

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.

LBD12673-04-2

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 brown-field opportunity areas; and to amend the public authorities law, in relation to funding for certain projects by the dormitory authority (Part U); to amend 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:

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

13 PART A

14 Intentionally Omitted

15 PART B

16 Intentionally Omitted

17 PART C

18 Intentionally Omitted

19 PART D

20 Intentionally Omitted

21 PART E

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

26 Section 1. Notwithstanding any other law, rule or regulation to the
27 contrary, payment of mass transportation operating assistance pursuant
28 to section 18-b of the transportation law shall be subject to the
29 provisions contained herein and the amounts made available therefor by
30 appropriation.

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

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

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

	Percentage of Matching Payment	
Local Jurisdiction		

In the Metropolitan Commuter Transportation District:		
New York City	6.40	
Dutchess	1.30	
Nassau	39.60	
Orange	0.50	
Putnam	1.30	
Rockland	0.10	
Suffolk	25.70	
Westchester	25.10	
In the Capital District Trans- portation District:		
Albany	[56.10] 55.27	
Rensselaer	[23.30] 22.96	
Saratoga	[4.10] 4.04	
Schenectady	[16.50] 16.26	
<u>Montgomery</u>	<u>1.47</u>	
In the Central New York Re- gional Transportation Dis- trict:		
Cayuga	5.11	
Onondaga	75.83	
Oswego	2.85	
Oneida	16.21	
In the Rochester-Genesee Re- gional Transportation Dis- trict:		
Genesee	1.36	
Livingston90	
Monroe	90.14	
Wayne98	
Wyoming51	
Seneca64	
Orleans77	
Ontario	4.69	
In the Niagara Frontier Trans- portation District: Erie		89.20
Niagara	10.80	

49 Notwithstanding any other inconsistent provisions of section 18-b of
 50 the transportation law or any other law, any moneys provided to a public
 51 benefit corporation constituting a transportation authority or to other
 52 public transportation systems in payment of state operating assistance
 53 or such lesser amount as the authority or public transportation system
 54 shall make application for, shall be paid by the commissioner of trans-

1 portation to such authority or public transportation system in lieu, and
2 in full satisfaction, of any amounts which the authority would otherwise
3 be entitled to receive under section 18-b of the transportation law.

4 Notwithstanding the reporting date provision of section 17-a of the
5 transportation law, the reports of each regional transportation authori-
6 ty and other major public transportation systems receiving mass trans-
7 portation operating assistance shall be submitted on or before July 15
8 of each year in the format prescribed by the commissioner of transporta-
9 tion. Copies of such reports shall also be filed with the chairpersons
10 of the senate finance committee and the assembly ways and means commit-
11 tee and the director of the budget. The commissioner of transportation
12 may withhold future state operating assistance payments to public trans-
13 portation systems or private operators that do not provide such reports.

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

25 The commissioner of transportation shall be required to annually eval-
26 uate the operating and financial performance of each major public trans-
27 portation system. Where the commissioner's evaluation process has iden-
28 tified a problem related to system performance, the commissioner may
29 request the system to develop plans to address the performance deficien-
30 cies. The commissioner of transportation may withhold future state oper-
31 ating assistance payments to public transportation systems or private
32 operators that do not provide such operating, financial, or other infor-
33 mation as may be required by the commissioner to conduct the evaluation
34 process.

35 Payments shall be made contingent upon compliance with regulations
36 deemed necessary and appropriate, as prescribed by the commissioner of
37 transportation and approved by the director of the budget, which shall
38 promote the economy, efficiency, utility, effectiveness, and coordinated
39 service delivery of public transportation systems. The chief executive
40 officer of each public transportation system receiving a payment shall
41 certify to the commissioner of transportation, in addition to informa-
42 tion required by section 18-b of the transportation law, such other
43 information as the commissioner of transportation shall determine is
44 necessary to determine compliance and carry out the purposes herein.

45 Counties, municipalities or Indian tribes that propose to allocate
46 service payments to operators on a basis other than the amount earned by
47 the service payment formula shall be required to describe the proposed
48 method of distributing governmental operating aid and submit it one
49 month prior to the start of the operator's fiscal year to the commis-
50 sioner of transportation in writing for review and approval prior to the
51 distribution of state aid. The commissioner of transportation shall only
52 approve alternate distribution methods which are consistent with the
53 transportation needs of the people to be served and ensure that the
54 system of private operators does not exceed established maximum service
55 payment limits. Copies of such approvals shall be submitted to the

1 chairpersons of the senate finance and assembly ways and means commit-
2 tees.

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

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

25 In the event that an audit of a public transportation system or
26 private operator receiving funds discloses the existence of an overpay-
27 ment of state operating assistance, regardless of whether such an over-
28 payment results from an audit of revenue passengers and the actual
29 number of revenue vehicle miles statistics, or an audit of private oper-
30 ators in cases where more than a reasonable return based on equity or
31 operating revenues and expenses has resulted, the commissioner of trans-
32 portation, in addition to recovering the amount of state operating
33 assistance overpaid, shall also recover interest, as defined by the
34 department of taxation and finance, on the amount of the overpayment.

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

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

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

51 PART F

52 Intentionally Omitted

1 PART G

2 Intentionally Omitted

3 PART H

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

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

29 § 2. This act shall take effect immediately.

30 PART I

31 Intentionally Omitted

32 PART J

33 Intentionally Omitted

34 PART K

35 Intentionally Omitted

36 PART L

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

40 11. With intent to cause physical injury to a train operator, ticket
41 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

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

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

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

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

17 (f) Maintain records in accordance with applicable regulations and, in
18 the case of distance learning, must also maintain and record the deliv-
19 ery method and instructor delivering the course. Provided that no spon-
20 soring or delivery agency may disclose or otherwise make available to
21 any person or entity any personal information obtained by such provider
22 about any student who registers for such course. For the purposes of
23 this article, "personal information" shall mean information that identi-
24 fies an individual, including an individual's photo image, social secu-
25 rity number, driver identification number, name, address, but not the
26 five-digit zip code, telephone number, and medical or disability infor-
27 mation.

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

30 § 1-b. Section 399-f of the vehicle and traffic law, as added by chap-
31 ter 290 of the laws of 1998, is amended to read as follows:

32 § 399-f. Proof of effectiveness. Proof of effectiveness shall be veri-
33 fiable research documentation submitted by the applicant for sponsorship
34 showing evidence of effectiveness comparable to that of the national
35 safety council's defensive driving course as determined by the commis-
36 sioner in terms of reduced convictions or accidents or both. This
37 research documentation shall employ accepted research principles and
38 include treatment and non-treatment control groups comprised of samples
39 of the representative driver base. In order to establish verifiable
40 effectiveness, each sample group should be comprised of a minimum of
41 three thousand drivers selected randomly. The documentation shall
42 include conviction or accident data for each motorist for a period of at
43 least eighteen months prior to the course completion date and at least
44 eighteen months subsequent to such date, and equivalent time periods for
45 non-treatment control groups. The documentation shall also include a
46 description of the sampling and analytic procedures used, and the motor-
47 ist identification number and course completion date for all course
48 attendees. The applicant for sponsorship shall provide, at the request
49 of the commissioner and at the applicant's expense, all driving record
50 data and analysis used in the development of the submitted research
51 documentation. Submission of any fraudulent or intentionally misleading
52 data will disqualify that organization and all owners and principals
53 from participating or approval in the accident prevention course for a
54 period of ten years from submission date. The commissioner may, by regu-
55 lation, provide for a smaller sample group for specialized courses.
56 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

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

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

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

7 (iii) Within three years of the implementation of courses offered
8 entirely through distance learning, the commissioner shall publish a
9 report documenting proof of effectiveness comparing the effectiveness of
10 courses provided in person with live courses provided through distance
11 learning. Such report shall include recommendations as to the future use
12 of internet and other distance learning tools as an effective way to
13 deliver approved pre-licensing courses. Proof of effectiveness of
14 distance learning shall be verifiable research documentation submitted
15 by the sponsoring or delivery agency or driver education teacher showing
16 evidence of effectiveness of distance learning programs comparable to
17 that of the national safety council's defensive driving course as deter-
18 mined by the commissioner in terms of reduced convictions or accidents
19 or both. This research documentation shall employ accepted research
20 principles and include treatment and non-treatment control groups
21 comprised of samples of the representative driver base. In order to
22 establish verifiable effectiveness, each sample group should be
23 comprised of a minimum of three thousand drivers selected randomly,
24 though the commissioner may provide for a smaller sample group for
25 specialized courses by regulation. The documentation shall include
26 conviction or accident data for each motorist for a period of at least
27 eighteen months prior to the course completion date and at least eigh-
28 teen months subsequent to such date, and equivalent time periods for
29 non-treatment control groups. The documentation shall also include a
30 description of the sampling and analytic procedures used, and the motor-
31 ist identification number and course completion date for all course
32 attendees. The sponsoring or delivery agency or driver education teacher
33 shall provide, at the request of the commissioner and at the applicant's
34 expense, all driving record data and analysis used in the development of
35 the submitted research documentation. Submission of any fraudulent or
36 intentionally misleading data will disqualify that organization and all
37 owners and principals from participating or approval in the pre-licens-
38 ing course for a period of ten years from submission date.

39 (iv) Violations of law, regulation, or policy are subject to suspen-
40 sion or revocation of the sponsoring or delivery agency and instructor's
41 certification.

42 § 2. This act shall take effect immediately; provided that sections
43 one-a and one-b of this act shall take effect on the ninetieth day after
44 it shall have become a law and shall expire and be deemed repealed April
45 1, 2024; provided further that section one-c of this act shall take
46 effect on the ninetieth day after it shall have become a law and shall
47 expire and be deemed repealed June 30, 2025. Effective immediately, the
48 addition, amendment and/or repeal of any rule or regulation necessary
49 for the implementation of this act on its effective date are authorized
50 to be made and completed on or before such effective date.

51 PART P

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

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

3 § 13. This act shall take effect immediately; provided however that
4 sections one through seven of this act, the amendments to subdivision 2
5 of section 205 of the tax law made by section eight of this act, and
6 section nine of this act shall expire and be deemed repealed on April 1,
7 ~~2022~~ 2024; provided further, however, that the provisions of section
8 eleven of this act shall take effect April 1, 2004 and shall expire and
9 be deemed repealed on April 1, ~~2022~~ 2024.

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

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

19 § 3. The commissioner of the department of motor vehicles shall issue
20 a final report and recommendations to the governor, the temporary presi-
21 dent of the senate, the speaker of the assembly, the chairs of the
22 assembly ways and means and senate finance committees, and the chairs of
23 the assembly and senate transportation committees regarding alternative
24 revenue sources and mechanisms to transfer department operating expendi-
25 tures away from the Dedicated Highway and Bridge Trust Fund established
26 pursuant to section 89-b of the state finance law by December 31, 2026.
27 Such report shall be issued no later than April 1, 2024.

28 § 4. This act shall take effect immediately.

29 PART Q

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

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

35 2. The commissioner, in consultation with the commissioner of motor
36 vehicles, shall develop a program that would allow incarcerated individ-
37 uals without an identification card, or individuals whose driver's
38 license or learner's permit has not been issued by the commissioner
39 of motor vehicles, or individuals whose driver's license or learner's
40 permit is expired, suspended, revoked or surrendered, or individuals
41 whose identification card is expired, to obtain an identification card
42 prior to the incarcerated individual's release from a correctional
43 facility under the jurisdiction of the department or upon the individ-
44 ual's release from a correctional facility under the jurisdiction of the
45 department.

46 3. The sentence and commitment or certificate of conviction of an
47 incarcerated individual shall be deemed sufficient to grant authori-
48 zation to the department of corrections and community supervision to
49 apply for and/or obtain an identification card on behalf of an incarcer-
50 ated individual in an institution or correctional facility under the
51 jurisdiction of the department.

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

1 or upon the release of such individual from an institution or correc-
2 tional facility under the jurisdiction of the department.

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

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

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

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

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

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

40 § 4. This act shall take effect on the first of April next succeeding
41 the date on which it shall have become a law. Effective immediately, the
42 addition, amendment and/or repeal of any rule or regulation necessary
43 for the implementation of this act on its effective date are authorized
44 to be made and completed on or before such effective date.

45 PART R

46 Section 1. The civil rights law is amended by adding a new section
47 79-q to read as follows:

48 § 79-q. Collection of gender or sex designation information by state
49 agencies. 1. All New York state agencies that collect demographic infor-
50 mation about a person's gender or sex shall make available to the person
51 at the point of data collection an option to mark their gender or sex as
52 "x".

53 2. Where applicable federal law requires a state agency to collect sex
54 or gender data as either "m" or "f", the state agency shall create a

1 separate field for state purposes so that a person has the option to
2 mark their gender or sex as "x" to be collected by the state.

3 3. All state agencies shall update any applicable physical and online
4 forms or data systems within ninety days of the effective date of this
5 section.

6 4. A state agency that cannot comply with the requirements of this
7 section shall post publicly on its website a written report of the steps
8 the agency has taken to comply with this section and the time frame for
9 compliance at least sixty days before the date required by this section.
10 The written report shall be updated every six months from the date of
11 the original posting.

12 § 2. Intentionally omitted.

13 § 3. This act shall take effect immediately.

14 PART S

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

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

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

32 § 2. This act shall take effect immediately.

33 PART T

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

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

45 § 2. This act shall take effect immediately.

46 PART U

47 Section 1. Subparagraph 7 of paragraph b of subdivision 2 of section
48 970-r of the general municipal law, as amended by section 1 of part U of
49 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.

1 The municipal government's statement shall be considered a part of the
2 application.

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

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

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

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

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

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

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

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

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

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

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

35 11. All applicants for financial assistance and participation in any
36 other activity authorized under this section, as determined by the
37 secretary, may contract with the dormitory authority of the state of New
38 York in use of such financial assistance and in completion of such other
39 activities that the secretary determines and requires under this
40 section. The dormitory authority of the state of New York is authorized
41 to provide planning, design and construction services and to contract
42 for and render any such services the secretary determines and requires
43 to such applicants under this section.

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

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

54 § 8. Subdivision 1 of section 1680 of the public authorities law is
55 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,

1 total cost of food products for its school lunch service program
2 purchased from New York State farmers, growers, producers or processors,
3 and the percent of total food costs that were purchased from New York
4 State farmers, growers, producers or processors for its school lunch
5 service program.

6 § 2. This act shall take effect immediately.

7 PART W

8 Intentionally Omitted

9 PART X

10 Intentionally Omitted

11 PART Y

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

17 § 2. This act shall take effect immediately provided, however, that
18 section one of this act shall expire on July 1, ~~2022~~ 2023, at which
19 time the provisions of subdivision 26 of section 5 of the New York state
20 urban development corporation act shall be deemed repealed; provided,
21 however, that neither the expiration nor the repeal of such subdivision
22 as provided for herein shall be deemed to affect or impair in any manner
23 any loan made pursuant to the authority of such subdivision prior to
24 such expiration and repeal.

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

27 PART Z

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

32 3. The provisions of this section shall expire, notwithstanding any
33 inconsistent provision of subdivision 4 of section 469 of chapter 309 of
34 the laws of 1996 or of any other law, on July 1, ~~2022~~ 2023.

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

37 PART AA

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

42 (a) (i) "authorized state entity" shall mean the New York state thru-
43 way authority, the department of transportation, the office of parks,
44 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,

1 or similar services and such services that are substantially similar to
2 and in lieu of services provided, in whole or in part, by state employ-
3 ees, but shall not include legal services or services in connection with
4 litigation including expert witnesses and shall not include contracts
5 for construction of public works. For purposes of this subdivision, the
6 costs of performing the services by state employees shall include any
7 salary, pension costs, all other benefit costs, costs that are required
8 for equipment, facilities and all other overhead. The costs of consult-
9 ant services shall include the total cost of the contract including
10 costs that are required for equipment, facilities and all other overhead
11 and any continuing state costs directly associated with a contractor
12 providing a contracted function including, but not limited to, those
13 costs for inspection, supervision, monitoring of the contractor's work
14 and any pro rata share of existing costs or expenses, including adminis-
15 trative salaries and benefits, rent, equipment costs, utilities and
16 materials. The cost comparison shall be expressed where feasible as an
17 hourly rate, or where such a calculation is not feasible, as a total
18 estimated cost for the anticipated term of the contract.

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

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

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

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

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

1 improvements and risks attendant to termination of the contract or
2 rescission of such contract, (vii) a description of the current market
3 for the services or activities that are the subject of such business
4 plan, (viii) an analysis of the quality of services as gauged by stand-
5 ardized measures and key performance requirements including compen-
6 sation, turnover, and staffing ratios, (ix) a description of the specif-
7 ic results based performance standards that shall, at a minimum be met,
8 to ensure adequate performance by any party performing such service or
9 activity, (x) the projected time frame for key events from the beginning
10 of the procurement process through the expiration of a contract, if
11 applicable, (xi) a specific and feasible contingency plan that addresses
12 contractor nonperformance and a description of the tasks involved in and
13 costs required for implementation of such plan, and (xii) a transition
14 plan, if appropriate, for addressing changes in the number of agency
15 personnel, affected business processes, employee transition issues, and
16 communications with affected stakeholders, such as agency clients and
17 members of the public, if applicable. Such transition plan shall contain
18 a reemployment and retraining assistance plan for employees who are not
19 retained by the state or employed by the contractor. If any part of such
20 business plan is based upon evidence that the state agency is not suffi-
21 ciently staffed to provide the services required by the consultant
22 services contract, the state agency shall also include within such busi-
23 ness plan a recommendation for remediation of the understaffing to allow
24 such services to be provided directly by the state agency in the future.

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

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

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

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

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

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

45 (ii) the contract is necessary in order to avoid a conflict of inter-
46 est on the part of the agency or its employees; or

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

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

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

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

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

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

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

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

23 PART BB

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

28 (6) small scale systems integration and packaging[~~+~~]; or

29 (h) a community development financial institution.

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

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

37 (f) projects in which community development financial institutions
38 make loans to manufacturing, agricultural, and service funds. A communi-
39 ty development financial institution that accepts funds from the Excels-
40 ior Linked Deposit Program shall meet the requirements of the State
41 Community Reinvestment Act.

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

44 25. "Community development financial institution" means an organiza-
45 tion as defined in 12 U.S.C. 4702(5)(a).

46 § 4. This act shall take effect immediately.

47 PART CC

48 Section 1. Section 1 of chapter 174 of the laws of 1968, constituting
49 the New York state urban development corporation act, is amended by
50 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 includ-
ing, but not limited to, architecture, dance, design, film, music, thea-
ter, 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 assist-
ance 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 avail-
able 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;

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

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

6 (b) In order to be eligible for a grant or additional form of support
7 under the program, an eligible ceased small business shall:

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

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

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

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

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

20 (i) eligible micro-businesses, small businesses, ceased small busi-
21 nesses, and for-profit independent arts and cultural organizations that
22 do not qualify for business assistance grant programs under the federal
23 American Rescue Plan Act of 2021 or any other available federal COVID-19
24 economic recovery or business assistance grant programs, including loans
25 forgiven under the federal Paycheck Protection Program, or;

26 (ii) are unable to obtain sufficient business assistance from such
27 federal programs. Receipt of the maximum assistance award from such
28 federal programs including, but not limited to, the Paycheck Protection
29 Program, the Economic Injury Disaster Loan, or the Restaurant Revitali-
30 zation Fund, shall not exclude a business from eligibility under this
31 program. Priority shall be given to socially and economically disadvan-
32 tagged business owners including, but not limited to, minority and
33 women-owned business enterprises, service-disabled veteran-owned busi-
34 nesses, and veteran-owned businesses, or businesses located in communi-
35 ties that were economically distressed prior to March 1, 2020, as deter-
36 mined by the most recent census data.

37 5. Eligible costs. (a) Eligible costs considered for micro-businesses,
38 small businesses, ceased small businesses, and for-profit independent
39 arts and cultural organizations under this program must have been
40 incurred between March 1, 2019 and January 1, 2022.

41 (b) (i) The following costs incurred by a micro-business, small busi-
42 ness, ceased small business, and for-profit independent arts and
43 cultural organization, shall be considered eligible under the program at
44 a minimum: payroll costs; costs of rent or mortgage as provided for in
45 subparagraph (ii) of this paragraph; costs of repayment of local proper-
46 ty or school taxes associated with such small business's location as
47 provided for in subparagraph (iii) of this paragraph; insurance costs;
48 utility costs; costs of personal protection equipment (PPE) necessary to
49 protect worker and consumer health and safety; heating, ventilation, and
50 air conditioning (HVAC) costs, or other machinery or equipment costs, or
51 supplies and materials necessary for compliance with COVID-19 health and
52 safety protocols, and other documented COVID-19 costs as approved by the
53 corporation.

54 (ii) Mortgage payments or commercial rent shall be considered eligible
55 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

1 PART FF

2 Intentionally Omitted

3 PART GG

4 Intentionally Omitted

5 PART HH

6 Intentionally Omitted

7 PART II

8 Intentionally Omitted

9 PART JJ

10 Intentionally Omitted

11 PART KK

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

15 2. [~~The~~] Appropriations for the solid waste mitigation program [~~shall~~
16 ~~receive no more than twenty-five million dollars~~] from the clean water
17 infrastructure act of 2017 [~~and~~] shall be made available to the depart-
18 ment and the department of health, as applicable, for the following
19 purposes:

- 20 a. enumeration and assessment of solid waste sites;
- 21 b. investigation and environmental characterization of solid waste
- 22 sites, including environmental sampling;
- 23 c. mitigation and remediation of solid waste sites;
- 24 d. monitoring of solid waste sites; and
- 25 e. administration and enforcement of the requirements of section
- 26 27-1203 of this title.

27 § 2. This act shall take effect immediately.

28 PART LL

29 Section 1. This act enacts into law components of legislation relating
30 to brownfields cleanup and redevelopment projects. Each component is
31 wholly contained within a Subpart identified as Subparts A through C.
32 The effective date for each particular provision contained within such
33 Subpart is set forth in the last section of such Subpart. Any provision
34 in any section contained within a Subpart, including the effective
35 date of the Subpart, which makes a reference to a section "of this act",
36 when used in connection with that particular component, shall be deemed
37 to mean and refer to the corresponding section of the Subpart in which

1 it is found. Section three of this act sets forth the general effective
2 date of this act.

3 SUBPART A

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

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

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

32 § 2. Subdivision 1-a of section 27-1407 of the environmental conserva-
33 tion law, as added by section 3 of part BB of chapter 56 of the laws of
34 2015, is amended to read as follows:

35 1-a. If the person is also seeking a determination that the site is
36 eligible for the tangible property credit component of the brownfield
37 redevelopment tax credit pursuant to paragraph three of subdivision (a)
38 of section twenty-one of the tax law for a site located in a city having
39 a population of one million or more, such person shall submit informa-
40 tion sufficient to demonstrate that: (a) at least half of the site area
41 is located in an environmental zone as defined in section twenty-one of
42 the tax law; (b) the property is upside down or underutilized; or (c)
43 the project is an affordable housing project as described in paragraph
44 (a) of subdivision twenty-nine of section 27-1405 of this title. An
45 applicant may request an eligibility determination for tangible property
46 credits at any time from application until the site receives a certif-
47 icate of completion [~~pursuant to section 27-1419 of this title except~~
48 ~~for sites seeking eligibility under the underutilized category~~].
49 Notwithstanding the foregoing, a site located in a city having a popu-
50 lation of one million or more and which is a conforming BOA site or
51 which is described in paragraph (b) of subdivision twenty-nine of
52 section 27-1405 of this title, shall also be eligible for the tangible
53 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

1 has issued a notice to the taxpayer before July first, two thousand
2 fifteen or the date of publication in the state register of proposed
3 regulations defining "underutilized" as provided in subdivision thirty
4 of section 27-1405 of the environmental conservation law, whichever
5 shall be later, that its request for participation has been accepted
6 under subdivision six of section 27-1407 of the environmental conserva-
7 tion law, this credit component shall only be allowed for up to one
8 hundred eighty months after the date of the issuance of such certificate
9 of completion; provided, however, with respect to any qualified site for
10 which the department of environmental conservation has issued a notice
11 to the taxpayer on or after July first, two thousand fifteen or the date
12 of publication in the state register of proposed regulations defining
13 "underutilized" as provided in subdivision thirty of section 27-1405 of
14 the environmental conservation law, whichever shall be later, that its
15 request for participation has been accepted under subdivision six of
16 section 27-1407 of the environmental conservation law, or which received
17 such notice of acceptance prior to that date but is eligible for the
18 brownfield redevelopment tax credits as if the site was accepted into
19 the brownfield cleanup program after that date as provided in section
20 thirty-three of chapter fifty-six of the laws of two thousand fifteen,
21 this credit component shall only be allowed for up to one hundred eighty
22 months after the date of the issuance of such certificate of completion.

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

26 (2) Site preparation credit component. The site preparation credit
27 component shall be equal to the applicable percentage of the site prepa-
28 ration costs paid or incurred by the taxpayer with respect to a quali-
29 fied site. The credit component amount so determined with respect to a
30 site's qualification for a certificate of completion shall be allowed
31 for the taxable year in which the effective date of the certificate of
32 completion occurs. The credit component amount determined other than
33 with respect to such qualification shall be allowed for the taxable year
34 in which the improvement to which the applicable costs apply is placed
35 in service for up to five taxable years after the issuance of such
36 certificate of completion, provided, however, that for any qualified
37 site to which a certificate of completion is issued on or after March
38 twentieth, two thousand fifteen the site preparation credit component
39 for such costs shall be allowed for up to seven taxable years after the
40 certificate of completion; and provided further that the credit compo-
41 nent amount for any costs necessary for compliance with the certificate
42 of completion or subsequent modifications thereof or the remedial
43 program defined in such certificate which were paid or incurred but not
44 included in the calculation of a credit allowed under this section in
45 any taxable year beginning prior to January first, two thousand twenty-
46 one, shall be allowed for the taxpayer's first taxable year beginning on
47 or after January first, two thousand twenty-one, and the credit compo-
48 nent amount for any such costs paid or incurred in any taxable year
49 beginning on or after January first, two thousand twenty-one shall be
50 allowed in the taxable year such costs are paid or incurred for up to
51 seven taxable years after the issuance of the certificate of completion.

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

55 (2) Site preparation costs. The term "site preparation costs" shall
56 mean all amounts properly chargeable to a capital account, which are

1 paid or incurred which are necessary to implement a site's investi-
2 gation, remediation, or qualification for a certificate of completion,
3 and shall include costs of: excavation; demolition; activities undertak-
4 en under the oversight of the department of labor or in accordance with
5 standards established by the department of health to remediate and
6 dispose of regulated materials including asbestos, lead or polychlori-
7 nated biphenyls; environmental consulting; engineering; legal costs;
8 transportation, disposal, treatment or containment of contaminated soil;
9 remediation measures taken to address contaminated soil vapor; cover
10 systems consistent with applicable regulations; physical support of
11 excavation; dewatering and other work to facilitate or enable remedi-
12 ation activities; sheeting, shoring, and other engineering controls
13 required to prevent off-site migration of contamination from the quali-
14 fied site or migrating onto the qualified site; and the costs of fenc-
15 ing, temporary electric wiring, scaffolding, and security facilities
16 until such time as the certificate of completion has been issued. Site
17 preparation shall include all costs paid or incurred within sixty months
18 after the last day of the tax year in which the certificate of
19 completion is issued that are necessary for compliance with the certif-
20 icate of completion or subsequent modifications thereof, or the remedial
21 program defined in such certificate of completion including but not
22 limited to institutional controls, engineering controls, an approved
23 site management plan, and an environmental easement with respect to the
24 qualified site; provided, however, with respect to any qualified site
25 for which the department of environmental conservation has issued a
26 notice to the taxpayer on or after July first, two thousand fifteen or
27 the date of publication in the state register of proposed regulations
28 defining "underutilized" as provided in subdivision thirty of section
29 27-1405 of the environmental conservation law, whichever shall be later,
30 that its request for participation has been accepted under subdivision
31 six of section 27-1407 of the environmental conservation law, site prep-
32 aration shall include all costs paid or incurred within eighty-four
33 months after the last day of the tax year in which the certificate of
34 completion is issued that are necessary for compliance with the certif-
35 icate of completion or subsequent modifications thereof, or the remedial
36 program defined in such certificate of completion including but not
37 limited to institutional controls, engineering controls, an approved
38 site management plan, and an environmental easement with respect to the
39 qualified site. Site preparation cost shall not include the costs of
40 foundation systems that exceed the cover system requirements in the
41 regulations applicable to the qualified site.

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

44 (7) Certain environmental zones (EN-Zones). An "environmental zone"
45 shall mean, with respect to any qualified site for which the department
46 of environmental conservation has issued a notice to the taxpayer on or
47 after July first, two thousand fifteen or the date of publication in the
48 state register of proposed regulations defining "underutilized" as
49 provided in subdivision thirty of section 27-1405 of the environmental
50 conservation law, whichever shall be later, that its request for partic-
51 ipation has been accepted under subdivision six of section 27-1407 of
52 the environmental conservation law:

53 (A) an area designated as such by the commissioner of labor. Such
54 areas shall be census tracts that satisfy either of the following crite-
55 ria:

56 (i) areas that have both:

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

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

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

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

12 (B) an area designated by the commissioner of the department of envi-
13 ronmental conservation to be a potential environmental justice area.

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

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

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

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

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

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

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

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

52 § 7. Section 31 of part H of chapter 1 of the laws of 2003, amending
53 the tax law relating to brownfield redevelopment tax credits, remediated
54 brownfield credit for real property taxes for qualified sites and envi-
55 ronmental remediation insurance credits, as amended by section 32 of

1 part BB of chapter 56 of the laws of 2015, is amended to read as
2 follows:

3 § 31. The tax credits allowed under section 22 or 23 of the tax law
4 and the corresponding provisions in articles 9, 9-A, 22 and 33 of the
5 tax law, as added by the provisions of sections one through twenty-nine
6 of this act, shall not be applicable to any site accepted into the
7 brownfield cleanup program on and after July 1, 2015 or the date of
8 publication in the state register of proposed regulations defining
9 "underutilized" as provided in subdivision 30 of section 27-1405 of the
10 environmental conservation law, whichever shall be later. The tax cred-
11 its allowed under section 21 of the tax law and the corresponding
12 provisions in articles 9, 9-A, 22 and 33 of the tax law, as added by the
13 provisions of sections one through twenty-nine of this act, shall not be
14 applicable to any site accepted into the brownfield cleanup program
15 after December 31, [~~2022~~] 2027, provided, however that any sites
16 accepted on or before December 31, [~~2022~~] 2027 must have received the
17 certificate of completion required to qualify for any of such credits on
18 or before [~~March~~] December 31, [~~2026~~] 2031.

19 § 8. A site which is in a potential environmental justice area, as
20 defined in clause (i) of subparagraph (B) of paragraph 7 of subdivision
21 (b) of section 21 of the tax law, as of the effective date of this act
22 shall be deemed to be in an environmental zone from and after January 1,
23 2021 for all purposes including but not limited to the site's eligibil-
24 ity for the tangible property credit component under subdivision 1-a of
25 section 27-1407 of the environmental conservation law and the calcu-
26 lation of the brownfield redevelopment tax credit pursuant to section 21
27 of the tax law as amended by this act for all taxable years beginning on
28 or after January 1, 2021.

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

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

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

48 SUBPART B

49 Section 1. Subparagraphs (i) and (iv) of paragraph 3 of subdivision
50 (a) of section 21 of the tax law, subparagraph (i) as amended by section
51 1 of part AA of chapter 58 of the laws of 2021, subparagraph (iv) as
52 amended by section 17 of part BB of chapter 56 of the laws of 2015, are
53 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

1 any buildings constructed as part of the site cover that are not proper-
2 ly included in the site preparation component and costs associated with
3 non-portable equipment, machinery and associated fixtures and appurte-
4 nances used exclusively on the site, whether or not such property has a
5 depreciable life for federal income tax purposes of [~~fifteen~~] four years
6 or more.

7 § 2. This act shall take effect immediately.

8 SUBPART C

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

11 2-b. Nothing in this section shall be construed to exclude a project
12 that is situated on a brownfield site as defined in subdivision two of
13 section 27-1405 of the environmental conservation law that is otherwise
14 subject to the provisions of subdivision two of this section.

15 § 2. This act shall take effect immediately.

16 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
17 sion, section, subpart or part of this act shall be adjudged by a court
18 of competent jurisdiction to be invalid, such judgment shall not affect,
19 impair, or invalidate the remainder thereof, but shall be confined in
20 its operation to the clause, sentence, paragraph, subdivision, section,
21 subpart or part thereof directly involved in the controversy in which
22 such judgment shall have been rendered. It is hereby declared to be the
23 intent of the legislature that this act would have been enacted even if
24 such invalid provisions had not been included herein.

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

28 PART MM

29 Section 1. Subdivision 1 and the opening paragraph of subdivision 2 of
30 section 27-1905 of the environmental conservation law, as amended by
31 section 1 of part E of chapter 58 of the laws of 2019, are amended to
32 read as follows:

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

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

41 § 2. Subdivisions 1, 2, 3 and paragraph (a) of subdivision 6 of
42 section 27-1913 of the environmental conservation law, as amended by
43 section 2 of part E of chapter 58 of the laws of 2019, are amended to
44 read as follows:

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

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

51 (a) recapped or resold tires;

52 (b) mail-order sales; or

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

4 2. Until December thirty-first, two thousand [~~twenty-two~~]
5 ~~twenty-seven~~, the tire service shall collect the waste tire management
6 and recycling fee from the purchaser at the time of the sale and shall
7 remit such fee to the department of taxation and finance with the quar-
8 terly report filed pursuant to subdivision three of this section.

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

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

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

23 (a) Each return shall include:

24 (i) the name of the tire service;

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

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

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

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

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

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

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

41 (a) Until December thirty-first, two thousand [~~twenty-two~~] ~~twenty-sev-~~
42 ~~en~~, any additional waste tire management and recycling costs of the tire
43 service in excess of the amount authorized to be retained pursuant to
44 paragraph (b) of subdivision two of this section may be included in the
45 published selling price of the new tire, or charged as a separate per-
46 tire charge on each new tire sold. When such costs are charged as a
47 separate per-tire charge: (i) such charge shall be stated as an invoice
48 item separate and distinct from the selling price of the tire; (ii) the
49 invoice shall state that the charge is imposed at the sole discretion of
50 the tire service; and (iii) the amount of such charge shall reflect the
51 actual cost to the tire service for the management and recycling of
52 waste tires accepted by the tire service pursuant to section 27-1905 of
53 this title, provided however, that in no event shall such charge exceed
54 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

1 service of the bonds to be refunded or repaid. The method for calculat-
2 ing present value shall be determined by law.

3 § 2. This act shall take effect immediately, provided that the
4 provisions of section one of this act shall not take effect unless and
5 until this act shall have been submitted to the people at the general
6 election to be held in November 2022 and shall have been approved by a
7 majority of all votes cast for and against it at such general election.
8 Upon approval by the people, section one of this act shall take effect
9 immediately. The ballots to be furnished for the use of voters upon
10 submission of this act shall be in the form prescribed by the election
11 law and the proposition or question to be submitted shall be printed
12 thereon in the following form, namely "To address and combat the impact
13 of climate change and damage to the environment, the "Clean Water, Clean
14 Air, and Green Jobs Environmental Bond Act of 2022 [~~"Restore Mother
15 Nature~~]" authorizes the sale of state bonds up to [~~three~~] six billion
16 dollars to fund environmental protection, natural restoration, resilien-
17 cy, and clean energy projects. Shall the Environmental Bond Act of 2022
18 be approved?".

19 § 2. This act shall take effect immediately; provided, however, that
20 sections 1, 2 and 3 of section 1 of part TT of chapter 59 of the laws of
21 2021, as amended by section one of this act, shall take effect on the
22 same date and the same manner as such part of such chapter of the laws
23 of 2021, takes effect.

24 PART 00

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

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

30 § 2. Subdivision 1 of section 58-0101 of the environmental conserva-
31 tion law, as added by section 1 of part UU of chapter 59 of the laws of
32 2021, is amended and two new subdivisions 16 and 17 are added to read as
33 follows:

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

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

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

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

52 § 58-0103. Allocation of moneys.

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

5 1. Not less than one billion two hundred million dollars
 6 [~~(\$1,000,000,000)~~] (\$1,200,000,000) for restoration and flood risk
 7 reduction as set forth in title three of this article.

8 2. Up to [~~five~~] six hundred fifty million dollars [~~(\$550,000,000)~~]
 9 (\$650,000,000) for open space land conservation and recreation as set
 10 forth in title five of this article.

11 3. Up to [~~seven~~] one billion one hundred million dollars
 12 [~~(\$700,000,000)~~] (\$1,100,000,000) for climate change mitigation as set
 13 forth in title seven of this article.

14 4. Not less than [~~five~~] six hundred fifty million dollars
 15 [~~(\$550,000,000)~~] (\$650,000,000) for water quality improvement and resil-
 16 ient infrastructure as set forth in title nine of this article.

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

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

22 7. Not less than one billion dollars (\$1,000,000,000) for purchase of
 23 or conversion to zero emission school and transit buses and EV charging
 24 infrastructure for buses and passenger vehicles as set forth in title
 25 fifteen of this article.

26 § 4. Subdivision 1 of section 58-0105 of the environmental conserva-
 27 tion law, as added by section 1 of part UU of chapter 59 of the laws of
 28 2021, is amended to read as follows:

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

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

35 § 58-0301. Allocation of moneys.

36 Of the moneys received by the state from the sale of bonds pursuant to
 37 the environmental bond act of 2022, not less than one billion two
 38 hundred million dollars [~~(\$1,000,000,000)~~] (\$1,200,000,000) shall be
 39 available for disbursements for restoration and flood risk reduction
 40 projects developed pursuant to section 58-0303 of this title. Not more
 41 than two hundred fifty million dollars (\$250,000,000) of this amount
 42 shall be available for projects pursuant to subdivision two of section
 43 58-0303 of this title [~~and~~], not less than one hundred million dollars
 44 (\$100,000,000) each shall be available for coastal rehabilitation and
 45 shoreline restoration projects and projects which address inland flood-
 46 ing, pursuant to paragraph a of subdivision one of section 58-0303 of
 47 this title, and not less than five hundred million dollars
 48 (\$500,000,000) shall be available for flood risk reduction projects for
 49 purposes of climate change adaptation pursuant to section 58-0303 of
 50 this title.

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

54 § 58-0501. Allocation of moneys.

55 Of the moneys received by the state from the sale of bonds pursuant to
 56 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.

1 § 58-1103. Programs, plans and projects.

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

9 TITLE 13

10 RENEWABLE HEATING AND COOLING FOR LOW- AND MODERATE-INCOME HOUSEHOLDS

11 Section 58-1301. Allocation of moneys.

12 58-1303. Programs, plans and projects.

13 § 58-1301. Allocation of moneys.

14 Of the moneys received by the state from the sale of bonds pursuant to
15 the environmental bond act of 2022, not less than one billion dollars
16 (\$1,000,000,000) shall be available for disbursement for renewable heat-
17 ing and cooling and weatherization for low- and moderate-income house-
18 holds pursuant to section 58-1303 of this title.

19 § 58-1303. Programs, plans and projects.

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

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

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

26 TITLE 15

27 ELECTRIC SCHOOL AND TRANSIT BUSES AND EV CHARGING INFRASTRUCTURE

28 Section 58-1501. Allocation of moneys.

29 58-1503. Programs, plans and projects.

30 § 58-1501. Allocation of moneys.

31 Of the moneys received by the state from the sale of bonds pursuant to
32 the environmental bond act of 2022, not less than one billion dollars
33 (\$1,000,000,000) shall be available for disbursement for zero emission
34 school and transit buses and EV charging infrastructure pursuant to
35 section 58-1503 of this title.

36 § 58-1503. Programs, plans and projects.

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

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

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

43 § 58-1701. Benefits of funds.

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

47 § 58-1703. Reporting.

48 1. No later than sixty days following the end of each fiscal year,
49 each department, agency, public benefit corporation, and public authori-
50 ty receiving an allocation or allocations of appropriation financed from
51 the [~~restore mother nature~~] clean water, clean air, and green jobs envi-
52 ronmental bond act of 2022 shall submit to the commissioner in a manner

1 and form prescribed by the department, the following information as of
2 March thirty-first of such fiscal year, within each category listed in
3 this title: the total appropriation; total commitments; year-to-date
4 disbursements; remaining uncommitted balances; and a description of each
5 project.

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

11 TITLE 19

12 LABOR STANDARDS

13 Section 58-1901. Labor standards.

14 § 58-1901. Labor standards.

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

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

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

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

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

40 5.(a) Any municipality or state entity, or a third party acting on
41 behalf and for the benefit of the municipality or state entity, in each
42 contract for construction, reconstruction, alteration, repair, improve-
43 ment or maintenance of a covered project under this article that is a
44 public work, shall ensure that such contract contains a provision that
45 the iron and structural steel used or supplied in the performance of the
46 contract or any subcontract thereto and that is permanently incorporated
47 into the public work, shall be produced or made in whole or substantial
48 part in the United States, its territories or possessions. In the case
49 of a structural iron or structural steel product, all manufacturing must
50 take place in the United States, from the initial melting stage through
51 the application of coatings, except metallurgical processes involving
52 the refinement of steel additives. For the purposes of this subdivision,
53 "permanently incorporated" shall mean an iron or steel product that is
54 required to remain in place at the end of the project contract, in a
55 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

1 infrastructure, other environmental infrastructure, wetland and other
2 habitat restoration, water quality projects, acquisition of land,
3 including acquisition of real property, and renewable energy projects.
4 Notwithstanding the foregoing, for the purposes of calculating annual
5 debt service, the state comptroller shall apply a weighted average peri-
6 od of probable life of [~~restore mother nature~~] clean water, clean air,
7 and green jobs projects, including any other works or purposes to be
8 financed with state debt. Weighted average period of probable life shall
9 be determined by computing the sum of the products derived from multi-
10 plying the dollar value of the portion of the debt contracted for each
11 work or purpose (or class of works or purposes) by the probable life of
12 such work or purpose (or class of works or purposes) and dividing the
13 resulting sum by the dollar value of the entire debt after taking into
14 consideration any original issue premium or discount.

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

19 § 5. This act shall take effect only in the event that section 1 of
20 part TT of the chapter of the laws of 2021 enacting the environmental
21 bond act of 2022 "[~~restore mother nature~~] clean water, clean air, and
22 green jobs" is submitted to the people at the general election to be
23 held in November 2022 and is approved by a majority of all votes cast
24 for and against it at such election. Upon such approval, this act shall
25 take effect immediately; provided that the commissioner of environmental
26 conservation shall notify the legislative bill drafting commission upon
27 the occurrence of the enactment of section 1 of part TT of the chapter
28 of the laws of 2021 enacting the environmental bond act of 2022
29 "[~~restore mother nature~~] clean water, clean air, and green jobs", in
30 order that the commission may maintain an accurate and timely effective
31 data base of the official text of the laws of the state of New York in
32 furtherance of effectuating the provisions of section 44 of the legisla-
33 tive law and section 70-b of the public officers law. Effective imme-
34 diately, the addition, amendment, and/or repeal of any rule or regu-
35 lation necessary for the implementation of the foregoing sections of
36 this act are authorized [~~and directed~~] to be made and completed on or
37 before such effective date.

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

42 PART PP

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

46 (a) From the taxes, interest and penalties attributable to the tax
47 imposed pursuant to section fourteen hundred two of this article, the
48 amount of one hundred ninety-nine million three hundred thousand dollars
49 shall be deposited by the comptroller in the environmental protection
50 fund established pursuant to section ninety-two-s of the state finance
51 law for the fiscal year beginning April first, two thousand nine; the
52 amount of one hundred nineteen million one hundred thousand dollars
53 shall be deposited in such fund for the fiscal year beginning April
54 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:

1 (a) it is located in an area designated as a special flood hazard area
2 on the most current federal emergency management agency flood insurance
3 rate map that has experienced significant flooding in the past;

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

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

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

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

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

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

22 § 4. Subdivisions 6, 7 and 8 of section 24-0301 of the environmental
23 conservation law, subdivision 6 as amended by chapter 16 of the laws of
24 2010 and subdivision 7 as amended and subdivision 8 as added by chapter
25 654 of the laws of 1977, are amended to read as follows:

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

48 ~~[7-]~~ 2. Except as provided in subdivision ~~[eight]~~ three of this
49 section, the commissioner may, upon his or her own initiative, and
50 shall, upon a written request by a landowner whose land or a portion
51 thereof may be included within a wetland, or upon the written request of
52 another person or persons or an official body whose interests are shown
53 to be affected, cause to be delineated ~~[more precisely]~~ the boundary
54 line or lines of a freshwater wetland or a portion thereof and the regu-
55 lated freshwater wetland adjacent area as set forth in subdivision two
56 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

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

8 4. ~~[The]~~ On lands in active agricultural or silvicultural use, the
9 activities of farmers and other landowners in grazing and watering live-
10 stock, making reasonable use of water resources, harvesting natural
11 products of the wetlands, selectively cutting timber, draining land or
12 wetlands for growing agricultural products and otherwise engaging in the
13 use of wetlands or other land for growing agricultural products shall be
14 excluded from regulated activities and shall not require a permit under
15 subdivision one ~~[hereof]~~ of this section, except that structures not
16 required for enhancement or maintenance of the agricultural productivity
17 of the land and any filling activities shall not be excluded hereunder,
18 and provided that the use of land ~~[designated as a freshwater wetland~~
19 ~~upon the freshwater wetlands map at the effective date thereof]~~ that
20 meets the definition of a freshwater wetland in section 24-0107 of this
21 article for uses other than those referred to in this subdivision shall
22 be subject to the provisions of this article.

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

26 5. ~~[Prior to the promulgation of the final freshwater wetlands map in~~
27 ~~a particular area and the implementation of a freshwater wetlands~~
28 ~~protection law or ordinance, no person shall conduct, or cause to be~~
29 ~~conducted, any activity for which a permit is required under section~~
30 ~~24-0701 of this title on any freshwater wetland unless he has obtained a~~
31 ~~permit from the commissioner under this section.]~~ Any person may inquire
32 of the department as to whether or not a given parcel of land ~~[will be~~
33 designated] includes a freshwater wetland subject to regulation or a
34 regulated freshwater wetland adjacent area and whether a permit under
35 subdivision one of this section is required for a proposed activity. The
36 department shall give a definite answer in writing within ~~[thirty]~~ sixty
37 days of such request as to ~~[whether]~~ the status of such parcel ~~[will or~~
38 ~~will not be so designated]~~ and whether a permit is required for the
39 proposed activity. Provided that, in the event that weather or ground
40 conditions prevent the department from making a determination within
41 ~~[thirty]~~ sixty days, it may extend such period until a determination can
42 be made. Such answer in the affirmative shall be reviewable; such an
43 answer in the negative shall be a complete defense to the enforcement of
44 this article as to such parcel of land for a period of five years from
45 the date the department issues the negative answer. ~~[The commissioner~~
46 ~~may by regulation adopted after public hearing exempt categories or~~
47 ~~classes of wetlands or individual wetlands which he determines not to be~~
48 ~~critical to the furtherance of the policies and purposes of this arti-~~
49 ~~cle.]~~

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

53 1. ~~[Upon completion of the freshwater wetlands map, the]~~ The commis-
54 sioner shall confer with local government officials in each region in
55 which the inventory has been conducted to establish a program for the
56 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

1 such penalty may be released or compromised and any action commenced to
2 recover the same may be settled and discontinued by the attorney general
3 with the consent of the commissioner or local government. In addition,
4 the commissioner or local government shall have power, following a hear-
5 ing held in conformance with the procedures set forth in section 71-1709
6 of this article, to direct the violator to cease ~~[his violation of]~~
7 violating the act and to restore the affected freshwater wetland to its
8 condition prior to the violation, insofar as that is possible within a
9 reasonable time and under the supervision of the commissioner or local
10 government. Any such order of the commissioner or local government shall
11 be enforceable in an action brought by the attorney general at the
12 request and in the name of the commissioner or local government in any
13 court of competent jurisdiction. Any civil penalty or order issued by
14 the commissioner or local government pursuant to this subdivision shall
15 be reviewable in a proceeding pursuant to article seventy-eight of the
16 civil practice law and rules.

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

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

44 § 11. Subdivision 1 of section 71-2305 of the environmental conserva-
45 tion law, as added by chapter 614 of the laws of 1975, is amended to
46 read as follows:

47 1. The attorney general, upon his or her own initiative or upon
48 complaint of the commissioner or local government, shall prosecute
49 persons alleged to have violated ~~[any such order of the commissioner or~~
50 ~~local government pursuant to]~~ of this chapter.

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

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;

1 (4) catalogs;

2 (5) telephone directories;

3 (6) paper fiber; and

4 (7) paper used for writing or any other purpose.

5 (c) Single-use plastics: this class includes plastic products as
6 determined by the department through regulations, that frequent the
7 residential waste stream or are plastic products that have the effect of
8 severely disrupting recycling processes, including, but not limited to,
9 single use plastic items such as straws, utensils, cups, plates, and
10 plastic bags. The producer responsibility organization or advisory
11 board may also make recommendations to the department regarding single-
12 use plastics that should be covered under this title.

13 (d) For the purpose of this title, the products covered designation
14 does not include the following:

15 (i) covered materials or products that could become unsafe or unsani-
16 tary to recycle by virtue of their anticipated use;

17 (ii) periodicals, magazines, newspapers or literary, text, and refer-
18 ence bound books;

19 (iii) beverage containers as defined in section 27-1003 of this arti-
20 cle on which a deposit is required to be initiated;

21 (iv) architectural paint containers collected and managed pursuant to
22 title twenty of this article;

23 (v) medical devices and covered materials and products regulated as a
24 drug, medical device or dietary supplement by the U.S. Food and Drug
25 Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
26 321 et seq., sec. 3.2(e) of 21 U.S. Code of Federal Regulations or the
27 Dietary Supplement Health and Education Act;

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

32 (vii) covered materials used to contain toxic or hazardous materials,
33 or regulated by the federal insecticide, fungicide, and rodenticide act,
34 7 U.S.C. SEC.136 ET SEQ. or other applicable federal law, rule or regu-
35 lation.

36 2. "Curbside recycling" means a recycling program that serves residen-
37 tial units, or schools, state or local agencies, or institutions where
38 such schools, state or local agencies, or institutions were eligible to
39 be served under a contract with a municipality by a municipality or a
40 private sector hauler as of the effective date of this title, and such
41 recycling program is operated by a municipality or pursuant to a
42 contract with the municipality, private sector hauler, or other public
43 agency or through approved local solid waste management plans.

44 3. "Post-consumer material" means only those covered products or mate-
45 rials generated by a business or consumer which have served their
46 intended end use as consumer items and which have been separated or
47 diverted from the waste stream for the purposes of collection and recy-
48 cling as a secondary material feedstock, but shall not include waste
49 material generated during or after the completion of a manufacturing or
50 converting process.

51 4. "Post-consumer recycled content" means the content of a product
52 made from post-consumer recycled materials or feedstock.

53 5. "Producer" means an entity that shall be determined to be the
54 producer, for the purposes of this title, based on the following hierar-
55 chy:

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

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

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

9 A producer shall not include a municipality or a local government
10 planning unit, or a registered 501(c)(3) charitable organization or
11 501(c)(4) social welfare organization.

12 6. "Producer responsibility organization" means a not-for-profit
13 organization designated by a group of producers to act as an agent on
14 behalf of each producer to develop and implement a producer responsibil-
15 ity plan, or a registered 501(c)(3) charitable organization. To the
16 extent applicable, a producer responsibility organization shall have a
17 governing board that represents the diversity of producers and the
18 covered materials and product types and such board shall include non-
19 voting members representing a diversity of material trade associations.

20 7. "Readily-recyclable" means covered materials or products included
21 in the minimum recyclables list pursuant to subdivision 5 of section
22 27-3313 of this title. Readily-recyclable does not include materials
23 that contain toxic substances, as defined in this title.

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

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

29 10. "Recycling" means reprocessing, by means of a manufacturing proc-
30 ess, of a used material into a product, a component incorporated into a
31 product, or a secondary (recycled) raw material. "Recycling", for
32 purposes of this title, does not include energy recovery or energy
33 generation by means of combustion, use as a fuel, or landfill disposal
34 of discarded covered materials or products or discarded product compo-
35 nent materials or chemical conversion processes, as determined by the
36 department to not qualify in the state as recycling.

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

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

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

50 14. "Toxic substance" means any intentionally added chemicals classi-
51 fied by the European Union as carcinogens, mutagens, or reproductive
52 toxics pursuant to Category 1A or 1B in Annex VI to Regulation (EC)
53 1272/2008 or any substance which is identified or listed as a hazardous
54 waste or acute hazardous waste in regulations promulgated pursuant to
55 section 27-0903 of this article.

56 § 27-3303. Producer responsibility advisory board.

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

6 2. (a) The advisory board shall be composed of an odd number of
7 members and the commissioner shall appoint at least one member from each
8 of the following: a municipality association or municipal recycling
9 program, including an additional municipal representative from cities
10 with a population of one million or more residents; a statewide environ-
11 mental organization; a representative of environmental justice communi-
12 ties or organizations; a statewide waste disposal association; a materi-
13 als recovery facility located within the state of New York; a recycling
14 collection provider; a manufacturer of packaging materials utilizing
15 post-consumer recycled content; a manufacturer of paper materials
16 utilizing post-consumer recycled content; a consumer advocate; a retail-
17 er; a public health specialist; and a producer or producer responsibil-
18 ity organization established under this title as non-voting members.

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

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

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

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

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

37 5. The advisory board shall review the submitted annual reports and
38 make such recommendations to the department and the producer responsi-
39 bility organization for improving the plan.

40 6. The decisions of the advisory board shall be by vote of the majori-
41 ty of its membership.

42 § 27-3305. Producer responsibilities.

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

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

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

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

3 4. Within the first four years after the department approves a produc-
4 er responsibility plan, producers shall be required to report, on an
5 annual basis, progress reports describing in detail progress towards
6 meeting or exceeding the recovery, recycling, and post-consumer recycled
7 content rates by material type. Such progress reports shall also include
8 an evaluation of whether they are on target to meet the approved recov-
9 ery, recycling, and post-consumer recycled content rates by material
10 type. If a producer or producer responsibility organization is not on
11 target to meet the minimum post-consumer recycled material content
12 rates, minimum recovery or recycling rates, or other required components
13 of the plan, the department, in consultation with the advisory board,
14 shall require an approved producer responsibility plan to be revised or
15 require the producer or producer responsibility organization to imple-
16 ment additional measures.

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

22 6. If the department has required a producer or producer responsibil-
23 ity organization to revise their plan or meet additional measures due to
24 failure to meet required rates established under the plan, the depart-
25 ment may, after a reasonable period of time to take corrective action to
26 cure the defaults or deficiencies, impose penalties.

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

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

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

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

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

36 9. Producers may comply individually or may form a producer responsi-
37 bility organization and discharge their responsibilities to such organ-
38 ization.

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

44 § 27-3307. Funding mechanism.

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

50 2. A producer responsibility organization shall structure program
51 charges to provide producers with financial incentives, to reward waste
52 and source reduction and recycling compatibility innovations and prac-
53 tices, and to disincentivize designs or practices that increase costs of
54 managing the products or which contain toxic substances. The producer
55 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-

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

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

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

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

19 (g) a detailed description of how the producer or the producer respon-
20 sibility organization, consulted with the advisory board in the develop-
21 ment of the plan prior to its submission to the department, and to what
22 extent the producers or the producer responsibility organization specif-
23 ically incorporated the advisory board's input into the plan. Producers
24 or the producer responsibility organization shall also provide the advi-
25 sory board a reasonable period of time to review and comment upon the
26 draft plan prior to its submission to the department. Producers or the
27 producer responsibility organization shall make an assessment of
28 comments received and shall provide a summary and an analysis of the
29 issues raised by the advisory board and significant changes suggested by
30 any such comments, a statement of the reasons why any significant chang-
31 es were not incorporated into the plan, and a description of any changes
32 made to the plan as a result of such comments;

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

38 (i) a description of a public education program pursuant to section
39 27-3313 of this title;

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

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

48 (l) a description of how a municipality will participate, on a volun-
49 tary basis, with collection and how existing municipal recycling proc-
50 essing and collection infrastructure will be used;

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

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

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

4 (p) a description of how the producer responsibility organization
5 shall provide the option to purchase recycled materials from processors
6 on behalf of producer members interested in obtaining recycled feedstock
7 in order to achieve post-consumer recycled content objectives;

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

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

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

21 (t) any other information as specified by the department through regu-
22 lations.

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

29 § 27-3311. Producer responsibility plan approval.

30 1. Before rejection or approval of a producer responsibility plan can
31 be made in accordance with this title, the producer or producer respon-
32 sibility organization shall submit the plan to the producer responsibil-
33 ity advisory board.

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

40 (a) the plan adequately addresses all elements described in section
41 27-3309 of this title with sufficient detail to demonstrate that the
42 objective of the plan will be met;

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

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

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

3 (d) the plan takes into consideration a post-consumer content rate and
4 recovery and recycling rates that will create or enhance markets for
5 recycled materials, there is a plan to adjust the minimum rates on an
6 annual basis, and the plan incentives waste prevention and reduction.
7 Such post-consumer content rates, and such adjustments to the rates,
8 shall take into consideration: (i) changes in market conditions,
9 including supply and demand for post-consumer recycled plastics, recov-
10 ery rates, and bale availability both domestically and globally; (ii)
11 recycling rates; (iii) the availability of recycled materials suitable
12 to meet the minimum recycled content goals, including the availability
13 of high-quality recycled materials, and food-grade recycled materials;
14 (iv) the capacity of recycling or processing infrastructure; (v) utili-
15 zation rates of the material; and (vi) the progress made by producers in
16 meeting the post-consumer recycled targets by material type;

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

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

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

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

32 § 27-3313. Collection and convenience.

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

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

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

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

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

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

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

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

44 § 27-3315. Outreach and education.

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

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

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

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

53 (d) recycling instructions that are: consistent statewide, except as
54 necessary to take into account differences among local laws and process-
55 ing capabilities; easy to understand; and easily accessible.

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

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

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

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

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

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

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

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

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

31 § 27-3317. Reporting requirements and audits.

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

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

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

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

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

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

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

1 (g) information regarding the independently audited financial state-
2 ments detailing all payments received and issued by the producers
3 covered by the approved plan;

4 (h) a copy of the independent audit;

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

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

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

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

17 2. The department shall not require public reporting of any confiden-
18 tial information that the department finds to be protected proprietary
19 information. For purposes of this title, protected proprietary informa-
20 tion shall mean information that, if made public, would divulge compet-
21 itive business information, methods or processes entitled to protection
22 as trade secrets of such producer or producer responsibility organiza-
23 tion or information that would reasonably hinder the producer or produc-
24 er responsibility organization's competitive advantage in the market-
25 place.

26 § 27-3319. Antitrust protections.

27 A producer or producer responsibility organization that organizes the
28 collection, transportation, and procession of covered materials and
29 products, in accordance with a producer responsibility plan approved
30 under this title, shall not be liable for any claim of a violation of
31 antitrust, restraint of trade, or unfair trade practice arising from
32 conduct undertaken in accordance with the program pursuant to this
33 title; provided, however, this section shall not apply to any agreement
34 establishing or affecting the price of a covered material, product, or
35 the output or production of any agreement restricting the geographic
36 area or customers to which a covered material or product will be sold.

37 § 27-3321. Penalties.

38 1. Except as otherwise provided in this section, any person or entity
39 that violates any provision of or fails to perform any duty imposed
40 pursuant to this title or any rule or regulation promulgated pursuant
41 thereto, or any term or condition of any registration or permit issued
42 pursuant thereto, or any final determination or order of the commission-
43 er made pursuant to this article or article 71 of this chapter shall be
44 liable for a civil penalty not to exceed five hundred dollars for each
45 violation and an additional penalty of not more than five hundred
46 dollars for each day during which such violation continues.

47 2. (a) Any producer or producer responsibility organization who
48 violates any provision of or fails to perform any duty imposed pursuant
49 to this title or any rule or regulation promulgated pursuant thereto,
50 including compliance with requirements related to the producer responsi-
51 bility plan, or any term or condition of any registration or permit
52 issued pursuant thereto, or any final determination or order of the
53 commissioner made pursuant to this article or article 71 of this chapter
54 shall be liable for a civil penalty not to exceed five thousand dollars
55 for each violation and an additional penalty of not more than one thou-
56 sand 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 manufactures or assembles the product does not have a presence in the United States. Persons involved solely in delivering a package or packaging component on behalf of third parties are not considered distributors.

c. "Food packaging" means a package or packaging component that is intended for direct food contact and is comprised of in substantial part, but not limited to, paper, paperboard, or other materials originally derived from plant fibers.

d. "Manufacturer" means any person who currently manufactures a package or packaging component, or whose brand name is affixed to such package or packaging component. In the case of a package or packaging component that was imported into the United States, "manufacturer" includes the importer or first domestic distributor of the package or packaging component if the person who currently manufactures or assembles the package or packaging component or whose brand name is affixed to such package or packaging component does not have a presence in the United States.

e. "Package" means any container produced domestically or internationally that markets, protects, or allows for the handling of a product and shall include a unit package, an intermediate package, or a shipping container. "Package" shall also mean and include such unsealed receptacles as carrying cases, crates, cups, pails, tubs, rigid foil and other trays, wrappers, wrapping films, and bags.

f. "Packaging component" means any individual assembled part of a package produced domestically or internationally, such as, but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, dyes, pigments, adhesives, stabilizers, labels, or any other additives.

g. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means all members of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

h. "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity.

i. "Phthalates" or "ortho-phthalates" means all members of the class of organic chemicals that are esters of phthalic acid and that contain two carbon chains located in the ortho position.

§ 37-0205. Prohibitions.

1. No person shall distribute a package or packaging component, or any product that incorporates such package or packaging component, in which lead, cadmium, mercury, or hexavalent chromium are present, individually or in combination, in amounts exceeding 100 parts per million by weight.

2. Beginning December 31, 2024, no person shall distribute a package or packaging component, or any product that incorporates such package or packaging component, in which phthalates are present, individually or in combination, in amounts exceeding 100 parts per million by weight (0.01%).

3. 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-

1 ties assessed for violations of this title or any rule or regulation
2 promulgated pursuant thereto to the credit of the environmental regula-
3 tory account.

4 § 37-0211. Regulations.

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

13 § 37-0213. Severability.

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

20 § 2. Subdivisions 1 and 2 of section 72-1009 of the environmental
21 conservation law, subdivision 1 as amended by chapter 60 of the laws of
22 1993 and subdivision 2 as added by chapter 166 of the laws of 1991, are
23 amended to read as follows:

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

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

38 § 3. This act shall take effect immediately.

39 PART TT

40 Section 1. Section 250 of the county law is amended by adding a new
41 subdivision 6-a to read as follows:

42 6-a. The territory of a county district established pursuant to this
43 section may coincide with the territorial boundaries of the county.

44 § 2. This act shall take effect immediately.

45 PART UU

46 Section 1. Paragraph h of subdivision 1 of section 17-1909 of the
47 environmental conservation law, as added by chapter 565 of the laws of
48 1989, is amended to read as follows:

49 h. "Municipality" means any county, city, town, village, district
50 corporation, county or town improvement district, school district, Indi-
51 an reservation wholly within New York state, any public benefit corpo-
52 ration or public authority established pursuant to the laws of New York

1 or any agency of New York state which is empowered to construct and
2 operate an eligible project, or any two or more of the foregoing which
3 are acting jointly in connection with an eligible project.

4 § 2. This act shall take effect immediately.

5 PART VV

6 Section 1. Subdivisions 2, 3, 4 and 5 of section 381 of the executive
7 law, as added by chapter 707 of the laws of 1981, subdivision 2 as
8 amended by chapter 560 of the laws of 2010, are amended, subdivision 6
9 is renumbered subdivision 8, and two new subdivisions 6 and 7 are added
10 to read as follows:

11 2. Except as may be provided in regulations of the secretary pursuant
12 to subdivision one of this section, and in accordance with the existing
13 provisions on cities with a population of over one million as set forth
14 by section three hundred eighty-three of this article, every local
15 government shall administer and enforce the uniform fire prevention and
16 building code and the state energy conservation construction code on and
17 after the first day of January, nineteen hundred eighty-four, provided,
18 however, that a local government may enact a local law prior to the
19 first day of July in any year providing that it will not enforce such
20 codes on and after the first day of [~~January~~] April next succeeding. In
21 such event the county in which said local government is situated shall
22 administer and enforce such codes within such local government from and
23 after the first day of [~~January~~] April next succeeding the effective
24 date of such local law, in accordance with the provisions of paragraph b
25 of subdivision five of this section unless the county shall have previ-
26 ously enacted a local law providing that it will not enforce such codes
27 within that county. In such event the secretary in the place and stead
28 of the local government shall, directly or by [~~contract~~] using the
29 services of any contractors or other third-party providers as the secre-
30 tary may deem to be qualified, administer and enforce the uniform code
31 and the state energy conservation construction code within such local
32 government on and after the first day of April next succeeding. A county
33 that is responsible for administering and enforcing such codes within a
34 local government pursuant to the foregoing provisions of this subdivi-
35 sion may enact a local law prior to the first day of October in any year
36 providing that it will not enforce such codes within such local govern-
37 ment on and after the first day of April next succeeding. In such event,
38 the secretary, in the place and stead of such local government, shall,
39 directly or by using the services of any contractors or other third-par-
40 ty providers as the secretary may deem to be qualified, administer and
41 enforce such codes in such local government from and after the first day
42 of April next succeeding. A local government that adopts a local law
43 providing that it will not enforce such codes on and after the first day
44 of April next succeeding shall promptly notify the county in which such
45 local government is located and the secretary of the adoption of such
46 local law. A county that adopts a local law providing that it will not
47 enforce such codes on and after the first day of April next succeeding
48 shall promptly notify each local government in which such county is
49 administering and enforcing such codes and the secretary of the adoption
50 of such local law. A local government or a county may repeal a local law
51 which provides that it will not enforce such codes and shall thereafter
52 administer and enforce such codes as provided above. Two or more local
53 governments may provide for joint administration and enforcement of the
54 uniform code, the state energy conservation construction code, or both,

1 by agreement pursuant to article five-G of the general municipal law.
2 Any local government may enter into agreement with the county in which
3 such local government is situated to administer and enforce the uniform
4 code, the state energy conservation construction code, or both, within
5 such local government. Local governments or counties that administer
6 and enforce the uniform code, the state energy conservation construction
7 code, or both, may charge and collect fees to defray the costs of admin-
8 istration and enforcement. Where the secretary is responsible for
9 administration and enforcement of the uniform code and state energy
10 conservation construction code within a local government pursuant to
11 this subdivision or pursuant to paragraph e of subdivision four of this
12 section, (a) the secretary shall administer and enforce the codes in
13 accordance with the provisions of rules and regulations promulgated
14 pursuant to subdivision one of this section; (b) any person or entity
15 who knowingly violates any provision of such rules and regulations shall
16 be punishable by a fine not to exceed one thousand dollars per day of
17 violation, imprisonment not to exceed one year, or both, and (c) the
18 secretary may charge and collect fees to defray the costs of adminis-
19 tration and enforcement.

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

34 b. The elective or appointive chief executive officer or, if there be
35 none, the chairman of the legislative body of a county may, with
36 approval of a majority vote of the legislative body of such county,
37 submit to the secretary a written notice requesting the secretary to
38 authorize such county to investigate whether administration and enforce-
39 ment of the uniform fire prevention and building code and the state
40 energy conservation construction code by a local government located in
41 such county complies with the minimum standards promulgated pursuant to
42 subdivision one of this section. Upon receipt of such notice, the secre-
43 tary may authorize such county to conduct such investigation and to
44 provide a written report upon completion of such investigation to the
45 secretary. In connection with any such investigation, the county shall
46 have the power to issue subpoenas compelling the testimony of witnesses,
47 the production of documents, or both, and the power, at the county's
48 discretion, to conduct one or more hearings. At least ten days written
49 notice of any such hearing shall be provided to the elective or appoin-
50 tive chief executive officer or, if there be none, the chairman of the
51 legislative body of the local government whose administration and
52 enforcement of the uniform code and state energy conservation
53 construction code is at issue. Upon receipt of the county's report, the
54 secretary may issue a determination based on such report, conduct
55 further investigations, or take such other action as the secretary deems
56 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

1 responsive to circumstances associated with the property in question
2 when violations are identified.

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

9 [~~d.,~~] e. The secretary may, in the place and stead of the local govern-
10 ment, directly or by using the services of any contractors or other
11 third-party providers as the secretary may deem to be qualified, admin-
12 ister and enforce the uniform code and state energy conservation
13 construction code in such local government in accordance with the mini-
14 mum standards promulgated pursuant to subdivision one of this section.
15 In such event, the provisions of subdivision five of this section shall
16 apply.

17 f. The secretary may designate the county in which such local govern-
18 ment is located, any other local government that adjoins or is reason-
19 ably proximate to such local government, or the department of state to
20 perform within such local government such types and classes of code
21 enforcement activities, such as permit application review and approval,
22 construction inspections, and fire safety and property maintenance
23 inspections, as the secretary may specify. In the case of such desig-
24 nation, the provisions of subdivision seven of this section shall apply.

25 5. Where the secretary has designated a county or adjoining or reason-
26 ably proximate local government to administer and enforce the uniform
27 fire prevention and building code and state energy conservation
28 construction code within a local government pursuant to paragraph d of
29 subdivision four of this section, or has assumed authority for adminis-
30 tration and enforcement of the uniform fire prevention and building code
31 and state energy conservation construction code within a local govern-
32 ment pursuant to [subdivision two or] paragraph [d] e of subdivision
33 four of this section:

34 a. [~~Such~~] The local government [or county government] that is not
35 administering or enforcing the uniform code and state energy conserva-
36 tion construction code in accordance with minimum standards shall not
37 administer and enforce the uniform code or state energy conservation
38 construction code, and shall not charge or collect fees for such admin-
39 istration and enforcement.

40 b. [~~Such~~] The designated county or local government or the secretary
41 shall administer and enforce the uniform code within [such] the local
42 government whose administration and enforcement of the uniform code and
43 state energy conservation construction code has not met the minimum
44 standards from and after the date of such designation or assumption.
45 Such administration and enforcement shall apply the minimum standards
46 promulgated by the secretary pursuant to subdivision one of this
47 section. Notwithstanding any other provisions of law, such designated
48 county or local government or the secretary shall have full power to
49 administer and enforce the uniform code [in accordance with such] and
50 state energy conservation construction code in the local government
51 whose administration and enforcement of the uniform code and state ener-
52 gy conservation construction code has not met the minimum standards,
53 including the power to charge and collect fees for such administration
54 and enforcement.

55 c. The secretary shall designate the local government [~~or county~~
56 ~~government~~] whose administration and enforcement of the uniform code and

1 state energy conservation construction code did not meet the minimum
2 standards to resume administration and enforcement of the uniform code
3 when the secretary is satisfied that such local government [~~or county~~]
4 will provide such administration and enforcement in compliance with the
5 minimum standards promulgated pursuant to subdivision one of this
6 section.

7 d. The provisions of subdivisions three and four of this section shall
8 apply to counties [~~which have been designated to administer and enforce~~
9 ~~the uniform code in such local government~~] that are responsible for
10 administration and enforcement of the uniform code and state energy
11 conservation construction code within a local government pursuant to
12 subdivision two of this section, to counties that have been designated
13 to administer and enforce the uniform code and state energy conservation
14 construction code within a local government pursuant to paragraph d of
15 subdivision four of this section, and to local governments that have
16 been designated to administer and enforce the uniform code and state
17 energy conservation construction code within another local government
18 pursuant to paragraph d of subdivision four of this section. Where the
19 provisions of subdivisions three and four of this section are applicable
20 to a county, references in those subdivisions to a local government
21 whose administration and enforcement of the uniform code and state ener-
22 gy conservation construction code have been determined by the secretary
23 to have not met the minimum standards shall be construed as references
24 to such county.

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

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

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

40 c. The secretary shall designate the local government whose adminis-
41 tration and enforcement of the uniform code and state energy conserva-
42 tion construction code has not met the minimum standards to resume
43 performance of the designated types and classes of code enforcement
44 activities when the secretary is satisfied that such local government
45 will perform such activities in a due and proper manner and will other-
46 wise provide administration and enforcement of the uniform code and
47 state energy conservation construction code in compliance with the mini-
48 imum standards promulgated pursuant to subdivision one of this section.

49 7. a. The term "authority having jurisdiction" as used in this subdivi-
50 vision shall mean a local government or county that is responsible for
51 administering and enforcing the uniform code and/or the energy code
52 within a local government; the term "default code enforcement program"
53 shall mean the code enforcement program established by the rules and
54 regulations promulgated pursuant to paragraph b of this subdivision; and
55 the term "required features" shall mean the features required by the

1 rules and regulations promulgated pursuant to subdivision one of this
2 section to be included in a code enforcement program.

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

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

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

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

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

42 5. Notwithstanding any other provision of law, all fines imposed and
43 collected for any violation of this section shall be paid at least
44 monthly into the treasury of the local government in which such
45 violation occurred, unless: (i) the county is administering and enforc-
46 ing the uniform fire prevention and building code and state energy
47 conservation construction code in such local government as provided by
48 subdivision two or four of section three hundred eighty-one of this
49 article, in which case such fines and penalties collected in cases aris-
50 ing out of the violation of this section shall be paid at least monthly
51 into the treasury of the county, (ii) an adjoining or reasonably proximi-
52 mate local government is administering and enforcing the uniform fire
53 prevention and building code and state energy conservation construction
54 code in such local government as provided by subdivision four of section
55 three hundred eighty-one of this article, in which case such fines and
56 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 (1) to read as follows:

(1) 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.

1 ~~[5.]~~ 3. Maintain close liaison with officials of the office having
2 administrative jurisdiction over the park region which it serves, and
3 advise such officials on local policy, operational and budgetary
4 matters.

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

7 § 4. This act shall take effect immediately.

8 PART ZZ

9 Intentionally Omitted

10 PART AAA

11 Section 1. Expenditures of moneys by the New York state energy
12 research and development authority for services and expenses of the
13 energy research, development and demonstration program, including
14 grants, the energy policy and planning program, the zero emissions vehi-
15 cle and electric vehicle rebate program, and the Fuel NY program shall
16 be subject to the provisions of this section. Notwithstanding the
17 provisions of subdivision 4-a of section 18-a of the public service law,
18 all moneys committed or expended in an amount not to exceed \$22,875,000
19 shall be reimbursed by assessment against gas corporations, as defined
20 in subdivision 11 of section 2 of the public service law and electric
21 corporations as defined in subdivision 13 of section 2 of the public
22 service law, where such gas corporations and electric corporations have
23 gross revenues from intrastate utility operations in excess of \$500,000
24 in the preceding calendar year, and the total amount assessed shall be
25 allocated to each electric corporation and gas corporation in proportion
26 to its intrastate electricity and gas revenues in the calendar year
27 2020. Such amounts shall be excluded from the general assessment
28 provisions of subdivision 2 of section 18-a of the public service law.
29 The chair of the public service commission shall bill such gas and/or
30 electric corporations for such amounts on or before August 10, 2022 and
31 such amounts shall be paid to the New York state energy research and
32 development authority on or before September 10, 2022. Upon receipt, the
33 New York state energy research and development authority shall deposit
34 such funds in the energy research and development operating fund estab-
35 lished pursuant to section 1859 of the public authorities law. The New
36 York state energy research and development authority is authorized and
37 directed to: (1) transfer up to \$4 million to the state general fund for
38 climate change related services and expenses of the department of envi-
39 ronmental conservation, \$150,000 to the state general fund for services
40 and expenses of the department of agriculture and markets, and
41 \$1,000,000 to the University of Rochester laboratory for laser energet-
42 ics from the funds received; and (2) commencing in 2016, provide to the
43 chair of the public service commission and the director of the budget
44 and the chairs and secretaries of the legislative fiscal committees, on
45 or before August first of each year, an itemized record, certified by
46 the president and chief executive officer of the authority, or his or
47 her designee, detailing any and all expenditures and commitments ascrib-
48 able to moneys received as a result of this assessment by the chair of
49 the department of public service pursuant to section 18-a of the public
50 service law. This itemized record shall include an itemized breakdown
51 of the programs being funded by this section and the amount committed to

1 each program. The authority shall not commit for any expenditure, any
2 moneys derived from the assessment provided for in this section, until
3 the chair of such authority shall have submitted, and the director of
4 the budget shall have approved, a comprehensive financial plan encom-
5 passing all moneys available to and all anticipated commitments and
6 expenditures by such authority from any source for the operations of
7 such authority. Copies of the approved comprehensive financial plan
8 shall be immediately submitted by the chair to the chairs and secre-
9 taries of the legislative fiscal committees. Any such amount not commit-
10 ted by such authority to contracts or contracts to be awarded or other-
11 wise expended by the authority during the fiscal year shall be refunded
12 by such authority on a pro-rata basis to such gas and/or electric corpo-
13 rations, in a manner to be determined by the department of public
14 service, and any refund amounts must be explicitly lined out in the
15 itemized record described above.

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

18 PART BBB

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

36 § 2. Expenditures of moneys appropriated in a chapter of the laws of
37 2022 to the department of state from the special revenue funds-
38 other/state operations, miscellaneous special revenue fund-339, public
39 service account shall be subject to the provisions of this section.
40 Notwithstanding any other provision of law to the contrary, direct and
41 indirect expenses relating to the activities of the department of
42 state's utility intervention unit pursuant to subdivision 4 of section
43 94-a of the executive law, including, but not limited to participation
44 in general ratemaking proceedings pursuant to section 65 of the public
45 service law or certification proceedings pursuant to article 7 or 10 of
46 the public service law, and expenses related to the activities of the
47 major renewable energy development program established by section 94-c
48 of the executive law, shall be deemed expenses of the department of
49 public service within the meaning of section 18-a of the public service
50 law. No later than August 15, 2023, the secretary of state shall submit
51 an accounting of such expenses, including, but not limited to, expenses
52 in the 2022--2023 state fiscal year for personal and non-personal
53 services and fringe benefits, to the chair of the public service commis-

1 sion for the chair's review pursuant to the provisions of section 18-a
2 of the public service law.

3 § 3. Expenditures of moneys appropriated in a chapter of the laws of
4 2022 to the office of parks, recreation and historic preservation from
5 the special revenue funds-other/state operations, miscellaneous special
6 revenue fund-339, public service account shall be subject to the
7 provisions of this section. Notwithstanding any other provision of law
8 to the contrary, direct and indirect expenses relating to the office of
9 parks, recreation and historic preservation's participation in general
10 ratemaking proceedings pursuant to section 65 of the public service law
11 or certification proceedings pursuant to article 7 or 10 of the public
12 service law, shall be deemed expenses of the department of public
13 service within the meaning of section 18-a of the public service law. No
14 later than August 15, 2023, the commissioner of the office of parks,
15 recreation and historic preservation shall submit an accounting of such
16 expenses, including, but not limited to, expenses in the 2022--2023
17 state fiscal year for personal and non-personal services and fringe
18 benefits, to the chair of the public service commission for the chair's
19 review pursuant to the provisions of section 18-a of the public service
20 law.

21 § 4. Expenditures of moneys appropriated in a chapter of the laws of
22 2022 to the department of environmental conservation from the special
23 revenue funds-other/state operations, environmental conservation special
24 revenue fund-301, utility environmental regulation account shall be
25 subject to the provisions of this section. Notwithstanding any other
26 provision of law to the contrary, direct and indirect expenses relating
27 to the department of environmental conservation's participation in state
28 energy policy proceedings, or certification proceedings pursuant to
29 article 7 or 10 of the public service law, shall be deemed expenses of
30 the department of public service within the meaning of section 18-a of
31 the public service law. No later than August 15, 2023, the commissioner
32 of the department of environmental conservation shall submit an account-
33 ing of such expenses, including, but not limited to, expenses in the
34 2022--2023 state fiscal year for personal and non-personal services and
35 fringe benefits, to the chair of the public service commission for the
36 chair's review pursuant to the provisions of section 18-a of the public
37 service law.

38 § 5. Notwithstanding any other law, rule or regulation to the contra-
39 ry, expenses of the department of health public service education
40 program incurred pursuant to appropriations from the cable television
41 account of the state miscellaneous special revenue funds shall be deemed
42 expenses of the department of public service. No later than August 15,
43 2023, the commissioner of the department of health shall submit an
44 accounting of expenses in the 2022--2023 state fiscal year to the chair
45 of the public service commission for the chair's review pursuant to the
46 provisions of section 217 of the public service law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 electricity does not cost more than six percent of a residential custom-
2 er's income.

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

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

17 § 2. Subdivision 2 of section 3-101 of the energy law, as amended by
18 chapter 253 of the laws of 2013, is amended to read as follows:

19 2. to encourage conservation of energy and to promote the clean energy
20 and climate agenda, including but not limited to greenhouse gas
21 reduction, set forth within chapter one hundred six of the laws of two
22 thousand nineteen, also known as the New York state climate leadership
23 and community protection act, in the construction and operation of new
24 commercial, industrial, agricultural and residential buildings, and in
25 the rehabilitation of existing structures, through heating, cooling,
26 ventilation, lighting, insulation and design techniques and the use of
27 energy audits and life-cycle costing analysis;

28 § 3. Subdivisions 3 and 9 of section 11-102 of the energy law, as
29 added by chapter 560 of the laws of 2010, are amended, subdivisions 11,
30 12, 13, 14, and 15 are renumbered to be subdivisions 12, 13, 14, 15, and
31 16, and a new subdivision 11 is added to read as follows:

32 3. [~~"ASHRAE 90.1-2007."~~ ~~ANSI/ASHRAE/IESNA~~] "ASHRAE 90.1."
33 ANSI/ASHRAE/IES Standard [~~90.1-2007~~] 90.1, entitled "Energy [~~Standards~~]
34 Standard for Buildings Except Low-Rise Residential Buildings," published
35 by American Society of Heating, Refrigerating and Air-Conditioning Engi-
36 neers, Inc.

37 9. "Historic building." Any building or structure that is one or more
38 of the following: (a) listed, or certified as eligible for listing, on
39 the national register of historic places or on the state register of
40 historic places, (b) [~~determined by the commissioner of parks, recre-~~
41 ~~ation and historic preservation to be eligible for listing on the state~~
42 ~~register of historic places~~] designated as historic under an applicable
43 state or local law, or (c) [~~determined by the commissioner of parks,~~
44 ~~recreation and historic preservation to be a contributing building to an~~
45 ~~historic district that is listed or eligible for listing on the state or~~
46 ~~national registers of historic places, or~~ (d) otherwise defined as an
47 historic building in regulations adopted by the state fire prevention
48 and building code council] certified as a contributing resource within a
49 national register-listed, state register-listed, or locally designated
50 an historic district.

51 11. "Life-cycle cost." An estimate of the total cost of acquisition,
52 operation, maintenance, and construction of any energy system within or
53 related to a structure over the design life of the structure. "Life-cy-
54 cle cost" includes, but is not limited to, the cost of fuel, materials,
55 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.

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

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

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

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

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

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

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

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

18 11. "Consumer audio and video product" means a mains-connected product
19 that amplifies audio, offers optical, offers disc player functionality,
20 and/or receives and plays audio and/or video content. Examples of
21 consumer audio and video products include televisions, compact audio
22 products, digital versatile disc players, digital versatile disc record-
23 ers, ~~[and]~~ digital television adapters and streaming media players.

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

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

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

37 27-a. "Portable electric spa" means a factory-built electric spa or
38 hot tub, ~~[supplied with equipment for heating and circulating water]~~
39 which may or may not include any combination of integral controls, water
40 heating or water circulating equipment.

41 27-b. "Portable light fixture" means a light fixture which has a flex-
42 ible cord and an attachment plug for connection to a nominal one hundred
43 twenty-volt, fifteen- or twenty-ampere branch circuit; which can be
44 relocated by the user without any rewiring; ~~[and]~~ which is typically
45 controlled with a switch located on the light fixture itself or on the
46 power cord; and which are intended for use in accordance with the
47 national electrical code, ANSI/NFPA 70-2002. "Portable light fixture"
48 does not include direct plug-in nightlights; sun and heat lamps; aquari-
49 um lamps; medical and dental lights; portable electric hand lamps; signs
50 and commercial advertising displays; photographic lamps; germicidal
51 lamps; ~~[metal halide lamp fixtures, torchiere lighting fixtures]~~ illumi-
52 nated vanity mirrors; lava lamps not providing general or task illumi-
53 nation; industrial work lights rated for use with a lamp providing
54 greater than seven thousand lumens; portable lamp fixtures for marine
55 use or for use in hazardous locations as defined in the national elec-
56 trical code, ANSI/NFPA 70; or decorative lighting outfits or electric

1 candles and candelabras without lampshades that are covered by the stan-
2 dard for safety of seasonal and holiday decorative products, UL 588.

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

5 29-a. "[~~Residential~~] Replacement dedicated-purpose pool pump motor"
6 means [~~a product which is designed or used to circulate and filter resi-~~
7 ~~dential swimming pool water in order to maintain clarity and sanitation~~
8 ~~and which consists in part of a motor and an impeller~~] an electric motor
9 that:

10 (a) is single-phase or polyphase;

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

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

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

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

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

32 § 13. Section 16-102 of the energy law is amended by adding thirty-
33 seven new subdivisions 18-a, 18-b, 21-c, 21-d, 38, 39, 40, 41, 41-a, 42,
34 43, 43-a, 44, 45, 46, 46-a, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57,
35 58, 59, 60, 61, 62, 63, 64, 65, 66 and 67 to read as follows:

36 18-a. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide,
37 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other
38 substance emitted into the air that may be reasonably anticipated to
39 cause or contribute to anthropogenic climate change.

40 18-b. "Demand flexibility" means the capability to schedule, shift, or
41 curtail the electrical demand of a load-serving entity's customer
42 through direct action by the customer or through action by a third
43 party, the load-serving entity, or a grid balancing authority, with the
44 customer's consent.

45 21-c. "Duv" means a metric that quantifies the distance between the
46 chromaticity of a given light source and a blackbody radiator of equal
47 correlated color temperature (CCT) on a CIE 1976 (u, v) chromatic
48 diagram demonstrating how different two light sources of the same color
49 temperature appear.

50 21-d. "Light Emitting Diode (LED) lamp" means a lamp capable of
51 producing light with Duv between -0.012 and 0.012, and that has an E12,
52 E17, E26, or GU-24 base, including LED lamps that are designed for
53 retrofit within existing recessed can housings that contain one of the
54 preceding bases. LED lamp does not include a lamp with a brightness of
55 more than two thousand six hundred lumens or a lamp that cannot produce

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

3 38. The following definitions refer to air compressors:

4 (a) "Air compressor" means a compressor designed to compress air that
5 has an inlet open to the atmosphere or other source of air, and is made
6 up of a compression element (bare compressor), driver or drivers mechan-
7 ical equipment to drive the compressor element, and any ancillary equip-
8 ment.

9 (b) "Compressor" means a machine or apparatus that converts different
10 types of energy into the potential energy of gas pressure for displace-
11 ment and compression of gaseous media to any higher-pressure values
12 above atmospheric pressure and has a pressure ratio at full-load operat-
13 ing pressure greater than 1.3.

14 39. The following definitions refer to air purifiers:

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

19 (b) "Industrial air purifier" means an indoor air cleaning device
20 manufactured, advertised, marketed, labeled, and used solely for indus-
21 trial use that are marketed solely through industrial supply outlets or
22 businesses and prominently labeled as "Solely for industrial use. Poten-
23 tial health hazard: emits ozone."

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

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

39 41-a. "Commercial oven" means a chamber designed for heating, roast-
40 ing, or baking food by conduction, convection, radiation, and/or elec-
41 tromagnetic energy.

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

48 43. "Computer" means a device that performs logical operations and
49 processes data. A computer includes both stationary and portable units
50 and includes a desktop computer, a portable all-in-one, a notebook
51 computer, a mobile gaming system, a high-expandability computer, a
52 small-scale server, a thin client, and a workstation. Although a comput-
53 er is capable of using input devices and displays, such devices are not
54 required to be included with the computer when the computer is shipped.
55 A computer is composed of, at a minimum, (a) a central processing unit
56 (CPU) to perform operations or, if no CPU is present, then the device

1 must function as a client gateway to a server, and the server acts as a
2 computational CPU; (b) the ability to support user input devices such as
3 a keyboard, mouse, or touch pad; and (c) an integrated display screen or
4 the ability to support an external display screen to output information.
5 The term "computer" does not include a tablet, a game console, a tele-
6 vision, a device with an integrated and primary display that has a
7 screen size of twenty square inches or less, a server other than a
8 small-scale server, or an industrial computer.

9 43-a. "Computer monitor" means an analog or digital device of size
10 greater than or equal to seventeen inches and less than or equal to
11 sixty-one inches, that has a pixel density of greater than five thousand
12 pixels per square inch, and that is designed primarily for the display
13 of computer-generated signals for viewing by one person in a desk-based
14 environment. A computer monitor is composed of a display screen and
15 associated electronics. A computer monitor does not include, (a)
16 displays with integrated or replaceable batteries designed to support
17 primary operation without AC mains or external DC power (e.g. electronic
18 readers, mobile phones, portable tablets, battery-powered digital
19 picture frames); or (b) a television or signage display.

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

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

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

36 (i) Appliance lamps;
37 (ii) Black light lamps;
38 (iii) Bug lamps;
39 (iv) Colored lamps;
40 (v) G shape lamps (as defined in ANSI C78.20 and C79.1-2002) with a
41 diameter of five inches or more;
42 (vi) Infrared lamps;
43 (vii) Left-hand thread lamps;
44 (viii) Marine lamps;
45 (ix) Marine signal service lamps;
46 (x) Mine service lamps;
47 (xi) Plant light lamps;
48 (xii) Reflector lamps;
49 (xiii) Sign service lamps;
50 (xiv) Silver bowl lamps;
51 (xv) Showcase lamps;
52 (xvi) Rough service lamps;
53 (xvii) Shatter-resistant lamps (including shatter-proof lamps and
54 shatter-protected lamps);
55 (xviii) 3-way incandescent lamps;
56 (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:

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

4 (b) "Public lavatory faucet" means a fitting intended to be installed
5 in nonresidential bathrooms that are exposed to walk-in traffic.

6 (c) "Metering faucet" means a faucet that, when turned on, will gradu-
7 ally shut itself off over a period of several seconds.

8 (d) "Replacement aerator" means an aerator sold as a replacement,
9 separate from the faucet to which it is intended to be attached.

10 (e) "Showerhead" means a device through which water is discharged for
11 a shower bath and includes a hand-held showerhead but does not include a
12 safety shower showerhead.

13 (f) "Hand-held showerhead" means a showerhead that can be held or
14 fixed in place for the purpose of spraying water onto a bather and that
15 is connected to a flexible hose.

16 49. The following definitions refer to urinals and water closets:

17 (a) "Plumbing fixture" means an exchangeable device, which connects to
18 a plumbing system to deliver and drain away water and waste.

19 (b) "Urinal" means a plumbing fixture that receives only liquid body
20 waste and, conveys the waste through a trap into a drainage system.

21 (c) "Water closet" means a plumbing fixture having a water-containing
22 receptor that receives liquid and solid body waste through an exposed
23 integral trap into a drainage system.

24 (d) "Dual-flush effective flush volume" means the average flush volume
25 of two reduced flushes and one full flush.

26 (e) "Dual-flush water closet" means a water closet incorporating a
27 feature that allows the user to flush the water closet with either a
28 reduced or a full volume of water.

29 (f) "Trough-type urinal" means a urinal designed for simultaneous use
30 by two or more persons.

31 50. The following definitions refer to spray sprinkler bodies:

32 (a) "Pressure regulator" means a device that maintains constant oper-
33 ating pressure immediately downstream from the device, given higher
34 pressure upstream.

35 (b) "Spray sprinkler body" means the exterior case or shell of a
36 sprinkler incorporating a means of connection to the piping system
37 designed to convey water to a nozzle or orifice.

38 51. "Uninterruptable power supply" means a battery charger consisting
39 of a combination of convertors, switches and energy storage devices
40 (such as batteries), constituting a power system for maintaining conti-
41 nuity of load power in case of input power failure.

42 52. "Commercial battery charger system (BCS)" or "state-regulated BCS"
43 means a battery charger coupled with its batteries or battery chargers
44 coupled with their batteries, which together are referred to as state-
45 regulated battery charger systems. This term covers all rechargeable
46 batteries or devices incorporating a rechargeable battery and the char-
47 gers used with them. Battery charger systems include, but are not
48 limited to:

49 (a) electronic devices with a battery that are normally charged from
50 AC line voltage or DC input voltage through an internal or external
51 power supply and a dedicated battery charger;

52 (b) the battery and battery charger components of devices that are
53 designed to run on battery power during part or all of their operations;

54 (c) dedicated battery systems primarily designed for electrical or
55 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 capacitors, 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

1 not include battery powered hose-end timers or devices used primarily in
 2 agricultural applications.

3 64. "Outdoor lighting" means electrical lighting used to illuminate
 4 outdoor areas, including parking lots, streetlights, highways and area
 5 luminaires.

6 65. "Plug-in luminous signs" means a self-contained, luminous sign
 7 unit that plugs into 120V AC building mains power and is intended for
 8 indoor use only. Signs may be intended for use in commercial outlets in
 9 business establishments or in residences.

10 66. "Small network equipment" means a device whose primary function is
 11 to pass internet protocol (IP) traffic among various network interfaces
 12 or ports intended for use in residential and small business settings.

13 67. "Tub spout diverters" means the following definitions:

14 (a) A bath and shower diverter whose diverter mechanism is located in
 15 the tub spout; and/or

16 (b) Bath and shower diverter means a device used to direct the flow of
 17 water either toward a tub spout or toward a secondary outlet intended
 18 for showering purposes, including a showerhead or body spray.

19 § 14. Section 16-104 of the energy law, as added by chapter 431 of the
 20 laws of 2005, subdivision 1 as amended by chapter 222 of the laws of
 21 2010, is amended to read as follows:

22 § 16-104. Applicability, conduct prohibited. 1. The provisions of
 23 this article apply to the establishment of, testing for compliance with,
 24 certification of compliance with, and enforcement of efficiency stand-
 25 ards for the following new products which are sold, or offered for sale,
 26 leased or offered for lease, rented or offered for rent or installed or
 27 offered to install in New York state: (a) automatic commercial ice cube
 28 machines; (b) ceiling fan light kits; (c) commercial pre-rinse spray
 29 valves; (d) commercial refrigerators, freezers and refrigerator-freez-
 30 ers; (e) consumer audio and video products; (f) illuminated exit signs;
 31 (g) incandescent reflector lamps; (h) very large commercial packaged
 32 air-conditioning and heating equipment; (i) metal halide lamp fixtures;
 33 (j) pedestrian traffic signal modules; (k) power supplies; (l) torchiere
 34 lighting fixtures; (m) unit heaters; (n) vehicular traffic signal
 35 modules; (o) portable light fixtures; (p) bottle-type water dispensers;
 36 (q) commercial hot food holding cabinets; (r) portable electric spas;
 37 [and] (s) [~~residential~~] replacement dedicated-purpose pool [~~pumps~~] pump
 38 motors; (t) air compressors; (u) air purifiers; (v) commercial dishwash-
 39 ers; (w) commercial fryers; (x) commercial steam cookers; (y) computers
 40 and computer monitors; (z) general service lamps; (aa) federally exempt
 41 fluorescent lamps; (bb) portable air conditioners; (cc) residential
 42 ventilating fans; (dd) telephones; (ee) faucets; (ff) showerheads; (gg)
 43 urinals; (hh) water closets; (ii) sprinkler bodies; (jj) uninterruptable
 44 power supplies; (kk) light emitting diode lamps; (ll) electric vehicle
 45 supply equipment; (mm) commercial battery charger systems; (nn) commer-
 46 cial ovens; (oo) commercial clothes dryers; (pp) commercial and indus-
 47 trial fans and blowers; (qq) imaging equipment; (rr) landscape irri-
 48 gation controllers; (ss) outdoor lighting; (tt) plug-in luminous signs;
 49 (uu) small network equipment; (vv) tub spout diverters; (ww) products
 50 for which efficiency standards shall have been established pursuant to
 51 paragraph (b) or (c) of subdivision one of section 16-106 of this arti-
 52 cle; and (xx) products that are subject to any federal efficiency stand-
 53 ard referred to in section 16-105 of this article that shall have been
 54 continued in this state pursuant to such section 16-105.

55 2. No person or business entity shall sell~~[7]~~ or offer for sale, lease
 56 or offer to lease, or rent or offer to rent, or install or offer to

1 install in New York state any new product of the types enumerated in
2 paragraphs (a) through (vv) of subdivision one of this section, or any
3 ~~[of the]~~ new ~~[products identified]~~ product for which efficiency stand-
4 ards shall have been established pursuant to paragraph (b) or (c) of
5 subdivision ~~[four]~~ one of section 16-106 of this article, ~~[unless: (a)~~
6 ~~the product meets minimum energy performance standards adopted pursuant~~
7 ~~to this article upon the effective date of such standards, and, if~~
8 ~~required by regulations promulgated]~~ or any new product that is subject
9 to any federal efficiency standard that shall have been continued in
10 this state pursuant to ~~[this]~~ section~~[(b) the manufacturer of such~~
11 ~~product certifies that the product meets said minimum energy performance~~
12 ~~standards.]~~ 16-105 of this article, unless:

13 (a) the product meets the efficiency standards applicable to such
14 product as of the date of manufacture of such product or as of such
15 other date as may be determined in accordance with the regulation estab-
16 lishing the standard for such product; and

17 (b) if required by regulations adopted pursuant to this article, the
18 manufacturer of such product certifies that the product meets said effi-
19 ciency standards. As used within this subdivision, reference to any new
20 product means any individual product subject to the requirements of this
21 article.

22 3. The prohibitions contained in ~~[subdivisions one and]~~ subdivision
23 two of this section shall not apply to:

24 (a) products manufactured in the state and sold outside the state;

25 (b) products manufactured outside the state and sold at wholesale
26 inside the state for final retail sale outside the state;

27 (c) products installed in ~~[mobile]~~ manufactured homes at the time of
28 construction; or

29 (d) products designed expressly for installation and use in recre-
30 ational vehicles.

31 § 15. The energy law is amended by adding a new section 16-105 to read
32 as follows:

33 § 16-105. Adoption of certain federal efficiency standards. 1. The
34 federal efficiency standard established in 10CFR Parts 430 and 431, as
35 in effect on January first, two thousand eighteen shall be applicable to
36 products which are subject to such federal efficiency standards and
37 which are sold, offered for sale, or installed in New York state. So
38 long as such federal efficiency standards remain in effect as federal
39 efficiency standards, they shall be enforced as provided by federal law.

40 2. If any federal efficiency standard referred to in subdivision one
41 of this section is withdrawn, repealed, voided, or otherwise ceases to
42 remain in effect as a federal efficiency standard:

43 (a) such efficiency standard shall be deemed to be continued in this
44 state and shall be deemed to be an efficiency standard adopted pursuant
45 to this article;

46 (b) the president shall file with the secretary a written description
47 of such efficiency standard, the terms and conditions of such efficiency
48 standard, and the product or products that are subject to such efficien-
49 cy standard, such description to be in a format consistent with the
50 regulations adopted pursuant to this article and in form acceptable to
51 the secretary, together with a certificate, in form acceptable to the
52 secretary, signed and dated by the president and certifying that such
53 efficiency standard is no longer in effect as a federal efficiency stan-
54 dard, that such efficiency standard continues in effect in this state
55 pursuant to this section, and that such efficiency standard is adopted
56 pursuant to this section;

1 (c) the secretary shall cause such written description and certifi-
2 ication to be published in the state register, and shall cause the offi-
3 cial compilation of codes, rules and regulations of the state of New
4 York to include such written description;

5 (d) the president shall be authorized to adopt regulations establish-
6 ing procedures for testing the energy reduction, water conservation,
7 greenhouse gas reduction, and/or increased demand flexibility associated
8 with such product;

9 (e) the president shall be authorized to adopt regulations establish-
10 ing procedures for manufacturers of such product to certify that such
11 product meets such efficiency standard, if the president determines that
12 such manufacturer's certifications should be required; and

13 (f) the president shall be authorized to adopt regulations amending
14 such efficiency standard from time to time, including regulations that
15 repeal such efficiency standard, decrease the stringency of such effi-
16 ciency standard, or increase the stringency of such efficiency standard.

17 3. The actions to be taken pursuant to paragraphs (b) and (c) of
18 subdivision two of this section to confirm that a federal efficiency
19 standard that shall have been withdrawn, repealed, voided, or that
20 otherwise shall have ceased to remain in effect as a federal efficiency
21 standard, continues to be applicable in this state, and is adopted
22 pursuant to this section, shall be exempt from the provisions of the
23 state administrative procedure act, and the certification to be filed
24 pursuant to paragraph (c) of subdivision two of this section shall so
25 state.

26 4. This section shall not apply to any federal efficiency standard set
27 aside by a court upon the petition of a person who will be adversely
28 affected, as provided in 42 U.S.C. § 6306(b).

29 § 16. Section 16-106 of the energy law, as added by chapter 431 of the
30 laws of 2005, paragraph (c) of subdivision 2 as added by chapter 222 of
31 the laws of 2010 and subdivision 4 as amended by chapter 69 of the laws
32 of 2020, is amended to read as follows:

33 § 16-106. ~~[Administration of article]~~ Powers and duties of the presi-
34 dent and the secretary. 1. The ~~[secretary, in consultation with the]~~
35 president~~[r]~~ in consultation with the secretary shall have and be enti-
36 tled to exercise the following powers and duties:

37 (a) To ~~[establish energy]~~ adopt regulations establishing efficiency
38 ~~[performance]~~ standards for the products listed in paragraphs (a)
39 through (vv) of subdivision one of section 16-104 of this article,
40 including but not limited to, establishing ~~[energy]~~ efficiency ~~[perform-~~
41 ~~ance]~~ standards for power supplies in the active mode and no-load mode
42 or other such products while in the active mode and in the standby-pas-
43 sive-mode~~[r]~~

44 ~~(b) To promulgate regulations to achieve the purposes of this article~~
45 ~~provided however that no energy efficiency performance standard shall~~
46 ~~become effective for a product less than one hundred eighty days after~~
47 ~~it shall become final, provided, however, that no standard adopted~~
48 ~~pursuant to this article shall go into effect if federal government~~
49 ~~energy efficiency performance standards regarding such product preempt~~
50 ~~state standards unless preemption has been waived pursuant to federal~~
51 ~~law;~~

52 ~~(c) To administer and enforce the provisions of this article and any~~
53 ~~rule or regulation promulgated thereunder or order issued pursuant ther-~~
54 ~~eto;~~

55 ~~(d) To order, pursuant to section 16-104 of this article, the immedi-~~
56 ~~ate 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

1 administration account made by the New York state energy research and
2 development authority, all funds maintained in the efficiency standards
3 administration account, and disbursements therefrom, made pursuant to
4 this article shall be subject to an annual independent audit as part of
5 such authority's audited financial statements, and such authority shall
6 prepare an annual report summarizing efficiency standards administration
7 account balance and activities for each fiscal year ending March thir-
8 ty-first and provide such report to the secretary no later than ninety
9 days after commencement of such fiscal year;

10 ~~(g) [To impose a fine and/or impose injunctive relief for any~~
11 ~~violation of this article after notice and an opportunity to be heard,~~

12 ~~(h) The secretary and the president shall consult with the appropriate~~
13 ~~federal agencies, including, but not limited to, the federal department~~
14 ~~of energy, industry and other potentially affected parties in carrying~~
15 ~~out the provisions of this article]~~ To consult with the appropriate
16 federal agencies, including, but not limited to, the federal department
17 of energy, the federal department of industry and other potentially
18 affected parties in carrying out the provisions of this article; and

19 (h) To conduct investigations, in consultation with the secretary, to
20 determine if products covered by standards adopted pursuant to this
21 article comply with such standards; to conduct tests to determine if
22 products covered by standards adopted pursuant to this article comply
23 with such standards; to prepare written reports of the results of such
24 investigations and tests; to provide such reports to the secretary; in
25 consultation with the secretary, to negotiate settlement agreements with
26 any person or business entity that violates the provisions of subdivi-
27 sion two of section 16-104 of this article, or fails to perform any duty
28 imposed by this article, or violates or fails to comply with any rule,
29 regulation, determination, or order adopted, made, or issued by the
30 president or the secretary pursuant to this article, pursuant to which
31 such person or business entity shall agree to cease such violation and
32 to pay such civil penalty as may be specified in such agreement, the
33 terms of which will be incorporated into a consent order signed by such
34 person or business entity, the president, and the secretary; to consult
35 with the secretary in connection with determinations made by the secre-
36 tary pursuant to paragraph (b) of subdivision five of this section; and
37 to cooperate with the secretary in enforcement proceedings conducted by
38 the secretary pursuant to this article.

39 1-a. Notwithstanding any other provision of this article, no efficien-
40 cy standard adopted pursuant to paragraph (a) of subdivision one of this
41 section shall become effective less than one hundred eighty days after
42 publication of the notice of adoption of such standard in the state
43 register; no efficiency standard adopted pursuant to paragraph (b) or
44 (c) of subdivision one of this section shall become effective less than
45 one year after publication of the notice of adoption of such efficiency
46 standard in the state register; no amendment of any efficiency standard
47 adopted pursuant to this article or of any efficiency standard continued
48 in this state pursuant to section 16-105 of this article shall become
49 effective less than one hundred eighty days after publication of the
50 notice of adoption of such amendment in the state register; and no new
51 or amended efficiency standard, or water conservation standard adopted
52 pursuant to this article shall go into effect if federal government
53 efficiency standards regarding such product preempt state standards
54 unless preemption has been waived pursuant to federal law.

55 2. (a) On or before [June thirtieth] January first, two thousand [six]
56 twenty-three, the [secretary, in consultation with the] president, shall

1 adopt regulations in accordance with the provisions of this article
2 establishing:

3 (i) ~~[energy]~~ efficiency ~~[performance]~~ standards for new products of
4 the types ~~[set forth]~~ referred to in paragraphs (a) through ~~[(n)]~~ (f)
5 and paragraphs (h) through (y), paragraphs (aa) through (jj) and para-
6 graphs (mm) through (vv) of subdivision one of section 16-104 of this
7 article~~[, with the exception of such paragraph (g) (incandescent reflector lamps)]~~;

8
9 (ii) procedures for testing the ~~[energy]~~ efficiency of the new
10 products ~~[covered by]~~ of the types referred to in paragraphs (a) through
11 ~~[(n)]~~ (f) and paragraphs (h) through (vv) of subdivision one of section
12 16-104 of this article;

13 (iii) procedures for manufacturers to certify that new products
14 ~~[covered under]~~ of the types referred to in paragraphs (a) through (f)
15 and paragraphs (h) through (vv) of subdivision one of section 16-104 of
16 this article meet the ~~[energy]~~ efficiency standards to be ~~[promulgated~~
17 ~~under this article]~~ adopted pursuant to this article, if the president
18 determines that such manufacturer's certifications should be required;
19 and

20 (iv) such further matters as are necessary to insure the proper imple-
21 mentation and enforcement of the provisions of this article.

22 (a-1) With respect to ~~[incandescent reflector lamps, included]~~ the
23 types of products referred to in ~~[paragraph]~~ paragraphs (g), (z) or (kk)
24 of subdivision one of section 16-104 of this article (incandescent
25 reflector lamps, general service lamps, and light emitting diode lamps),
26 the ~~[secretary, in consultation with the]~~ president~~[,]~~ shall conduct a
27 study by December thirty-first, two thousand twenty-two to determine
28 whether an ~~[energy]~~ efficiency ~~[performance]~~ standard for such ~~[product]~~
29 products should be established, taking into account factors including
30 the potential impact on electricity usage, product availability and
31 consumer and environmental benefits. If ~~[it is determined]~~ the president
32 determines based on this study that such a standard would reduce energy
33 use and would not be preempted by the federal law, the ~~[secretary, in~~
34 ~~consultation with the]~~ president~~[,]~~ shall adopt regulations in accord-
35 ance with the provisions of this article establishing ~~[energy perform-~~
36 ~~ance]~~ efficiency standards for such ~~[product on or before January first,~~
37 ~~two thousand eight]~~ products.

38 (b) With respect to the types of products ~~[defined]~~ referred to in
39 paragraphs (a), (d), (h) and (i) of subdivision ~~[seven]~~ one of section
40 ~~[16-102]~~ 16-104 of this article (very large commercial package air
41 conditioning and heating equipment~~[, subdivision nine of section 16-102~~
42 ~~of this article (], commercial refrigerators, freezers and refrigera-~~
43 ~~tor-freezers (], subdivision twenty-three of section 16-102 of this arti-~~
44 ~~cle (], metal halide lamp fixtures (] and subdivision three of section~~
45 ~~16-102 of this article (], and~~ automatic commercial ice-cube makers),
46 the ~~[secretary shall issue]~~ regulations adopted by the president pursu-
47 ant to paragraph ~~[a]~~ (a) of this subdivision ~~[establishing energy]~~ shall
48 establish the following efficiency ~~[performance]~~ standards ~~[for such~~
49 ~~products at the following levels]~~ and ~~[with]~~ the following compliance
50 dates:

51 (i) ~~[very]~~ Very large commercial package air conditioning and heating
52 equipment. Each very large commercial package air conditioning and heat-
53 ing equipment sold, offered for sale or installed in New York state on
54 or after January first, two thousand ~~[ten]~~ twenty-three shall, when
55 tested according to the test standard specified in Air-Conditioning and

1 Refrigeration Institute standard 340/360-2004, meet the following stand-
2 ards:

3 (A) The minimum energy efficiency ratio of air-cooled central air
4 conditioners at or above two hundred forty thousand BTU per hour (cool-
5 ing capacity) and less than seven hundred sixty thousand BTU per hour
6 (cooling capacity) shall be

7 (I) 10.0 for equipment with no heating or electric resistance heating;
8 and[+]]

9 (II) 9.8 for equipment with all other heating system types that are
10 integrated into the equipment (at a standard rating of ninety-five
11 degrees Fahrenheit dB).

12 (B) the minimum energy efficiency ratio of air-cooled central air
13 conditioner heat pumps at or above two hundred forty thousand BTU per
14 hour (cooling capacity) and less than seven hundred sixty thousand BTU
15 per hour (cooling capacity) shall be

16 (I) 9.5 for equipment with no heating or electric resistance heating;
17 and

18 (II) 9.3 for equipment with all other heating system types that are
19 integrated into the equipment (at a standard rating of ninety-five
20 degrees Fahrenheit dB).

21 (C) the minimum coefficient of performance in the heating mode of
22 air-cooled central air conditioning heat pumps at or above two hundred
23 forty thousand BTU per hour (cooling capacity) and less than seven
24 hundred sixty thousand BTU per hour (cooling capacity) shall be 3.2 (at
25 a high temperature rating of forty-seven degrees Fahrenheit dB)[+]].

26 (ii) [~~commercial~~] Commercial refrigerators, [and] freezers, and refri-
27 gerator-freezers. (A) Each commercial refrigerator, freezer, and refri-
28 gerator-freezer with a self-contained condensing unit designed for hold-
29 ing temperature applications sold, offered for sale or installed in New
30 York state on or after January first, two thousand [~~ten~~] twenty-three
31 shall have a daily energy consumption (in kilowatt hours per day) not to
32 exceed:

33 (I) refrigerators with solid doors $0.10 V + 2.04$

34 (II) refrigerators with transparent doors $0.12 V + 3.34$

35 (III) freezers with solid doors $0.40 V + 1.38$

36 (IV) freezers with transparent doors $0.75 V + 4.10$

37 (V) refrigerators/freezers with solid doors the greater of:
38 $0.27AV-0.71$ or 0.70 .

39 (B) Each commercial refrigerator with a self-contained condensing unit
40 designed for pull-down temperature applications sold, offered for sale
41 or installed in New York state on or after January first, two thousand
42 [~~ten~~] twenty-two shall have a daily energy consumption (in kilowatt
43 hours per day) not to exceed: refrigerators with transparent doors 0.126
44 $V + 3.51$.

45 (iii) [~~metal~~] Metal halide lamp fixtures. Each metal halide lamp
46 fixture that is sold, offered for sale or installed in New York state on
47 or after January first, two thousand [~~eight~~] twenty-three and that oper-
48 ates a lamp in a vertical position (including fixtures that operate
49 lamps rated for use within fifteen degrees of vertical) and that is
50 capable of operating lamps rated equal to or greater than one hundred
51 fifty Watts and less than or equal to five hundred Watts shall not
52 contain a probe start metal-halide ballast.

53 (iv) [~~automatic~~] Automatic commercial ice-cube maker. Each automatic
54 commercial ice-cube maker, that produces cube-type ice with capacities
55 between fifty and two thousand five hundred pounds per twenty-four hour
56 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

~~[(e) On or before December thirty-first, two thousand ten, the secretary, in consultation with the president, shall adopt regulations in accordance with the provisions of this article establishing: (i) energy efficiency performance standards for new products of the types set forth in paragraphs (e) through (s) of subdivision one of section 16-104 of this article; (ii) procedures for testing the energy efficiency of the products covered by paragraphs (e) through (s) of subdivision one of section 16-104 of this article; (iii) procedures for manufacturers to certify that products covered by paragraphs (e) through (s) of subdivision one of section 16-104 of this article meet the energy efficiency standards promulgated under this article; and (iv) such further matters as are necessary to insure the proper implementation and enforcement of the provisions of this article with respect to the products covered by paragraphs (e) through (s) of subdivision one of section 16-104 of this article.]~~

3. Subsequent to adopting regulations pursuant to subdivisions one and two of this section, the ~~[secretary, in consultation with the]~~ president, in consultation with the secretary, may amend such regulations, including increasing the stringency of the ~~[energy]~~ efficiency ~~[performance]~~ standards~~[, provided however that no energy efficiency performance standard shall become effective for a product less than one hundred eighty days after it shall become final]~~.

4. By March fifteenth of two thousand twenty-one, the secretary and the president shall produce a report to the governor, the speaker of the assembly, the temporary president of the senate, the chair of the assembly committee on energy and the chair of the senate committee on energy and telecommunications on the status of regulations establishing ~~[energy]~~ efficiency ~~[performance]~~ standards pursuant to this article, which shall indicate for each product enumerated in subdivision one of section 16-104 of this article the status of the implementation of ~~[performance]~~ efficiency standards. The report shall also set forth the estimated potential annual reductions in energy use and potential utility bill savings resulting from adopted ~~[performance]~~ efficiency standards for the years two thousand twenty-five and two thousand thirty-five and the potential cumulative reductions in energy use through the year two thousand thirty-five. Such report shall be updated by March fifteenth, two thousand thirty and a copy shall be posted by March fifteenth, two thousand thirty on the websites of the authority and the department of state.

5. (a) In addition to all other powers and authority given to the secretary by this article, the secretary shall have and be entitled to exercise the following powers and duties:

(i) To request the president to conduct investigations to determine if products covered by efficiency standards adopted pursuant to this article comply with such efficiency standards; to consult with the president in connection with the president's performance of such investigations; to request the president to conduct tests to determine if products 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-ww 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-

1 tary pursuant to section ninety-four-a of the executive law or through
2 such other divisions, officers, or employees of the department of state
3 as the secretary may designate from time to time.

4 § 17. The energy law is amended by adding a new section 16-107 to read
5 as follows:

6 § 16-107. Subpoenas, information and document production, enforcement
7 procedures, referrals. 1. (a) In addition to all other powers provided
8 by this article, the secretary or his or her designee shall have the
9 power and authority to subpoena any person or business entity doing
10 business in this state and bring such person or business entity before
11 such officer or person in the department of state as may be designated
12 in such subpoena, and to administer an oath to and take testimony of any
13 person or cause any person's deposition to be taken.

14 (b) In addition to all other powers provided by this article, the
15 president or his or her designee shall have the power and authority to
16 subpoena any person or business entity in this state to compel testimo-
17 ny, the protection of documents, or both, and bring such person before
18 such officer or person in the authority as may be designated in such
19 subpoena, and to administer an oath to and take testimony of any person
20 or cause any person's deposition to be taken.

21 (c) A subpoena issued under this subdivision shall be regulated by the
22 civil practice law and rules, and is in addition to and not in limita-
23 tion of the power to make information and document requests under subdi-
24 vision two of this section.

25 2. Any person or business entity that sells or offers for sale, leases
26 or offers for lease, rents or offers for rent, or installs or offers to
27 install, manufactures or tests in New York state any new product of a
28 type listed in paragraphs (a) through (vv) of subdivision one of section
29 16-104 of this article, or any new product for which efficiency stand-
30 ards shall have been established pursuant to paragraph (b) or (c) of
31 subdivision one of section 16-106 of this article, or any product that
32 is subject to federal efficiency standards that shall have been contin-
33 ued in this state pursuant to section 16-105 of this article, shall be
34 obliged, on the request of the secretary or his or her designee, or the
35 request of the president or his or her designee, to supply the secretary
36 and/or the president with such information and documentation as may be
37 required concerning such person's or such business entity's business,
38 business practices, or business methods, or proposed business practices
39 or methods. The obligations contained in this subdivision shall not
40 apply to any person or business entity that sells or offers for sale,
41 leases or offers for lease, rents or offers for rent, or installs or
42 offers to install only products described in subdivision three of
43 section 16-104 of this article. The power to make information and docu-
44 ment requests is in addition to and not in limitation of the power to
45 issue subpoenas.

46 3. A subpoena may be issued pursuant to subdivision one of this
47 section, and a request for information and documentation may be made
48 pursuant to subdivision two of this section, at any time and in any
49 situation, without regard to whether such subpoena or request is or is
50 not issued or made in connection with an investigation conducted by the
51 president or an enforcement proceeding conducted by the secretary.

52 4. The secretary shall, before ordering the immediate cessation of any
53 distribution, sale or offer for sale, lease or offer to lease, rent or
54 offer to rent, import or offer to import, or installation or offer of
55 installation of any product, or imposing any civil penalty, injunctive
56 relief, or other relief pursuant to this article upon any person or

1 business entity who is alleged to be in violation of any provision of
2 this article or of any regulation adopted pursuant to this article, and
3 at least ten days prior to the date set for the hearing, notify in writ-
4 ing and shall afford such person or business entity an opportunity to be
5 heard in person or by counsel in reference thereto. Such written notice
6 may be served by delivery of same personally, or by mailing same by
7 certified mail to the last known business address of such person or
8 business entity, or by any method authorized by the civil practice law
9 and rules. The hearing on such charges shall be at such time and place
10 as the department of state shall prescribe. A hearing held by this
11 subdivision shall be held pursuant to the state administrative procedure
12 act, and any applicable regulations adopted by the secretary.

13 5. A final action of the secretary in imposing a civil penalty, or
14 other order, may be subject to review by a proceeding instituted under
15 article seventy-eight of the civil practice law and rules at the
16 instance of the person or business entity aggrieved. Final actions that
17 may be subject to judicial review under article seventy-eight of the
18 civil practice law and rules include:

19 (a) a determination that a person or business entity is in violation
20 of any provision of this article or of any regulation adopted under this
21 article;

22 (b) an order directing the immediate cessation of the sale or offer
23 for sale, installation or offer to install, lease or offer to lease,
24 rent or offer to rent, or import any product in violation of any
25 provision of this article or of any regulation adopted under this arti-
26 cle;

27 (c) an order granting or imposing any other type of injunctive relief;
28 and

29 (d) the imposition of a civil penalty, excluding any consent order,
30 any determination made in a consent order and any civil penalty and/or
31 injunctive relief imposed by a consent order.

32 6. In addition to all other powers provided by this article, the
33 secretary and the president, are authorized, individually or jointly, to
34 refer the results of any investigation conducted by the president pursu-
35 ant to this article to the attorney general and to request the attorney
36 general to institute, in the name of the secretary and/or the president,
37 an action or proceeding to enforce the provisions of this article. The
38 attorney general shall, at the request of the secretary or president, or
39 may, on his or her own initiative, institute proceedings to enforce the
40 provisions of this article including the imposition of civil penalties
41 or injunctive relief. Nothing in this subdivision shall limit or impair
42 the power and authority of the secretary to conduct enforcement
43 proceedings, to issue orders pursuant to paragraph (b) of subdivision
44 five of section 16-106 of this article, and to impose penalties pursuant
45 to section 16-108 of this article.

46 § 18. Section 16-108 of the energy law, as added by chapter 431 of the
47 laws of 2005, is amended to read as follows:

48 § 16-108. Violations, civil liability. 1. Any person who or business
49 entity that issues:

50 (a) a certification that a product listed in paragraphs (a) through
51 (vv) of subdivision one of section 16-104 of this article complies with
52 the [energy] efficiency standards for such product established by or
53 pursuant to this article[7];

54 (b) a certification that a product not listed in paragraphs (a)
55 through (vv) of subdivision one of section 16-104 of this article
56 complies with efficiency standards for such product established pursuant

1 to paragraph (b) or (c) of subdivision one of section 16-104 of this
2 article; or

3 (c) a certification that a product that is subject to federal effi-
4 ciency standards that shall have been continued in this state pursuant
5 to section 16-105 of this article complies with such efficiency stand-
6 ards, knowing that such product does not comply with ~~[these]~~ such effi-
7 ciency standards, shall be liable for a civil penalty of not more than
8 ten thousand dollars for each such product certified and an additional
9 penalty of not more than ten thousand dollars for each day during which
10 such violation continues.

11 2. Any person who or business entity that violates the provisions of
12 subdivision two of section 16-104 of this article, or ~~[who]~~ fails to
13 perform any duty imposed by this article, or ~~[who]~~ violates or fails to
14 comply with any rule, regulation, determination, or order ~~[of]~~ adopted,
15 made, or issued by the president or the secretary ~~[of state promulgated]~~
16 pursuant to this article, shall be liable for a civil penalty of not
17 more than five hundred dollars for each such violation and an additional
18 civil penalty of not more than one hundred dollars for each day during
19 which such violation continues, and, in addition thereto, such person or
20 business entity may be enjoined from continuing such violation.

21 ~~3. [The secretary may cause an investigation to be made of complaints~~
22 ~~received concerning violations of this article and may refer the results~~
23 ~~of such investigations to the attorney general. The attorney general~~
24 ~~shall, at the request of the secretary, or may, on his own initiative,~~
25 ~~institute proceedings to enforce the provisions of this article.~~

26 ~~4.]~~ An action or cause of action for the recovery of a penalty under
27 this section may be settled or compromised in an amount to be approved
28 by the secretary either before or after proceedings are brought to
29 recover such penalties and prior to the entry for judgment therefor.

30 § 19. The energy law is amended by adding a new section 16-109 to read
31 as follows:

32 § 16-109. Conflicts with other laws. Nothing in this article or in
33 any regulation adopted pursuant to this article shall limit, impair, or
34 supersede the provisions of subdivision one of section three hundred
35 eighty-three of the executive law or the provisions of subdivision three
36 of section 11-103 of this chapter.

37 § 20. Subparagraphs 14 and 15 of paragraph (a) of subdivision 3 of
38 section 94-a of the executive law, as added by section 21 of part A of
39 chapter 62 of the laws of 2011, are amended and a new subparagraph 16 is
40 added to read as follows:

41 (14) cooperate with and assist consumers in class actions in proper
42 cases; ~~[and]~~

43 (15) create an internet website or webpage pursuant to section three
44 hundred ninety-c of the general business law~~[.]~~, as added by chapter
45 five hundred nine of the laws of two thousand seven; and

46 (16) exercise such powers and duties granted to the secretary by arti-
47 cle sixteen of the energy law as the secretary may direct, including,
48 but not limited to: consult with such president of the New York state
49 energy research and development authority in connection with investi-
50 gations conducted by such president pursuant to article sixteen of the
51 energy law; make determinations relating to compliance by products with
52 the standards adopted pursuant to article sixteen of the energy law;
53 order the immediate cessation of any distribution, sale or offer for
54 sale, import, or installation of any product that does not meet such
55 standards; and impose civil penalties as contemplated by article sixteen
56 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 "intra-state 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

1 revitalizing urban centers or rural areas, encouraging commercial
2 investment and adding value to the municipal housing stock. The proper-
3 ty assessment list shall be organized to indicate the location, size,
4 whether the building is residential or commercial and whether the build-
5 ing will be demolished, deconstructed, rehabilitated or reconstructed.
6 Such properties shall be published in a local daily newspaper for no
7 less than three consecutive days. Additionally, the municipality shall
8 conduct public hearings in the communities where the buildings are iden-
9 tified.

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

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

34 § 2. Paragraph (b) and (d) of subdivision 6 of section 16-n of section
35 1 of chapter 174 of the laws of 1968 constituting the New York state
36 urban development corporation act, as added by section 2 of part C-2 of
37 chapter 109 of the laws of 2006, is amended to read as follows:

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

47 (d) A municipality that is granted an award or awards under this
48 section shall provide a matching contribution of no less than ten
49 percent of the aggregated award or awards amount. Such matching contrib-
50 ution may be in the form of a financial and/or in kind contribution.
51 Financial contributions may include grants from federal, state and local
52 entities. In kind contributions may include but shall not be limited to
53 the efforts of municipalities to conduct an inventory and assessment of
54 vacant, abandoned, surplus, condemned, and deteriorated properties and
55 to manage and administer grants pursuant to subdivisions four and five
56 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;

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

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

6 (2) Searchable state subsidy and aggregate economic development bene-
7 fits database. Notwithstanding any laws to the contrary, the corpo-
8 ration, in cooperation with the department of economic development,
9 shall create a searchable database, or modify an existing one, display-
10 ing Empire state economic development benefits that a qualified partic-
11 ipant has been awarded. Such database shall also display other Empire
12 state economic development benefits such qualified participant has
13 received from another state agency provided that it is for the same
14 particular project which received the Empire state economic development
15 benefits. Such searchable database shall include, at a minimum, the
16 following features and functionality:

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

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

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

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

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

32 (iv) the total number of employees at all sites utilizing such aggre-
33 gate economic development benefits at the time of the agreement includ-
34 ing the number of permanent full-time jobs, the number of permanent
35 part-time jobs, the number of full-time equivalents, and the number of
36 contract employees;

37 (v) for any aggregate economic development benefit that provides for
38 job retention and creation that a qualified participant receiving aggre-
39 gate economic development benefits is contractually obligated to retain
40 and create over the life of the project utilizing such aggregate econom-
41 ic development benefits, except that such information shall be reported
42 on an annual basis for agreements containing annual job retention or
43 creation requirements, and for each reporting year, the base employment
44 level the entity receiving aggregate economic development benefits
45 agrees to retain over the life of the project utilizing such aggregate
46 economic development benefits, any job creation scheduled to take place
47 as a result of the project utilizing such aggregate economic development
48 benefits and where applicable, any job creation targets for the current
49 reporting year;

50 (vi) the amount of aggregate economic development benefits received by
51 a qualified participant during the year covered by the report, the
52 amount of aggregate economic development benefits received by a quali-
53 fied participant since the beginning of the project period, and the
54 present value of the further aggregate economic development benefits
55 committed to by the state, but not yet received by a qualified partic-
56 ipant for the duration of the project;

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

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

12 (c) the ability to digitally select defined individual fields corre-
13 sponding to any of the reported information from qualified participants
14 to create unique database views;

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

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

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

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

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

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

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

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

48 18-j. to assist the urban development corporation to establish a
49 searchable database pursuant to section fifty-eight of the urban devel-
50 opment corporation act.

51 § 3. This act shall take effect on the ninetieth day after it shall
52 have become a law. Effective immediately, the addition, amendment and/or
53 repeal of any rule or regulation necessary for the implementation of
54 this act on its effective date are authorized to be made and completed
55 on or before such effective date.

1 PART JJJ

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

4 § 19-611 School bus parking on a city street. No school bus operated
5 by or pursuant to a contract with the board of education shall:

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

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

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

12 PART KKK

13 Section 1. The transportation law is amended by adding a new article
14 23 to read as follows:

15 ARTICLE 2316 HYPERLOOP AND HIGH SPEED RAIL COMMISSION

17 Section 490. Hyperloop and high speed rail commission.

18 491. Powers and duties of the commission.

19 492. Reporting.

20 493. Assistance of other agencies.

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

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

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

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

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

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

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

47 3. evaluate all available hyperloop technologies, systems and opera-
48 tors, and make recommendations on an appropriate hyperloop system;

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

1 provide the department with recommendations on the form any such agree-
2 ment should take;

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

8 6. assess and study the benefits and implications, including financial
9 implications, of creating or implementing a high speed rail system with-
10 in New York state;

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

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

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

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

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

38 § 492. Reporting. The commission shall make a report with its findings
39 to the governor and the legislature and shall publish such report within
40 two years of the effective date of this article and annually thereafter.
41 Upon the transmission of the initial report to the governor, the legis-
42 lature and the public, the commissioner shall within thirty days deter-
43 mine whether the commission shall continue in operation, whether there
44 are amendments that could improve the commission, or whether it shall be
45 dissolved. The commissioner shall report his or her findings and recom-
46 mendations to the governor and the legislature. In the event the
47 commission is dissolved, the commissioner shall notify the legislative
48 bill drafting commission upon such dissolution in order that such
49 commission may maintain an accurate and timely effective database of the
50 official text of the laws of the state of New York in furtherance of
51 effectuating the provisions of section forty-four of the legislative law
52 and section seventy-b of the public officers law.

53 § 493. Assistance of other agencies. To effectuate the purposes of
54 this article, the commission may request and shall receive from any
55 department, division, board, bureau, commission or other agency or
56 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

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

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

18 PART 000

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

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

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

47 The commissioner of transportation and any city named in this article,
48 acting through the mayor or other administrative head thereof, pursuant
49 to a resolution of the governing body of such city except the city of
50 New York, are authorized to enter into a written agreement for the main-
51 tenance and repair, under the supervision and subject to the approval of
52 the commissioner, of any public street, main route or thoroughfare or
53 portion thereof, exclusive of service roads and pavement on intersecting
54 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-1 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-1 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-1 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-1 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 29-1 to read as follows:

§ 29-1. 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

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

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

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

11 (b) (i) "Division" means the division of homeland security and emer-
12 gency services.

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

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

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

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

21 (ii) such insurance, or financial assistance, or combination thereof
22 are available to the applicant but cannot adequately compensate or reim-
23 burse such applicant for such damages.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 § 3. This act shall take effect on the ninetieth day after it shall
18 have become a law, provided, however, that the provisions of subdivision
19 6 of section 29-1 of the executive law, as added by section two of this
20 act shall take effect immediately. Effective immediately, the addition,
21 amendment and/or repeal of any rule or regulation necessary for the
22 implementation of this act on its effective date are authorized to be
23 made and completed on or before such effective date.

24 PART SSS

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

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

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

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

41 (iii) all data regarding proposed expenditures or commitments of indi-
42 vidual projects in each capital element.

43 (d) Individual capital project data shall be included in a capital
44 program dashboard maintained by the authority on its website. Any summa-
45 ry views provided on the website shall include the original budgets,
46 project scopes, and schedules, in addition to current or amended budg-
47 ets, project scopes, and schedules. Data pertaining to individual
48 projects shall include, but not be limited to:

49 (i) the capital project identification number;

50 (ii) the capital plan years;

51 (iii) the agency or authority undertaking the project;

52 (iv) a project description;

53 (v) the project location;

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

4 (vii) all associated contact numbers and vendors;

5 (viii) budget information including the original budget, all amend-
6 ments, the current budget and planned annual allocations; and

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

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

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

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

38 PART TTT

39 Section 1. Section 16-ff of section 1 of chapter 174 of the laws of
40 1968, constituting the New York state urban development corporation act,
41 as added by section 2 of part VV of chapter 59 of the laws of 2021, is
42 amended to read as follows:

43 § 16-ff. COVID-19 pandemic small business recovery grant program. 1.
44 Definitions. As used in this section, the following terms shall have the
45 following meanings:

46 (a) "Small business" shall mean a business which is resident in this
47 state, independently owned and operated, not dominant in its field, and
48 employs one hundred or less persons.

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

52 (c) "The program" shall mean the COVID-19 pandemic small business
53 recovery grant program established pursuant to subdivision two of this
54 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

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

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

5 (v) Not owe any federal, state or local taxes prior to July 15, 2020,
6 or have an approved repayment, deferral plan, or agreement with appro-
7 priate federal, state and local taxing authorities.

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

9 (i) eligible micro-businesses, small businesses, and for-profit inde-
10 pendent arts and cultural organizations that do not qualify for business
11 assistance grant programs under the federal American Rescue Plan Act of
12 2021 or any other available federal COVID-19 economic recovery or busi-
13 ness assistance grant programs, including loans forgiven under the
14 federal Paycheck Protection Program, or;

15 (ii) those who are unable to obtain sufficient business assistance
16 from such federal programs [with-priority]. Receipt of the maximum
17 assistance award from such federal programs including, but not limited
18 to, the Paycheck Protection Program, the Economic Injury Disaster Loan,
19 or the Restaurant Revitalization Fund shall not exclude a business from
20 eligibility under this program. Priority shall be given to socially and
21 economically disadvantaged business owners including, but not limited
22 to, minority and women-owned business enterprises, service-disabled
23 veteran-owned businesses, and veteran-owned businesses, or businesses
24 located in communities that were economically distressed prior to March
25 1, 2020, as determined by the most recent census data.

26 5. Eligible costs. (a) Eligible costs shall be considered for micro-
27 businesses, small businesses, ~~[and]~~ for-profit independent arts and
28 cultural organizations, and independent arts contractor, negatively
29 impacted by the COVID-19 pandemic or by their compliance with COVID-19
30 health and safety protocols which resulted in lost revenue, business
31 modifications, interruptions, or closures. Such eligible costs shall
32 have been incurred between March 1, 2020 and April 1, 2021.

33 (b) The following costs incurred by a micro-business, small business,
34 ~~[or]~~ for-profit independent arts and cultural organization, or independ-
35 ent arts contractor shall be considered eligible under the program at a
36 minimum: payroll costs; costs of rent or mortgage as provided for in
37 subparagraph (i) of this paragraph; costs of repayment of local property
38 or school taxes associated with such small business's location as
39 provided for in subparagraph (ii) of this paragraph; insurance costs;
40 utility costs; costs of personal protection equipment (PPE) necessary to
41 protect worker and consumer health and safety; heating, ventilation, and
42 air conditioning (HVAC) costs, or other machinery or equipment costs, or
43 supplies and materials necessary for compliance with COVID-19 health and
44 safety protocols, and other documented COVID-19 costs as approved by the
45 corporation.

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

48 (ii) Payment of local property taxes and school taxes shall be consid-
49 ered eligible costs.

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

54 6. Application and approval process. (a) An eligible micro-business,
55 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.

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

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

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

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

12 § 19-0331. Clean fuel standard.

13 (1) A clean fuel standard is hereby established. The clean fuel stand-
14 ard is intended to reduce carbon intensity from the on-road transporta-
15 tion sector by twenty percent by two thousand thirty, with further
16 reductions to be implemented based upon advances in technology as deter-
17 mined by the commissioner. Aviation fuels shall be exempted from the
18 clean fuel standard due to federal preemption, but sustainable aviation
19 fuel shall be eligible to generate credits on an opt-in basis.

20 (2) The clean fuel standard shall apply to all providers of transpor-
21 tation fuels, including electricity, in New York, shall be measured on a
22 full fuels lifecycle basis and may be met through market-based methods
23 by which providers exceeding the performance required by the clean fuel
24 standard shall receive credits that may be applied to future obligations
25 or traded to providers not meeting the clean fuel standard. The gener-
26 ation of credits must use a lifecycle emissions performance-based
27 approach that is technology and feedstock neutral to achieve fuel decar-
28 bonization. In addition to fuel decarbonization, credits generated
29 through the use of clean fuel types will help promote innovation and
30 investment in such clean fuels. For purposes of this section the term
31 "providers" shall include, but shall not be limited to, all refiners,
32 blenders, producers or importers of transportation fuels, or enablers of
33 electricity used as transportation fuel, "carbon intensity" means the
34 quantity of lifecycle greenhouse gas emissions per unit of fuel energy,
35 and "full fuels lifecycle" means the aggregate of greenhouse gas emis-
36 sions, including direct emissions and significant indirect emissions,
37 such as significant emissions from land use changes as determined by the
38 commissioner. The full fuels lifecycle includes all stages of fuel and
39 feedstock production and distribution, from feedstock generation or
40 extraction through the distribution and delivery and use of the finished
41 fuel by the ultimate consumer. In calculating full fuels lifecycle
42 greenhouse gas emissions, the mass values for all non-carbon-dioxide
43 greenhouse gases must be adjusted to account for their relative global
44 warming potentials. This conversion shall use the most appropriate
45 conversion relative to global warming potentials as determined by the
46 commissioner based on the best available science.

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

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

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

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

13 (6) Nothing in this section shall preclude the department from enact-
14 ing or maintaining other programs to reduce greenhouse gas emissions
15 from the transportation sector.

16 § 4. This act shall take effect immediately.

17 PART VVV

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

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

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

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

51 4. The certified independent public accounting firm providing the
52 department's, comprehensive analysis shall adhere to the requirements in
53 paragraphs (a), (b) and (c) of this subdivision; provided, however, the
54 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-

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

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

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

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

25 1. Coordinate the activities of all state agencies performing func-
26 tions affecting the deployment and accessibility of the internet in the
27 state;

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

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

33 4. Establish and implement the ConnectAll programs as established in
34 sections five hundred six, five hundred seven, five hundred eight, five
35 hundred nine, and five hundred ten of this article, within amounts
36 appropriated therefor, pursuant to guidelines and regulations promulgat-
37 ed by the commissioner;

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

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

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

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

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

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

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

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

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

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

40 4. No member of the advisory board shall be disqualified from holding
41 any other public office or employment, nor forfeit any such office or
42 employment by reason of appointment hereunder, notwithstanding the
43 provisions of any general, special or local law, ordinance or city char-
44 ter.

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

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

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

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

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

1 agencies which are counter-productive or inimical to promote expansion
2 and development of reliable, affordable and accessible high-speed broad-
3 band;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

56 (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;

1 (d) Provide the service required under this program at prices consist-
2 ent with the price structure established by the advisory board for the
3 region; and

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

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

12 (i) Demonstrate the need for the funding to undertake the project, and
13 the necessity of the project to provide services to unserved and under-
14 served areas consistent with the requirements of the program;

15 (ii) Demonstrate suitable fiscal, technical, operational, and manage-
16 ment capabilities to the satisfaction of the division;

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (ii) reimbursement of up to fifty percent of the maintenance and oper-
46 ational expenses of the project for the first year of operation after
47 completion of the project;

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

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

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

55 (vi) any other expenses the division may deem reasonable, and neces-
56 sary 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.

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

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

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

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

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

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

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

36 (b) create open-access communications infrastructure;

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

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

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

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

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

54 (b) reimbursement of up to fifty percent of the maintenance and opera-
55 tional expenses for the first year of operation after build-out of the
56 infrastructure;

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

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

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

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

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

12 (a) demonstrate suitable fiscal, technical, operational, and manage-
13 ment capabilities to the satisfaction of the division;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 4. The following conditions shall apply to the program:

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

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

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

44 (iii) proposals that test or implement technologies that are not wide-
45 ly applied across the state;

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

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

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

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

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

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

3 (f) Not more than ten percent of a grant may be used for grant manage-
4 ment.

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

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

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

26 2. There is hereby established a ConnectAll digital literacy grants
27 program to be administered by the division, to provide grants and
28 assistance to schools, public libraries, universities, and other educa-
29 tional institutions in the state to advance digital literacy and train-
30 ing.

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

33 4. Preference shall be given to proposals that:

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

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

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

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

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

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

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

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

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

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

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

37 § 99-y. Internet access and communications. The governing body of any
38 county, city, town or village is hereby authorized and empowered to
39 establish, construct, and maintain broadband and related telecommuni-
40 cations infrastructure, or to contract for the construction and mainte-
41 nance of such services with a corporation or nonprofit organization, and
42 for the maintenance, care, and replacement of infrastructure in
43 connection therewith, if such governing body finds that such facilities
44 are necessary. For the purposes of this section, "nonprofit organiza-
45 tion" shall mean a corporation having tax exempt status under section
46 501 (c) (3) of the United States internal revenue code, or any organiza-
47 tion incorporated under the not-for-profit corporation law.

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

50 5. The commission shall direct pole owners to identify and submit a
51 report within six months to the commission and the division for broad-
52 band development of the necessary make ready work for pole attachments
53 in any unserved and underserved areas as identified by the broadband map
54 created pursuant to section two hundred twenty-four-c of this chapter.
55 The information in such reports shall be made available to grantees of
56 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

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

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

7 The commissioner of transportation shall establish regulations govern-
8 ing the issuance of highway work permits, including the fees to be
9 charged therefor, a system of deposits of money or bonds guaranteeing
10 the performance of the work and requirements of insurance to protect the
11 interests of the state during performance of the work pursuant to a
12 highway work permit. With respect to accommodation of fiber optic util-
13 ities within the state highway right of way, the regulations shall addi-
14 tionally provide that the department shall issue a written notice of
15 complete application to an applicant for a highway work permit or use
16 and occupancy permit within twenty-one days of receipt of the work
17 permit application. Within such time of submission for an accommodation
18 of fiber optic utilities, an initial review of the application shall be
19 conducted and the department shall either make a determination that the
20 application is complete, or identify any additional information required
21 to be submitted by the applicant for the application to be considered
22 complete. With respect to accommodation of fiber optic utilities, the
23 regulations shall also provide that the department shall: complete the
24 review of the application and either issue or deny a work permit and/or
25 use and occupancy permit within forty-five days of issuing the written
26 notice of complete application; and provide that any application that is
27 pending for more than forty-five days without a permit being issued
28 shall be deemed approved. If the work permit and/or use and occupancy
29 permit is denied, the department shall identify and provide specific
30 reasoning and basis for the denial. With respect to driveway entrance
31 permits, the regulations shall take into consideration the prospective
32 character of the development, the traffic which will be generated by the
33 facility within the reasonably foreseeable future, the design and
34 frequency of access to the facility, the effect of the facility upon
35 drainage as related to existing drainage systems, the extent to which
36 such facility may impair the safety and traffic carrying capacity of the
37 existing state highway and any proposed improvement thereto within the
38 reasonably foreseeable future, and any standards governing access, non-
39 access or limited access which have been established by the department
40 of transportation.

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

43 § 224-e. Wage requirements for certain broadband projects. 1. For
44 purposes of this section, a "covered broadband project" means a broad-
45 band project funded by programs established pursuant to section five
46 hundred six or five hundred seven of the economic development law.

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

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

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

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

11 5. Each owner and developer subject to the requirements of this
12 section shall comply with the objectives and goals of certified minority
13 and women-owned business enterprises pursuant to article fifteen-A of
14 the executive law and certified service-disabled veteran-owned busi-
15 nesses pursuant to article seventeen-B of the executive law. The depart-
16 ment in consultation with the directors of the division of minority and
17 women's business development and of the division of service-disabled
18 veterans' business development shall make training and resources avail-
19 able to assist minority and women-owned business enterprises and
20 service-disabled veteran-owned business enterprises undertaking covered
21 broadband projects to achieve and maintain compliance with prevailing
22 wage requirements. The department shall make such training and resources
23 available online and shall afford minority and women-owned business
24 enterprises and service-disabled veteran-owned business enterprises an
25 opportunity to submit comments on such training.

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

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

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

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

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

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

16 § 3. This act shall take effect immediately provided, however, that
17 the applicable effective date of Parts A through WWW of this act shall
18 be as specifically set forth in the last section of such Parts.