

# STATE OF NEW YORK

4120--A

2023-2024 Regular Sessions

## IN ASSEMBLY

February 9, 2023

Introduced by M. of A. McMAHON, SIMONE, MAMDANI -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the highway law, in relation to reductions in vehicle miles traveled in state highway projects; and to amend the New York state climate leadership and community protection act, in relation to clean energy goals

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

1 Section 1. Paragraph d of subdivision 12 of section 1 of chapter 106  
2 of the laws of 2019, constituting the New York state climate leadership  
3 and community protection act, is amended to read as follows:  
4 d. the adoption of a state energy plan establishing clean energy goals  
5 for the year 2030 aimed at reducing greenhouse gas emission levels by  
6 40% from 1990 levels, reducing the annual total of vehicle miles trav-  
7 eled within the state by 20% by 2050, producing 70% of electricity from  
8 renewable sources, increasing energy efficiency from 2012 levels by 23%  
9 and the additional expressed goal of reducing 100% of the electricity  
10 sector's greenhouse gas emissions by 2040;  
11 § 2. Vehicle miles traveled assessment working group. 1. There is  
12 hereby established a vehicle miles traveled assessment working group.  
13 The vehicle miles traveled assessment working group shall meet regularly  
14 and shall study the options and best practices available and make recom-  
15 mendations for implementing vehicle miles traveled assessments in a  
16 manner which aligns with the targets set by the New York state climate  
17 leadership and community protection act and developing a plan to assess,  
18 monitor, and approve a project's impact mitigation actions. The working  
19 group shall aid the commissioner of transportation in establishing  
20 procedures to assist counties and towns seeking to comply with their

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

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1 vehicle miles traveled assessment requirements, as outlined in sections  
2 one hundred two and one hundred four of the highway law.

3 2. The working group shall include a representative from the depart-  
4 ment of transportation, the office of the governor, the department of  
5 environmental conservation, the department of state, the department of  
6 agriculture and markets, the office of general services, the empire  
7 state development corporation, the New York energy research and develop-  
8 ment authority, the port authority of New York and New Jersey, the  
9 metropolitan transportation authority, the New York City department of  
10 transportation, the office of the mayor of New York City, and the New  
11 York metropolitan transportation council. The working group shall  
12 include representatives from relevant community organizations and other  
13 necessary parties.

14 3. The working group shall report its findings and recommendations to  
15 the commissioner of transportation, the governor, the temporary presi-  
16 dent of the senate and the speaker of the assembly no later than twelve  
17 months after the effective date of this section. Such report shall be  
18 made publicly available on the department of transportation's website.

19 § 3. The highway law is amended by adding a new section 10-h to read  
20 as follows:

21 § 10-h. Reductions to vehicle miles traveled in state highway  
22 projects. 1. Definitions. As used in this section, the following terms  
23 shall have the following meanings:

24 (a) "Vehicle miles traveled" shall mean a measurement of the total  
25 miles of motor vehicle traffic in New York state over a one-year period.

26 (b) "Highway capacity expansion project" shall mean a project that  
27 expands highway capacity, including but not limited to the construction  
28 of new highways, highway widening projects, and projects that establish  
29 grade separation at an intersection, excluding auxiliary lanes with a  
30 length of less than two thousand five hundred feet.

31 (c) "Vehicle miles traveled impact assessment" shall mean an assess-  
32 ment conducted to determine the net change of vehicle miles traveled by  
33 a highway capacity expansion project.

34 2. Vehicle miles traveled assessment. Prior to the approval of any  
35 construction, reconstruction, or maintenance of state highways that  
36 would be considered a highway capacity expansion project, as defined by  
37 paragraph (b) of subdivision one of this section, the commissioner of  
38 transportation shall conduct a vehicle miles traveled impact assessment,  
39 as defined by paragraph (c) of subdivision one of this section, to eval-  
40 uate whether the project aligns with the vehicle miles traveled  
41 reduction targets set by the New York state climate leadership and  
42 community protection act. This assessment shall recognize and consider  
43 that highway capacity expansion projects result in induced demand, wher-  
44 eas more vehicles utilize a highway after a highway capacity expansion  
45 project, and therefore, these projects do not significantly reduce  
46 pollution, congestion, or vehicle miles traveled. If a highway capacity  
47 expansion project does not result in a reduction of vehicle miles trav-  
48 eled which aligns with the targets set by the New York state climate  
49 leadership and community protection act, the project shall be altered to  
50 align with these targets by changing its design or sufficiently offset-  
51 ting its net change to vehicle miles traveled with impact mitigation  
52 efforts, as outlined in subdivision three of this section.

53 3. Impact mitigation. (a) Impact mitigation shall be deemed sufficient  
54 if the cumulative net change on vehicle miles traveled from impact miti-  
55 gation actions and a highway capacity expansion project over the same

1 period of time align with vehicle miles traveled reduction targets set  
2 by the New York state climate leadership and community protection act.

3 (b) Impact mitigation shall include projects, programs, and operation  
4 modifications in one or more of the following areas:

5 (i) alternative means of transportation infrastructure, including but  
6 not limited to public transit expansion, public transit service improve-  
7 ments, pedestrian and cyclist transportation infrastructure expansion  
8 and improvements, and micro-mobility transportation infrastructure  
9 expansion and improvements;

10 (ii) transportation demand management, including but not limited to  
11 vanpool and shared vehicle programs, remote work, and broadband access  
12 expansion;

13 (iii) parking demand management, including but not limited to  
14 reductions in parking requirements and parking cost adjustments;

15 (iv) changes to land use which reduce vehicle miles traveled, includ-  
16 ing but not limited to residential density increases, mixed-use develop-  
17 ment, and public transit oriented development; and

18 (v) other measures which reduce vehicle miles traveled, as determined  
19 by the commissioner.

20 (c) Whenever feasible, impact mitigation actions shall be conducted in  
21 at least one of the municipalities where a highway capacity expansion  
22 project shall take place. The commissioner is hereby authorized to  
23 determine whether these impact mitigation actions are sufficiently  
24 localized to reduce vehicle net miles traveled in the communities where  
25 a highway capacity expansion project will result in a net change that  
26 increases vehicle miles traveled or insufficiently reduces vehicle miles  
27 traveled.

28 4. Technical advisory committee. The commissioner shall appoint a  
29 technical advisory committee made up of technical experts to advise the  
30 commissioner in the vehicle miles traveled assessment process. The  
31 committee members shall be appointed based on demonstrated expertise in  
32 travel demand modeling, traffic forecasting or transportation-related  
33 greenhouse gas emissions assessment and analysis and other expertise as  
34 determined necessary by the commissioner. The committee shall evaluate  
35 and recommend tools for calculating the vehicle miles traveled and  
36 induced demand of a highway capacity expansion project, evaluate and  
37 recommend additional impact mitigation actions which reduce vehicle  
38 miles traveled, and identify and recommend best practices for calculat-  
39 ing the net change of vehicle miles traveled for a highway capacity  
40 expansion project inclusive of impact mitigation measures. The commis-  
41 sioner shall hereby be authorized to request the technical advisory  
42 committee assess and provide recommendations on other elements of the  
43 vehicle miles traveled assessment process, as they deem necessary.

44 5. Reporting. The commissioner shall submit a report every twenty-four  
45 months to the governor and the legislature which includes a list of  
46 state, county, and town highway capacity expansion projects approved in  
47 New York. The report shall include the results of the vehicle miles  
48 traveled assessment for each highway capacity expansion project includ-  
49 ing any impact mitigation actions and their status. Such report shall  
50 also be made publicly available on the department's website.

51 § 4. Section 102 of the highway law is amended by adding a new subdivi-  
52 sion 19 to read as follows:

53 19. Conduct a vehicle miles traveled assessment, as defined by subdivi-  
54 sion one of section ten-h of this chapter, prior to the approval of  
55 any construction, reconstruction, or maintenance of town highways that  
56 would be considered a highway capacity expansion project, as defined in

1 subdivision one of section ten-h of this chapter. If a highway capacity  
2 expansion project does not result in a reduction of vehicle miles trav-  
3 eled which aligns with the targets set by the New York state climate  
4 leadership and community protection act, the project shall be altered to  
5 align with these targets by changing its design or sufficiently offset-  
6 ting its net change to vehicle miles traveled with impact mitigation  
7 efforts, as outlined in subdivision three of section ten-h of this chap-  
8 ter. The county superintendent may request any resources and technical  
9 assistance necessary from the commissioner to complete the vehicle miles  
10 traveled assessment.

11 § 5. Section 140 of the highway law is amended by adding a new subdi-  
12 vision 20 to read as follows:

13 20. Conduct a vehicle miles traveled assessment, as defined by subdi-  
14 vision one of section ten-h of this chapter, prior to the approval of  
15 any construction, reconstruction, or maintenance of town highways that  
16 would be considered a highway capacity expansion project, as defined in  
17 subdivision one of section ten-h of this chapter. If a highway capacity  
18 expansion project does not result in a reduction of vehicle miles trav-  
19 eled which aligns with the targets set by the New York state climate  
20 leadership and community protection act, the project shall be altered to  
21 align with these targets by changing its design or sufficiently offset-  
22 ting its net change to vehicle miles traveled with impact mitigation  
23 efforts, as outlined in subdivision three of section ten-h of this chap-  
24 ter. The town superintendent may request any resources and technical  
25 assistance necessary from the commissioner of transportation to complete  
26 the vehicle miles traveled assessment.

27 § 6. This act shall take effect immediately; provided that sections  
28 three, four and five of this act shall take effect on the first of Janu-  
29 ary two years after it shall have become a law.