STATE OF NEW YORK

8008--B

IN SENATE

January 19, 2022

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

AN ACT intentionally omitted (Part A); intentionally omitted (Part B); intentionally omitted (Part C); intentionally omitted (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); intentionally omitted (Part F); intentionally omitted (Part G); to amend the public authorities law, in relation to increasing the statutory threshold for mandatory use of design-build by the metropolitan transportation authority (Part H); intentionally omitted (Part I); intentionally omitted (Part J); intentionally omitted (Part K); to amend the penal law, in relation to assaulting or harassing certain employees of a transit agency or authority (Part L); intentionally omitted (Part M); intentionally omitted (Part N); to amend the vehicle and traffic law, in relation to requiring the commissioner of motor vehicles to promulgate rules and regulations regarding the provision of accident prevention courses by means of electronic communication; 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; and providing for the repeal of certain provisions upon expiration 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; and in relation to requiring the commissioner of the department of motor vehicles to submit a report regarding alternative revenue sources and mechanisms to transfer department operating expenditures away from the Dedicated Highway and Bridge Trust Fund (Part P); to amend the correction law and the

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

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vehicle and traffic law, in relation to providing identification cards to incarcerated individuals upon release from incarceration (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 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 purchases of food products from New York state farmers, growers, producers or processors (Part V); intentionally omitted (Part W); intentionally omitted (Part X); to amend chapter 393 of the laws of 1994 amending the New York state urban development corporation act relating to the powers of the New York state urban development corporation to make loans, in relation to 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 requiring project labor agreements when undertaking an authorized project and extending the effectiveness thereof; to amend chapter 749 of the laws of 2019, relating to 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; and to amend the state finance law, in relation to the cost effectiveness of consultant contracts by state agencies and ensuring the efficient and effective use of state tax dollars (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; and to amend the public authorities law, in relation to restricting the dormitory authority's ability to form subsidiaries (Part DD); intentionally omitted (Part EE); intentionally omitted (Part FF); intentionally omitted (Part GG); intentionally omitted (Part HH); intentionally omitted (Part II); intentionally omitted (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 (Subpart A); to amend the tax law, in relation to clarifying that aspects of certain athletic projects should be counted as capital improvements for the brownfield redevelopment tax credit(Subpart B); and to amend the labor law, in relation to requirements for public works contracts on brownfield sites (Subpart C) (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); to amend the environmental conservation law, in relation to establishing the extended producer responsibility act (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 the territory of a county 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); intentionally omitted (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); intentionally omitted (Part CCC); intentionally omitted (Part DDD); to amend the executive law, the energy law and the state finance law, in relation to building all-electric buildings, building energy codes and appliance standards (Part EEE); intentionally omitted (Part FFF); to amend the vehicle and traffic law, in relation to establishing the commercial driver's license (CDL) class A young adult training program; and to repeal subdivision 36 of section 14 of the transportation law relating thereto (Part GGG); to amend the urban development corporation act, in relation to expanding the Restore New York's Communities Initiative (Part HHH); to amend the New York state urban development corporation act and the economic development law, in relation to the creation of a searchable database (Part III); to amend the administrative code of the city of New York, in relation to school bus parking on city streets (Part JJJ); to amend the transportation law, in relation to establishing the hyperloop and high speed rail commission(Part KKK); to amend the highway law, in relation to enabling safe access to public roads for all users by utilizing complete street design principles (Part LLL); to amend the transportation law, in relation to the service area for paratransit transportation (Part MMM); to amend the highway law, in relation to complete street design features and funding of construction and improvements at a municipalities' expense (Part NNN); to amend the highway law, in relation to the rate paid by the state to a city for maintenance and repair of highways (Part OOO); to amend the vehicle and traffic law, in relation to establishing scramble crosswalks leading to and from school buildings during times of student arrival and dismissal (Part PPP); to repeal subdivision 6 of section 51 of the public authorities law, relating to voting by members of the New York state authorities control board (Part QQQ); to amend the state finance law and the executive law, in relation to establishing the "climate disaster and hurricane relief program" (Part RRR); to amend the public authorities law, in relation to requiring the metropolitan transportation authority to publish certain data on the authority's website (Part SSS); to amend the New York state urban development corporation act, in relation to authorizing independent arts contractors to be eligible for such COVID-19 pandemic small business recovery grant program (Part TTT); to amend the environmental conservation law, in relation to establishing the "clean fuel standard of 2022" (Part UUU); to amend the tax law, in relation to requiring an independent analysis of all tax credits, tax deductions and tax incentives (Part VVV); and to amend the economic development law, the general municipal law, the public service law, the highway law, the transportation corporations law and the labor law, in relation to enacting the working to implement reliable and equitable deployment of broadband act (Part WWW)

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 WWW. 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

Intentionally Omitted

PART B

Intentionally Omitted

PART C

Intentionally Omitted

PART D

Intentionally Omitted

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 trans-

portation 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

Intentionally Omitted

PART G

Intentionally Omitted

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

Intentionally Omitted

PART J

Intentionally Omitted

PART K

Intentionally Omitted

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

Intentionally Omitted

PART N

Intentionally Omitted

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.

§ 1-a. Subdivision 2 of section 399-e of the vehicle and traffic law is renumbered subdivision 3 and a new subdivision 2 is added to read as follows:

2. Additionally, the commissioner shall promulgate such rules and regulations as are necessary to permit an approved sponsoring or delivery agency to offer an accident prevention course partially or solely by means of electronic communication. A course provided through distance learning must:

(a) Be delivered live, in real-time, with certified instructors present during video sessions. The school's teleconferencing option must provide for interaction between instructors and students, in a manner as analogous as possible to a traditional classroom. Software or computer programs to deliver the course without a certified instructor are not allowed.

(b) Students must pre-register and present their proof of identification so the delivery agency can determine eligibility and record the student's information. Sponsoring and delivery agencies must abide by all applicable guidance issued by the department of health or any other agency, and to any required public health and safety protocols or

restrictions, if pre-registration is done in-person at the agency's place of business.

(c) Provide the student with instructions explaining the requirements for course participation and completion at the time of pre-registration, including any technology requirements of which the student must be aware.

(d) Deliver approved student workbooks and/or manuals before issuing a course completion certificate, and ensure that course completion certificates are issued only to eligible students who have completed the course. Upon course completion, the instructor-signed certificate may be mailed to the address on the student's license with instructions for the student to sign it before submitting to insurance companies.

(e) Distance learning courses are not subject to classroom approval requirements, but the location where the instructor presents from must be appropriate, free of distraction, and conducive to learning as determined by the commissioner.

(f) Maintain records in accordance with applicable regulations and, in the case of distance learning, must also maintain and record the delivery method and instructor delivering the course. Provided that no sponsoring or delivery agency may disclose or otherwise make available to any person or entity any personal information obtained by such provider about any student who registers for such course. For the purposes of this article, "personal information" shall mean information that identifies an individual, including an individual's photo image, social security number, driver identification number, name, address, but not the five-digit zip code, telephone number, and medical or disability information.

(g) Otherwise comply with the standards established for approved courses in this article.

§ 1-b. Section 399-f of the vehicle and traffic law, as added by chapter 290 of the laws of 1998, is amended to read as follows:

§ 399-f. Proof of effectiveness. Proof of effectiveness shall be verifiable research documentation submitted by the applicant for sponsorship showing evidence of effectiveness comparable to that of the national safety council's defensive driving course as determined by the commissioner in terms of reduced convictions or accidents or both. This research documentation shall employ accepted research principles and include treatment and non-treatment control groups comprised of samples of the representative driver base. In order to establish verifiable effectiveness, each sample group should be comprised of a minimum of three thousand drivers selected randomly. The documentation shall include conviction or accident data for each motorist for a period of at least eighteen months prior to the course completion date and at least eighteen months subsequent to such date, and equivalent time periods for non-treatment control groups. The documentation shall also include a description of the sampling and analytic procedures used, and the motorist identification number and course completion date for all course attendees. The applicant for sponsorship shall provide, at the request of the commissioner and at the applicant's expense, all driving record data and analysis used in the development of the submitted research documentation. Submission of any fraudulent or intentionally misleading data will disqualify that organization and all owners and principals from participating or approval in the accident prevention course for a period of ten years from submission date. The commissioner may, by regulation, provide for a smaller sample group for specialized courses. Additionally, provided that within three years of the implementation of

courses offered entirely through distance learning, the commissioner shall publish a report documenting proof of effectiveness comparing the effectiveness of courses provided in person in comparison with live courses provided through distance learning. Such additional report shall include recommendations as to the future use of live internet and other distance learning tools as an effective way to deliver approved accident prevention courses.

§ 1-c. Paragraph (f) of subdivision 4 of section 502 of the vehicle and traffic law, as added by chapter 719 of the laws of 1983, is amended to read as follows:

(f) (i) The commissioner shall promulgate such rules and regulations as are necessary to carry out the provisions of this section.

(ii) The commissioner shall promulgate such rules and regulations as are necessary to permit a driver education teacher pursuant to section eight hundred six-a of the education law or a driving school instructor pursuant to subdivision seven-a of section three hundred ninety-four of this chapter or sponsoring or delivery agency authorized to offer an approved pre-licensing course as required by subparagraph (i) of paragraph (a) of this subdivision partially or solely by means of electronic communication. A course provided through distance learning must:

(1) Be delivered live, in real-time, by pre-licensing course qualified instructors present during video sessions. The school's teleconferencing option must provide for interaction between instructors and students, in a manner as analogous as possible to a traditional classroom. Software or computer programs to deliver the course without a pre-licensing course qualified instructor are not allowed.

(2) Students must pre-register and present their learner's permit so the delivery agency or instructor can determine eligibility and record the student's information. Sponsoring and delivery agencies and instructors must abide by all applicable guidance issued by the department of health or any other agency, and to any required public health and safety protocols or restrictions, if pre-registration is done in-person at the agency's or instructor's place of business.

(3) Provide the student with instructions explaining the requirements for course participation and completion at the time of pre-registration, including any technology requirements of which the student must be aware.

(4) Deliver approved student workbooks and/or manuals before issuing a course completion certificate, and ensure that course completion certificates are issued only to eligible students who have completed the course. Upon course completion, the instructor-signed certificate may be mailed to the address on the student's license with instructions for the student to sign it before scheduling a road test.

(5) Distance learning courses are not subject to classroom approval requirements, but the location where the instructor presents from must be appropriate, free of distraction, and conducive to learning as determined by the commissioner.

(6) Maintain records in accordance with applicable regulations and, in the case of distance learning, must also maintain and record the delivery method and instructor delivering the course. Provided that no sponsoring or delivery agency or instructor may disclose or otherwise make available to any person or entity any personal information obtained by such provider about any student who registers for such course. For the purposes of this article, "personal information" shall mean information that identifies an individual, including an individual's photo image, social security number, driver identification number, name, address, but

not the five-digit zip code, telephone number, and medical or disability information.

(7) Must have a valid pre-licensing endorsement to deliver courses and employ one or more qualified instructors.

(8) Otherwise comply with the standards established for approved courses pursuant to this chapter.

(iii) Within three years of the implementation of courses offered entirely through distance learning, the commissioner shall publish a report documenting proof of effectiveness comparing the effectiveness of courses provided in person with live courses provided through distance learning. Such report shall include recommendations as to the future use of internet and other distance learning tools as an effective way to deliver approved pre-licensing courses. Proof of effectiveness of distance learning shall be verifiable research documentation submitted by the sponsoring or delivery agency or driver education teacher showing evidence of effectiveness of distance learning programs comparable to that of the national safety council's defensive driving course as determined by the commissioner in terms of reduced convictions or accidents or both. This research documentation shall employ accepted research principles and include treatment and non-treatment control groups comprised of samples of the representative driver base. In order to establish verifiable effectiveness, each sample group should be comprised of a minimum of three thousand drivers selected randomly, though the commissioner may provide for a smaller sample group for specialized courses by regulation. The documentation shall include conviction or accident data for each motorist for a period of at least eighteen months prior to the course completion date and at least eighteen months subsequent to such date, and equivalent time periods for non-treatment control groups. The documentation shall also include a description of the sampling and analytic procedures used, and the motorist identification number and course completion date for all course attendees. The sponsoring or delivery agency or driver education teacher shall provide, at the request of the commissioner and at the applicant's expense, all driving record data and analysis used in the development of the submitted research documentation. Submission of any fraudulent or intentionally misleading data will disqualify that organization and all owners and principals from participating or approval in the pre-licensing course for a period of ten years from submission date.

(iv) Violations of law, regulation, or policy are subject to suspension or revocation of the sponsoring or delivery agency and instructor's certification.

§ 2. This act shall take effect immediately; provided that sections one-a and one-b of this act shall take effect on the ninetieth day after it shall have become a law and shall expire and be deemed repealed April 1, 2024; provided further that section one-c of this act shall take effect on the ninetieth day after it shall have become a law and shall expire and be deemed repealed June 30, 2025. 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 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. The commissioner of the department of motor vehicles shall issue a final report and recommendations to the governor, the temporary president of the senate, the speaker of the assembly, the chairs of the assembly ways and means and senate finance committees, and the chairs of the assembly and senate transportation committees regarding alternative revenue sources and mechanisms to transfer department operating expenditures away from the Dedicated Highway and Bridge Trust Fund established pursuant to section 89-b of the state finance law by December 31, 2026. Such report shall be issued no later than April 1, 2024.

§ 4. This act shall take effect immediately.

PART Q

Section 1. The correction law is amended by adding a new section 11 to read as follows:

§ 11. Identification card program. 1. For purposes of this section, "identification card" shall have the same meaning as defined in section four hundred ninety of the vehicle and traffic law.

2. The commissioner, in consultation with the commissioner of motor vehicles, shall develop a program that would allow incarcerated individuals without an identification card, or individuals whose driver's license or learner's permit has not been issued by the commissioner of motor vehicles, or individuals whose driver's license or learner's permit is expired, suspended, revoked or surrendered, or individuals whose identification card is expired, to obtain an identification card prior to the incarcerated individual's release from a correctional facility under the jurisdiction of the department or upon the individual's release from a correctional facility under the jurisdiction of the department.

3. The sentence and commitment or certificate of conviction of an incarcerated individual shall be deemed sufficient to grant authorization to the department of corrections and community supervision to apply for and/or obtain an identification card on behalf of an incarcerated individual in an institution or correctional facility under the jurisdiction of the department.

4. (a) The department shall make diligent efforts to ensure that an incarcerated individual is provided with an identification card prior to

or upon the release of such individual from an institution or correctional facility under the jurisdiction of the department.

(b) If an identification card is obtained by the department on behalf of an incarcerated individual prior to such individual's release from the department's custody, the identification card shall be kept in the incarcerated individual's records until such individual is released from an institution or correctional facility under the jurisdiction of the department; upon such individual's release, the identification card shall be provided to the individual.

5. Fees associated with the original issuance of an identification card shall be paid for by the department if such fees are not waived by the commissioner of the department of motor vehicles.

§ 2. The opening paragraph of paragraph (a) of subdivision 2 of section 490 of the vehicle and traffic law, as amended by chapter 158 of the laws of 2021, is amended to read as follows:

Any person to whom a driver's license or learner's permit has not been issued by the commissioner, or whose driver's license or learner's permit is expired, suspended, revoked or surrendered, may make application to the commissioner for the issuance of an identification card. For incarcerated individuals, the department of corrections and community supervision may make application to the commissioner for the issuance of an identification card on behalf of an incarcerated individual in an institution or correctional facility under the jurisdiction of such department upon providing sufficient proof of the sentence and commitment or certificate of conviction of such incarcerated individual. The commissioner shall ensure that space is provided on the application so that the applicant shall register or decline registration in the donate life registry for organ and tissue donations pursuant to section forty-three hundred ten of the public health law and that the following is stated on the application in clear and conspicuous type:

§ 3. 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.

§ 4. This act shall take effect on the first of April next succeeding the date on which 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 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 physical and online forms or data systems within ninety days of the effective date of this section.

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. Intentionally omitted.

§ 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, and g 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.

§ 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. 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, is amended to read as follows:

§ 5. 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 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 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. **Commencing July 1, 2022, and each July 1 thereafter, a school food authority shall be allowed to attribute moneys spent on purchases of food products from New York state farmers, growers, producers or processors made for all in school meal programs, such as breakfast and snacks, to the thirty percent of costs for school lunch service programs.**

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 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**, permitted to be counted under this section,** 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 **permitted to be counted under this section** 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 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.

§ 2. This act shall take effect immediately.

PART W

Intentionally Omitted

PART X

Intentionally Omitted

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~~] **2023**, 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~~] **2023**.

§ 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. Subdivision (a) of section 2 of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, as amended by section 1 of part DD of chapter 58 the laws of 2020, is amended and a new subdivision (g) is added to read as follows:

(a) (i) "authorized state entity" shall mean the New York state thruway authority, the department of transportation, the office of parks, recreation and historic preservation, the department of environmental

conservation, the New York state bridge authority, the office of general services, the dormitory authority, the urban development corporation, the state university construction fund, the New York state Olympic regional development authority and the battery park city authority.

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

Authorized Projects	Authorized State Entity
1. Frontier Town	Urban Development Corporation
2. Life Sciences Laboratory	Dormitory Authority & Urban Development Corporation
3. Whiteface Transformative Projects	New York State Olympic Regional Development Authority
4. Gore Transformative Projects	New York State Olympic Regional Development Authority
5. Belleayre Transformative Projects	New York State Olympic Regional Development Authority
6. Mt. Van Hoevenberg Transformative Projects	New York State Olympic Regional Development Authority
7. Olympic Training Center	New York State Olympic Regional Development Authority
8. Olympic Arena and Convention Center Complex	New York State Olympic Regional Development Authority
9. State Fair Revitalization Projects	Office of General Services
10. State Police Forensic Laboratory	Office of General Services

Notwithstanding any provision of law to the contrary, all rights or benefits, including terms and conditions of employment, and protection of civil service and collective bargaining status of all existing employees of authorized state entities shall be preserved and protected. Nothing in this section shall result in the: (1) displacement of any currently employed worker or loss of position (including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits) or result in the impairment of existing collective bargaining agreements; (2) transfer of existing duties and functions related to maintenance and operations currently performed by existing employees of authorized state entities to a contracting entity; or (3) transfer of future duties and functions ordinarily performed by employees of authorized state entities to the contracting entity. Nothing contained herein shall be construed to affect (A) the existing rights of employees pursuant to an existing collective bargaining agree-

ment, and (B) the existing representational relationships among employee organizations or the bargaining relationships between the employer and an employee organization.

If otherwise applicable, authorized projects undertaken by the authorized state entities listed above solely in connection with the provisions of this act shall be subject to section 135 of the state finance law, section 101 of the general municipal law, and section 222 of the labor law; provided, however, that an authorized state entity may fulfill its obligations under section 135 of the state finance law or section 101 of the general municipal law by requiring the contractor to prepare separate specifications in accordance with section 135 of the state finance law or section 101 of the general municipal law, as the case may be. **Provided further, that authorized projects undertaken by the authorized state entities listed above solely in connection with the provisions of this act, after a chapter of the laws of 2022 amending this paragraph takes effect, shall only be undertaken pursuant to a project labor agreement in accordance with section 222 of the labor law.**

(g) "project labor agreement" shall have the meaning set forth in subdivision 1 of section 222 of the labor law. A project labor agreement shall require participation in apprentice training programs.

§ 2. Section 3 of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, as amended by section 1 of part DD of chapter 58 of the laws of 2020, is amended to read as follows:

§ 3. Notwithstanding the provisions of section 38 of the highway law, section 136-a of the state finance law, sections 359, 1678, 1680 and 1680-a of the public authorities law, sections 376, 407-a, 6281 and 7210 of the education law, sections 8 and 9 of the public buildings law, section 103 of the general municipal law, and the provisions of any other law to the contrary, and in conformity with the requirements of this act, an authorized state entity may utilize the alternative delivery method referred to as design-build contracts[~~, in consultation with relevant local labor organizations and construction industry,~~] for capital projects **undertaken pursuant to a project labor agreement in accordance with section 222 of the labor law and** located in the state related to physical infrastructure, including, but not limited to, highways, bridges, buildings and appurtenant structures, dams, flood control projects, canals, and parks, including, but not limited to, to repair damage caused by natural disaster, to correct health and safety defects, to comply with federal and state laws, standards, and regulations, to extend the useful life of or replace highways, bridges, buildings and appurtenant structures, dams, flood control projects, canals, and parks or to improve or add to highways, bridges, buildings and appurtenant structures, dams, flood control projects, canals, and parks; provided that for the contracts executed by the department of transportation, the office of parks, recreation and historic preservation, or the department of environmental conservation, the total cost of each such project shall not be less than ten million dollars ($10,000,000).

§ 3. Section 15-a of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, is REPEALED and a new section 15-a is added to read as follows:

§ 15-a. All contracts awarded shall require a public employee or employees, as defined by paragraph (a) of subdivision 7 of section 201 of the civil service law and who are employed by authorized entities as defined by paragraph (i) of subdivision (a) of section two of this act and who are licensed under articles 145, 147 and 148 of the education law to be on the site of the project for the duration of such project to

the extent deemed appropriate by such public employee or employees. Such requirement shall not limit contractors' obligations under design-build contracts to issue their own initial certifications of substantial completion and final completion or any other obligations under the design-build contracts.

§ 4. Section 15-b of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, as added by part DD of chapter 58 of the laws of 2020, is amended to read as follows:

§ 15-b. Public employees as defined by paragraph (a) of subdivision 7 of section 201 of the civil service law and who are employed by authorized entities as defined in paragraph (i) of subdivision (a) of section two of this act shall examine [~~and~~], review [~~certifications provided by contractors for conformance with~~], **and determine whether the work performed by contractors is acceptable and has been performed in accordance with the applicable design-build contracts. Such examination, review, and determination shall include, but not be limited to** material source testing, certifications testing, surveying, monitoring of environmental compliance, independent quality control testing and inspection and quality assurance audits. Performance by authorized entities of any review described in this subdivision shall not be construed to modify or limit contractors' obligations to perform work in strict accordance with the applicable design-build contracts or the contractors' or any subcontractors' obligations or liabilities under any law.

§ 5. 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.

§ 6. Section 14 of chapter 749 of the laws of 2019, relating to 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.

§ 7. Section 163 of the state finance law is amended by adding a new subdivision 16 to read as follows:

16. Consultant services. a. Before a state agency enters into a contract for consultant services which is anticipated to cost more than one million dollars in a twelve month period the state agency shall conduct a cost comparison review to determine whether the services to be provided by the consultant can be performed at equal or lower cost by utilizing state employees, unless the contract meets one of the exceptions set forth in paragraph g of this subdivision. As used in this section, the term "consultant services" shall mean any contract entered into by a state agency for analysis, evaluation, research, training, data processing, computer programming, the design, development and implementation of technology, communications or telecommunications systems or the infrastructure pertaining thereto, including hardware and software, engineering including inspection and professional design services, health services, mental health services, accounting, auditing,

or similar services and such services that are substantially similar to and in lieu of services provided, in whole or in part, by state employees, but shall not include legal services or services in connection with litigation including expert witnesses and shall not include contracts for construction of public works. For purposes of this subdivision, the costs of performing the services by state employees shall include any salary, pension costs, all other benefit costs, costs that are required for equipment, facilities and all other overhead. The costs of consultant services shall include the total cost of the contract including costs that are required for equipment, facilities and all other overhead and any continuing state costs directly associated with a contractor providing a contracted function including, but not limited to, those costs for inspection, supervision, monitoring of the contractor's work and any pro rata share of existing costs or expenses, including administrative salaries and benefits, rent, equipment costs, utilities and materials. The cost comparison shall be expressed where feasible as an hourly rate, or where such a calculation is not feasible, as a total estimated cost for the anticipated term of the contract.

b. Prior to entering any consultation services contract for the privatization of a state service that is not currently privatized, the state agency shall develop a cost comparison review in accordance with the provisions of paragraph a of this subdivision.

c. (i) If such cost comparison review identifies a cost savings to the state of ten percent or more, and such consultant services contract will not diminish the quality of such service, the state agency shall develop a business plan, in accordance with the provisions of paragraph d of this subdivision, in order to evaluate the feasibility of entering any such contract and to identify the potential results, effectiveness and efficiency of such contract.

(ii) If such cost comparison review identifies a cost savings of less than ten percent to the state and such consultant services contract will not diminish the quality of such service, the state agency may develop a business plan, in order to evaluate the feasibility of entering any such contract and to identify the potential results, effectiveness and efficiency of such contract, provided there is a significant public policy reason to enter into such consultant services contract.

(iii) If any such proposed consultant services contract would result in the layoff, transfer or reassignment of fifty or more state agency employees, after consulting with the potentially affected bargaining units, if any, the state agency shall notify the state employees of such bargaining unit, after such cost comparison review is completed. Such state agency shall provide an opportunity for said employees to reduce the costs of conducting the operations to be privatized and provide reasonable resources for the purpose of encouraging and assisting such state employees to organize and submit a bid to provide the services that are the subject of the potential consultant services contact.

d. Any business plan developed by a state agency for the purpose of complying with paragraph c of this subdivision shall include: (i) the cost comparison review as described in paragraph b of this subdivision, (ii) a detailed description of the service or activity that is the subject of such business plan, (iii) a description and analysis of the state agency's current performance of such service or activity, (iv) the goals to be achieved through the proposed consultant services contract and the rationale for such goals, (v) a description of available options for achieving such goals, (vi) an analysis of the advantages and disadvantages of each option, including, at a minimum, potential performance

improvements and risks attendant to termination of the contract or rescission of such contract, (vii) a description of the current market for the services or activities that are the subject of such business plan, (viii) an analysis of the quality of services as gauged by standardized measures and key performance requirements including compensation, turnover, and staffing ratios, (ix) a description of the specific results based performance standards that shall, at a minimum be met, to ensure adequate performance by any party performing such service or activity, (x) the projected time frame for key events from the beginning of the procurement process through the expiration of a contract, if applicable, (xi) a specific and feasible contingency plan that addresses contractor nonperformance and a description of the tasks involved in and costs required for implementation of such plan, and (xii) a transition plan, if appropriate, for addressing changes in the number of agency personnel, affected business processes, employee transition issues, and communications with affected stakeholders, such as agency clients and members of the public, if applicable. Such transition plan shall contain a reemployment and retraining assistance plan for employees who are not retained by the state or employed by the contractor. If any part of such business plan is based upon evidence that the state agency is not sufficiently staffed to provide the services required by the consultant services contract, the state agency shall also include within such business plan a recommendation for remediation of the understaffing to allow such services to be provided directly by the state agency in the future.

e. Upon the completion of such business plan, the state agency shall submit the business plan to the state comptroller.

f. (i) Not later than sixty days after receipt of any business plan, the state comptroller shall transmit a report detailing its review, evaluation and disposition regarding such business plan to the state agency that submitted such cost comparison review. Such sixty-day period may be extended for an additional thirty days upon a showing of good cause.

(ii) The state comptroller's report shall include the business plan prepared by the state agency, the reasons for approval or disapproval, any recommendations or other information to assist the state agency in determining if additional steps are necessary to move forward with a consultant services contract.

(iii) If the state comptroller does not act on a business plan submitted by a state agency within ninety days of receipt of such business plan, such business plan shall be deemed approved.

g. A cost comparison shall not be required if the contracting agency demonstrates:

(i) the services are incidental to the purchase of real or personal property; or

(ii) the contract is necessary in order to avoid a conflict of interest on the part of the agency or its employees; or

(iii) the services are of such a highly specialized nature that it is not feasible to utilize state employees to perform them or require special equipment that is not feasible for the state to purchase or lease; or

(iv) the services are of such an urgent nature that it is not feasible to utilize state employees; or

(v) the services are anticipated to be short term and are not likely to be extended or repeated after the contract is completed; or

(vi) a quantifiable improvement in services that cannot be reasonably duplicated.

h. Nothing in this section shall be deemed to authorize a state agency to enter into a contract which is otherwise prohibited by law.

i. All documents related to the cost comparison and business plan required by this subdivision and the determinations made pursuant to paragraph g of this subdivision shall be public records subject to disclosure pursuant to article six of the public officers law.

§ 8. On or before December 31, 2023 the state comptroller shall prepare a report, to be delivered to the governor, the temporary president of the senate and the speaker of the assembly. Such report shall include, but need not be limited to, an analysis of the effectiveness of the cost comparison review program and an analysis of the cost savings associated with performing such cost comparison.

§ 9. This act shall take effect immediately; provided, however, that sections seven and eight of this act shall take effect on the ninetieth day after it shall have become a law and shall apply to all contracts solicited or entered into by state agencies after such effective date; provided, further, that the amendments to part F of chapter 60 of the laws of 2015 made by sections one, two, three and four of this act shall not affect the repeal of such part and shall be deemed repealed therewith; and provided, further, that the amendments to section 163 of the state finance law made by section seven of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

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 to manufacturing, agricultural, and service funds. A community development financial institution that accepts funds from the Excelsior Linked Deposit Program shall meet the requirements of the State Community Reinvestment Act.

§ 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) "Ceased small business" shall mean a business which was a resident in this state, independently owned and operated, not dominant in its field, and employed one hundred or less persons, that was in operation prior to March 1, 2019 and closed business after June 1, 2020 or later due to demonstratable economic hardships related to COVID-19.

(d) "For-profit independent arts and cultural organization" shall mean a small or medium sized private for-profit, independently operated live-performance venue, promoter, production company, or performance related business located in New York state negatively impacted by COVID-19 health and safety protocols, and having one hundred or less full-time employees, excluding seasonal employees. The qualifying organizations under this definition may include businesses engaged in a field including, but not limited to, architecture, dance, design, film, music, theater, opera, media, literature, museum activities, visual arts, folk arts and casting.

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

(f) "Applicant" shall mean a small business, a ceased small business, or a 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, for-profit independent arts programs and cultural organizations, and ceased small businesses that can show demonstratable COVID-19 losses or expenses which attributed to their demise, to succeed or reopen business 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 or a for-profit independent arts and cultural organization 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) In order to be eligible for a grant or additional form of support under the program, an eligible ceased small business shall:

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

(ii) be able to show they had between five thousand and one million dollars in gross receipts or be able to demonstrate that they had ten thousand dollars in business expenses;

(iii) have been in substantial compliance with applicable federal, state and local laws, regulations, codes and requirements; and

(iv) be current with any federal, state or local taxes, or have an approved repayment, deferral plan, or agreement with appropriate federal, state, and local taxing authorities.

(c) Grants awarded from this program shall be available to:

(i) eligible micro-businesses, small businesses, ceased small businesses, and for-profit independent arts and cultural organizations 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;

(ii) are unable to obtain sufficient business assistance from such federal programs. Receipt of the maximum assistance award from such federal programs including, but not limited to, the Paycheck Protection Program, the Economic Injury Disaster Loan, or the Restaurant Revitalization Fund, shall not exclude a business from eligibility under this program. Priority shall be 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, small businesses, ceased small businesses, and for-profit independent arts and cultural organizations 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, small business, ceased small business, and for-profit independent arts and cultural organization, 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, ceased small business, or for-profit independent arts and cultural organization 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, small businesses, ceased small businesses, and for-profit independent arts and cultural organizations to submit applications to the program. As part of the application each micro-business, small business, ceased small business, and for-profit independent arts and cultural organization, 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~~]; provided however, that the [~~expiration~~] provisions 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~~] the enactment of this act into law.

§ 1-a. Subdivision 25 of section 1678 of the public authorities law is amended by adding a new paragraph (d-1) to read as follows:

(d-1) Notwithstanding any other law, the authority shall not form a subsidiary unless the legislature shall have enacted a law granting specific authorization for each such subsidiary, in addition to the authorization provided in this section.

§ 2. This act shall take effect immediately.

PART EE

Intentionally Omitted

PART FF

Intentionally Omitted

PART GG

Intentionally Omitted

PART HH

Intentionally Omitted

PART II

Intentionally Omitted

PART JJ

Intentionally Omitted

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 department 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. This act enacts into law components of legislation relating to brownfields cleanup and redevelopment projects. Each component is wholly contained within a Subpart identified as Subparts A through C. 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 act sets forth the general effective date of this act.

SUBPART A

Section 1. Subdivision 29 of section 27-1405 of the environmental conservation law, as added by section 2 of part BB of chapter 56 of the laws of 2015, is amended and a new subdivision 32 is added to read as follows:

29. "Affordable housing project" **shall mean either (a) a project as** shall be defined in regulation by the department, after consultation with the division of housing and community renewal, which shall at a minimum, establish the percentage of units in the project that must be below a defined percentage of the area median income**; or (b) a project situated on a brownfield site that is the subject of a determination by a state or local government housing agency that all or a portion of the project or site will qualify for benefits, including but not limited to real property taxation exemptions, under an affordable housing program which defines a percentage of residential rental or home ownership dwelling units to be dedicated to tenants or home owners at a defined maximum percentage or percentages of area median income based on the occupants' households annual gross income. For purposes of this subdivision, "area median income" shall mean the area median income for the primary metropolitan statistical area or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development or its successor for a family of four, as adjusted for family size**.

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 section nine hundred seventy-r of the general municipal law.

§ 2. 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:

1-a. 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 **as described in paragraph (a) of subdivision twenty-nine of section 27-1405 of this title**. 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**~~]**. Notwithstanding the foregoing, a site located in a city having a population of one million or more and which is a conforming BOA site or which is described in paragraph (b) of subdivision twenty-nine of section 27-1405 of this title, shall also be 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.

Sites are not eligible for tangible property tax credits if: (a) the contamination from ground water or soil vapor is solely emanating from property other than the site subject to the present application; or (b) the department has determined that the property has previously been remediated pursuant to titles nine, thirteen and fourteen of this article, title five of article fifty-six of this chapter and article twelve of the navigation law such that it may be developed for its then intended use.

§ 3. Subparagraph (i) of paragraph 3 of subdivision (a) of section 21 of the tax law, as amended by section 1 of part AA of chapter 58 of the laws of 2021, is amended to read as follows:

(i) The tangible property credit component shall be equal to the applicable percentage of the cost or other basis for federal income tax purposes of tangible personal property and other tangible property, including buildings and structural components of buildings, which constitute qualified tangible property and may include any related party service fee paid; provided that in determining the cost or other basis of such property, the taxpayer shall exclude the acquisition cost of any item of property with respect to which a credit under this section was allowable to another taxpayer. A related party service fee shall be allowed only in the calculation of the tangible property credit component and shall not be allowed in the calculation of the site preparation credit component or the on-site groundwater remediation credit component. The portion of the tangible property credit component which is attributable to related party service fees shall be allowed only as follows: (A) in the taxable year in which the qualified tangible property described in subparagraph (iii) of this paragraph is placed in service, for that portion of the related party service fees which have been earned and actually paid to the related party on or before the last day of such taxable year; and (B) with respect to any other taxable year for which the tangible property credit component may be claimed under this subparagraph and in which the amount of any additional related party service fees are actually paid by the taxpayer to the related party, the tangible property credit component for such amount shall be allowed in such taxable year. The credit component amount so determined shall be allowed for the taxable year in which such qualified tangible property is first placed in service on a qualified site with respect to which a certificate of completion has been issued to the taxpayer, or for the taxable year in which the certificate of completion is issued if the qualified tangible property is placed in service prior to the issuance of the certificate of completion. This credit component shall only be allowed for up to one hundred twenty months after the date of the issuance of such certificate of completion[~~, provided, however, that for qualified sites to which a certificate of completion is issued on or after March twentieth, two thousand ten, but prior to January first, two thousand twelve, the commissioner may extend the credit component for up to one hundred forty-four months after the date of such issuance, if the commissioner, in consultation with the commissioner of environmental conservation, determines that the requirements for the credit would have been met if not for the restrictions related to the state disaster emergency declared pursuant to executive order 202 of 2020 or any extension thereof or subsequent executive order issued in response to the novel coronavirus (COVID-19) pandemic~~]**; provided, however, with respect to any qualified site for which the department of environmental conservation**

has issued a notice to the taxpayer before 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, this credit component shall only be allowed for up to one hundred eighty months after the date of the issuance of such certificate of completion; provided, however, with respect to any 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, or which received such notice of acceptance prior to that date but is eligible for the brownfield redevelopment tax credits as if the site was accepted into the brownfield cleanup program after that date as provided in section thirty-three of chapter fifty-six of the laws of two thousand fifteen, this credit component shall only be allowed for up to one hundred eighty months after the date of the issuance of such certificate of completion.

§ 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 the site preparation credit component for such costs shall be allowed for up to seven taxable years after the certificate of completion; and provided further that the credit component amount for any costs necessary for compliance with the certificate of completion or subsequent modifications thereof or the remedial program defined in such certificate which were paid or incurred but not included in the calculation of a credit allowed under this section in any taxable year beginning prior to January first, two thousand twenty-one, shall be allowed for the taxpayer's first taxable year beginning on or after January first, two thousand twenty-one, and the credit component amount for any such costs paid or incurred in any taxable year beginning on or after January first, two thousand twenty-one shall be allowed in the taxable year such costs are paid or incurred for up to seven taxable years after the issuance of the certificate of completion.

§ 5. 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 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, site preparation shall include all costs paid or incurred within eighty-four 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**. 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.

§ 6. Subdivision (b) of section 21 of the tax law is amended by adding a new paragraph 7 to read as follows:

(7) Certain environmental zones (EN-Zones). An "environmental zone" shall mean, with respect to any 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:

(A) an area designated as such by the commissioner of labor. Such areas shall be census tracts that satisfy either of the following criteria:

(i) areas that have both:

(I) a poverty rate of at least twenty percent based on the most recent five year American Community Survey; and

(II) an unemployment rate of at least one and one-quarter times the statewide unemployment rate based on the most recent five year American Community Survey, or;

(ii) areas that have a poverty rate of at least two times the poverty rate for the county in which the areas are located based on the most recent five year American Community Survey.

(iii) Such designation shall be made and a list of all such environmental zones shall be established by the commissioner of labor based on the most recent American Community Survey, or its successor.

(B) an area designated by the commissioner of the department of environmental conservation to be a potential environmental justice area.

(i) "Potential environmental justice area" means a minority or low-income community that may bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies and which are shown on maps created by the department of environmental conservation.

(ii) "Minority community" means a census block group, or contiguous area with multiple census block groups, having a minority population equal to or greater than 51.1 percent in an urban area and 33.8 percent in a rural area of the total population.

(iii) "Minority population" means a population that is identified or recognized by the United States Census Bureau as Hispanic, African-American or Black, Asian and Pacific Islander or American Indian.

(iv) "Low-income community" means a census block group, or contiguous area with multiple census block groups, having a low-income population equal to or greater than 23.59 percent of the total population.

(v) "Low-income population" means a population having an annual income that is less than the poverty threshold, as such thresholds are established by the United States Census Bureau.

(vi) "Census block group" means a unit for the United States census used for reporting. Census block groups generally contain between two hundred fifty and five hundred housing units.

(vii) "Urban area" means all territory, population, and housing units located in urbanized areas and in places of two thousand five hundred or more inhabitants outside of an urbanized area. An urbanized area is a continuously built-up area with a population of fifty thousand or more.

(viii) "Rural area" means territory, population, and housing units that are not classified as an urban area. The determination whether a site is located in an environmental zone pursuant to this subdivision shall be based on the date the department of environmental conservation issued a notice to the taxpayer that its request for participation in the brownfield cleanup program has been deemed complete pursuant to subdivision three of section 27-1407 of the environmental conservation law; provided, however, if the area in which a site is located is designated an environmental zone subsequent to the issuance of such notice and before qualified tangible property as defined in paragraph three of this subdivision is placed in service, then the site shall be deemed located in an environmental zone.

§ 7. 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~~] **2027**, provided, however that any sites accepted on or before December 31, [~~2022~~] **2027** must have received the certificate of completion required to qualify for any of such credits on or before [~~March~~] **December** 31, [~~2026~~] **2031**.

§ 8. A site which is in a potential environmental justice area, as defined in clause (i) of subparagraph (B) of paragraph 7 of subdivision (b) of section 21 of the tax law, as of the effective date of this act shall be deemed to be in an environmental zone from and after January 1, 2021 for all purposes including but not limited to the site's eligibility for the tangible property credit component under subdivision 1-a of section 27-1407 of the environmental conservation law and the calculation of the brownfield redevelopment tax credit pursuant to section 21 of the tax law as amended by this act for all taxable years beginning on or after January 1, 2021.

§ 9. This act shall take effect immediately; provided, however:

(a) the amendments made by sections one and two of this act shall apply to sites for which the department of environmental conservation has issued a notice to the applicant that its request for participation has been accepted under subdivision 6 of section 27-1407 of the environmental conservation law, regardless of the date of such notice; provided, however, that the amendments made by section two of this act regarding eligibility for the tangible property credit component of the brownfield redevelopment tax credit under paragraph 3 of subdivision (a) of section 21 of the tax law shall apply to taxable years beginning on and after January 1, 2021; and

(b) a site which is in a potential environmental justice area as of such effective date shall be deemed to be in an environmental zone from and after January 1, 2021 for all purposes including but not limited to the site's eligibility for the tangible property credit component under subdivision 1-a of section 27-1407 of the environmental conservation law and the calculation of the brownfield redevelopment tax credit pursuant to section 21 of the tax law as amended by this act for all taxable years beginning on and after January 1, 2021.

SUBPART B

Section 1. Subparagraphs (i) and (iv) of paragraph 3 of subdivision (a) of section 21 of the tax law, subparagraph (i) as amended by section 1 of part AA of chapter 58 of the laws of 2021, subparagraph (iv) as amended by section 17 of part BB of chapter 56 of the laws of 2015, are amended to read as follows:

(i) The tangible property credit component shall be equal to the applicable percentage of the cost or other basis for federal income tax purposes of tangible personal property and other tangible property, including buildings and structural components of buildings, which constitute qualified tangible property and may include any related party service fee paid; provided that in determining the cost or other basis of such property, the taxpayer shall exclude the acquisition cost of any item of property with respect to which a credit under this section was allowable to another taxpayer**; and provided further that for the purposes of this section, starting with taxable year two thousand eighteen, stadiums, parks, basketball courts and other recreational facilities shall be considered buildings, and that components of stadiums, parks, basketball courts, and other recreational facilities including sports field turf, site lighting, parking lots, sidewalks, access and entry ways, and other improvements not directly to or added to land shall be considered structural components of buildings under the internal revenue code, and shall be included in the definition of tangible property for the purposes of this section, and shall not be considered on the basis of real property**. A related party service fee shall be allowed only in the calculation of the tangible property credit component and shall not be allowed in the calculation of the site preparation credit component or the on-site groundwater remediation credit component. The portion of the tangible property credit component which is attributable to related party service fees shall be allowed only as follows: (A) in the taxable year in which the qualified tangible property described in subparagraph (iii) of this paragraph is placed in service, for that portion of the related party service fees which have been earned and actually paid to the related party on or before the last day of such taxable year; and (B) with respect to any other taxable year for which the tangible property credit component may be claimed under this subparagraph and in which the amount of any additional related party service fees are actually paid by the taxpayer to the related party, the tangible property credit component for such amount shall be allowed in such taxable year. The credit component amount so determined shall be allowed for the taxable year in which such qualified tangible property is first placed in service on a qualified site with respect to which a certificate of completion has been issued to the taxpayer, or for the taxable year in which the certificate of completion is issued if the qualified tangible property is placed in service prior to the issuance of the certificate of completion. This credit component shall only be allowed for up to one hundred twenty months after the date of the issuance of such certificate of completion, provided, however, that for qualified sites to which a certificate of completion is issued on or after March twentieth, two thousand ten, but prior to January first, two thousand twelve, the commissioner may extend the credit component for up to one hundred forty-four months after the date of such issuance, if the commissioner, in consultation with the commissioner of environmental conservation, determines that the requirements for the credit would have been met if not for the restrictions related to the state disaster emergency declared pursuant to executive order 202 of 2020 or any extension thereof or subsequent executive order issued in response to the novel coronavirus (COVID-19) pandemic.

(iv) Eligible costs for the tangible property credit component are limited to costs for tangible property that has a depreciable life for federal income tax purposes of [~~fifteen~~] **four** years or more, costs associated with demolition and excavation on the site and the foundation of

any buildings constructed as part of the site cover that are not properly included in the site preparation component and costs associated with non-portable equipment, machinery and associated fixtures and appurtenances used exclusively on the site, whether or not such property has a depreciable life for federal income tax purposes of [~~fifteen~~] **four** years or more.

§ 2. This act shall take effect immediately.

SUBPART C

Section 1. Section 220 of the labor law is amended by adding a new subdivision 2-b to read as follows:

2-b. Nothing in this section shall be construed to exclude a project that is situated on a brownfield site as defined in subdivision two of section 27-1405 of the environmental conservation law that is otherwise subject to the provisions of subdivision two of this section.

§ 2. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section, subpart or part of this act shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, subpart 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 Subparts A through C of this act shall be as specifically set forth in the last section of such Subparts.

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 enti-

ties 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~~] **six** billion dollars [~~($3,000,000,000)~~] **($6,000,000,000)** 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); capital grants to communities not less than four hundred million dollars ($400,000,000); renewable heating and cooling and weatherization for low- and moderate-income households not less than one billion dollars ($1,000,000,000); and zero emission school and transit buses and EV charging infrastructure for buses and passenger vehicles not less than one billion dollars ($1,000,000,000)**.

§ 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~~] **six** billion dollars [~~($3,000,000,000)~~] **($6,000,000,000)** 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~~] **six** billion dollars [~~($3,000,000,000)~~] **($6,000,000,000)** 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~~] **six** billion dollars [~~($3,000,000,000)~~] **($6,000,000,000)** 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~~] **six** 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; provided, however, that sections 1, 2 and 3 of section 1 of part TT of chapter 59 of the laws of 2021, as amended by section one of this act, shall take effect on the same date and the same manner as such part of such chapter of the laws of 2021, takes effect.

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 and two new subdivisions 16 and 17 are added 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.

16. "Prevailing wage" for the purposes of this article, means compliance with sections two hundred twenty and two hundred thirty-one of the labor law.

17. "Project labor agreement" for purposes of this article means a pre-hire collective bargaining agreement with a bona fide building and construction trade labor organization establishing the labor organization as the collective bargaining representative for all persons who will perform construction work on a project associated with this article, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform project work.

§ 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.

5. Not less than four hundred million dollars ($400,000,000) for capital grants to communities as set forth in title eleven of this article.

6. Not less than one billion dollars ($1,000,000,000) for renewable heating and cooling and weatherization of low- to moderate-income households as set forth in title thirteen of this article.

7. Not less than one billion dollars ($1,000,000,000) for purchase of or conversion to zero emission school and transit buses and EV charging infrastructure for buses and passenger vehicles as set forth in title fifteen 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**, and not less than five hundred million dollars ($500,000,000) shall be available for flood risk reduction projects for purposes of climate change adaptation pursuant to 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. Title 11 of article 58 of the environmental conservation law, is renumbered title 17, sections 58-1701 and 58-1703 as added by section 1 of part UU of chapter 59 of the laws of 2021, are amended and four new titles 11, 13, 15 and 19 are added to read as follows:

TITLE 11

RENEWABLE ENERGY SYSTEMS, MICROGRIDS AND URBAN HEAT EFFECTS

Section 58-1101. Allocation of moneys.
58-1103. Programs, plans and projects.

§ 58-1101. 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 four hundred million dollars ($400,000,000) shall be available for disbursements for capital grants to communities pursuant to section 58-1103 of this title.

§ 58-1103. Programs, plans and projects.

Projects eligible for capital grants to communities include renewable energy systems as defined by section sixty-six-p of the public service law that are community-owned, creation and expansion of local renewable energy microgrids and projects to reduce, mitigate or adapt to urban heat effects. For purposes of this section, "communities" eligible for funding shall include municipalities, Indian nations and non-profit community organizations.

TITLE 13
RENEWABLE HEATING AND COOLING FOR LOW- AND MODERATE-INCOME HOUSEHOLDS

Section 58-1301. Allocation of moneys.
58-1303. Programs, plans and projects.

§ 58-1301. 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 dollars ($1,000,000,000) shall be available for disbursement for renewable heating and cooling and weatherization for low- and moderate-income households pursuant to section 58-1303 of this title.

§ 58-1303. Programs, plans and projects.

Projects eligible for funding pursuant to this title include the following:

1. Costs associated with installation of renewable heating and cooling systems in low- and moderate-income households.

2. Costs associated with weatherization of low- and moderate-income households.

TITLE 15
ELECTRIC SCHOOL AND TRANSIT BUSES AND EV CHARGING INFRASTRUCTURE

Section 58-1501. Allocation of moneys.
58-1503. Programs, plans and projects.

§ 58-1501. 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 dollars ($1,000,000,000) shall be available for disbursement for zero emission school and transit buses and EV charging infrastructure pursuant to section 58-1503 of this title.

§ 58-1503. Programs, plans and projects.

Projects eligible for funding pursuant to this title include the following:

1. Costs associated with purchase of or conversion to zero emission school and transit buses.

2. Costs associated with installation of EV charging infrastructure for buses and passenger vehicles.

§ 58-1701. Benefits of funds.

The department shall make every effort practicable to ensure that thirty-five percent of the funds pursuant to this article benefit [~~environmental justice~~] disadvantaged communities.

§ 58-1703. Reporting.

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.

2. No later than one hundred twenty days following the end of each fiscal year, the department shall submit to the governor, the temporary president of the senate, and the speaker of the assembly a report that includes the information received. A copy of the report shall be posted on the department's website.

TITLE 19
LABOR STANDARDS

Section 58-1901. Labor standards.

§ 58-1901. Labor standards.

1. Projects funded pursuant to this title shall require compliance with prevailing wage.

2. Projects funded pursuant to this title shall require use of apprenticeship agreements as defined by article twenty-three of the labor law.

3. (a) Any state entity or municipality receiving at least five million dollars ($5,000,000) from funds allocated pursuant to this article for a project which involves the construction, reconstruction, alteration, maintenance, moving, demolition, excavation, development or other improvement of any building, structure or land, shall be subject to section two hundred twenty-two of the labor law.

(b) Any privately owned project receiving funds allocated pursuant to this title which utilizes a project labor agreement on such project shall not be subject to article eight of the labor law.

4. If determined applicable, a municipality or state entity may require that the private owner of a project, or a third party acting on the owner's behalf, enter into a labor peace agreement with at least one bona fide labor organization either: (a) where such bona fide labor organization is actively representing non-construction employees; or (b) upon notice by a bona fide labor organization that is attempting to represent non-construction employees. For purposes of this section "labor peace agreement" means an agreement between an entity and labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference.

5.(a) Any municipality or state entity, or a third party acting on behalf and for the benefit of the municipality or state entity, in each contract for construction, reconstruction, alteration, repair, improvement or maintenance of a covered project under this article that is a public work, shall ensure that such contract contains a provision that the iron and structural steel used or supplied in the performance of the contract or any subcontract thereto and that is permanently incorporated into the public work, shall be produced or made in whole or substantial part in the United States, its territories or possessions. In the case of a structural iron or structural steel product, all manufacturing must take place in the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving the refinement of steel additives. For the purposes of this subdivision, "permanently incorporated" shall mean an iron or steel product that is required to remain in place at the end of the project contract, in a fixed location, affixed to the public work to which it was incorporated.

Iron and steel products that are capable of being moved from one location to another are not permanently incorporated into a public work.

(b) The provisions of paragraph (a) of this subdivision shall not apply if the head of the department or agency constructing the public work, in his or her sole discretion, determines that the provisions would not be in the public interest, would result in unreasonable costs, or that obtaining such steel or iron in the United States would increase the cost of the contract by an unreasonable amount, or such iron or steel, including without limitation structural iron and structural steel, cannot be produced or made in the United States in sufficient and reasonably available quantities and of satisfactory quality. The head of the department or agency constructing the public work shall include this determination in an advertisement or solicitation of a request for proposal, invitation for bid, or solicitation of proposal, or any other method provided for by law or regulation for soliciting a response from offerors intending to result in a contract pursuant to this subdivision. The provisions of paragraph (a) of this subdivision shall not apply for equipment purchased by a covered renewable energy system prior to the effective date of this title.

§ 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 multiplying 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 and because of the recent curtailment of federal wetland protections**.

3. Recurrent flooding aggravated or caused by the loss of freshwater wetlands has serious effects upon natural ecosystems. **The increasing severity and duration of storm-related flooding due to climate change, which has caused billions of dollars of property damage in 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) preservation of plant species that are rare, endangered or threatened, or exploitably vulnerable as defined in section 9-1503 of this chapter; and

(k) preservation 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 will serve the purpose of educating the public on the approximate location of wetlands, are for educational purposes only, and are not controlling for purposes of determining if a wetlands permit is required pursuant to section 24-0701 of this article.**

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 an area designated as a special flood hazard area on the most current federal emergency management agency flood insurance rate map that has experienced significant flooding in the past;

(b) it contains occupied habitat or habitat for an essential behavior, as confirmed by the department, of an endangered or threatened species or a species of special concern as defined under section 11-0535 of this chapter and/or listed as a species of greatest conservation need in New York's wildlife action plan;

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

(d) it is classified by the department as a Class II wetland and the department determines based on criteria established by regulation that its wetland functions and values are of local or regional significance; or

(e) it was previously classified and mapped by the department as a wetland of unusual local importance.

10. "Delineation" shall mean a precise description of a regulated freshwater wetland as defined in subdivisions one and three of this section, including the regulated adjacent area with sufficient scale and clarity to permit ready identification.

§ 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, upon notice in a form and manner to be determined by the department to the property owner or owners affected, 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 prior to the filing of the delineation of a freshwater wetland boundary 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 or her 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 and the regulated freshwater wetland adjacent area as set forth in subdivision two of section 24-0701 of this article. [~~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~~] **file any delineation of a wetland boundary made or accepted by the department and such delineation shall be effective and binding for a period of five years from the date such delineation is filed. The commissioner shall supervise the filing and maintenance of delineations, which shall be made available to the public on the department's website**.

[~~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 **and delineations** available [~~for public inspection and examination at its headquarters~~] **on the agency's website**.

§ 5. Subdivisions 1, 2 and 4 of section 24-0701 of the environmental conservation law, subdivisions 1 and 2 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 on freshwater wetlands [~~as so designated thereon~~] **or on the regulated freshwater wetland adjacent area as set forth in subdivision two of this section** any of the regulated activities set forth in subdivision two of this section must obtain a permit as provided in this title.

2. Activities subject to regulation shall include any form of draining, dredging, excavation, removal of soil, mud, sand, shells, gravel or other aggregate from any freshwater wetland, either directly or indirectly; and any form of dumping, filling, or depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind, either directly or indirectly; erecting any structures, roads, the driving of pilings, or placing of any other obstructions whether or not changing the ebb and flow of the water; any form of pollution, including but not limited to, installing a septic tank, running a sewer outfall, discharging sewage treatment effluent or other liquid wastes into or so as to drain into a freshwater wetland; and any other activity which substantially impairs any of the several functions served by freshwater wetlands or the benefits derived therefrom which are set forth in section 24-0105 of this article. These activities are subject to regulation whether or not they occur upon the wetland itself, if they impinge upon or otherwise substantially affect the wetlands and are located**: (a)** not more than one hundred feet from the boundary of [~~such~~] **a** wetland**: (i) that has an area of at least twelve and four-tenths acres; (ii) that is a wetland of unusual importance and has an area of at least ten acres; (iii) that is classified as a Class I wetland by the department and has an area of at least five acres; or (iv) that was previously classified and mapped by the department as a wetland of unusual local importance; (b) not more than fifty feet from the boundary of a wetland if it is a wetland of**

unusual importance and has an area of at least five acres and less than ten acres; and (c) not more than twenty-five feet from the boundary of a wetland if it is a wetland of unusual importance and has an area of less than five acres. Provided, that a greater distance from any such wetland may be regulated pursuant to this article by the appropriate local government or by the department, whichever has jurisdiction over such wetland, where necessary to protect and preserve the wetland.

4. [~~The~~] On lands in active agricultural or silvicultural 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.

§ 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 and whether a permit under subdivision one of this section is required for a proposed activity. 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~~] and whether a permit is required for the proposed activity. 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. Paragraph (c) of 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:

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

§ 10. 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 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 **and for each day every such violation occurs**, 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. Such penalty 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 with 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 **or she** 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 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.

§ 11. 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 **or her** 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**.

§ 12. This act shall take effect immediately, provided, however, that sections two, three, four, five, six, seven and eight of this act shall take effect on January 1, 2023.

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 covered material and product producers to undertake the 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 products, 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. Producer Responsibility advisory board.
27-3305. Producer responsibilities.
27-3307. Funding mechanism.
27-3309. Producer responsibility plan and needs assessment.
27-3311. Producer responsibility plan approval.
27-3313. Collection and convenience.
27-3315. Outreach and education.
27-3317. Reporting requirements and audits.
27-3319. Antitrust protections.
27-3321. Penalties.
27-3323. State preemption.
27-3325. Authority to promulgate rules and regulations.
27-3327. Other assistance programs.
27-3329. Severability.

§ 27-3301. Definitions.

As used in this title:

1. "Covered materials and products" shall include, but are not limited to, the following classes of materials:

(a) Containers and packaging: any part of a package or container, regardless of recyclability, that includes material used for the containment, protection, handling, delivery, or presentation of goods that are sold, offered for sale, or distributed to consumers, via retail commerce, in the state, including through an internet transaction. This class includes all flexible, foam, or rigid material, including but not limited to paper, carton, plastic, glass, or metal, and any combination of such materials that:

(i) is intended at point of sale to contain, protect, wrap, present, or deliver products from the responsible party to the ultimate user or consumer, including tertiary packaging used for transportation or distribution directly to a consumer;

(ii) is intended for single or short-term use and designed to contain, protect or wrap products, including secondary packaging intended for the consumer market; or

(iii) does not include packaging used for the long-term protection or storage of a product or with a life of not less than five years.

(b) Paper products: this class includes:

(i) paper and other cellulosic fibers;

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

(iii) paper of any description, including but not limited to:

(1) flyers;

(2) brochures;

(3) booklets;

(4) catalogs;
(5) telephone directories;
(6) paper fiber; and
(7) paper used for writing or any other purpose.
(c) Single-use plastics: this class includes plastic products as determined by the department through regulations, that frequent the residential waste stream or are plastic products that have the effect of severely disrupting recycling processes, including, but not limited to, single use plastic items such as straws, utensils, cups, plates, and plastic bags. The producer responsibility organization or advisory board may also make recommendations to the department regarding single-use plastics that should be covered under this title.
(d) For the purpose of this title, the products covered designation does not include the following:
(i) covered materials or products that could become unsafe or unsanitary to recycle by virtue of their anticipated use;
(ii) periodicals, magazines, newspapers or literary, text, and reference bound books;
(iii) beverage containers as defined in section 27-1003 of this article on which a deposit is required to be initiated;
(iv) architectural paint containers collected and managed pursuant to title twenty of this article;
(v) medical devices and covered materials and 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;
(vi) 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;
(vii) covered materials used to contain toxic or hazardous materials, or 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.
2. "Curbside recycling" means a recycling program that serves residential units, or schools, state or local agencies, or institutions where such schools, state or local agencies, 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.
3. "Post-consumer material" means only those covered products or materials generated by a business or consumer which have served their intended end use as consumer items and which have been separated or diverted from the waste stream for the purposes of collection and recycling as a secondary material feedstock, but shall not include waste material generated during or after the completion of a manufacturing or converting process.
4. "Post-consumer recycled content" means the content of a product made from post-consumer recycled materials or feedstock.
5. "Producer" means an entity that shall be determined to be the producer, for the purposes of this title, based on the following hierarchy:

(a) the person or company who uses the covered material or product under such person's own name or brand and who sells or offers for sale the product that uses covered material in the state; or

(b) the person or company who imports the product that uses covered material as the owner or licensee of a trademark or brand under which the product is sold or distributed in the state; or

(c) the person or company that offers for sale, sells, or distributes the product that uses the covered material or product in the state.

A producer shall not include a municipality or a local government planning unit, or a registered 501(c)(3) charitable organization or 501(c)(4) social welfare organization.

6. "Producer responsibility organization" means a not-for-profit organization designated by a group of producers to act as an agent on behalf of each producer to develop and implement a producer responsibility plan, or a registered 501(c)(3) charitable organization. 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.

7. "Readily-recyclable" means covered materials or products included in the minimum recyclables list pursuant to subdivision 5 of section 27-3313 of this title. Readily-recyclable does not include materials that contain toxic substances, as defined in this title.

8. "Recovery" means the diversion of covered materials or products that might be disposed of or become waste.

9. "Recovery rate" means the amount of covered materials or products recovered over a program year divided by the amount of product produced, expressed as a percentage.

10. "Recycling" means reprocessing, by means of a manufacturing process, of a used material into a product, a component incorporated into a product, or a secondary (recycled) raw material. "Recycling", for purposes of this title, does not include energy recovery or energy generation by means of combustion, use as a fuel, or landfill disposal of discarded covered materials or products or discarded product component materials or chemical conversion processes, as determined by the department to not qualify in the state as recycling.

11. "Recycling rate" means the percentage of discarded covered materials or products that is managed through recycling or reuse, as defined by this title, and is computed by dividing the amount of discarded covered products recycled or reused by the total amount of discarded covered products collected over a program year.

12. "Reuse" means selling a discarded covered product back into the market for its original intended use, when the discarded covered product retains its original performance characteristics and can be used for its original purpose or covered materials or products that are intended to be refilled for the same or similar purpose by the producer.

13. "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.

14. "Toxic substance" means any intentionally added chemicals classified by the European Union as carcinogens, mutagens, or reproductive toxicants pursuant to Category 1A or 1B in Annex VI to Regulation (EC) 1272/2008 or any substance which is identified or listed as a hazardous waste or acute hazardous waste in regulations promulgated pursuant to section 27-0903 of this article.

§ 27-3303. Producer responsibility advisory board.

1. There is hereby established within the department a producer responsibility advisory board, hereinafter the advisory board, to receive and review the producer responsibility plans required under this title and to make recommendations to the department regarding the plan's approval.

2. (a) The advisory board shall be composed of an odd number of members and the commissioner shall appoint at least one member from each of the following: a municipality association or municipal recycling program, including an additional municipal representative from cities with a population of one million or more residents; a statewide environmental organization; a representative of environmental justice communities or organizations; a statewide waste disposal association; a materials recovery facility located within the state of New York; a recycling collection provider; a manufacturer of packaging materials utilizing post-consumer recycled content; a manufacturer of paper materials utilizing post-consumer recycled content; a consumer advocate; a retailer; a public health specialist; and a producer or producer responsibility organization established under this title as non-voting members.

(b) Appointments to the advisory board shall be made no later than one year after the effective date of this title.

3. The advisory board shall meet at least once a year by the call of the chair or by request of more than half the voting members.

4. (a) Each producer responsibility plan prepared by a producer or producer responsibility organization pursuant to this title shall be submitted to the advisory board, which shall consider whether the plan meets the criteria and objectives of this title.

(b) The advisory board shall, within ninety days of the submission of the producer responsibility plan, either: (i) forward the plan to the commissioner with its recommendation for approval; or (ii) forward the plan to the commissioner with its disapproval and stated reasons therefor, including any recommended changes to the plan necessary for approval.

(c) A producer responsibility organization may resubmit a producer responsibility plan for approval at any time. Upon such resubmission, the advisory board shall, within ninety days, forward the plan to the commissioner with its recommendation for approval or disapproval.

5. The advisory board shall review the submitted annual reports and make such recommendations to the department and the producer responsibility organization for improving the plan.

6. The decisions of the advisory board shall be by vote of the majority of its membership.

§ 27-3305. Producer responsibilities.

1. Within four years after the effective date of this title, no producer shall sell, offer for sale, or distribute covered materials or products for use in New York unless the producer, or a producer responsibility organization acting as their designated agent, has a producer responsibility plan approved by the department, upon the recommendation of the advisory board. Producers may satisfy participation obligations individually or jointly with other producers or through a producer responsibility organization.

2. Producers or a producer responsibility organization shall meet jointly with the advisory board at least annually.

3. The producer, or a producer responsibility organization shall be responsible for producers' compliance with the requirements of this title, including the preparation and implementation of a producer

responsibility plan, the preparation and submission of annual audits, and the annual reports to the department.

4. Within the first four years after the department approves a producer responsibility plan, producers shall be required to report, on an annual basis, progress reports describing in detail progress towards meeting or exceeding the recovery, recycling, and post-consumer recycled content rates by material type. Such progress reports shall also include an evaluation of whether they are on target to meet the approved recovery, recycling, and post-consumer recycled content rates by material type. If a producer or producer responsibility organization is not on target to meet the minimum post-consumer recycled material content rates, minimum recovery or recycling rates, or other required components of the plan, the department, in consultation with the advisory board, shall require an approved producer responsibility plan to be revised or require the producer or producer responsibility organization to implement additional measures.

5. Within five years after the department approves the producer responsibility plan, producers shall be required to meet the minimum recovery, recycling and post-consumer recycled material content rate for a covered material or product as approved by the department in the producer responsibility plan.

6. If the department has required a producer or producer responsibility organization to revise their plan or meet additional measures due to failure to meet required rates established under the plan, the department may, after a reasonable period of time to take corrective action to cure the defaults or deficiencies, impose penalties.

7. A producer shall be exempt from the requirements of this title if the producer:

(a) Generates less than one million dollars in annual revenues;

(b) Generates less than one ton of covered materials or products supplied to New York state residents per year; or

(c) Operates as a single point of retail sale and is not supplied or operated as part of a franchise.

8. Retailers that are not producers are exempt from the requirements of this title.

9. Producers may comply individually or may form a producer responsibility organization and discharge their responsibilities to such organization.

10. The department shall establish regulations to allow voluntary agreements to be made between responsible parties to permit a responsible party to convey a different order of responsibility than defined in subdivision 5 of section 27-3301 of this title as long as both parties agree to the change in the hierarchy of responsibility.

§ 27-3307. Funding mechanism.

1. A producer or producer responsibility organization acting as their agent shall establish program participation charges for producers through the producer responsibility plan pursuant to section 27-3309 of this title which shall be sufficient to ensure the obligations of the statewide needs assessment and the producer responsibility plan are met.

2. A producer responsibility organization shall structure program charges to provide producers with financial incentives, to reward waste and source reduction and recycling compatibility innovations and practices, and to disincentivize designs or practices that increase costs of managing the products or which contain toxic substances. The producer responsibility organization may adjust charges to be paid by participat-

ing producers based on factors that affect system costs. At a minimum, charges shall be variable based on:

(a) Costs to provide curbside collection or other form of residential service that is, at minimum, as convenient as curbside collection or as convenient as the previous recycling collection plan in the particular jurisdiction or as convenient as the previous refuse collection plan in the particular jurisdiction should recycling collection not be provided;

(b) Costs to process a producer's covered materials or products for acceptance by secondary material markets;

(c) Whether the covered material or 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, and adhesives containing heavy metals or other toxic substances that would contaminate the recycling process;

(d) Whether the covered materials or product is specifically designed to be reusable or refillable and has high reuse or refill rate;

(e) the commodity value of a covered material or product.

3. The charges shall be adjusted, or the producers may be provided a credit, based upon the percentage of post-consumer recycled material content and such percentage of post-consumer recycled content shall be verified by the producer responsibility organization or through an independent third party approved to perform verification services to ensure that such percentage exceeds the minimum requirements in the covered material, as long as the recycled content does not disrupt the potential for future recycling.

4. In addition to the annual schedule of fees approved in the producer responsibility plan, the producer responsibility organization fee schedule may include a special assessment on specific categories of covered materials or products at the request of responsible entities representing and approved by the advisory board if the nature of the covered material or 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 materials or products on which the special assessment was applied.

5. A producer responsibility organization shall be responsible for calculating and dispersing funding at a reasonable recycling program funding rate through an objective formula approved by the department, and such reasonable rate may be varied based on population density rates, for municipal services utilized by a producer responsibility organization if the municipality elects to be compensated by the producer responsibility organization in the recovery, recycling, and processing of covered materials and products, whether such services are provided directly by the municipality or through a contracted service provider. If a municipality does not elect to provide service, and has given notice to the department of its intent, the producer responsibility organization shall be responsible for contracting with a private entity for services and shall be responsible for calculating and disbursing funding at a reasonable recycling program rate for collection, recycling, recovery, and processing services provided by the private sector entity contracted to provide such services. The program funding mechanism shall be based on the cost of residential curbside collection, including the cost of curbside containers where relevant, as well as processing cost for each readily-recyclable material, cost of handling non-readily recyclable material types collected as part of a

recycling operation, transportation cost of recycling for each material type, and any other cost factors as determined by the department. To facilitate the producer responsibility organization's determination of the reasonable cost of recycling, participating municipalities and private sector haulers contracting with producer responsibility organizations shall report data related to their costs and the value of materials to the producer responsibility organization. Cost calculations shall take into consideration the amount received from the sale of source separated materials.

6. Any funds directly collected pursuant to this title shall not be used to carry out lobbying activities on behalf of the producer responsibility organization.

7. No retailer may charge a point-of-sale or other fee to consumers to facilitate a producer to recoup the costs associated with meeting the obligations under this title.

8. Nothing in this title shall require a municipality to participate in a producer responsibility program.

9. The department shall make such rules and regulations which may be necessary for a producer responsibility organization to develop and manage a funding mechanism.

§ 27-3309. Producer responsibility plan and needs assessment.

1. A statewide needs assessment shall be conducted prior to the approval of a producer responsibility plan. The statewide needs assessment shall be funded by the producers or producer responsibility organization, and shall be conducted by an independent third party approved by the department and shall include an evaluation of the capacity, costs, gaps, and needs for the following factors:

(a) Current funding needs, both operational and capital, impacting recycling access and availability;

(b) Existing state statutory provisions and funding sources for recycling, reuse, reduction, and recovery;

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

(d) 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;

(e) The market conditions and opportunities for recyclable materials in the state and regionally;

(f) Consumer education needs for recycling, reuse, and reduction of covered materials and products.

2. Producers, or a producer responsibility organization acting as their designated agent, shall develop and submit a producer responsibility plan to the advisory board. Such plan shall cover five years and shall be reviewed by the advisory board 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 pursuant to section 27-3305 of this title. The advisory board shall also have the discretion to recommend revision of the plan to the department. The submitted plan shall include, but not be limited to:

(a) contact information of the producer responsibility organization and the producer or producers covered under the plan;

(b) a description of how comments of stakeholders were considered and, if applicable, addressed in the development of the plan;

(c) a comprehensive list of the covered materials or products for which the producer or producer responsibility organization is responsi-

ble for, which shall be included in the minimum recyclable lists pursuant to section 27-3313 of this title;

(d) a funding mechanism that allocates the costs to the producers to meet the requirements of this title and is sufficient to cover the cost of registering, operating and updating the plan, and maintaining a financial reserve sufficient to operate the program in a fiscally prudent and responsible manner;

(e) an objective formula establishing a reimbursement rate, which covers obligations identified in the needs assessment and takes into account variable regional costs, for participating municipalities or private sector haulers;

(f) a description of the process for participating municipalities or private sector haulers to recoup reasonable costs as established by the objective formula, from the producer or producer responsibility organization, including, as applicable, any administrative, sorting, collection, transportation, public education, or processing costs, if the producer responsibility organization uses existing services through a municipality or obtains such services from a private sector hauler;

(g) a detailed description of how the producer or the producer responsibility organization, consulted with the advisory board in the development of the plan prior to its submission to the department, and to what extent the producers or the producer responsibility organization specifically incorporated the advisory board's input into the plan. Producers or the producer responsibility organization shall also provide the advisory board a reasonable period of time to review and comment upon the draft plan prior to its submission to the department. Producers or the producer responsibility organization shall make an assessment of comments received and shall provide a summary and an analysis of the issues raised by the advisory board and significant changes suggested by any such comments, a statement of the reasons why any significant changes were not incorporated into the plan, and a description of any changes made to the plan as a result of such comments;

(h) a proposed minimum post-consumer recycled material content rate requirement, minimum recovery, and minimum recycling rate for covered materials and products. The minimum rates shall be varied for each covered material and shall include paper products, glass, metal, and plastic;

(i) a description of a public education program pursuant to section 27-3313 of this title;

(j) how the producers, or the producer responsibility organization, will work with existing waste haulers, material recovery facilities, recyclers, and municipalities to operate or expand current collection programs to address material collection methods;

(k) a description of how producers or the producer responsibility organization will use open, competitive, and fair procurement practices should they directly enter into contractual agreements with service providers, including municipalities and private entities;

(l) a description of how a municipality will participate, on a voluntary basis, with collection and how existing municipal recycling processing and collection infrastructure will be used;

(m) a description of how the producer, or producer responsibility organization, plans to meet the convenience requirements set forth in this title;

(n) a description of how the producer, or producer responsibility organization, will meet or exceed the minimum rates required under this title for covered materials or product;

(o) a description of the process for end-of-life management, including recycling and disposal of residuals collected for recycling, using environmentally sound management practices;

(p) 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;

(q) a description of how a producer responsibility organization will work with producers to reduce packaging through product design, systems for reusable packaging, and program innovations;

(r) a description of how a producer responsibility organization will strategically invest in existing and future reuse and recycling infrastructure and market development in the state, including, but not limited to, installing or upgrading equipment to improve sorting of covered materials and products or mitigating the impacts of covered materials and products to other commodities at existing sorting and processing facilities, and capital expenditures for new technology, equipment, and facilities;

(s) a process to address concerns and questions from customers and residents; and

(t) any other information as specified by the department through regulations.

3. The department shall promulgate a registration fee schedule to cover administrative costs, including a schedule for re-evaluating the fee structure on an annual basis and shall consider if fees should be adjusted. Such fees collected by the department shall only be used for the implementation, operation, and enforcement of this title, including approved costs associated with the advisory board.

§ 27-3311. Producer responsibility plan approval.

1. Before rejection or approval of a producer responsibility plan can be made in accordance with this title, the producer or producer responsibility organization shall submit the plan to the producer responsibility advisory board.

2. Within sixty days of the advisory board making a recommendation to the department, the department shall make a determination to approve the plan as submitted; approve the plan with conditions; or deny the plan, with reasons for the denial. The advisory board in recommending, and the department in approving a plan, shall consider the following in whether to approve a plan:

(a) the plan adequately addresses all elements described in section 27-3309 of this title with sufficient detail to demonstrate that the objective of the plan will be met;

(b) the producer has undertaken satisfactory consultation with the advisory board, has provided an opportunity for the advisory board's input in the implementation and operation of the plan prior to submission of the plan, and has thoroughly described how the advisory board's input will be addressed by and incorporated into the plan pursuant to paragraph (g) of subdivision 2 of section 27-3309 of this title;

(c) the plan adequately provides for: (i) the producer collecting and funding the costs of collecting and processing products covered by the plan or reimbursing a municipality; (ii) the funding mechanism to cover the cost of the program; (iii) convenient and free consumer access to collection facilities or collection services; (iv) a formulaic system for equitable distribution of funds; (v) comprehensive public education and outreach; and (vi) an evaluation system for the fee structure, which

shall be evaluated on an annual basis by the producer responsibility organization and re-submitted to the department annually;

(d) the plan takes into consideration a post-consumer content rate and recovery and recycling rates that will create or enhance markets for recycled materials, there is a plan to adjust the minimum rates on an annual basis, and the plan incentives waste prevention and reduction. Such post-consumer content rates, and such adjustments to the rates, shall take into consideration: (i) changes in market conditions, including supply and demand for post-consumer recycled plastics, recovery rates, and bale availability both domestically and globally; (ii) 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;

(e) the plan creates a convenient system for consumers to recycle that is, at minimum, as convenient as curbside collection or as convenient as the previous waste collection schema in the particular jurisdiction;

(f) the plan adequately considers the state's solid waste management policy set forth in section 27-0106 of this article;

(g) The department may establish additional plan requirements in addition to those identified herein to fulfill the intent of this title; provided, however, that any additional requirements shall be established one year prior to a required submission of a plan unless such additional requirements are in relation to the power granted to the department in subdivision 4 of section 27-3305 of this title.

3. No later than six months after the date the plan is approved, the producer, or producer responsibility organization, shall implement the approved plan. The department may rescind the approval of an approved plan at any time with cause and documented justification.

§ 27-3313. Collection and convenience.

A producer or producer responsibility organization shall provide for widespread, convenient, and equitable access to collection opportunities for the covered materials and products identified under the producer or producer responsibility organization's plan at no additional cost to residents. Such opportunities shall be provided to all residents of New York in a manner that is as convenient as the collection of municipal solid waste. A producer responsibility organization shall ensure services continue for curbside recycling programs that a municipality serves as of the effective date of this article, either directly or through a contract to provide services, and that such services are continued through the plan. A producer responsibility plan may not restrict a jurisdiction's resident's ability to contract directly with third parties to obtain recycling collection services if residents have the option to enter into such contracts as of the effective date of this title, as long as the resident still voluntarily chooses to contract directly with the third party. A producer responsibility organization may rely on a range of means to collect various categories of covered materials or products so long as covered materials and products collection options include curbside recycling collection services provided by municipal programs, municipal contracted programs, solid waste collection companies, or other approved entities as identified by the department if:

1. The category of covered materials and products is suitable for residential curbside recycling collection and can be effectively sorted by the facilities receiving the curbside collected material;

2. The recycling facility providing processing and sorting service agrees to include the category of covered materials and products as an accepted material;

3. The covered materials and products category is not handled through a deposit and return scheme or buy back system that relies on a collection system other than curbside or multi-family collection; and

4. The provider of the residential curbside recycling service agrees to the producer responsibility organization service provider costs arrangement.

5. (a) The producer or producer responsibility organization shall adopt a list of minimum types of readily recyclable materials and products based on available collection and processing infrastructure and recycling markets for covered materials and products. The producer or producer responsibility organization shall update and adopt the list on an annual basis, in consultation with the advisory board, in response to collection and processing improvements and changes in recycling end markets. If there are multiple lists, the department shall compile the lists and shall publish a compiled list to the public. Such lists may vary by geographic region depending on regional markets and regional collection and processing infrastructure.

(b) All municipalities or private recycling service providers shall provide for the collection and recycling of all identified materials and products contained on the list of minimum recyclables, based on geographic regions, in order to be eligible for reimbursement; provided, however, nothing shall penalize a municipality or private recycling service for recovering and recycling materials that are generated in the municipality or geographic region that are not included on the list of minimum types of recyclable covered materials or products as long as it can be demonstrated that such materials have a market as determined by the department in consultation with the producer or producer responsibility organization. Reimbursement shall cover recycling of all covered materials and products so long as the program includes at least the minimum recyclable list.

(c) The department may grant an exception of the requirements in paragraph (b) of this subdivision upon a written showing by the municipality or private recycling service that compliance with the requirement is not practicable for a specific identified product or material and if the department finds it is in the best interest of the intent of this title to grant them an extension; provided, however, that the extension granted by the department shall not exceed twelve months.

§ 27-3315. Outreach and education.

1. The producer, or producer responsibility organization, shall provide effective outreach, education, and communications to consumers throughout New York state regarding:

(a) proper end-of-life management of covered products and materials;

(b) the location and availability of curbside recycling and additional drop-off collection opportunities;

(c) how to prevent litter of covered materials and products in the process of collection; and

(d) recycling 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.

2. The outreach and education required pursuant to subdivision 1 of this section shall:

(a) be designed to achieve the management goals of covered products under this title, including the prevention of contamination of covered products;

(b) incorporate, at a minimum, electronic, print, web-based, and social media elements that municipalities could utilize at their discretion;

(c) be coordinated across programs to avoid confusion for consumers;

(d) include, at a minimum: consulting on education, outreach, and communications with local governments and other stakeholders; coordinating with and assisting local municipal programs, municipal contracted programs, solid waste collection companies, and other entities providing services; and developing and providing outreach and education to the diverse ethnic populations in the state; and

(e) a plan to work with participating producers to label or mark covered products, in accordance with reasonable labeling standards, with information to assist consumers in responsibly managing and recycling covered materials and products.

3. The producer or producer responsibility organization shall consult with municipalities on the development of educational materials and may coordinate with municipalities on outreach and communication.

4. The department shall determine the effectiveness of outreach and education efforts under this section to determine whether changes are necessary to improve those outreach and education efforts and develop information that may be used to improve outreach and education efforts under this section.

5. The producer responsibility organization shall undertake outreach, education, and communications that assist in attaining or exceeding the recovery and recycling rates.

§ 27-3317. Reporting requirements and audits.

1. One year after a producer or producer responsibility organization's first plan is approved, and annually thereafter, each producer, or producer responsibility organization acting as their designated agent, shall submit a report to the department that details the performance for the prior year's program. The report shall be posted on the department's website and on the website of the producer, or producer responsibility organization acting as their designated agent. Such annual report shall include:

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

(b) a description of the status of achieving the recovery and recycling rates as set forth in the plan pursuant to this title and what efforts are proposed in the event of failing to achieve such rates;

(c) a description on the status of achieving the post-consumer recycled content rates as set forth in the plan pursuant to this title, and what efforts are proposed in the event of failing to achieve such rates;

(d) the amount of covered materials and products collected in the state by material type;

(e) the amount and type of covered materials and products collected in the state by the method of disposition by material type;

(f) the total cost of implementing the program, as determined by an independent financial audit, as performed by an independent auditor;

(g) information regarding the independently audited financial statements detailing all payments received and issued by the producers covered by the approved plan;

(h) a copy of the independent audit;

(i) a detailed description of whether the program compensates municipalities, solid waste collection, sorting and processing facilities, and other approved entities for their recycling efforts and other related services provided by the above entities;

(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; and

(l) a detailed description of investments made in infrastructure and market development as related to this title.

2. The department shall not require public reporting of any confidential information that the department finds to be protected proprietary information. For purposes of this title, protected proprietary information shall mean information that, if made public, would divulge competitive business information, methods or processes entitled to protection as trade secrets of such producer or producer responsibility organization or information that would reasonably hinder the producer or producer responsibility organization's competitive advantage in the marketplace.

§ 27-3319. Antitrust protections.

A producer or producer responsibility organization that organizes the collection, transportation, and procession of covered materials and products, in accordance with a producer responsibility 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 a covered material, product, or the output or production of any agreement restricting the geographic area or customers to which a covered material or product will be sold.

§ 27-3321. 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 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 71 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, including compliance with requirements related to the producer responsibility plan, 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 71 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 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 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 71 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 established pursuant to section 92-s of the state finance law.

§ 27-3323. State preemption.

Jurisdiction in all matters pertaining to costs and funding mechanisms of producer responsibility organizations relating to the recovery of covered materials shall, by this title, be vested exclusively in the state; provided, however, that nothing in this section shall preclude any city, town, village or other local planning units from determining what materials shall be included for recycling in a municipal recycling collection program or shall preclude any person from coordinating, for recycling or reuse, the collection of covered materials and products.

§ 27-3325. Authority to promulgate rules and regulations.

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

§ 27-3327. Other assistance programs.

Nothing in this title shall impact an entity's eligibility for any state or local incentive or assistance program to which they are otherwise eligible.

§ 27-3329. 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. This act shall take effect on the one hundred eightieth day after it shall have become a law.

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.
; and to amend a chapter of the laws of 2014, enacting the state operations budget § 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. Notwithstanding subdivision four of this section, 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. 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 penal-

ties 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. Section 250 of the county law is amended by adding a new subdivision 6-a to read as follows:

6-a. The territory of a county district established pursuant to this section may coincide with the territorial boundaries of the county.

§ 2. 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, **and in accordance with the existing provisions on cities with a population of over one million as set forth by section three hundred eighty-three of this article,** 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,** administer 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 a 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

Intentionally Omitted

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

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

sion 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

Intentionally Omitted

PART DDD

Intentionally Omitted

PART EEE

Section 1. The executive law is amended by adding a new section 382-c to read as follows:

§ 382-c. All-electric buildings. 1. As used in this section:

a. "All-electric building or project" shall mean a building or project that uses a permanent supply of electricity as the sole source of energy to meet building energy needs. An all-electric building or project shall have no natural gas, propane, or oil heaters, boilers, piping systems, fixtures or infrastructure installed to meet building energy needs.

b. "Building energy needs" shall mean all space conditioning including heating and cooling, water heating including pools and spas, cooking appliances and clothes drying appliances.

c. "All-electric ready" shall mean a building, project, or portion thereof that contains electrical systems and designs that provide sufficient capacity for a future retrofit of a mixed-fuel building to an all-electric building, including sufficient space, drainage, electrical conductors or raceways, bus bar capacity, and overcurrent protective devices for such retrofit. The department of state shall promulgate guidelines for an electric-ready building on or before January first, two thousand twenty-three.

d. "Initial application" shall mean the first site or building permit application associated with the building or project.

e. "Mixed-fuel building" shall mean a commercial or residential building that uses a combination of electricity and natural gas, propane, or oil to meet building energy needs. For the purposes of this section, "mixed-fuel building" shall not include buildings that use geothermal or solar energy to meet heating and/or cooling building energy needs but are otherwise all-electric buildings.

f. "Mixed-use building" shall mean a building used for both residential and commercial purposes.

2. a. No city, town or village shall issue a permit for the construction of any new commercial, residential, or mixed-use building that is not an all-electric building if the building is less than seven stories and the initial application for such permit was submitted after December thirty-first, two thousand twenty-three, or any new commercial, residential, or mixed-use building that is not an all-electric building if the building is seven stories or more and the initial application for such permit was submitted after July first, two thousand twenty-seven, unless the circumstances set forth in paragraph b of this subdivision apply.

b. Notwithstanding the provisions of paragraph a of this subdivision, a city, town, or village may issue a permit for construction of a new mixed-fuel building upon a finding by the permitting body of such city, town, or village that constructing an all-electric building or project is physically or technically infeasible and that a modification is warranted. Financial considerations shall not be a sufficient basis to

determine physical or technical infeasibility. Modifications shall only be issued under this exception where the permitting body finds that:

(i) sufficient evidence was submitted to substantiate the infeasibility of an all-electric building or project design. Such evidence must show that either:

A. the building is specifically designated for occupancy by a commercial food service establishment, laboratory, laundromat, hospital, or crematorium, and such establishment cannot feasibly operate using commercially available all-electric appliances; or

B. the natural gas or oil piping systems are used solely for the generation of emergency standby power;

(ii) the installation of natural gas or oil piping systems, fixtures and/or infrastructure is strictly limited to the system and area of the building for which all-electric building or project design is infeasible;

(iii) the area or service within the project where gas or oil piping systems, fixtures and/or infrastructure are installed is all-electric ready; and

(iv) the project's modified design provides equivalent health, safety and fire-protection to all-electric building or project design.

3. a. No city, town or village shall issue building or construction permits that would convert an all-electric building or project into a mixed-fuel building where the initial application was submitted after December thirty-first, two thousand twenty-two.

b. Notwithstanding the provisions of paragraph a of this subdivision, a city, town, or village may issue a permit to convert an all-electric building or project into a mixed-fuel building for the generation of emergency standby power or occupancy by a commercial food service establishment, laboratory, laundromat, hospital, or crematorium, and such establishment cannot feasibly operate using commercially available all-electric appliances, provided:

(i) sufficient evidence is presented to substantiate the physical or technical infeasibility of an all-electric building or project design, financial considerations shall not be a sufficient basis to determine physical or technical infeasibility;

(ii) the installation of natural gas or oil piping systems, fixtures and/or infrastructure is strictly limited to the system and area of the building for which all-electric building or project design is infeasible;

(iii) the area or service within the project where gas or oil piping systems, fixtures and/or infrastructure are installed is all-electric ready; and

(iv) the project's modified design provides equivalent health, safety and fire-protection to all-electric building or project design.

4. On or before February first, two thousand twenty-three, the department of public service, the division of housing and community renewal, the department of state, and the New York state energy research and development authority shall report jointly to the governor, the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, and the minority leader of the assembly, regarding what changes to electric rate designs, new or existing subsidy programs, policies, or laws are necessary to ensure this section does not diminish the production of affordable housing or the affordability of electricity for customers in all-electric buildings. For the purpose of this subdivision, "affordability of electricity" shall mean that

electricity does not cost more than six percent of a residential customer's income.

5. On or before December first, two thousand twenty-eight, the department of public service, the department of state, and the New York state energy research and development authority shall report jointly to the governor, the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, and the minority leader of the assembly, regarding the continued need of waivers established under this section for commercial food establishments, laboratories, laundromats, hospitals, or crematoriums. The report shall make recommendations for the continuance or elimination of such waivers for both new construction and building conversions.

6. Nothing in this section shall be interpreted or otherwise construed as preempting a municipality from requiring all-electric buildings or otherwise prohibiting new gas service connections for new buildings and conversions.

§ 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 an 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 an historic district.

11. "Life-cycle cost." An estimate of the total cost of acquisition, operation, maintenance, and construction of any energy 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 the life-cycle costs for a building or structure will be recovered through savings in energy costs over the design life of the building or structure 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**. 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, 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 adopt provisions for commercial buildings that achieve energy savings greater than energy savings achieved by the then most recently published ASHRAE 90.1, 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.

§ 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 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 be designed 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 a mains-connected product that amplifies audio, offers optical, offers disc player functionality, and/or receives and plays audio and/or video content. Examples of consumer audio and video products include televisions, compact audio products, digital versatile disc players, digital versatile disc recorders, [~~and~~] digital television adapters and streaming media players.

§ 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 electrical 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-seven new subdivisions 18-a, 18-b, 21-c, 21-d, 38, 39, 40, 41, 41-a, 42, 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.

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. "Business entity" means any corporation, association, limited liability company, partnership, limited partnership, limited liability partnership, or other legal entity of any kind or description.

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: (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; (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) 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 (xx) products that are subject to any federal efficiency standard referred to in section 16-105 of this article that shall have been continued in this state pursuant to such section 16-105.

2. No person or business entity 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 (vv) 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 continued 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.

§ 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;

(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, decrease the stringency of 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 (vv) 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 not specifically listed in paragraphs (a) through (vv) 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 not listed in paragraphs (a) through (vv) 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;

(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 or business entity 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 or business entity 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 or business entity, 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, 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 (vv) 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 (vv) 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 (vv) 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.

(a-1) 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 types of products [~~defined~~] referred to in paragraphs (a), (d), (h) and (i) of subdivision [~~seven~~] one of section [~~16-102~~] 16-104 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 (~~], and automatic commercial ice-cube makers), the [~~secretary shall issue~~] regulations adopted by the president pursuant to paragraph [~~a~~] (a) of this subdivision [~~establishing energy~~] shall establish the following efficiency [~~performance~~] standards [~~for such products at the following levels~~] and [~~with~~] the following compliance dates:

(i) [~~very~~] 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~~] twenty-three 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~~] Commercial refrigerators, [~~and~~] freezers, and refrigerator-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~~] twenty-three 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~~] twenty-two 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~~] 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~~] twenty-three 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~~] 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~~] **twenty-three**, 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 (vv) 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 secre-

tary 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 or business entity doing business in this state and bring such person or business entity 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 or business entity 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 or business entity 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 (vv) 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 or such business entity'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 or business entity 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 or

business entity 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 or business entity 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 business entity, 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 or business entity 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 or business entity 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 or business entity that issues:

(a) a certification that a product listed in paragraphs (a) through (vv) 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 (vv) 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 or business entity that 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 or business entity 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, the state fire administrator**, the president of the New York state energy research and development authority,** and [~~fifteen~~] **sixteen** other members to be appointed as follows:

a. [~~Two~~] **Three** 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; environmental conservation; 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. 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

Intentionally Omitted

PART GGG

Section 1. Paragraph (d) of subdivision 5 of section 502 of the vehicle and traffic law, as added by chapter 618 of the laws of 2021, is amended read as follows:

(d) **(i)** The commissioner shall not issue a class A commercial driver's license to a person who is eighteen, nineteen or twenty years old unless, in addition to meeting the requirements of this chapter with respect to the issuance of commercial driver's licenses, such person submits [~~acceptable~~] proof **in a form prescribed by the commissioner** of successful completion of the commercial driver's license (CDL) class A young adult training program established [~~by the commissioner of transportation pursuant to subdivision thirty-six of section fourteen of the transportation law, and proof of completion of the minimum hours of supervised driving required by such subdivision~~] **pursuant to subparagraph (ii) of this paragraph**. The commissioner shall place an "intrastate only" restriction on any class A commercial driver's license issued to a person who is eighteen, nineteen or twenty years old and such restriction shall remain until such person turns twenty-one years of age.

(ii) The commissioner shall establish a class A young adult training program which shall consist of the entry-level driver training requirements prescribed by the federal motor carrier safety administration under appendices A, C, D and E of part 380 of title 49 of the code of federal regulations, as may be amended from time to time and include no less than three hundred hours of behind-the-wheel training under the immediate supervision and control of an experienced driver. For purposes of this paragraph, the following terms shall have the following meanings:

(A) "Young adult" shall mean an individual who is eighteen, nineteen or twenty years old.

(B) "Experienced driver" shall mean an individual who:

(1) is not less than twenty-one years of age;

(2) holds a valid class A commercial driver's license which is not suspended, revoked or cancelled pursuant to the provisions of this chapter or rules and regulations promulgated thereunder and has held such commercial driver's license for at least two years;

(3) has not, for at least a one-year period: been the operator of a motor vehicle involved in an accident reportable to the federal motor carrier safety administration, or been the operator of a commercial motor vehicle involved in an accident reportable to the commissioner, or been convicted of a serious traffic violation, or been convicted of any violation of title VII of this chapter for which the commissioner assesses points, or been disqualified from operating a commercial motor vehicle pursuant to this chapter or rules and regulations promulgated thereunder; and

(4) has a minimum of one year of experience driving, in commerce, a commercial motor vehicle which can only be operated with a class A commercial driver's license.

(C) "Serious traffic violation" shall have the same meaning as such term is defined in subdivision four of section five hundred ten-a of this chapter.

§ 2. Subdivision 36 of section 14 of the transportation law, as added by chapter 618 of the laws of 2021, is REPEALED.

§ 3. 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.

§ 4. Severability. If any clause, sentence, subdivision, paragraph, section or part of this act 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, subdivision, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 5. This act shall take effect on the same date and in the same manner as chapter 618 of the laws of 2021; provided that the commissioner of motor vehicles shall notify the legislative bill drafting commission upon the occurrence of the repeal of this act provided for in section three of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART HHH

Section 1. Subdivisions 3, 4 and 5 of section 16-n of section 1 of chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, as added by section 2 of part C-2 of chapter 109 of the laws of 2006, are amended to read as follows:

3. Property assessment list. To be eligible for the demolition and deconstruction program or rehabilitation and reconstruction program assistance, as established in subdivisions four and five of this section, municipalities shall conduct an assessment of vacant, abandoned, surplus or condemned buildings in communities within their jurisdiction. Such real property may include both residential and commercial real properties. Such properties shall be selected for the purpose of

revitalizing urban centers **or rural areas**, encouraging commercial investment and adding value to the municipal housing stock. The property assessment list shall be organized to indicate the location, size, whether the building is residential or commercial and whether the building will be demolished, deconstructed, rehabilitated or reconstructed. Such properties shall be published in a local daily newspaper for no less than three consecutive days. Additionally, the municipality shall conduct public hearings in the communities where the buildings are identified.

4. Demolition and deconstruction program. Real property in need of demolition or deconstruction on the property assessment list may receive grants of up to [~~twenty~~] **thirty** thousand dollars per residential real property. The corporation shall determine the cost of demolition and deconstruction of commercial properties on a per-square foot basis and establish maximum grant awards accordingly. The corporation shall also consider geographic differences in the cost of demolition and deconstruction in the establishment of maximum grant awards.

5. Rehabilitation and reconstruction program. Real property in need of rehabilitation or reconstruction on the property assessment list may receive grants of up to one hundred **fifty** thousand dollars per residential real property**; notwithstanding such limitation, a residential apartment unit may receive a grant of up to seventy thousand dollars per unit**. The corporation shall determine the cost of rehabilitation and reconstruction of commercial properties on a per-square foot basis and establish maximum grant awards accordingly. The corporation shall also consider geographic differences in the cost of rehabilitation and reconstruction in the establishment of maximum grant awards. Provided, however, to the extent possible, all such rehabilitation and reconstruction program real property shall be architecturally consistent with nearby and adjacent properties or in a manner consistent with a local revitalization or urban development plan. Provided, further, such grant may be used for site development needs including but not limited to water, sewer and parking.

§ 2. Paragraph (b) and (d) of subdivision 6 of section 16-n of section 1 of chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, as added by section 2 of part C-2 of chapter 109 of the laws of 2006, is amended to read as follows:

(b) Priority in granting such assistance shall be given to properties eligible under this section that have approved applications or are receiving grants pursuant to other state or federal redevelopment, remediation or planning programs including, but not limited to, to the brownfield opportunity areas program adopted pursuant to section 970-r of the general municipal law or [~~empire zone development plans pursuant to article 18-B~~] **an investment zone designated pursuant to paragraph (i) of subdivision (a) or subdivision (d) of section 958** of the general municipal law.

(d) A municipality that is granted an award or awards under this section shall provide a matching contribution of no less than ten percent of the aggregated award or awards amount. Such matching contribution may be in the form of a financial and/or in kind contribution. Financial contributions may include grants from federal, state and local entities. In kind contributions may include but shall not be limited to the efforts of municipalities to conduct an inventory and assessment of vacant, abandoned, surplus, condemned, and deteriorated properties and to manage and administer grants pursuant to subdivisions four and five of this section. **A municipality that is granted an award or awards under**

this section shall: (i) make best efforts to ensure that minority-owned and women-owned business enterprises certified pursuant to article fifteen-A of the executive law are given the opportunity for maximum feasible participation in any municipal contracting opportunities; and (ii) when the basis for a municipal contract to be let pursuant to this section is best value and where a responsible and reliable bidder certified pursuant to article fifteen-A of the executive law submits a bid on such contract, deem the bid of the certified minority or women-owned business enterprise as the lowest bid unless it exceeds the bid of the lowest bidder by more than ten percent.

§ 3. This act shall take effect immediately.

PART III

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 58 to read as follows:

§ 58. Reporting. (1) Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Economic development benefits" shall mean and include the following:

(i) available state resources and/or funds including, but not limited to, state grants, loans, loan guarantees, loan interest subsidies, and/or subsidies; and/or

(ii) tax credits, tax exemptions or reduced tax rates and/or benefits which are applied for and preapproved or certified by a state agency; and

(a-1) "Empire state economic development benefits" shall mean those economic development benefits made available to the urban development corporation and/or the department of economic development to award such benefits to qualified recipients, or those economic development benefits which are allocated to the corporation and/or such department but are subsequently allocated to another state agency or other independent entities for them to make such awards to qualified recipients;

(a-2) "Aggregate economic development benefits" shall mean those benefits provided for in paragraphs (a) and (a-1) of this subdivision and displayed separately in the database created pursuant to subdivision two of this section;

(b) "Qualified participant" shall mean an individual, business, limited liability corporation or any other entity that has applied for and received approval for and/or is the beneficiary of, any aggregate economic development benefits of ten thousand dollars or more per project;

(c) "New York state agency" shall mean any state department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other state governmental entity performing a governmental or proprietary function for the state, as well as entities created by any of the preceding or that are governed by a board of directors or similar body a majority of which is designated by one or more state officials;

(d) "Full-time job" shall mean a job in which an individual is employed by a qualified participant for at least thirty-five hours a week;

(e) "Full-time equivalent" shall mean a unit of measure which is equal to one filled, full-time, annual-salaried position;

(f) "Part-time job" shall mean a job in which an individual is employed by a qualified participant for less than thirty-five hours a week; and

(g) "Contract job" shall mean a job in which an individual is hired for a season or for a limited period of time.

(2) Searchable state subsidy and aggregate economic development benefits database. Notwithstanding any laws to the contrary, the corporation, in cooperation with the department of economic development, shall create a searchable database, or modify an existing one, displaying Empire state economic development benefits that a qualified participant has been awarded. Such database shall also display other Empire state economic development benefits such qualified participant has received from another state agency provided that it is for the same particular project which received the Empire state economic development benefits. Such searchable database shall include, at a minimum, the following features and functionality:

(a) the ability to search the database by each of the reported information to the corporation and for the public viewer to show a qualified participant which is a recipient of an aggregate economic development benefit and view a list of all types and amounts of benefits received by a qualified participant;

(b) for the prior state fiscal year, the following information:

(i) a qualified participant's name and project, project location, project's complete address, including the postal or zip code in a separate searchable field, and the economic region of the state;

(ii) the time span over which a qualified participant is to receive or has received aggregate economic development benefits;

(iii) the type of such aggregate economic development benefits provided to a qualified participant, including the name of the program or programs through which aggregate economic development benefits are provided;

(iv) the total number of employees at all sites utilizing such aggregate economic development benefits at the time of the agreement including the number of permanent full-time jobs, the number of permanent part-time jobs, the number of full-time equivalents, and the number of contract employees;

(v) for any aggregate economic development benefit that provides for job retention and creation that a qualified participant receiving aggregate economic development benefits is contractually obligated to retain and create over the life of the project utilizing such aggregate economic development benefits, except that such information shall be reported on an annual basis for agreements containing annual job retention or creation requirements, and for each reporting year, the base employment level the entity receiving aggregate economic development benefits agrees to retain over the life of the project utilizing such aggregate economic development benefits, any job creation scheduled to take place as a result of the project utilizing such aggregate economic development benefits and where applicable, any job creation targets for the current reporting year;

(vi) the amount of aggregate economic development benefits received by a qualified participant during the year covered by the report, the amount of aggregate economic development benefits received by a qualified participant since the beginning of the project period, and the present value of the further aggregate economic development benefits committed to by the state, but not yet received by a qualified participant for the duration of the project;

(vii) for the current reporting year, the total actual number of employees at all sites covered by the project utilizing such aggregate economic development benefits, including the number of permanent full-time jobs, the number of permanent part-time jobs, the number of contract jobs, the number of jobs filled by minorities or women.

(viii) a statement of compliance indicating whether, during the current reporting year, the corporation and/or any other state agency has reduced, cancelled or recaptured aggregate economic development benefits from a qualified participant, and, if so, the total amount of the reduction, cancellation or recapture, and any penalty assessed and the reasons therefor.

(c) the ability to digitally select defined individual fields corresponding to any of the reported information from qualified participants to create unique database views;

(d) the ability to download the database in its entirety, or in part, in a common machine readable format;

(e) the ability to view and download contracts or award agreements for each aggregate economic development benefit received by the qualified participant to the extent such contracts or award agreements are available to the public pursuant to article six of the public officers law;

(f) a definition or description of terms for fields in the database; and

(g) a summary of each aggregate economic development benefit available to qualified participants.

(3) Certification regarding reporting. The corporation shall certify to the New York state authorities budget office, the corporation's board of directors and post to its website that it has fulfilled all of its reporting requirements as required by law, rules, regulations, or executive orders. The corporation shall provide a list of all reports, the due dates of such reports, and certify to the New York state authorities budget office and the corporation's board of directors, that each report has been submitted to the individual, office, or entity as prescribed by applicable laws, rules, and regulations.

(4) Database reporting. The corporation may request any data from qualified participants, which is necessary and required in developing, updating and maintaining the searchable database. Such qualified participants shall provide any such information requested by the corporation. Beginning on June first, two thousand twenty-two, the corporation shall make all reported data on such database available to the public on its website. Such database shall be updated on a quarterly basis with qualified participants added to any programs and any new data provided by existing qualified participants required reporting.

(5) Reporting. The corporation's senior staff shall report on a quarterly basis, to the corporation's board of directors with a status update on the development and maintenance of the searchable database.

§ 2. Section 100 of the economic development law is amended by adding a new subdivision 18-j to read as follows:

18-j. to assist the urban development corporation to establish a searchable database pursuant to section fifty-eight of the urban development corporation act.

§ 3. This act shall take effect on the ninetieth 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 JJJ

Section 1. The administrative code of the city of New York is amended by adding a new section 19-611 to read as follows:

§ 19-611 School bus parking on a city street. No school bus operated by or pursuant to a contract with the board of education shall:

(a) park on a city street on weekdays between the hours of five p.m. and five a.m., or

(b) park on a city street on weekends between the hours of five p.m. on Friday and five a.m. on Monday.

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

PART KKK

Section 1. The transportation law is amended by adding a new article 23 to read as follows:

ARTICLE 23

HYPERLOOP AND HIGH SPEED RAIL COMMISSION

Section 490. Hyperloop and high speed rail commission.
491. Powers and duties of the commission.
492. Reporting.
493. Assistance of other agencies.

§ 490. Hyperloop and high speed rail commission. 1. There is hereby established in the department a commission, to be known as the hyperloop and high speed rail commission.

2. (a) Such commission shall consist of the president of the Metro-North Railroad and eleven other members to be appointed as follows: three shall be appointed by the governor; two shall be appointed by the majority leader of the senate and two by the minority leader of the senate; and two shall be appointed by the speaker of the assembly and two by the minority leader of the assembly. A majority of the commission shall elect a member of the commission to serve as the chairperson of such commission.

(b) For purposes of this article, "high speed rail" shall mean inter-city passenger rail services capable of operating at no less than one hundred ten miles per hour.

3. The commission members shall be appointed within thirty days after the effective date of this article and shall meet publicly at least quarterly.

§ 491. Powers and duties of the commission. The commission shall have the following powers and duties:

1. assess and study the benefits and implications, including financial implications, of creating a hyperloop system within New York state;

2. plan and advise the department on future improvements to the state's rail systems that are necessary to implement a hyperloop system in the state, including making recommendations for the best governmental structure to design, build, operate, maintain and finance a hyperloop system;

3. evaluate all available hyperloop technologies, systems and operators, and make recommendations on an appropriate hyperloop system;

4. research options, in coordination with the department, with respect to agreements with private entities necessary to permit hyperloop systems, including but not limited to agreements relating to track improvements and agreements to operate a hyperloop system, and to

provide the department with recommendations on the form any such agreement should take;

5. advise and work with the department on making application for any additional funding that may be available for the development and operation of a hyperloop system in the state, provided, however, that no such funding that requires a state match of funds may be sought except on approval of the governor and the director of the division of the budget;

6. assess and study the benefits and implications, including financial implications, of creating or implementing a high speed rail system within New York state;

7. plan and advise the department on future improvements to the state's rail systems that are necessary to implement high speed rail service in the state, including making recommendations for the best governmental structure to design, build, operate, maintain and finance a high speed rail system;

8. evaluate all available high speed rail technologies, systems and operators, and make recommendations on an appropriate high speed rail system, as well as assess and compare the positive and negative impacts of implementing a high speed rail system in contrast with implementing a hyperloop system;

9. research options, in coordination with the department, with respect to agreements with private entities necessary to permit high speed rail trains, including but not limited to agreements relating to track improvements and agreements to operate a high speed rail system, and to provide the department with recommendations on the form any such agreement should take;

10. advise and work with the department on making applications for any additional funding that may be available for the development and operation of a high speed rail system in the state, provided, however, that no such funding that requires a state match of funds may be sought except on approval of the governor and the director of the division of the budget; and

11. to issue requests for information from all companies that operate hyperloop and high speed rails around the world including, but not limited to, companies in Japan, China, South Korea and Germany, and to collect and present a comprehensive outline of potential companies that could operate a hyperloop and high speed rail system in the state.

§ 492. Reporting. The commission shall make a report with its findings to the governor and the legislature and shall publish such report within two years of the effective date of this article and annually thereafter. Upon the transmission of the initial report to the governor, the legislature and the public, the commissioner shall within thirty days determine whether the commission shall continue in operation, whether there are amendments that could improve the commission, or whether it shall be dissolved. The commissioner shall report his or her findings and recommendations to the governor and the legislature. In the event the commission is dissolved, the commissioner shall notify the legislative bill drafting commission upon such dissolution in order that such commission may maintain an accurate and timely effective database of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section forty-four of the legislative law and section seventy-b of the public officers law.

§ 493. Assistance of other agencies. To effectuate the purposes of this article, the commission may request and shall receive from any department, division, board, bureau, commission or other agency or authority of the state such assistance, information and data as will

enable the commission to properly carry out its powers and duties as described in section four hundred ninety one of this article. Such assistance shall not waive or impair the terms of an existing agreement negotiated between the relevant employer and employee organization nor limit any obligation to bargain terms and conditions of employment pursuant to article fourteen of the civil service law.

§ 2. This act shall take effect immediately.

PART LLL

Section 1. Subdivision (a) of section 331 of the highway law, as added by chapter 398 of the laws of 2011, is amended to read as follows:

(a) For all state, county and local transportation projects that are undertaken by the department or receive both federal and state funding and are subject to department of transportation oversight, the department or agency with jurisdiction over such projects shall consider the convenient access and mobility on the road network by all users of all ages, including motorists, pedestrians, bicyclists, and public transportation users through the use of complete street design features in the planning, design, construction, reconstruction and rehabilitation, [~~**but not including resurfacing, maintenance, or pavement recycling of such projects**~~] **resurfacing, maintenance and pavement recycling of such projects**.

§ 2. Paragraph (iii) of subdivision (c) of section 331 of the highway law, as added by chapter 398 of the laws of 2011, is amended to read as follows:

(iii) demonstrated lack of need as determined by factors, including, but not limited to, land use, current and projected traffic volumes, including population density, or [~~**demonstrates**~~] **demonstrated** lack of community support; or

§ 3. This act shall take effect immediately, provided that it shall not apply to transportation projects undertaken or approved prior to the date on which this act shall have become a law.

PART MMM

Section 1. Subdivision 4 of section 15-b of the transportation law, as amended by chapter 385 of the laws of 1985, is amended to read as follows:

4. Accessible buses. The system shall include access by transportation disabled persons, including persons in wheelchairs, to not less than sixty-five percent of buses in the regularly operated fleet of the authority, which shall be properly operated and maintained to facilitate their use by transportation disabled persons. To meet this sixty-five percent requirement, all buses purchased, leased, or otherwise brought newly into service on the bus lines of the authority and its subsidiaries, except buses leased or otherwise put into service to relieve temporary, unplanned shortages of buses in service, shall be accessible to transportation disabled persons until the sixty-five percent requirement is met. **Accessible buses shall be available within a service area measuring three miles from any bus line of the authority and its subsidiaries.**

§ 2. Subdivision 4 of section 15-c of the transportation law, as added by chapter 61 of the laws of 1990, is amended to read as follows:

4. Required level of fixed-route accessibility. a. Each transportation provider shall provide access to one hundred percent of its regularly-

operated buses that provide local, fixed-route service. To implement this requirement on and after the effective date of this section, all buses purchased, leased or otherwise brought into service on the bus lines of each transportation provider shall be lift-equipped except any bus which a provider has under contract of purchase on July first, nineteen hundred ninety for delivery after that date. Such lift-equipped buses shall be properly operated and maintained to facilitate their use by transit-disabled persons.

b. The provisions of paragraph a of this subdivision shall not apply to buses that are purchased, leased or otherwise brought into service that have a useful life of six years or less.

c. Accessible buses shall be available within a service area measuring three miles from any bus line of the authority and its subsidiaries.

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

PART NNN

Section 1. Subdivision 1 of section 80-b of the highway law, as amended by section 3 of part A of chapter 57 of the laws of 2014, is amended to read as follows:

1. In connection with the undertaking of any project for which the commissioner is authorized to use moneys of the federal government pursuant to the provisions of subdivision thirty-four-a of section ten and section eighty of this chapter to assure the effective discharge of state responsibilities with respect to regional transportation needs, on highways, roads, streets, bicycle paths or pedestrian paths that are not on the state highway system, the commissioner shall submit such project to the governing body or bodies of the affected municipality or municipalities together with estimates of costs thereof. If such project includes a municipal project, as that term is defined in accordance with article thirteen of the transportation law, the state share of such municipal project shall also be included. If such project includes a project affecting a highway, road, street, bicycle path or pedestrian path not on the state highway system, the state share shall be equal to eighty percent of the difference between the total project cost and the federal assistance, **provided, however, the state share shall be equal to eighty-seven and one-half percent of the difference between the total project cost and the federal assistance where, in conjunction with such project, the municipality agrees to fund a complete street design feature as defined in section three hundred thirty-one of this chapter,** provided, [~~however~~] **further**, the commissioner may increase the state share to an amount equal to one hundred percent of the difference between the total project cost and the federal assistance where he **or she** determines that the need for the project results substantially from actions undertaken pursuant to section ten of this chapter. No such project shall proceed without the approval of the governing body of a municipality. Such governing body may request the commissioner to undertake the provision of such project. If the commissioner agrees to such undertaking he **or she** shall notify the local governing body which shall appropriate sufficient moneys to pay the estimated amount of the municipal share. Such moneys shall be deposited with the state comptroller who is authorized to receive and accept the same for the purposes of such project, subject to the draft or requisition of the commissioner. When the work of such project has been completed, the commissioner shall render to the governing body of such municipality an itemized statement

showing in full (a) the amount of money that has been deposited by such municipality with the state comptroller as hereinbefore provided, and (b) all disbursements made pursuant to this section for such project. Any surplus moneys shall be paid to such municipality on the warrant of the comptroller on vouchers therefor approved by the commissioner. When the work of such project has been completed and it is determined by the commissioner that the amount of the cost to be borne by the municipality is in excess of the amount deposited by such municipality with the state comptroller, the commissioner shall then notify the municipality of the deficiency of funds. The municipality shall then within ninety days of the receipt of such notice, pay such amount to the state comptroller. For purposes of this section, the term "municipality" shall include a city, county, town, village or two or more of the foregoing acting jointly.

§ 2. This act shall take effect one year after it shall have become a law and shall apply to project agreements entered into on and after such date.

PART OOO

Section 1. The opening paragraph of subdivision 5-a of section 340-b of the highway law, as amended by chapter 30 of the laws of 1987, is amended to read as follows:

The commissioner of transportation and the city of New York, acting through the mayor or other administrative head thereof, pursuant to a resolution of the governing body of such city, are authorized to enter into a written agreement for the maintenance and repair, under the supervision and subject to the approval of the commissioner of transportation, of any state interstate highway or portion thereof, exclusive of service roads and pavement on intersecting street bridges, which is within the boundaries of such city and which is now or which shall hereafter be designated in section three hundred forty-a of this [~~chapter~~] **article** and which has been constructed or which shall have been constructed as authorized by section three hundred forty-a of this [~~chapter~~] **article**. Such agreement may provide that the state shall pay annually to such city a sum to be computed at the rate of (a) not more than [~~eighty-five~~] **one dollar and eighty-seven** cents per square yard of the pavement area that is included in the state highway system according to the provisions of this section, and (b) an additional [~~ten~~] **twenty** cents per square yard of such pavement area where such pavement area is located on any elevated bridge**, such rate shall be increased in each year of the agreement by the percentage change in the consumer price index for all urban consumers (CPI-U), New York-Northern New Jersey-Long Island, NY-NJ-CT-PA, as published by the United States department of labor bureau of labor statistics, over the prior five years**.

§ 2. The opening paragraph of subdivision 7 of section 349-c of the highway law, as amended by chapter 30 of the laws of 1987, is amended to read as follows:

The commissioner of transportation and any city named in this article, acting through the mayor or other administrative head thereof, pursuant to a resolution of the governing body of such city except the city of New York, are authorized to enter into a written agreement for the maintenance and repair, under the supervision and subject to the approval of the commissioner, of any public street, main route or thoroughfare or portion thereof, exclusive of service roads and pavement on intersecting street bridges, which is within the boundaries of such city and which is

now or which shall hereafter be designated in this article and which has been constructed or which shall have been constructed as authorized by [~~articles~~] **this article and article** four [~~and twelve-B~~] of this chapter and with grants made available by the federal government pursuant to the federal aid highway act of nineteen hundred forty-four, being public law five hundred twenty-one of the seventy-eighth congress, chapter six hundred twenty-six, second session, as approved on the twentieth day of December, nineteen hundred forty-four. Such agreement may provide that the state shall pay annually to such city a sum to be computed at the rate of (a) not more than [~~eighty-five~~] **one dollar and eighty-seven** cents per square yard of the pavement area that is included in the state highway system according to the provisions of this section, and (b) an additional [~~ten~~] **twenty** cents per square yard of such pavement area where such pavement area is located on any elevated bridge**, such rate shall be increased in each year of the agreement by the percentage change in the consumer price index for all urban consumers (CPI-U), New York-Northern New Jersey-Long Island, NY-NJ-CT-PA, as published by the United States department of labor bureau of labor statistics, over the prior five years**.

§ 3. This act shall take effect on the first of April next succeeding the date on which it shall have become a law.

PART PPP

Section 1. Subdivision (a) of section 1642 of the vehicle and traffic law is amended by adding a new paragraph 28 to read as follows:

28. (a) Establishment of scramble crosswalks leading to and from school buildings during times of student arrival and dismissal. Such scramble crosswalks shall include, but not be limited to, the following requirements:

(i) scramble crosswalks shall operate on weekdays between 8:00 A.M. and 4:00 P.M.;

(ii) pedestrians shall wait until a pedestrian-control signal indicates a sign to walk;

(iii) vehicles shall not turn right at the intersection while the traffic signal indicates a red light;

(iv) bicyclists may proceed with pedestrians when a pedestrian-control signal indicates a sign to walk, provided however, such bicyclists shall yield the right of way to all pedestrians in the intersection;

(v) bicyclists may proceed with vehicular traffic while the traffic signal indicates a green light; and

(vi) signs shall be erected at such intersections with a scramble crosswalk indicating that no person shall enter the intersection unless a pedestrian-control signal indicates that all pedestrians may walk.

(b) For the purposes of this paragraph, "scramble crosswalk" means a crosswalk with a traffic signal which temporarily stops all vehicular traffic while a pedestrian-control signal indicates that all pedestrians at the intersection shall cross the intersection at the same time.

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

PART QQQ

Section 1. Subdivision 6 of section 51 of the public authorities law is REPEALED.

§ 2. This act shall take effect immediately.

PART RRR

Section 1. The state finance law is amended by adding a new section 99-pp to read as follows:

§ 99-pp. Climate disaster and hurricane relief program 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 "climate disaster and hurricane relief program fund" to be administered in accordance with this section and section twenty-nine-l of the executive law.

2. The climate disaster and hurricane relief program fund shall consist of all moneys received therefor, including but not limited to appropriations, monetary grants, gifts or bequests received by the state for the purposes of the fund, and all other moneys credited or transferred thereto from any other fund or source. Moneys of such fund shall be expended only for climate disaster and hurricane relief financial assistance and disaster relief services in accordance with section twenty-nine-l of the executive law.

3. Moneys in such fund shall be kept separate from and shall not be commingled with any other moneys in the custody of the comptroller or the commissioner of taxation and finance. Any moneys of the fund not required for immediate use may, at the discretion of the comptroller, in consultation with the director of the budget, be invested by the comptroller in obligations of the United States or the state, or in obligations the principal and interest on which are guaranteed by the United States or by the state. Any income earned by the investment of such moneys shall be added to and become a part of and shall be used for the purposes of such fund.

4. Money expended from such fund shall be used to supplement and not supplant or replace any other available recovery or relief funds, including federal or state funding, which would otherwise have been expended for reimbursement of damages caused by climate disasters or hurricanes.

5. Moneys of the fund, when received pursuant to subdivision two of this section, shall be available to the commissioner of the division of homeland security and emergency services to provide authorized compensation or reimbursements to eligible individuals, households and businesses who suffered damages caused by climate disasters or hurricanes for which insurance, state assistance, and federal assistance are either not available or do not adequately meet the needs of such eligible individual, household or business with respect to such damages in accordance with section twenty-nine-l of the executive law.

6. The monies of the fund shall be paid out, without appropriation, on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of the division of homeland security and emergency services as provided in section twenty-nine-l of the executive law. The comptroller shall, in consultation with the commissioner of the division of homeland security and emergency services, prescribe by regulation the manner in which moneys of the fund shall be distributed to eligible applicants.

§ 2. The executive law is amended by adding a new section 29-l to read as follows:

§ 29-l. Climate disaster and hurricane relief program. 1. The division of homeland security and emergency services, in conjunction with the comptroller, shall establish and administer a supplemental state disaster aid program to be known as the "climate disaster and hurricane

relief program" or the "program" as provided in this section. Such program shall be in addition to any funds provided by the federal government and expended or provided through the division for disaster recovery and relief, and shall not duplicate assistance provided by the federal government or insurance.

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

(a) "Applicant" means an individual, household or business entity that has applied for assistance pursuant to subdivision three of this section.

(b) (i) "Division" means the division of homeland security and emergency services.

(ii) "Commissioner" means the commissioner of the division of homeland security and emergency services.

(iii) "FEMA" means the federal emergency management administration.

(c) "Eligible applicant" means an applicant that suffered damages caused by a climate disaster or hurricane, and:

(i) insurance, or financial assistance as defined in paragraph (d) of this section, or any combination of such insurance and financial assistance are not available to the applicant; or

(ii) such insurance, or financial assistance, or combination thereof are available to the applicant but cannot adequately compensate or reimburse such applicant for such damages.

(d) "Financial assistance" means money provided to an eligible applicant as defined in paragraph (c) of this subdivision, as compensation or reimbursement for damages caused by a climate disaster or hurricane in accordance with the provisions of this section and section ninety-nine-pp of the state finance law but shall not include financial assistance for damages caused by climate disasters or hurricanes provided by FEMA's individual assistance program, or any other federal, state, or municipal disaster recovery, relief, assistance or aid program or fund other than the program established pursuant to this section. Such financial assistance shall in no event exceed ten thousand dollars nor be less than one hundred dollars.

(e) "Fund" means the climate disaster and hurricane relief program fund established pursuant to section ninety-nine-pp of the state finance law.

(f) "Household" means all persons, including adults and minors, who request assistance, as well as any persons, such as infants, spouse, or part-time residents who were not present at the time of the disaster, but who are expected to return during the assistance period.

(g) "Climate disaster or hurricane" means any severe weather event attributable to climate change which causes damage to persons or property which has been declared a disaster emergency by the governor pursuant to section twenty-eight of this chapter.

(h) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

3. (a) The commissioner shall, in consultation with the comptroller, develop and implement procedures governing the submission and receipt of applications for financial assistance pursuant to this section. Such procedures shall provide for expedited relief to eligible applicants, and each such application shall be submitted to the division in such form and in such manner as the commissioner deems appropriate.

(b) Such application for financial assistance shall be made available for all potential applicants in accordance with subdivision six of this

section, and at minimum, shall require the applicant to certify on a form prepared by the commissioner:

(i) the amount and nature of damages sustained by the applicant;

(ii) that such damages were in fact caused by a climate disaster or hurricane;

(iii) the amount of any compensation or reimbursement for such damages already received, if any;

(iv) the amount of any compensation or reimbursement for such damages which the applicant has yet to receive but expects to receive at a future date, and the date such compensation or reimbursement is expected;

(v) any amount for which the applicant has applied for relief or made a claim for financial assistance or disaster relief for damages caused by a climate disaster or hurricane from FEMA or any other federal, state, or municipal disaster relief program for which a determination is pending; and

(vi) that the amount of financial assistance applied for reflects damages incurred which (A) have not been compensated or reimbursed by any other source; or (B) such damages have been partially compensated or reimbursed and the amount applied for reflects a portion of damages not so compensated or reimbursed.

(c)(i) The division shall review each application for assistance submitted pursuant to this subdivision and shall approve or reject such application and notify the applicant of such approval or rejection no later than thirty days after receipt of such application. If the division approves such application, the applicant shall receive financial assistance no later than thirty days after such approval pursuant to subdivision five of this section and section ninety-nine-pp of the state finance law.

(ii) The division shall conduct the review, and determination required by subparagraph (i) of this paragraph, in accordance with rules and regulations promulgated by the commissioner for such purpose. To the extent possible, such rules and regulations shall integrate the prescribed protocols required under FEMA's individual assistance program regarding verification, confirmation, assessment, and approval or denial of applications for assistance, and appeals.

4. Beginning on the effective date of this subdivision and thereafter, the division, in conjunction with the comptroller shall make financial assistance available to compensate or reimburse eligible applicants in accordance with this section and section ninety-nine-pp of the state finance law. The commissioner shall by regulation determine which types of damages shall be eligible for compensation or reimbursement and the amount to be paid therefor, provided such damages shall include, but not be limited to damage to real and personal property, structures located on real property, vehicles, and other personal property as the commissioner deems appropriate. The comptroller, in consultation with the commissioner, shall prescribe by regulation the manner in which such financial assistance shall be distributed to eligible beneficiaries.

5. The division shall cooperate with the office of the state comptroller to provide for the provision of periodic audits of the climate disaster and hurricane relief program, to ensure that all aid provided was given only to those eligible to receive such assistance and in the amounts so required, and that such funds were used only for their intended purposes. Funds for the climate disaster and hurricane relief program shall not duplicate assistance provided by other sources,

including but not limited to those provided by the federal government, the state, a municipality, or insurance.

6. Beginning on the effective date of this subdivision and thereafter: (a) The division shall attempt to notify all individuals, households and businesses who suffered damages caused by a climate disaster or hurricane of the climate disaster and hurricane relief program established pursuant to this section and shall encourage all such individuals, households and businesses to apply.

(b) The division shall establish and publicize a toll-free telephone number for use by prospective applicants seeking information on the program. The division shall publish guidance and instructions regarding the application process, criteria for review and determinations, and other relevant information, including an application form and related materials. All such materials shall be accessible to the public on any website maintained by the division and available for download by prospective applicants.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law, provided, however, that the provisions of subdivision 6 of section 29-l of the executive law, as added by section two of this act shall take effect immediately. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART SSS

Section 1. Subdivision 2-a of section 1269-b of the public authorities law is amended by adding three new paragraphs (c), (d) and (e) to read as follows:

(c) The authority shall publish all data pertaining to capital programs of the authority and any amendments to such programs as required by this section on the authority's website in a common, machine readable format, as defined by executive order number ninety-five of two thousand thirteen, "Using Technology to Promote Transparency, Improve Government Performance and Enhance Citizen Engagement" or any successor order. Such data shall include, but not be limited to:

(i) all data required by paragraph (c) of subdivision one of this section, including estimates of capital funding required each year and expected sources of such funding;

(ii) all data required by subdivision two of this section, including proposed expenditures or commitments of funding for individual capital elements required; and

(iii) all data regarding proposed expenditures or commitments of individual projects in each capital element.

(d) Individual capital project data shall be included in a capital program dashboard maintained by the authority on its website. Any summary views provided on the website shall include the original budgets, project scopes, and schedules, in addition to current or amended budgets, project scopes, and schedules. Data pertaining to individual projects shall include, but not be limited to:

(i) the capital project identification number;

(ii) the capital plan years;

(iii) the agency or authority undertaking the project;

(iv) a project description;

(v) the project location;

(vi) the capital need met by the project, such as state of good repair, normal replacement, system improvement, system expansion or other category;

(vii) all associated contact numbers and vendors;

(viii) budget information including the original budget, all amendments, the current budget and planned annual allocations; and

(ix) a schedule for project delivery including original, amended and current start and completion dates.

The status of projects shall be provided and state the current phase of the project, such as planning, design, construction or completion, and shall state how close such project is to completion as measured in percentage. The dashboard shall measure progress based on original budgets, project scope and schedules rather than amended budgets, project scope and schedules. All changes to planned budgets, project scope or schedules shall be provided in narrative form and describe the reason for each change or amendment. All projects related to accessibility, resiliency, or sustainability should be coded as such. The dashboard shall include a glossary or data dictionary which contains plain language descriptions of the data and information provided on the dashboard. The dashboard shall be updated, at a minimum, on a quarterly basis, and all data fields available on the dashboard shall be made available for download on the authority's website in a single tabular data file in a common, machine readable format. Capital dashboard data shall also be made available on the data.ny.gov website or such other successor website maintained by, or on behalf of, the state, as deemed appropriate by the New York state office of information technology services under executive order number ninety-five of two thousand thirteen, or any successor agency or order.

(e) The data required to be published pursuant to this subdivision shall be made in a single tabular data file in a common, machine readable format and shall be accessible on the authority's website and the website data.ny.gov or such other successor website maintained by, or on behalf of, the state, as deemed appropriate by the New York state office of information technology services under executive order number ninety-five of two thousand thirteen, or any successor agency or order.

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

PART TTT

Section 1. Section 16-ff of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by section 2 of part VV of chapter 59 of the laws of 2021, is amended to read as follows:

§ 16-ff. COVID-19 pandemic small business recovery 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.

(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 COVID-19 pandemic small business recovery 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.

(e) "COVID-19 health and safety protocols" means any restrictions imposed on the operation of businesses by executive order 202 of 2020 issued by the governor, or any extension or subsequent executive order issued in response to the novel coronavirus (COVID-19) pandemic, or any other statute, rule, or regulation imposing restrictions on the operation of businesses in response to the novel coronavirus (COVID-19) pandemic.

(f) "For-profit independent arts and cultural organization" shall mean a small or medium sized private for-profit, independently operated live-performance venue, promoter, production company, or performance related business located in New York state negatively impacted by COVID-19 health and safety protocols, and having one hundred or less full-time employees, excluding seasonal employees. The qualifying organizations under this definition may include businesses engaged in a field including, but not limited to, architecture, dance, design, film, music, theater, opera, media, literature, museum activities, visual arts, folk arts and casting.

(g) "Independent arts contractor" shall mean an individual employed through independent contracts or agreements with for-profit independent arts and culture organizations or live performance tours to perform as part of a production, located in New York state negatively impacted by COVID-19 health and safety protocols. The qualifying individuals under this definition may include, but are not limited to, musicians, bands consisting of 6 or fewer persons, solo artists, music production technicians and those engaged in a field including, but not limited to, music, theater, opera, media, literature, museum activities, visual arts, and folk arts.

2. COVID-19 pandemic small business recovery grant program established. The COVID-19 pandemic small business recovery grant program is hereby created to provide assistance to small businesses and for-profit independent arts and cultural organizations who have experienced economic hardship during the COVID-19 pandemic.

3. Authorization. The corporation is hereby authorized, using available funds, to issue grants and provide technical assistance and outreach to small businesses, for-profit independent arts and cultural organizations, and technical assistance partners for the purpose of aiding the recovery of the New York state economy, and may promulgate guidelines or regulations 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 or for-profit independent arts and cultural organization shall:

(i) Be incorporated in New York state or licensed or registered to do business in New York state;

(ii) Be a currently viable small business [~~or~~]**,** for-profit independent arts and cultural organization**, or an independent arts contractor** that has been in operation since before March 1, 2019;

(iii) Be able to demonstrate [~~lost revenue or other~~] economic hardship **such as, but not limited to, loss of revenue or additional business expenses,** due to the COVID-19 pandemic or compliance with COVID-19 health and safety protocols which resulted in business modifications, interruptions, or closures. To demonstrate lost revenue or other economic hardship, the applicant shall show a loss **of revenue or COVID-19**

related business expenses in year-to-date revenue or receipts as of December 31, 2020, compared with the same period in 2019;

(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 prior to July 15, 2020, 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:

(i) eligible micro-businesses, small businesses, and for-profit independent arts and cultural organizations 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;

(ii) those who are unable to obtain sufficient business assistance from such federal programs [~~with priority~~]. Receipt of the maximum assistance award from such federal programs including, but not limited to, the Paycheck Protection Program, the Economic Injury Disaster Loan, or the Restaurant Revitalization Fund shall not exclude a business from eligibility under this program. Priority shall be 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 shall be considered for micro-businesses, small businesses, [~~and~~] for-profit independent arts and cultural organizations, and independent arts contractor, negatively impacted by the COVID-19 pandemic or by their compliance with COVID-19 health and safety protocols which resulted in lost revenue, business modifications, interruptions, or closures. Such eligible costs shall have been incurred between March 1, 2020 and April 1, 2021.

(b) The following costs incurred by a micro-business, small business, [~~or~~] for-profit independent arts and cultural organization, or independent arts contractor shall be considered eligible under the program at a minimum: payroll costs; costs of rent or mortgage as provided for in subparagraph (i) of this paragraph; costs of repayment of local property or school taxes associated with such small business's location as provided for in subparagraph (ii) 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.

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

(ii) 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, [~~or~~] for-profit independent arts and cultural organiza-

tion**, or independent arts contractor** 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, small businesses, [~~or~~] for-profit independent arts and cultural organizations**, or independent arts contractor** to submit applications to the program. As part of the application each micro-business, small business, [~~or~~] for-profit independent arts and cultural organization**, or independent arts contractor** shall provide sufficient documentation in a manner prescribed by the corporation to demonstrate hardship, and prevent fraud, waste, and abuse.

7. Reporting. The corporation, on a quarterly basis beginning September 30, 2021, and ending when all program funds are expended, shall submit a separate and distinct report to the governor, the temporary president of the senate, and the speaker of the assembly setting forth the activities undertaken by the program. Such quarterly report shall include, but need not be limited to: the number of applicants and their county locations; the number of applicants approved by the program and their county location; the total amount of grants awarded, and the average amount of such grants awarded; and such other information as the corporation determines necessary and appropriate. Such report shall be included on the corporation's website and any other publicly accessible state database that list economic development programs, as determined by the commissioner.

8. 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 UUU

Section 1. Legislative findings and declarations:

1. The transportation sector in New York is a leading source of criteria pollutants and the leading source of greenhouse gas emissions that endanger public health and welfare by causing and contributing to increased air pollution and dangerous climate change. Meeting the pollution reduction requirements of the Climate Leadership and Communities Protection Act will require sharp decreases in transportation-related emissions.

2. Shifting from today's petroleum-based transportation fuels to alternative fuels has the potential to significantly reduce transportation emissions of air pollutants and greenhouse gases and is recommended by the Intergovernmental Panel on Climate Change as an important pathway for holding global warming to 1.5 degrees Celsius.

3. The Climate Leadership and Communities Protection Act directs the Department of Environmental Protection to promulgate regulations that will reduce greenhouse gas emissions, including from on-road vehicles.

4. New York signed a 15-state Memorandum of Understanding to develop an action plan to reduce toxic diesel emissions from medium and heavy-duty vehicles by 2050.

5. A clean fuels standard regulation will promote innovation production and use of non-petroleum fuels that reduce vehicle and fuel-related air pollution that endangers public health and welfare and disproportionately impacts disadvantaged communities.

§ 2. Short title. This act shall be known and may be cited as the "clean fuel standard of 2022".

§ 3. The environmental conservation law is amended by adding a new section 19-0331 to read as follows:

§ 19-0331. Clean fuel standard.

(1) A clean fuel standard is hereby established. The clean fuel standard is intended to reduce carbon intensity from the on-road transportation sector by twenty percent by two thousand thirty, with further reductions to be implemented based upon advances in technology as determined by the commissioner. Aviation fuels shall be exempted from the clean fuel standard due to federal preemption, but sustainable aviation fuel shall be eligible to generate credits on an opt-in basis.

(2) The clean fuel standard shall apply to all providers of transportation fuels, including electricity, in New York, shall be measured on a full fuels lifecycle basis and may be met through market-based methods by which providers exceeding the performance required by the clean fuel standard shall receive credits that may be applied to future obligations or traded to providers not meeting the clean fuel standard. The generation of credits must use a lifecycle emissions performance-based approach that is technology and feedstock neutral to achieve fuel decarbonization. In addition to fuel decarbonization, credits generated through the use of clean fuel types will help promote innovation and investment in such clean fuels. For purposes of this section the term "providers" shall include, but shall not be limited to, all refiners, blenders, producers or importers of transportation fuels, or enablers of electricity used as transportation fuel, "carbon intensity" means the quantity of lifecycle greenhouse gas emissions per unit of fuel energy, and "full fuels lifecycle" means the aggregate of greenhouse gas emissions, including direct emissions and significant indirect emissions, such as significant emissions from land use changes as determined by the commissioner. The full fuels lifecycle includes all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel by the ultimate consumer. In calculating full fuels lifecycle greenhouse gas emissions, the mass values for all non-carbon-dioxide greenhouse gases must be adjusted to account for their relative global warming potentials. This conversion shall use the most appropriate conversion relative to global warming potentials as determined by the commissioner based on the best available science.

(3) Within twenty-four months of the effective date of this section, the commissioner, in consultation with the New York state energy research and development authority, shall promulgate regulations establishing a clean fuel standard with performance objectives to implement subdivision one of this section. Such regulations may be phased into effect giving priority to the heavy-duty transportation sector consisting of vehicles with the classification of six or higher as classified by the Federal Highway Administration. The clean fuel standard shall take into consideration the low carbon fuel standard adopted in California and other states, may rely upon the carbon intensity of values

established for transportation fuels in such states and shall include coordination with other Northeastern states to promote regional reductions in greenhouse gas emissions.

(4) The regulations adopted pursuant to this section shall include fees for the registration of providers to offset the costs associated with implementation of the clean fuel standard.

(5) Within twenty-four months following the adoption of regulations implementing a clean fuel standard, the commissioner shall report to the legislature regarding the implementation of the program, the reductions in greenhouse gas emissions that have been achieved through the clean fuel standard and targets for future reductions in greenhouse gas emissions from the transportation sector.

(6) Nothing in this section shall preclude the department from enacting or maintaining other programs to reduce greenhouse gas emissions from the transportation sector.

§ 4. This act shall take effect immediately.

PART VVV

Section 1. The tax law is amended by adding a new section 180 to read as follows:

§ 180. Independent analysis. 1. The department shall contract with a certified public accounting firm for the provision of an independent, comprehensive, analysis of each tax credit, tax deduction and tax incentive established in this chapter or any other chapter of the law which relates to increasing economic development including, but not limited to, increasing employment, developing the state's workforce, increasing existing business activity or attracting new business to the state. Such analysis shall be performed in accordance with generally accepted government auditing standards. Such analysis shall be directed at the relevant and appropriate state agencies, commissions, and other government run entities, and shall not include an analysis of individual private entities or individual taxpayers. Such analysis shall include, but not be limited to, a complete and thorough evaluation of the return on investment for each tax credit, tax deduction and tax incentive. For the purposes of this section, "return on investment" means: (a) the effects on job creation by each tax credit, tax deduction and tax incentive; and (b) whether the expenditures by the state on each tax credit, tax deduction or tax incentive result in an increase or decrease in tax revenues for the state.

2. Prior to the analysis pursuant to subdivision one of this section, the certified public accounting firm that the department contracts with may solicit input from leaders in the business community, organized labor and economic development reform stakeholders, including, but not limited to representatives from nonprofits and academic institutions.

3. Such analysis shall be completed and submitted to the department no later than January first, two thousand twenty-three and shall be posted publicly on the department's website within thirty days of submission to the department. The analysis shall also be submitted to the governor, the temporary president of the senate, the speaker of the assembly, and the chair of the senate finance committee and the chair of the assembly ways and means committee.

4. The certified independent public accounting firm providing the department's, comprehensive analysis shall adhere to the requirements in paragraphs (a), (b) and (c) of this subdivision; provided, however, the department may contract with an accounting firm notwithstanding para-

graphs (a), (b) and (c) of this subdivision upon a written determination by the commissioner which shall detail that such accounting firm was awarded such contract on the basis that no accounting firm meets the requirements set forth in paragraphs (a), (b) and (c) of this subdivision.

(a) Such certified independent public accounting firm shall be prohibited from providing analysis services to the department if the analysis partner having primary responsibility for the analysis, or the analysis partner responsible for reviewing the analysis, has performed analysis services for the department in the past three fiscal years.

(b) Such certified independent public accounting firm shall be prohibited from performing any non-analysis services to the department contemporaneously with the analysis, including: (1) bookkeeping or other services related to the accounting records or financial statements of such department; (2) financial information systems design and implementation; (3) appraisal or valuation services, fairness opinions, or contribution-in-kind reports; (4) actuarial services; (5) internal analysis outsourcing services; (6) management functions or human services; (7) broker or dealer, investment advisor, or investment banking services; and (8) legal services and expert services unrelated to the analysis.

(c) Such certified independent public accounting firm shall be prohibited from providing analysis services to the department if an employee assigned to the analysis has performed analysis services for the department or has been employed by the department in the past three fiscal years.

§ 2. This act shall take effect immediately.

PART WWW

Section 1. Short title. This act shall be known and may be cited as the "working to implement reliable and equitable deployment of broadband act (WIRED broadband act)".

§ 2. The economic development law is amended by adding a new article 26 to read as follows:

ARTICLE 26

DIVISION of BROADBAND DEVELOPMENT

Section 500. Definitions.
501. Division of broadband development.
502. Power and duties of the division of broadband development.
503. Assistance of other agencies.
504. Broadband development advisory board; creation.
505. Rules and regulations.
506. ConnectAll deployment program.
507. ConnectAll municipal assistance program.
508. ConnectAll innovation grants program.
509. ConnectAll digital literacy grants program.
510. ConnectAll affordable housing broadband assistance program.
511. Audit of New NY Broadband Program.
512. New NY Broadband Program; transfer.

§ 500. Definitions. The following definitions apply throughout this article unless the context clearly requires otherwise:

1. "Advisory board" or "board" shall mean the broadband development advisory board created by this article.

2. "Broadband", "broadband service", or "broadband internet" shall mean a mass-market retail service that provides the capability to trans-

mit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but shall not include dial-up service. For the purposes of this article, unless specified otherwise, a service with speeds lower than 100 megabits per second (mbps) for download and at least 10 mbps for upload shall not be considered broadband.

3. "Division" shall mean the division of broadband development created by this article.

§ 501. Division of broadband development. There is hereby created within the department a division of broadband development. The director of such division shall be appointed by the governor, with the advice and consent of the senate, and shall report directly to the commissioner on the activities of the division, and shall hold office at the pleasure of the commissioner. The commissioner may appoint such officers, employees, agents, consultants and special committees as he or she may deem necessary to carry out the provisions of this article and prescribe their duties. Vacancy occurring otherwise than by expiration of term shall be filled in the same manner as original appointment for the balance of the unexpired term, provided the governor shall designate an acting director for a period not to exceed six months or until a successor director has been confirmed by the senate, whichever comes first.

§ 502. Powers and duties of the division of broadband development. The division shall have the power and duty to:

1. Coordinate the activities of all state agencies performing functions affecting the deployment and accessibility of the internet in the state;

2. Conduct investigations, research, studies and analyses of matters affecting deployment, accessibility and adoption of the internet;

3. Provide advisory assistance to municipalities, state and local authorities, and entities established pursuant to section ninety-nine-y of the general municipal law to expand access to reliable broadband;

4. Establish and implement the ConnectAll programs as established in sections five hundred six, five hundred seven, five hundred eight, five hundred nine, and five hundred ten of this article, within amounts appropriated therefor, pursuant to guidelines and regulations promulgated by the commissioner;

5. Maintain records and oversight of the assistance provided by the state agencies for the development of broadband;

6. Conduct investigations, research, studies and analyses of anti-competitive behavior in internet service providers' markets, and the lack of consumer choice, and promote competition in the industry and the deployment of open-access infrastructure;

7. Study gaps in adoption, access and utilization of broadband in urban centers and recommend policy and legislative changes to address such gaps;

8. Increase awareness of and enrollment in state or federal internet subsidy programs;

9. Work with the state education department and private partners to ensure schools, libraries and other locations with public and communal internet, have access to reliable high-speed broadband, and to assist school districts in ensuring availability of affordable broadband services to students for remote learning; and

10. Implement the statewide broadband policy developed by the advisory board, in consultation with the public service commission.

§ 503. Assistance of other agencies. To effectuate the purposes of this article, the commissioner may request and shall receive from any department, division, board, bureau, commission or other agency of the state or from any public corporation or district, and the same are authorized to provide, such assistance, services and data as will enable the office to properly carry out its functions, powers and duties hereunder.

§ 504. Broadband development advisory board; creation. 1. There is hereby created in the division of broadband development a broadband development advisory board. The board shall consist of eleven members, nine of which are to be appointed by the governor with the advice and consent of the senate. The commissioners of the department of public service and the state education department shall serve as ex-officio members. The governor shall designate a chairperson from the members of the advisory board, to serve as such at the pleasure of the governor. In appointing the members of the advisory board the governor shall ensure that at least six of the members are individuals who have substantial expertise in telecommunications policy, broadband development, grant-making, and/or internet regulation, at least one member with substantial expertise in labor relations, and compliance in the broadband deployment sector, and at least one member with substantial expertise in accounting controls and audits.

2. All members of the advisory board, other than the ex-officio members, shall serve for terms of three years, such terms to commence on May first, and expire on April thirtieth; provided, however, that of the six members first appointed three shall be appointed for one-year terms expiring on April thirtieth, two thousand twenty-three, three shall be appointed for two-year terms expiring on April thirtieth, two thousand twenty-four, three shall be appointed for three-year terms expiring on April thirtieth, two thousand twenty-five, and every three years thereafter. Any vacancies occurring otherwise than by expiration of term shall be filled in the same manner as original appointments for the balance of the unexpired term, provided the governor shall designate an acting member for a period not to exceed six months or until a successor has been confirmed by the senate, whichever comes first.

3. The advisory board shall meet regularly at least twice in each year. Special meetings may be called by its chairperson and shall be called by the chairperson at the request of the director of the division of broadband development.

4. No member of the advisory board shall be disqualified from holding any other public office or employment, nor forfeit any such office or employment by reason of appointment hereunder, notwithstanding the provisions of any general, special or local law, ordinance or city charter.

5. The members of the advisory board shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder.

6. The board shall have the power and duty to:

(a) advise the commissioner in carrying out the functions, powers and duties of the division, as set forth in this article;

(b) advise the commissioner, the governor, and the legislature concerning recommended legislation, or changes thereof, necessary to promote expansion and development of reliable, affordable and accessible high-speed broadband;

(c) advise the commissioner, the governor, and the legislature concerning existing laws, rules, regulations and practices of state

agencies which are counter-productive or inimical to promote expansion and development of reliable, affordable and accessible high-speed broadband;

(d) advise the commissioner, the governor, and the legislature concerning the development of inter-governmental cooperation among agencies of the federal, state and local governments and cooperation between private industry and government so as to promote expansion, development and continued provision of reliable, affordable, and accessible high-speed broadband;

(e) advise the commissioner, the governor, and the legislature on addressing the lack of consumer choice, increasing competition in the broadband industry, and promoting open-access infrastructure;

(f) recommend to the commissioner, in consultation with the division of broadband development, guidelines and/or regulations for implementation of the ConnectAll programs pursuant to sections five hundred six, five hundred seven, five hundred eight and five hundred nine of this article including but not limited to the requirements set forth in such sections;

(g) recommend to the commissioner, in consultation with the division of housing and community renewal, guidelines and/or regulations for implementation of the ConnectAll affordable housing broadband assistance program established pursuant to section five hundred ten of this article, including but not limited to, the requirements set forth therein;

(h) in consultation with the public service commission, and using the study and maps produced pursuant to section two hundred twenty-four-c of the public service law and the definitions provided therein, designate, and periodically update, the appropriate locations in the state as served, unserved and underserved for the purposes of any programs established by the division;

(i) advise the commissioner, the governor, and the legislature on development of wireless and cellular services, including deployment of small cell networks for access to 5G; and

(j) in consultation with the public service commission, develop, publish, and periodically update, a statewide broadband policy that:

(i) supports the development of infrastructure to support universal access to reliable high-speed broadband;

(ii) stimulates competition among internet service providers, to improve quality and reduce cost for both business and residential users;

(iii) increases digital literacy, adoption and use of high-speed broadband and reduces digital divide;

(iv) incorporates affordable broadband service in affordable housing projects; and

(v) identifies regulatory obstacles and provides recommendations to streamline regulations or enforcement practices.

7. The commissioner shall provide the board with such staff assistance and support services as necessary for the board to perform the functions required of it under this section.

§ 505. Rules and regulations. The commissioner shall adopt rules and regulations to effectuate the purposes of this article. The broadband development advisory board shall recommend to her or him criteria for inclusion therein.

§ 506. ConnectAll deployment program. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Applicant" shall mean any entities requesting grants for one or more eligible projects, including but not limited to:

(i) One or more incorporated organizations;

(ii) Native American tribes or tribal organizations;

(iii) A local unit of government, or a group of multiple units of government;

(iv) A cooperative, private corporation or limited liability company, organized on a for-profit or not-for-profit basis; or

(v) A group of public and/or private sector partners.

(b) "Program" shall mean the ConnectAll deployment program established pursuant to subdivision two of this section.

(c) "Project" shall mean an applicant's underlying proposal to develop infrastructure necessary to provide access to broadband, as prescribed in this program and consistent with the regulations promulgated by the commissioner therefor.

(d) "Last-mile" shall mean communications infrastructure that bridges the transmission distance between the internet service provider's network and the customer premises equipment.

(e) "Middle-mile" shall mean open-access communications infrastructure that connects last-mile networks to global internet networks.

(f) "Unserved" shall mean any location which has no access to fixed wireless service or wired service with download speeds of 25 mbps or more.

(g) "Underserved" shall mean any location which has access to fixed wireless service or wired service with download speeds of 25 mbps or more but less than 100 mbps.

(h) "Served" shall mean any location which has access to fixed wireless service or wired service with download speeds of 100 mbps or more.

2. Establishment. The ConnectAll deployment program is hereby established to provide grant funding to applicants to build infrastructure necessary to provide broadband services to unserved and underserved locations in the state as designated by the board.

3. Authorization. The division is hereby authorized, using funds appropriated for such purpose, to issue grants to facilitate broadband deployment to expand access and availability of broadband internet to unserved and underserved locations in the state, pursuant to guidelines and regulations promulgated by the commissioner at the recommendation of the advisory board to effectuate the purposes herein.

4. Eligible projects. Grants from this program shall only be awarded to projects that:

(a) (i) constitute entirely of middle-mile and last-mile deployment necessary to provide internet service to unserved and underserved locations in the state as designated by the board;

(ii) upgrade existing internet service in underserved areas of the state, where the applicant can demonstrate to the division's satisfaction that the project is necessary to reach minimum service requirements of the program pursuant to paragraph (b) of this subdivision; or

(iii) Are necessary to provide internet services to libraries, hospitals, schools, or public buildings with public or communal access to the internet, and deemed to be in the public interest by the division;

(b) Provide at minimum reliable internet service with consistent speeds of at least 100 mbps for download and at least 10 mbps for upload, unless this requirement is waived for a specific project or location and a different speed level is approved by the division, but under no circumstances less than 25 mbps download and 3 mbps upload;

(c) Do not, and shall not in the future, impose caps on bandwidth usage on the service provided to the end-user;

(d) Provide the service required under this program at prices consistent with the price structure established by the advisory board for the region; and

(e) Solely utilize fiber-to-the-home, unless the division, upon receiving a written request including explanation of the cost and technical feasibility factors that make fiber-to-the-home unviable or unsuitable, approves the use of other technologies for any part of the project.

5. Selection criteria and requirements. (a) In order to be eligible for any grant or form of financial support under the program, an applicant shall:

(i) Demonstrate the need for the funding to undertake the project, and the necessity of the project to provide services to unserved and underserved areas consistent with the requirements of the program;

(ii) Demonstrate suitable fiscal, technical, operational, and management capabilities to the satisfaction of the division;

(iii) Provide a completion date and make a commitment to complete the project, as prescribed by the division;

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

(v) Provide data regarding their workforce plan as requested by the division, including but not limited to:

(1) Whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce;

(2) The entities that the proposed subgrantee plans to subcontract with in carrying out the proposed work;

(3) The job titles and size of the workforce required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce; and

(4) For each job title required to carry out the proposed work:

(A) a description of safety training, certification, licensure requirements, and/or in-house training program with established requirements tied to certifications, titles, and uniform wage scales;

(B) a description of information on the professional certifications and/or in-house training in place to ensure that deployment is done at a high standard;

(C) a description of wages, including overtime rates, and benefits; and

(D) a description of applicable wage scales and descriptions of how wages are calculated.

(b) Grants awarded from this program shall be used for funding:

(i) the cost of construction and improvement of middle-mile networks, equipment, or other investments required to deliver last-mile service to unserved or underserved locations in the state;

(ii) reimbursement of up to fifty percent of the maintenance and operational expenses of the project for the first year of operation after completion of the project;

(iii) the cost of long-term leases, defined as leases for a duration longer than one year, of facilities required to provide broadband service consistent with the program requirements;

(iv) reasonable make-ready expenses incurred as a result of providing broadband service;

(v) reasonable indirect costs associated with the grant application and implementation of the project as approved by the division; and/or

(vi) any other expenses the division may deem reasonable, and necessary to the project.

(c) Expenses incurred prior to the date of the grant award announcement shall not be eligible use of funds under this program.

(d) Preference shall be given to proposals that:

(i) provide service to locations in unserved areas as designated by the advisory board;

(ii) provide service to locations with communal or public broadband including but not limited to libraries, schools, healthcare facilities, municipal buildings, and public spaces; or

(iii) are accompanied by a written recommendation from the relevant municipality or regional economic development council explaining, to the satisfaction of the division, the immediate need for such project.

(e) Preference shall be given to applicants who can demonstrate, to the division's satisfaction, that the workforce performing the contract will:

(i) have high standards of workplace safety practices, safety training, certification, and/or licensure for all relevant workers, for example, a ten or more hour course under the United States department of labor's outreach training program, aerial and confined space training, traffic control, excavation and trenching safety, or other training as relevant depending on title and work;

(ii) have a high level of training tied to certifications, titles, and/or uniform wage scales to ensure that deployment is done at a high standard including, apprenticeship or in-house training on fiber splicing, placing, pulling, and hanging fiber, fiber optic association's certified fiber optic technician certification, and the building industry consulting service international certifications;

(iii) have policies that support job pipelines for locally-based and traditionally marginalized communities;

(iv) have the relevant work performed by a directly employed workforce or employer that has policies and/or practices to ensure that any employees of contractors used meet the criteria as described above; and

(v) have robust compliance with workplace protections including the Occupational Safety and Health Act, the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, and state labor and employment laws, or have mitigated violations with labor compliance agreements; and the applicant will have measures in place to ensure future labor compliance.

6. Private match. The division shall not require a private match of more than ten percent of the cost of the project. A private match of over ten percent shall not be used as a factor to determine preference in awarding grants under the program.

7. Application and approval process. (a) The division shall establish the procedures and set a time period to solicit, receive and evaluate applications to the program consistent with the regulations and guidelines provided by the commissioner.

(b) As part of the application each applicant shall provide sufficient documentation in a manner prescribed by the division to demonstrate suitability of the project for grant funding under the program and commit to providing such documentation as may be needed by the division to ensure compliance.

(c) All awards shall be subject to continued oversight of disbursement by the division, and to any recapture terms set by the division.

8. Consumer choice. The division shall ensure that a project receiving assistance under this program does not limit or make difficult the provision of broadband services by internet service providers other than the awardee and does not limit consumer choice for the future.

9. Reporting. (a) The division, every six months, beginning six months after the establishment of the program, until the program has been discontinued or concluded, shall submit a separate and distinct report to the governor, the temporary president of the senate, and the speaker of the assembly setting forth the activities undertaken by the program. Such reports shall include, but need not be limited to, the details of the grants and recipients, locations of the projects, the effectiveness of the program in expanding broadband access in underserved and unserved areas, and such other information as the division deems necessary and appropriate. Such reports shall be included on the department's website and any other publicly accessible state database that list economic development programs as determined by the commissioner.

(b) The division shall maintain a database of all grants awarded in the program along with information on the awardees, amount of the award, project for which an award was made, and progress on completion of a project. Such database shall be published and made available on the department's website in a downloadable and searchable format.

§ 507. ConnectAll municipal assistance program. 1. As used in this section, the term "program" shall mean the ConnectAll municipal assistance program established pursuant to subdivision two of this section.

2. There is hereby established a ConnectAll municipal assistance program to be administered by the division.

3. The division is hereby authorized, using funds appropriated for this program, to solicit and receive proposals from municipalities, state and local authorities, and entities established pursuant to section ninety-nine-y of the general municipal law, on open-access deployment and/or increasing adoption of broadband services, and to issue grants for planning and implementation of such proposals, pursuant to guidelines and regulations promulgated by the commissioner at the recommendation of the advisory board to effectuate the purposes herein.

4. Grants for deployment from this program shall only be awarded to proposals that:

(a) have a completed feasibility study and business plan demonstrating long-term financial viability and sustainability to the satisfaction of the division;

(b) create open-access communications infrastructure;

(c) provide at minimum reliable internet service with consistent speeds of at least 100 mbps for download and at least 10 mbps for upload, unless this requirement is waived for a specific project or location and a different speed level is approved by the division, but under no circumstances less than 25 mbps download and 3 mbps upload;

(d) solely utilize fiber-to-the-home, unless the division, upon receiving a written request including explanation of the cost and technical feasibility factors that make fiber-to-the-home unviable or unsuitable, approves the use of other technologies for any part of the project; and

(e) identify and engage any and all private partners to undertake and manage the proposal, or demonstrate to the division's satisfaction that a private or private-public partnership model is not viable, practical or suitable to meet the needs of the consumers covered by the proposal.

5. Grants awarded from this program shall be used for funding:

(a) the cost of construction and improvement of middle-mile networks, equipment, or other investments required to deliver last-mile service;

(b) reimbursement of up to fifty percent of the maintenance and operational expenses for the first year of operation after build-out of the infrastructure;

(c) the cost of long-term leases, defined as leases for a duration longer than one year, of facilities required to provide broadband service consistent with the program requirements;

(d) reasonable make-ready expenses incurred as a result of providing broadband service;

(e) reasonable indirect costs associated with the grant application and implementation of the proposal as approved by the division; and/or

(f) any other expenses the division may deem reasonable, and necessary to the proposal.

6. In order to be eligible for any grant or form of financial support under the program, an applicant shall:

(a) demonstrate suitable fiscal, technical, operational, and management capabilities to the satisfaction of the division;

(b) provide information and data regarding their workforce plan as requested by the division, including but not limited to:

(i) whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce;

(ii) the entities that the proposed subgrantee plans to subcontract with in carrying out the proposed work;

(iii) the job titles and size of the workforce required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce; and

(iv) for each job title required to carry out the proposed work:

(1) a description of safety training, certification, licensure requirements, and/or in-house training program with established requirements tied to certifications, titles, and uniform wage scales;

(2) a description of information on the professional certifications and/or in-house training in place to ensure that deployment is done at a high standard;

(3) a description of wages, including overtime rates, and benefits; and

(4) a description of applicable wage scales and descriptions of how wages are calculated.

7. In awarding the grants, the division shall give preference to:

(a) proposals that have a business plan based on a public-private partnership model or a provide a mechanism for transition of services to a private entity in the future; and

(b) applicants who can demonstrate, to the division's satisfaction, that the workforce performing the contract will:

(i) have high standards of workplace safety practices, safety training, certification, and/or licensure for all relevant workers, for example, a ten or more hour course under the United States department of labor's outreach training program, aerial and confined space training, traffic control, excavation and trenching safety, or other training as relevant depending on title and work;

(ii) have a high level of training tied to certifications, titles, and/or uniform wage scales to ensure that deployment is done at a high standard including, apprenticeship or in-house training on fiber splicing, placing, pulling, and hanging fiber, fiber optic association's certified fiber optic technician certification, and the building industry consulting service international certifications;

(iii) have policies that support job pipelines for locally-based and traditionally marginalized communities;

(iv) have the relevant work performed by a directly employed workforce or employer has policies and/or practices to ensure that any employees of contractors used meet the criteria as described above; and

(v) have robust compliance with workplace protections including the Occupational Safety and Health Act, the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, and state labor and employment laws, or have mitigated violations with labor compliance agreements; and the applicant will have measures in place to ensure future labor compliance.

8. (a) The division, every six months, beginning six months after the establishment of the program, until the program has been discontinued or concluded, shall submit a separate and distinct report to the governor, the temporary president of the senate, and the speaker of the assembly setting forth the activities undertaken by the program. Such reports shall include, but need not be limited to, the details of the grants and recipients, locations of the projects, the effectiveness of the program, and such other information as the division deems necessary and appropriate. Such reports shall be included on the department's website and any other publicly accessible state database that list economic development programs as determined by the commissioner.

(b) The division shall maintain a database of all grants awarded in the program along with information on the awardees, amount of the award, project for which an award was made, and progress on completion of a project. Such database shall be published and made available on the department's website in a downloadable and searchable format.

§ 508. ConnectAll innovation grants program. 1. As used in this section "program" shall mean the ConnectAll innovation grants program established pursuant to subdivision two of this section.

2. There is hereby established a ConnectAll innovation grants program to be administered by the division.

3. The division is hereby authorized, using funds appropriated for this program, to issue grants to develop and commercialize innovative and new broadband solutions and technologies, to promote critical private sector investment in such technologies, to provide seed funding for the development of such technologies and products, and/or to foster collaboration between the academic research community and the business sector for such purposes, pursuant to guidelines and regulations promulgated by the commissioner at the recommendation of the advisory board to effectuate the purposes herein.

4. The following conditions shall apply to the program:

(a) In awarding grants under this section, the division shall give preference to:

(i) proposals that receive one-to-one investment or more in private match;

(ii) proposals where an academic institution is a collaborator and provides in-kind assistance and access to institutions resources;

(iii) proposals that test or implement technologies that are not widely applied across the state;

(iv) proposals that include a path to commercialization; and/or

(v) applicants who are based within the state or plan to establish business in the state.

(b) Eligible grant applicants shall include but not be limited to private persons, students, government, nonprofit organizations, and for-profit businesses.

(c) Grantees shall provide a business plan for a potential solution and shall include engineering and design plans, and financing models.

(d) Proposals eligible for grants under this program shall provide internet speeds no less than 100 mbps for download and 10 mbps for upload.

(e) A grant award under this program shall not exceed fifty thousand dollars.

(f) Not more than ten percent of a grant may be used for grant management.

5. (a) The division, every six months, beginning six months after the establishment of the program, until the program has been discontinued or concluded, shall submit a separate and distinct report to the governor, the temporary president of the senate, and the speaker of the assembly setting forth the activities undertaken by the program. Such reports shall include, but need not be limited to, the details of the grants and recipients, locations of the projects, the effectiveness of the program in developing, testing and commercializing new broadband technologies, and such other information as the division deems necessary and appropriate. Such reports shall be included on the department's website and any other publicly accessible state database that list economic development programs as determined by the commissioner.

(b) The division shall maintain a database of all grants awarded in the program along with information on the awardees, amount of the award, proposals for which an award was made, and progress on development and commercialization of the selected proposals. Such database shall be published and made available on the department's website in a downloadable and searchable format.

§ 509. ConnectAll digital literacy grants program. 1. As used in this section "program" shall mean the ConnectAll digital literacy grants program established pursuant to subdivision two of this section.

2. There is hereby established a ConnectAll digital literacy grants program to be administered by the division, to provide grants and assistance to schools, public libraries, universities, and other educational institutions in the state to advance digital literacy and training.

3. A grant award under this program shall not exceed fifty thousand dollars.

4. Preference shall be given to proposals that:

(a) are located in census tracts where fifty percent of households have incomes below sixty percent of the area median gross income or have a poverty rate of twenty-five percent or more or are otherwise located in areas of high unemployment; and/or

(b) are focused on creating employment opportunities or providing skills training.

5. (a) The division, every six months, beginning six months after the establishment of the program, until the program has been discontinued or concluded, shall submit a separate and distinct report to the governor, the temporary president of the senate, and the speaker of the assembly setting forth the activities undertaken by the program. Such reports shall include, but need not be limited to, the details of the grants and recipients, locations of the projects, the effectiveness of the program, and such other information as the division deems necessary and appropriate. Such reports shall be included on the department's website and any other publicly accessible state database that list economic development programs as determined by the commissioner.

(b) The division shall maintain a database of all grants awarded in the program along with information on the awardees, amount of the award, project for which an award was made, and progress on completion of a project. Such database shall be published and made available on the department's website in a downloadable and searchable format.

§ 510. ConnectAll affordable housing broadband assistance program. 1. As used in this section "program" shall mean the ConnectAll affordable housing broadband assistance program established pursuant to subdivision two of this section.

2. There is hereby established a ConnectAll affordable housing broadband assistance program to be administered by the division, to work with the division of homes and community renewal to fund the retrofitting of affordable housing projects with broadband installations.

3. (a) The division, every six months, beginning six months after the establishment of the program, until the program has been discontinued or concluded, shall submit a separate and distinct report to the governor, the temporary president of the senate, and the speaker of the assembly setting forth the activities undertaken by the program. Such reports shall include, but need not be limited to, the details of the grants and recipients, locations of the projects, the effectiveness of the program, and such other information as the division deems necessary and appropriate. Such reports shall be included on the department's website and any other publicly accessible state database that list economic development programs as determined by the commissioner.

(b) The division shall maintain a database of all grants awarded in the program along with information on the awardees, amount of the award, project for which an award was made, and progress on completion of a project. Such database shall be published and made available on the department's website in a downloadable and searchable format.

§ 511. Audit of New NY Broadband Program. The state comptroller shall audit the New NY Broadband Program for the period commencing on its inception and ending June thirtieth, two thousand twenty-one and shall make a report, not later than March first, two thousand twenty-three relating thereto to the governor, the temporary president of the senate and the speaker of the assembly.

§ 512. New NY Broadband Program; transfer. All the functions and powers possessed by and all the obligations and duties of the state broadband program office and the New NY Broadband Program are hereby transferred and assigned to and assumed by the division.

§ 3. The general municipal law is amended by adding a new section 99-y to read as follows:

§ 99-y. Internet access and communications. The governing body of any county, city, town or village is hereby authorized and empowered to establish, construct, and maintain broadband and related telecommunications infrastructure, or to contract for the construction and maintenance of such services with a corporation or nonprofit organization, and for the maintenance, care, and replacement of infrastructure in connection therewith, if such governing body finds that such facilities are necessary. For the purposes of this section, "nonprofit organization" shall mean a corporation having tax exempt status under section 501 (c) (3) of the United States internal revenue code, or any organization incorporated under the not-for-profit corporation law.

§ 4. Section 119-a of the public service law is amended by adding a new subdivision 5 to read as follows:

5. The commission shall direct pole owners to identify and submit a report within six months to the commission and the division for broadband development of the necessary make ready work for pole attachments in any unserved and underserved areas as identified by the broadband map created pursuant to section two hundred twenty-four-c of this chapter. The information in such reports shall be made available to grantees of the ConnectAll deployment program established by section five hundred

six of the economic development law to streamline actions related to utility pole attachments.

§ 5. 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~~] **shall not** include [~~a~~] **any** 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 the New NY Broadband Program shall not be subject to a fee for such use or 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.

§ 6. 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~~] **shall not** include [~~a~~] **any** 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 the New NY Broadband Program shall not be subject to a fee for such use or 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.

§ 7. Notwithstanding any provision of law to the contrary, any provision of an agreement made pursuant to subdivision 24-e of section 10 of the highway law or section 7 of the transportation corporations law that provide for a fee for use and occupancy of a right of way shall be deemed unenforceable, provided however, that the remaining provisions

of such agreement shall be enforceable. Any fees for use and occupancy of a right of way collected prior to the effective date of this act pursuant to such an agreement, may be retained by the state.

§ 8. The second undesignated paragraph of section 52 of the highway law, as amended by chapter 297 of the laws of 1972, is amended to read as follows:

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 accommodation of fiber optic utilities within the state highway right of way, the regulations shall additionally provide that the department shall issue a written notice of complete application to an applicant for a highway work permit or use and occupancy permit within twenty-one days of receipt of the work permit application. Within such time of submission for an accommodation of fiber optic utilities, an initial review of the application shall be conducted and the department shall either make a determination that the application is complete, or identify any additional information required to be submitted by the applicant for the application to be considered complete. With respect to accommodation of fiber optic utilities, the regulations shall also provide that the department shall: complete the review of the application and either issue or deny a work permit and/or use and occupancy permit within forty-five days of issuing the written notice of complete application; and provide that any application that is pending for more than forty-five days without a permit being issued shall be deemed approved. If the work permit and/or use and occupancy permit is denied, the department shall identify and provide specific reasoning and basis for the denial.** 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.

§ 9. The labor law is amended by adding a new section 224-e to read as follows:

§ 224-e. Wage requirements for certain broadband projects. 1. For purposes of this section, a "covered broadband project" means a broadband project funded by programs established pursuant to section five hundred six or five hundred seven of the economic development law.

2. Notwithstanding the provisions of section two hundred twenty-four-a of this article, a covered broadband project shall be subject to prevailing wage requirements in accordance with sections two hundred twenty and two hundred twenty-b of this article, provided that a covered broadband project may still otherwise be considered a covered project pursuant to section two hundred twenty-four-a of this article if it meets the definition therein.

3. For purposes of this section, the "fiscal officer" shall be deemed to be the commissioner. The enforcement of any covered broadband project under this section shall be subject to the requirements of sections two

hundred twenty, two hundred twenty-a, two hundred twenty-b, two hundred twenty-three, two hundred twenty-four-b of this article, and section two hundred twenty-seven of this chapter and within the jurisdiction of the fiscal officer; provided, however, nothing contained in this section shall be deemed to construe any covered broadband project as otherwise being considered public work pursuant to this article.

4. The fiscal officer may issue rules and regulations governing the provisions of this section. Violations of this section shall be grounds for determinations and orders pursuant to section two hundred twenty-b of this article.

5. Each owner and developer subject to the requirements of this section shall comply with the objectives and goals of certified minority and women-owned business enterprises pursuant to article fifteen-A of the executive law and certified service-disabled veteran-owned businesses pursuant to article seventeen-B of the executive law. The department in consultation with the directors of the division of minority and women's business development and of the division of service-disabled veterans' business development shall make training and resources available to assist minority and women-owned business enterprises and service-disabled veteran-owned business enterprises undertaking covered broadband projects to achieve and maintain compliance with prevailing wage requirements. The department shall make such training and resources available online and shall afford minority and women-owned business enterprises and service-disabled veteran-owned business enterprises an opportunity to submit comments on such training.

6. (a) The fiscal officer shall report to the governor, the temporary president of the senate, and the speaker of the assembly by July first, two thousand twenty-three and annually thereafter, on the participation of minority and women-owned business enterprises undertaking covered broadband projects subject to the provisions of this section as well as the diversity practices of contractors and subcontractors employing workers on such projects.

(b) Such reports shall include aggregated data on the utilization and participation of minority and women-owned business enterprises, the employment of minorities and women in construction-related jobs on such projects, and the commitment of contractors and subcontractors on such projects to adopting practices and policies that promote diversity within the workforce. The reports shall also examine the compliance of contractors and subcontractors with other equal employment opportunity requirements and anti-discrimination laws, in addition to any other employment practices deemed pertinent by the commissioner.

(c) The fiscal officer may require any owner or developer to disclose information on the participation of minority and women-owned business enterprises and the diversity practices of contractors and subcontractors involved in the performance of any covered broadband project. It shall be the duty of the fiscal officer to consult and to share such information in order to effectuate the requirements of this section.

§ 10. This act shall take effect immediately; provided, however, that section eight of this act shall take effect on the thirtieth day after it shall have become a law; provided, further, that if chapter 68 of the laws of 2022 shall not have taken effect on or before the effective date of this act then section four of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2022 takes effect; and provided, further, that the amendments to subdivision 24-e of section 10 of the highway law made by section five of this act and the amendments to section 7 of the transportation corporations law made

by section six of this act shall not affect the expiration of such subdivision and such section and shall be deemed to expire and repeal therewith. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

§ 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 WWW of this act shall be as specifically set forth in the last section of such Parts.