in New York state, unless preempting federal appliance standards are in effect: (a) automatic commercial ice cube machines; (b) ceiling fan light kits; (c) commercial pre-rinse spray valves; (d) commercial refrigerators, freezers and refrigerator-freezers; (e) consumer audio and video products and televisions; (f) illuminated exit signs; (g) incandescent reflector lamps; (h) very large commercial packaged air-conditioning and heating equipment; (i) metal halide lamp fixtures; (j) pedestrian traffic signal modules; (k) power supplies; (l) torchiere lighting fixtures; (m) unit heaters; (n) vehicular traffic signal modules; (o) portable light fixtures; (p) bottle-type water dispensers; (q) commercial hot food holding cabinets; (r) portable electric spas; [~~and~~] (s) [~~residential~~] replacement dedicated-purpose pool [~~pumps~~] pump motors; (t) air compressors; (u) air purifiers; (v)

commercial dishwashers; (w) commercial fryers; (x) commercial steam cookers; (y) computers and computer monitors; (z) general service lamps; (aa) federally exempt fluorescent lamps; (bb) portable air conditioners; (cc) residential ventilating fans; (dd) telephones; (ee) faucets; (ff) showerheads; (gg) urinals; (hh) water closets; (ii) sprinkler bodies; (jj) uninterruptable power supplies; (kk) light emitting diode lamps; (ll) electric vehicle supply equipment; (mm) commercial battery charger systems; (nn) commercial ovens; (oo) commercial clothes dryers; (pp) commercial and industrial fans and blowers; (qq) imaging equipment; (rr) landscape irrigation controllers; (ss) outdoor lighting; (tt) plug-in luminous signs; (uu) small network equipment; (vv) tub spout diverters; (ww) commercial hot food holding cabinets; (xx) gas fireplaces; (yy) products for which efficiency standards shall have been established pursuant to paragraph (b) or (c) of subdivision one of section 16-106 of this article; and (zz) products that are subject to any federal efficiency standard referred to in section 16-105 of this article that shall have been adopted in this state pursuant to such section 16-105.

2. No person shall sell[~~,~~] or offer for sale, lease or offer to lease, or rent or offer to rent, or install or offer to install in New York state any new product of the types enumerated in paragraphs (a) through (xx) of subdivision one of this section, or any [~~of the~~] new [~~products identified~~] product for which efficiency standards shall have been established pursuant to paragraph (b) or (c) of subdivision [~~four~~] one of section 16-106 of this article, [~~unless: (a) the product meets minimum energy performance standards adopted pursuant to this article upon the effective date of such standards; and, if required by regulations promulgated~~] or any new product that is subject to any federal efficiency standard that shall have been adopted in this state pursuant to [~~this~~] section[~~, (b) the manufacturer of such product certifies that the product meets said minimum energy performance standards.~~] 16-105 of this article, unless:

(a) the product meets the efficiency standards applicable to such product as of the date of manufacture of such product or as of such other date as may be determined in accordance with the regulation establishing the standard for such product; and

(b) if required by regulations adopted pursuant to this article, the manufacturer of such product certifies that the product meets said efficiency standards. As used within this subdivision, reference to any new product means any individual product subject to the requirements of this article.

3. The prohibitions contained in [~~subdivisions one and~~] subdivision two of this section shall not apply to:

(a) products manufactured in the state and sold outside the state;

(b) products manufactured outside the state and sold at wholesale inside the state for final retail sale outside the state;

(c) products installed in [~~mobile~~] manufactured homes at the time of construction; [~~or~~]

(d) products designed expressly for installation and use in recreational vehicles[~~.~~]; or

(e) urinals and water closets designed and marketed exclusively for use at prisons or mental health care facilities.

§ 15. The energy law is amended by adding a new section 16-105 to read as follows:

§ 16-105. Adoption of certain federal efficiency standards. 1. The federal efficiency standard established in 10CFR Parts 430 and 431, as in effect on January first, two thousand eighteen shall be applicable to

products which are subject to such federal efficiency standards and which are sold, offered for sale, or installed in New York state. So long as such federal efficiency standards remain in effect as federal efficiency standards, they shall be enforced as provided by federal law.

2. If any federal efficiency standard referred to in subdivision one of this section is withdrawn, repealed, voided, or otherwise ceases to remain in effect as a federal efficiency standard:

(a) such efficiency standard shall be deemed to be continued in this state and shall be deemed to be an efficiency standard adopted pursuant to this article;

(b) the president shall file with the secretary a written description of such efficiency standard, the terms and conditions of such efficiency standard, and the product or products that are subject to such efficiency standard, such description to be in a format consistent with the regulations adopted pursuant to this article and in form acceptable to the secretary, together with a certificate, in form acceptable to the secretary, signed and dated by the president and certifying that such efficiency standard is no longer in effect as a federal efficiency standard, that such efficiency standard continues in effect in this state pursuant to this section, and that such efficiency standard is adopted pursuant to this section;

(c) the secretary shall cause such written description and certification to be published in the state register, and shall cause the official compilation of codes, rules and regulations of the state of New York to include such written description;

(d) the president shall be authorized to adopt regulations establishing procedures for testing the energy reduction, water conservation, greenhouse gas reduction, and/or increased demand flexibility associated with such product. In adopting the flexible demand appliance standards, the New York state energy research and development authority shall consider the National Institute of Standards and Technology's reliability and cybersecurity protocols, relevant New York cybersecurity laws, regulations, and advisories, or other cybersecurity protocols that are equally or more protective, and shall adopt, at a minimum, the North American Electric Reliability Corporation's Critical Infrastructure Protection standards;

(e) the president shall be authorized to adopt regulations establishing procedures for manufacturers of such product to certify that such product meets such efficiency standard, if the president determines that such manufacturer's certifications should be required; and

(f) the president shall be authorized to adopt regulations amending such efficiency standard from time to time, including regulations that repeal such efficiency standard or increase the stringency of such efficiency standard.

3. The actions to be taken pursuant to paragraphs (b) and (c) of subdivision two of this section to confirm that a federal efficiency standard that shall have been withdrawn, repealed, voided, or that otherwise shall have ceased to remain in effect as a federal efficiency standard, continues to be applicable in this state, and is adopted pursuant to this section, shall be exempt from the provisions of the state administrative procedure act, and the certification to be filed pursuant to paragraph (c) of subdivision two of this section shall so state.

4. This section shall not apply to any federal efficiency standard set aside by a court upon the petition of a person who will be adversely 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[~~,~~] **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[~~.~~

~~(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

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;

(d) To adopt regulations to achieve the purposes of this article through an open and transparent process to provide meaningful opportunities for public comment from all segments of the population that will be impacted by the promulgated codes, rules, or regulations, including persons living in disadvantaged communities as identified by the climate justice working group established in section 75-0111 of the environmental conservation law;

(e) To conduct investigations, test, and obtain data with respect to research experiments and demonstrations, and to collect and disseminate information regarding the purposes to be achieved pursuant to this article;

(f) To accept grants or funds for purposes of administration and enforcement of this article. Notwithstanding any other provision of law to the contrary, the president is hereby authorized to accept grants or funds, including funds directed through negotiated settlements or consent orders pursuant to this article, and is authorized to establish the appliance standards administration account to be administered by the New York state energy research and development authority, in consultation with the secretary, and maintained in a segregated account in the custody of the commissioner of taxation and finance. All funds accepted by the president for the purposes of this article shall be deposited in the efficiency standards administration account established by the New York state energy research and development authority and maintained in a segregated account in the custody of the commissioner of taxation and finance. All expenditures from the efficiency standards administration account pursuant to this article shall be made by the New York state energy research and development authority to carry out studies, investigations, research, expenses to provide for expert witness, consultant, enforcement, administrative and legal fees, including disbursements to the department of state to support enforcement activities authorized by the secretary pursuant to this section, and other related expenses pursuant to this article. All deposits made to the efficiency standards administration account made by the New York state energy research and development authority, all funds maintained in the efficiency standards administration account, and disbursements therefrom, made pursuant to this article shall be subject to an annual independent audit as part of such authority's audited financial statements, and such authority shall prepare an annual report summarizing efficiency standards administration account balance and activities for each fiscal year ending March thirty-first and provide such report to the secretary no later than ninety days after commencement of such fiscal year;

(g) [~~To impose a fine and/or impose injunctive relief for any violation of this article after notice and an opportunity to be heard;~~

~~(h) The secretary and the president shall consult with the appropriate federal agencies, including, but not limited to, the federal department of energy, industry and other potentially affected parties in carrying out the provisions of this article~~] To consult with the appropriate federal agencies, including, but not limited to, the federal department of energy, the federal department of industry and other potentially affected parties in carrying out the provisions of this article; and

(h) To conduct investigations, in consultation with the secretary, to determine if products covered by standards adopted pursuant to this article comply with such standards; to conduct tests to determine if

products covered by standards adopted pursuant to this article comply with such standards; to prepare written reports of the results of such investigations and tests; to provide such reports to the secretary; in consultation with the secretary, to negotiate settlement agreements with any person that violates the provisions of subdivision two of section 16-104 of this article, or fails to perform any duty imposed by this article, or violates or fails to comply with any rule, regulation, determination, or order adopted, made, or issued by the president or the secretary pursuant to this article, pursuant to which such person shall agree to cease such violation and to pay such civil penalty as may be specified in such agreement, the terms of which will be incorporated into a consent order signed by such person, the president, and the secretary; to consult with the secretary in connection with determinations made by the secretary pursuant to paragraph (b) of subdivision five of this section; and to cooperate with the secretary in enforcement proceedings conducted by the secretary pursuant to this article.

1-a. Notwithstanding any other provision of this article, no efficiency standard adopted pursuant to paragraph (a) of subdivision one of this section shall become effective less than one hundred eighty days after publication of the notice of adoption of such standard in the state register; no efficiency standard adopted pursuant to paragraph (b) or (c) of subdivision one of this section shall become effective less than one year after publication of the notice of adoption of such efficiency standard in the state register; no amendment of any efficiency standard adopted pursuant to this article or of any efficiency standard continued in this state pursuant to section 16-105 of this article shall become effective less than one hundred eighty days after publication of the notice of adoption of such amendment in the state register; and no new or amended efficiency standard, or water conservation standard adopted pursuant to this article shall go into effect if federal government efficiency standards regarding such product preempt state standards unless preemption has been waived pursuant to federal law.

2. (a) On or before [~~June thirtieth~~] January first, two thousand [~~six~~] twenty-three, the [~~secretary, in consultation with the~~] president, in consultation with the secretary, 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~~] referred to in paragraphs (a) through [~~(n)~~] (f) and paragraphs (h) through (y), paragraphs (aa) through (jj) and paragraphs (mm) through (xx) of subdivision one of section 16-104 of this article[~~, with the exception of such paragraph (g) (incandescent reflector lamps)~~];

(ii) procedures for testing the [~~energy~~] efficiency of the new products [~~covered by~~] of the types referred to in paragraphs (a) through [~~(n)~~] (f) and paragraphs (h) through (xx) of subdivision one of section 16-104 of this article;

(iii) procedures for manufacturers to certify that new products [~~covered under~~] of the types referred to in paragraphs (a) through (f) and paragraphs (h) through (xx) of subdivision one of section 16-104 of this article meet the [~~energy~~] efficiency standards to be [~~promulgated under this article~~] adopted pursuant to this article, if the president determines that such manufacturer's certifications should be required; and

(iv) such further matters as are necessary to insure the proper implementation 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 V + 2.04~~

~~(II) refrigerators with transparent doors 0.12 V + 3.34~~

~~(III) freezers with solid doors 0.40 V + 1.38~~

~~(IV) freezers with transparent doors 0.75 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 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 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~~

~~(c) 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 (o) 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 (o) through (s) of subdivision one of section 16-104 of this article; (iii) procedures for manufacturers to certify that products covered by paragraphs (o) 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 (o) 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

covered by efficiency standards adopted pursuant to this article comply with such efficiency standards; and to request the president's cooperation in connection with enforcement proceedings conducted by the secretary pursuant to this article;

(ii) To order 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 listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article, or of any product for which efficiency standards shall have been established pursuant to paragraph (b) or (c) of subdivision one of this section, or any product that is subject to a federal efficiency standard that shall have been continued in this state pursuant to section 16-105 of this article, if the secretary, in consultation with the president, determines that such product does not meet the applicable efficiency standard or if such product does not satisfy the testing procedures or manufacturer's certification procedures adopted pursuant to the regulations authorized by this article;

(iii) To accept grants or funds for purposes of administration and enforcement of this article;

(iv) To impose, after notice and an opportunity to be heard, civil penalties and/or injunctive relief for any violation of this article or any regulation adopted pursuant to this article. Any penalties collected by the secretary under this section shall be placed in the account established under section ninety-seven-www of the state finance law, relating to the consumer protection account; and

(v) To adopt such rules and regulations as the secretary may deem necessary or appropriate for the purpose of carrying out the powers and duties granted to the secretary by this article.

(b) The secretary may exercise the powers and authority granted to the secretary by this subdivision, or by any other provision of this article, through the consumer protection division established by the secretary pursuant to section ninety-four-a of the executive law or through such other divisions, officers, or employees of the department of state as the secretary may designate from time to time.

§ 17. The energy law is amended by adding a new section 16-107 to read as follows:

§ 16-107. Subpoenas, information and document production, enforcement procedures, referrals. 1. (a) In addition to all other powers provided by this article, the secretary or his or her designee shall have the power and authority to subpoena any person doing business in this state and bring such person before such officer or person in the department of state as may be designated in such subpoena, and to administer an oath to and take testimony of any person or cause any person's deposition to be taken.

(b) In addition to all other powers provided by this article, the president or his or her designee shall have the power and authority to subpoena any person in this state to compel testimony, the protection of documents, or both, and bring such person before such officer or person in the authority as may be designated in such subpoena, and to administer an oath to and take testimony of any person or cause any person's deposition to be taken.

(c) A subpoena issued under this subdivision shall be regulated by the civil practice law and rules, and is in addition to and not in limitation of the power to make information and document requests under subdivision 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;

(c) an order granting or imposing any other type of injunctive relief; and

(d) the imposition of a civil penalty, excluding any consent order, any determination made in a consent order and any civil penalty and/or injunctive relief imposed by a consent order.

6. In addition to all other powers provided by this article, the secretary and the president, are authorized, individually or jointly, to refer the results of any investigation conducted by the president pursuant to this article to the attorney general and to request the attorney general to institute, in the name of the secretary and/or the president, an action or proceeding to enforce the provisions of this article. The attorney general shall, at the request of the secretary or president, or may, on his or her own initiative, institute proceedings to enforce the provisions of this article including the imposition of civil penalties or injunctive relief. Nothing in this subdivision shall limit or impair the power and authority of the secretary to conduct enforcement proceedings, to issue orders pursuant to paragraph (b) of subdivision five of section 16-106 of this article, and to impose penalties pursuant to section 16-108 of this article.

§ 18. Section 16-108 of the energy law, as added by chapter 431 of the laws of 2005, is amended to read as follows:

§ 16-108. Violations, civil liability. 1. Any person who issues:

(a) a certification that a product listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article complies with the [~~energy~~] efficiency standards for such product established by or pursuant to this article[~~,~~];

(b) a certification that a product not listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article complies with efficiency standards for such product established pursuant to paragraph (b) or (c) of subdivision one of section 16-104 of this article; or

(c) a certification that a product that is subject to federal efficiency standards that shall have been continued in this state pursuant to section 16-105 of this article complies with such efficiency standards, knowing that such product does not comply with [~~those~~] such efficiency standards, shall be liable for a civil penalty of not more than ten thousand dollars for each such product certified and an additional penalty of not more than ten thousand dollars for each day during which such violation continues.

2. Any person who violates the provisions of subdivision two of section 16-104 of this article, or [~~who~~] fails to perform any duty imposed by this article, or [~~who~~] violates or fails to comply with any rule, regulation, determination, or order [~~of~~] adopted, made, or issued by the president or the secretary [~~of state promulgated~~] pursuant to this article, shall be liable for a civil penalty of not more than five hundred dollars for each such violation and an additional civil penalty of not more than one hundred dollars for each day during which such violation continues, and, in addition thereto, such person may be enjoined from continuing such violation.

3. [~~The secretary may cause an investigation to be made of complaints received concerning violations of this article and may refer the results of such investigations to the attorney general. The attorney general shall, at the request of the secretary, or may, on his own initiative, institute proceedings to enforce the provisions of this article.~~

~~4.~~] An action or cause of action for the recovery of a penalty under this section may be settled or compromised in an amount to be approved

by the secretary either before or after proceedings are brought to recover such penalties and prior to the entry for judgment therefor.

§ 19. The energy law is amended by adding a new section 16-109 to read as follows:

§ 16-109. Conflicts with other laws. Nothing in this article or in any regulation adopted pursuant to this article shall limit, impair, or supersede the provisions of subdivision one of section three hundred eighty-three of the executive law or the provisions of subdivision three of section 11-103 of this chapter.

§ 20. Subparagraphs 14 and 15 of paragraph (a) of subdivision 3 of section 94-a of the executive law, as added by section 21 of part A of chapter 62 of the laws of 2011, are amended and a new subparagraph 16 is added to read as follows:

(14) cooperate with and assist consumers in class actions in proper cases; [~~and~~]

(15) create an internet website or webpage pursuant to section three hundred ninety-c of the general business law[~~.~~]**, as added by chapter five hundred nine of the laws of two thousand seven; and**

(16) exercise such powers and duties granted to the secretary by article sixteen of the energy law as the secretary may direct, including, but not limited to: consult with such president of the New York state energy research and development authority in connection with investigations conducted by such president pursuant to article sixteen of the energy law; make determinations relating to compliance by products with the standards adopted pursuant to article sixteen of the energy law; order the immediate cessation of any distribution, sale or offer for sale, import, or installation of any product that does not meet such standards; and impose civil penalties as contemplated by article sixteen of the energy law.

§ 21. The opening paragraph and paragraphs a and c of subdivision 1 and subdivision 3 of section 374 of the executive law, the opening paragraph of subdivision 1 as amended by chapter 309 of the laws of 1996, paragraph a of subdivision 1 as amended by section 96 of subpart B of part C of chapter 62 of the laws of 2011 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, paragraph c of subdivision 1 as amended by chapter 920 of the laws of 1985, and subdivision 3 as added by chapter 707 of the laws of 1981, are amended to read as follows:

There is hereby created and established in the department of state a council, to be known as the state fire prevention and building code council. Such council shall consist of the secretary of state, as [~~chairman~~] **chair**, the state fire administrator**, the president of the New York state energy research and development authority, the commissioner of the department of environmental conservation** and fifteen other members to be appointed as follows:

a. Two members, to be appointed by the governor, from among the commissioners of [~~the departments of economic development, corrections and community supervision, education, health, labor, mental health and social services, office of general services, division of housing and community renewal,~~] **economic development; corrections and community supervision; education; health; labor; mental health; general services; housing and community renewal; parks, recreation and historic preservation; and temporary and disability assistance;** and the superintendent of financial services.

c. Seven members, to be appointed by the governor with the advice and consent of the senate, one of whom shall be a fire service official, one

of whom shall be a registered architect, one of whom shall be a professional engineer, one of whom shall be a code enforcement official, one of whom shall represent builders, one of whom shall represent trade unions, and one of whom shall be a person with a disability as defined in section two hundred ninety-two of this chapter who would directly benefit from the provisions of [~~article thirteen of~~] the state uniform fire prevention and building code relating to accessibility. The registered architect and professional engineer shall be duly licensed to practice their respective professions in the state of New York. After the certification of code enforcement personnel pursuant to this chapter shall have begun said code enforcement official shall be so certified.

3. (a) The council shall meet at least quarterly at the call of the chairman. Additional meetings may be called upon at least five [~~days~~] days' notice by the chairman or by petition of five members of the council.

(b) Notwithstanding the provisions of any other law to the contrary, a majority, but no fewer than seven, of the members of the council then in office, gathered together in the presence of each other or through the use of videoconferencing, at a meeting duly held at a time fixed by law or by any by-law duly adopted by the council, or at any meeting duly held upon reasonable notice to all members of the council then in office, or at any duly adjourned meeting of such meeting, shall constitute a quorum, and a majority, but no fewer than seven, of the members of the council then in office may perform and exercise any power, authority, or duty of the council at any such meeting or adjourned meeting.

§ 22. Subdivision 2 of section 97-www of the state finance law, as amended by section 53 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

2. Such account shall consist of all penalties received by the department of state pursuant to section three hundred ninety-nine-z of the general business law, section 16-106 of the energy law and any additional monies appropriated, credited or transferred to such account by the Legislature. Any interest earned by the investment of monies in such account shall be added to such account, become part of such account, and be used for the purposes of such account.

§ 23. A building code or other requirement applicable to commercial or residential buildings or construction may not prohibit the use of a substance authorized pursuant to 42 U.S.C. 7671k. Substances under review but not yet listed by the United States Environmental Protection Agency pursuant to 42 U.S.C. 7671k may be allowed for use provided that such substance and the refrigeration or air conditioning system or other equipment or products utilizing such substance are designed, installed, and used in accordance with nationally recognized published standards that protect building occupant safety and reduce fire risks.

§ 24. Section 17-101 of the energy law is amended by adding twenty new subdivisions 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 to read as follows:

5. "Authority" means the New York state energy research and development authority.

6. "Benchmark" means inputting and submitting the total energy and water consumed for a property for the previous calendar year and other descriptive information for such property as required by the benchmarking tool. Total energy and water consumption shall not include separately metered uses that are not integral to building operations, such as broadcast antennas, as determined by the president.

7. "Benchmarking information" means information generated by the benchmarking tool and descriptive information about the physical property and its ownership, management, and operational characteristics.

8. "Public benchmarking information" means information generated by the benchmarking tool and descriptive information about the physical property and its operational characteristics that is disclosed to the public. The public benchmarking information shall include, but shall not be limited to:

(a) descriptive information, including property address; primary use type; gross floor area as defined by the benchmarking tool glossary;

(b) output information, including site and source energy use intensity; weather normalized site and source energy use intensity; total annual greenhouse gas emissions; water use per gross square foot; the Energy Star score, where available;

(c) compliance or noncompliance with this law; and

(d) a comparison of the annual summary statistics across calendar years for all years since annual reporting and disclosure has been required for the covered property.

9. "Benchmarking submission" means a subset of:

(a) information input into the benchmarking tool; and

(b) benchmarking information generated by the benchmarking tool, as determined by the president.

10. "Benchmarking tool" means the portfolio manager or any similar tool may as determined by the president to be reasonably comparable, and any additional tools specified in regulations adopted by the president.

11. "Building energy benchmarking" means the process of measuring a building's energy use, tracking that use over time, and comparing performance to similar buildings nationwide.

12. "Covered property" means: on and after the first day of January, two thousand twenty-three, any property that has one or more buildings that together exceed twenty-five thousand gross square feet in total combined floor area.

13. "Energy" means electricity, natural gas, steam, hot or chilled water, fuel oil, kerosene, propane, or other fuel product for use in a building, or on-site electricity generation, including renewable and storage technologies for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.

14. "Energy Star score" means the one through one hundred (1-100) numeric rating generated by the Energy Star portfolio manager tool.

15. "Energy use intensity" means the kBTUs (one thousand British Thermal Units) used per square foot of gross floor area.

16. "Exempt municipality" means a municipality with a benchmarking requirement in effect that meets or exceeds the benchmarking rules established by the authority.

17. "Gross floor area" means the total number of enclosed square feet measured between the exterior surfaces of the fixed walls within any structure used or intended for supporting or sheltering any use or occupancy.

18. "Owner" means:

(a) an individual or entity possessing title to a covered property;

(b) the net lessee in the case of a property subject to a triple net lease;

(c) the board of managers in the case of a condominium;

(d) the board of directors in the case of a cooperative apartment corporation;

(e) an agent authorized to act on behalf of any of the above; or

(f) the entity in physical possession of the property or having beneficial use and occupancy of the property in the case of a covered property with title possessed by a state entity solely for purposes of securing bonds, notes or other obligations issued by such state entity, in which case, the state entity will not also be deemed the owner hereunder. For the purpose of this subparagraph, a "state entity" shall mean any state agency, state authority or subsidiary of a state authority.

19. "Portfolio manager" means the Energy Star portfolio manager, the internet-based tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide, or successor.

20. "President" means the president of the authority.

21. "Qualified benchmarker" means an individual or entity that possesses a benchmarking certification or other credential or credentials approved by the president.

22. "Qualifying financial distress" means:

(a) the covered property is the subject of a qualified tax lien sale or public auction due to property tax arrearages;

(b) the covered property is controlled by a court appointed receiver;

(c) a foreclosure action has commenced on the covered property during the calendar year for which benchmarking is required;

(d) title to the covered property was transferred by deed in lieu of foreclosure or by a referee's deed in foreclosure during the calendar year for which benchmarking is required;

(e) the owner of a covered property has commenced a bankruptcy filing; or

(f) other situations as authorized by the president or the president's designee.

23. "Tenant" means a person or entity occupying or holding possession of a building, part of a building or premises pursuant to a rental agreement.

24. "Utility" means an entity that distributes and sells energy to covered properties.

§ 25. The energy law is amended by adding a new section 17-107 to read as follows:

§ 17-107. Benchmarking applicability and submission. 1. No later than the first day of May, two thousand twenty-three, and no later than the first day of May of every year thereafter, each owner shall ensure that such owner's covered properties shall be benchmarked for the previous calendar year and the benchmarking submission shall be provided to the authority as directed by the president.

2. The president or the president's designee may temporarily exempt from the benchmarking requirement the owner of a covered property that submits documentation establishing, to the satisfaction of the president or the president's designee, any of the following:

(a) the covered property has characteristics that make benchmarking impracticable, including buildings that do not fit any of the property types, definitions or use details listed in the portfolio manager;

(b) the covered property had average physical occupancy of less than fifty percent throughout the calendar year for which benchmarking is required;

(c) the covered property is a new construction and the covered property's certificate of occupancy or temporary certificate of occupancy was issued during the calendar year for which benchmarking is required;

(d) the covered property experienced qualifying financial distress during the year for which benchmarking is required; or

(e) the covered property has been issued a full demolition permit for the prior calendar year, provided that demolition work has commenced, some energy-related systems have been compromised and legal occupancy is no longer possible prior to the first day of May of the year in which the benchmarking report is due.

3. The president or the president's designee may exempt from the benchmarking requirement the owners of all covered properties located within an exempt municipality that comply with the municipality's benchmarking requirement.

4. The president or the president's designee may exempt from the benchmarking requirement related to water the owner of a covered property in jurisdictions where whole building water use data is not available in increments required by the benchmarking tool or as defined by the president or the president's designee.

5. The president or the president's designee may grant an extension of time if the owner of the covered property demonstrates, to the satisfaction of the president or the president's designee, that despite good faith efforts, the owner could not satisfy the requirements of this article by the imposed deadlines.

6. The president or the president's designee may require that data be validated by a qualified benchmarker or that benchmarking be performed by a qualified benchmarker.

§ 26. The energy law is amended by adding a new section 17-108 to read as follows:

§ 17-108. Benchmarking notification and posting. 1. Between September first and December thirty-first of each year, the authority shall notify owners of their obligation to benchmark pursuant to section 17-107 of this article.

2. By December first of each year, the authority shall post the list of the addresses of covered properties on the authority's website.

§ 27. The energy law is amended by adding a new section 17-109 to read as follows:

§ 17-109. Disclosure, analysis, and publication of benchmarking information. 1. No later than the thirty-first day of December, two thousand twenty-three and by the fifteenth day of September of each year thereafter, the authority shall publish public benchmarking information regarding all covered properties for the previous calendar year; except that public benchmarking information regarding a covered property for such property's first year of required compliance, other than whether or not the property complied, shall not be published by the authority.

2. In addition to the publishing of public benchmarking information required by subdivision one of this section, the authority shall annually publish:

(a) summary statistics and trend analyses regarding energy consumption for covered properties derived from aggregation of benchmarking information; and

(b) information regarding how each covered property compares with comparable covered properties in New York State, and how each covered property's performance has changed over time.

3. No later than the thirty-first day of December, two thousand twenty-two, and no later than the fifteenth day of September of each year thereafter, each exempted municipality shall make available to the authority, in a form as required by the authority, any benchmarking 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:

29. Notwithstanding any other provision of law, the authority is further authorized, as deemed feasible and advisable by the trustees, to lease or otherwise dispose of interests in excess capacity in the authority's broadband technologies and infrastructure to other instrumentalities of the state to support broadband and other initiatives of the state.

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

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

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