

STATE OF NEW YORK

S. 4006

A. 3006

SENATE - ASSEMBLY

February 1, 2023

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

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

AN ACT to amend the education law, in relation to contracts for excellence; in relation to the high-impact tutoring set-aside; to amend the education law, in relation to foundation aid; to amend the education law, in relation to the number of charters issued; to amend the education law, in relation to actual valuation; to amend the education law, in relation to average daily attendance; to amend the education law, in relation to supplemental public excess cost aid; to amend the education law, in relation to building aid for metal detectors, and safety devices for electrically operated partitions, room dividers and doors; to amend the education law, in relation to academic enhancement aid; to amend the education law, in relation to high tax aid; to amend the education law, in relation to prospective prekindergarten enrollment reporting; to amend the education law, in relation to transitional guidelines and rules; to amend the education law, in relation to universal prekindergarten expansions; to amend the education law, in relation to extending provisions of the statewide universal full-day pre-kindergarten program; to amend the education law, in relation to state aid adjustments; to amend the education law, in relation to certain moneys apportioned; to amend the education law, in relation to zero emission bus progress reporting; to amend chapter 756 of the laws of 1992 relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to reimbursement for the 2023-2024 school year, withholding a portion of employment preparation education aid and in relation to the effectiveness thereof; to amend part CCC of chapter 59 of the laws of 2018 amending the education law relating to a statement of the total funding allocation, in relation to the effectiveness thereof; to amend chapter 147 of the laws of 2001 amending the education law relating to conditional appointment of school district, charter school or BOCES employees, in relation to the effectiveness thereof; to amend part C

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

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of chapter 56 of the laws of 2020 directing the commissioner of education to appoint a monitor for the Rochester city school district, establishing the powers and duties of such monitor and certain other officers and relating to the apportionment of aid to such school district, in relation to the effectiveness thereof; part C of chapter 57 of the laws of 2004 relating to the support of education, in relation to the effectiveness thereof; directing the education department to conduct a comprehensive study of alternative tuition rate-setting methodologies for approved providers operating school-age and preschool programs receiving funding; to amend chapter 507 of the laws of 1974 relating to providing for the apportionment of state monies to certain nonpublic schools, to reimburse them for their expenses in complying with certain state requirements for the administration of state testing and evaluation programs and for participation in state programs for the reporting of basic educational data, in relation to the calculation of nonpublic schools' eligibility to receive aid; providing for special apportionment for salary expenses; providing for special apportionment for public pension accruals; providing for set-asides from the state funds which certain districts are receiving from the total foundation aid; providing for support of public libraries; to amend chapter 94 of the laws of 2002 relating to the financial stability of the Rochester city school district, in relation to the effectiveness thereof; and providing for the repeal of certain provisions upon expiration thereof (Part A); to amend the education law, in relation to tuition authorization at the state university of New York and the city university of New York (Part B); to amend the education law, in relation to providing access to medication abortion prescription drugs at the state university of New York and the city university of New York (Part C); to amend the education law, in relation to removing the maximum award caps for the liberty partnerships program (Part D); to amend the business corporation law, the partnership law and the limited liability company law, in relation to certified public accountants (Part E); to amend the general municipal law and the public housing law, in relation to enacting the new homes targets and fast-track approval act (Part F); to amend the general city law, the town law and the village law, in relation to requiring certain densities of residential dwellings near transit stations (Part G); to amend the public housing law, in relation to requiring certain housing production information to be reported to the division of housing and community renewal (Part H); to amend the real property actions and proceedings law, in relation to determining when a dwelling is abandoned (Part I); to amend the multiple dwelling law, in relation to modernizing regulations for office building conversions; and providing for the repeal of certain provisions of such law relating thereto (Part J); to amend the multiple dwelling law and the private housing finance law, in relation to establishing a program to address the legalization of specified basement dwelling units and the conversion of other specified basement dwelling units in a city with a population of one million or more (Part K); to amend the multiple dwelling law, in relation to authorizing a city of one million or more to remove the cap on the floor area ratio of certain dwellings (Part L); to amend the real property tax law, in relation to authorizing a tax abatement for alterations and improvements to multiple dwellings for purposes of preserving habitability in affordable housing (Part M); to amend the real property tax law, in relation to authorizing a city, town or village other than a city with a population of one

million or more to provide by local law for a tax exemption for new construction of eligible rental multiple dwellings (Part N); to amend the real property tax law, in relation to providing a tax exemption on the increase in value of property resulting from the addition of an accessory dwelling unit (Part O); to amend the labor law and the real property tax law, in relation to the exemption from real property taxation of certain multiple dwellings in a city having a population of one million or more (Part P); to utilize reserves in the mortgage insurance fund for various housing purposes (Part Q); to amend the real property tax law, in relation to eligible multiple dwellings (Part R); to amend the labor law and the public health law, in relation to indexing the minimum wage to inflation (Part S); to amend the New York city charter, the education law, the general municipal law, the labor law, the public authorities law, chapter 1016 of the laws of 1969 constituting the New York city health and hospitals corporation act, and chapter 749 of the laws of 2019 constituting the New York city public works investment act, in relation to providing for employment opportunities for economically disadvantaged candidates and economically disadvantaged region candidates and apprenticeship utilization on public transactions; and providing for the repeal of such provisions upon expiration thereof (Part T); to amend the social services law, in relation to eligibility for child care assistance; and to repeal certain provisions of such law relating thereto (Part U); to amend part N of chapter 56 of the laws of 2020, amending the social services law relating to restructuring financing for residential school placements, in relation to the effectiveness thereof (Part V); to amend subpart A of chapter 57 of the laws of 2012 amending the social services law and the family court act relating to establishing a juvenile justice services close to home initiative, and to amend subpart B of part G of chapter 57 of the laws of 2012 amending the social services law, the family court act and the executive law relating to juvenile delinquents, in relation to making such provisions permanent (Part W); to amend the social services law, in relation to eliminating the requirement for combined education and other work/activity assignments, directing approval of certain education and vocational training activities up to two-year post-secondary degree programs and providing for a disregard of earned income received by a recipient of public assistance derived from participating in a qualified work activity or training program, and further providing for a one-time disregard of earned income following job entry for up to six consecutive months under certain circumstances (Part X); to amend the social services law, in relation to the replacement of stolen public assistance (Part Y); and to amend the social services law, in relation to increasing the standards of monthly need for aged, blind and disabled persons living in the community (Part Z)

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 education, labor, housing and family
3 assistance budget for the 2023-2024 state fiscal year. Each component is
4 wholly contained within a Part identified as Parts A through Z. The
5 effective date for each particular provision contained within such Part
6 is set forth in the last section of such Part. Any provision in any

1 section contained within a Part, including the effective date of the
2 Part, which makes a reference to a section "of this act", when used in
3 connection with that particular component, shall be deemed to mean and
4 refer to the corresponding section of the Part in which it is found.
5 Section three of this act sets forth the general effective date of this
6 act.

7 PART A

8 Section 1. Paragraph e of subdivision 1 of section 211-d of the educa-
9 tion law, as amended by chapter 556 of the laws of 2022, is amended to
10 read as follows:

11 e. Notwithstanding paragraphs a and b of this subdivision, a school
12 district that submitted a contract for excellence for the two thousand
13 eight--two thousand nine school year shall submit a contract for excel-
14 lence for the two thousand nine--two thousand ten school year in
15 conformity with the requirements of subparagraph (vi) of paragraph a of
16 subdivision two of this section unless all schools in the district are
17 identified as in good standing and provided further that, a school
18 district that submitted a contract for excellence for the two thousand
19 nine--two thousand ten school year, unless all schools in the district
20 are identified as in good standing, shall submit a contract for excel-
21 lence for the two thousand eleven--two thousand twelve school year which
22 shall, notwithstanding the requirements of subparagraph (vi) of para-
23 graph a of subdivision two of this section, provide for the expenditure
24 of an amount which shall be not less than the product of the amount
25 approved by the commissioner in the contract for excellence for the two
26 thousand nine--two thousand ten school year, multiplied by the
27 district's gap elimination adjustment percentage and provided further
28 that, a school district that submitted a contract for excellence for the
29 two thousand eleven--two thousand twelve school year, unless all schools
30 in the district are identified as in good standing, shall submit a
31 contract for excellence for the two thousand twelve--two thousand thir-
32 teen school year which shall, notwithstanding the requirements of
33 subparagraph (vi) of paragraph a of subdivision two of this section,
34 provide for the expenditure of an amount which shall be not less than
35 the amount approved by the commissioner in the contract for excellence
36 for the two thousand eleven--two thousand twelve school year and
37 provided further that, a school district that submitted a contract for
38 excellence for the two thousand twelve--two thousand thirteen school
39 year, unless all schools in the district are identified as in good
40 standing, shall submit a contract for excellence for the two thousand
41 thirteen--two thousand fourteen school year which shall, notwithstanding
42 the requirements of subparagraph (vi) of paragraph a of subdivision two
43 of this section, provide for the expenditure of an amount which shall be
44 not less than the amount approved by the commissioner in the contract
45 for excellence for the two thousand twelve--two thousand thirteen school
46 year and provided further that, a school district that submitted a
47 contract for excellence for the two thousand thirteen--two thousand
48 fourteen school year, unless all schools in the district are identified
49 as in good standing, shall submit a contract for excellence for the two
50 thousand fourteen--two thousand fifteen school year which shall,
51 notwithstanding the requirements of subparagraph (vi) of paragraph a of
52 subdivision two of this section, provide for the expenditure of an
53 amount which shall be not less than the amount approved by the commis-
54 sioner in the contract for excellence for the two thousand thirteen--two

1 thousand fourteen school year; and provided further that, a school
2 district that submitted a contract for excellence for the two thousand
3 fourteen--two thousand fifteen school year, unless all schools in the
4 district are identified as in good standing, shall submit a contract for
5 excellence for the two thousand fifteen--two thousand sixteen school
6 year which shall, notwithstanding the requirements of subparagraph (vi)
7 of paragraph a of subdivision two of this section, provide for the
8 expenditure of an amount which shall be not less than the amount
9 approved by the commissioner in the contract for excellence for the two
10 thousand fourteen--two thousand fifteen school year; and provided
11 further that a school district that submitted a contract for excellence
12 for the two thousand fifteen--two thousand sixteen school year, unless
13 all schools in the district are identified as in good standing, shall
14 submit a contract for excellence for the two thousand sixteen--two thou-
15 sand seventeen school year which shall, notwithstanding the requirements
16 of subparagraph (vi) of paragraph a of subdivision two of this section,
17 provide for the expenditure of an amount which shall be not less than
18 the amount approved by the commissioner in the contract for excellence
19 for the two thousand fifteen--two thousand sixteen school year; and
20 provided further that, a school district that submitted a contract for
21 excellence for the two thousand sixteen--two thousand seventeen school
22 year, unless all schools in the district are identified as in good
23 standing, shall submit a contract for excellence for the two thousand
24 seventeen--two thousand eighteen school year which shall, notwithstand-
25 ing the requirements of subparagraph (vi) of paragraph a of subdivision
26 two of this section, provide for the expenditure of an amount which
27 shall be not less than the amount approved by the commissioner in the
28 contract for excellence for the two thousand sixteen--two thousand
29 seventeen school year; and provided further that a school district that
30 submitted a contract for excellence for the two thousand seventeen--two
31 thousand eighteen school year, unless all schools in the district are
32 identified as in good standing, shall submit a contract for excellence
33 for the two thousand eighteen--two thousand nineteen school year which
34 shall, notwithstanding the requirements of subparagraph (vi) of para-
35 graph a of subdivision two of this section, provide for the expenditure
36 of an amount which shall be not less than the amount approved by the
37 commissioner in the contract for excellence for the two thousand seven-
38 teen--two thousand eighteen school year; and provided further that, a
39 school district that submitted a contract for excellence for the two
40 thousand eighteen--two thousand nineteen school year, unless all schools
41 in the district are identified as in good standing, shall submit a
42 contract for excellence for the two thousand nineteen--two thousand
43 twenty school year which shall, notwithstanding the requirements of
44 subparagraph (vi) of paragraph a of subdivision two of this section,
45 provide for the expenditure of an amount which shall be not less than
46 the amount approved by the commissioner in the contract for excellence
47 for the two thousand eighteen--two thousand nineteen school year; and
48 provided further that, a school district that submitted a contract for
49 excellence for the two thousand nineteen--two thousand twenty school
50 year, unless all schools in the district are identified as in good
51 standing, shall submit a contract for excellence for the two thousand
52 twenty--two thousand twenty-one school year which shall, notwithstanding
53 the requirements of subparagraph (vi) of paragraph a of subdivision two
54 of this section, provide for the expenditure of an amount which shall be
55 not less than the amount approved by the commissioner in the contract
56 for excellence for the two thousand nineteen--two thousand twenty school

1 year; and provided further that, a school district that submitted a
2 contract for excellence for the two thousand twenty--two thousand twen-
3 ty-one school year, unless all schools in the district are identified as
4 in good standing, shall submit a contract for excellence for the two
5 thousand twenty-one--two thousand twenty-two school year which shall,
6 notwithstanding the requirements of subparagraph (vi) of paragraph a of
7 subdivision two of this section, provide for the expenditure of an
8 amount which shall be not less than the amount approved by the commis-
9 sioner in the contract for excellence for the two thousand twenty--two
10 thousand twenty-one school year; and provided further that, a school
11 district that submitted a contract for excellence for the two thousand
12 twenty-one--two thousand twenty-two school year, unless all schools in
13 the district are identified as in good standing, shall submit a contract
14 for excellence for the two thousand twenty-two--two thousand twenty-
15 three school year which shall, notwithstanding the requirements of
16 subparagraph (vi) of paragraph a of subdivision two of this section,
17 provide for the expenditure of an amount which shall be not less than
18 the amount approved by the commissioner in the contract for excellence
19 for the two thousand twenty-one--two thousand twenty-two school year;
20 and provided further that, a school district that submitted a contract
21 for excellence for the two thousand twenty-two--two thousand twenty-
22 three school year, unless all schools in the district are identified as
23 in good standing, shall submit a contract for excellence for the two
24 thousand twenty-three--two thousand twenty-four school year which shall,
25 notwithstanding the requirements of subparagraph (vi) of paragraph a of
26 subdivision two of this section, provide for the expenditure of an
27 amount which shall be not less than the amount approved by the commis-
28 sioner in the contract for excellence for the two thousand twenty-two--
29 two thousand twenty-three school year; provided, however, that, in a
30 city school district in a city having a population of one million or
31 more, notwithstanding the requirements of subparagraph (vi) of paragraph
32 a of subdivision two of this section, the contract for excellence shall
33 provide for the expenditure as set forth in subparagraph (v) of para-
34 graph a of subdivision two of this section. For purposes of this para-
35 graph, the "gap elimination adjustment percentage" shall be calculated
36 as the sum of one minus the quotient of the sum of the school district's
37 net gap elimination adjustment for two thousand ten--two thousand eleven
38 computed pursuant to chapter fifty-three of the laws of two thousand
39 ten, making appropriations for the support of government, plus the
40 school district's gap elimination adjustment for two thousand eleven--
41 two thousand twelve as computed pursuant to chapter fifty-three of the
42 laws of two thousand eleven, making appropriations for the support of
43 the local assistance budget, including support for general support for
44 public schools, divided by the total aid for adjustment computed pursu-
45 ant to chapter fifty-three of the laws of two thousand eleven, making
46 appropriations for the local assistance budget, including support for
47 general support for public schools. Provided, further, that such amount
48 shall be expended to support and maintain allowable programs and activ-
49 ities approved in the two thousand nine--two thousand ten school year or
50 to support new or expanded allowable programs and activities in the
51 current year.

52 § 2. Subdivision 4 of section 3602 of the education law is amended by
53 adding a new paragraph k to read as follows:

54 k. Foundation aid payable in the two thousand twenty-three--two thou-
55 sand twenty-four school year. Notwithstanding any provision of law to
56 the contrary, foundation aid payable in the two thousand twenty-three--

two thousand twenty-four school year shall be equal to the sum of the total foundation aid base computed pursuant to paragraph j of subdivision one of this section plus the greater of (a) the positive difference, if any, of (i) total foundation aid computed pursuant to paragraph a of this subdivision less (ii) the total foundation aid base computed pursuant to paragraph j of subdivision one of this section, or (b) the product of three hundredths (0.03) multiplied by the total foundation aid base computed pursuant to paragraph j of subdivision one of this section.

§ 3. Subdivision 4 of section 3602 of education law is amended by adding a new paragraph e-1 to read as follows:

e-1. High-impact tutoring set-aside. For the two thousand twenty-three--two thousand twenty-four school year, each school district shall set aside from its total foundation aid the amount set forth for each school district as "HIGH-IMPACT TUTORING SET-ASIDE" under the heading "2023-24 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the executive budget request for the two thousand twenty-three--two thousand twenty-four school year and entitled "BT232-4", as computed pursuant to this paragraph. Each school district shall use such high-impact tutoring set-aside amount to deliver small group or individual tutoring sessions in reading and mathematics to students in grades three through eight designated by each school district as at risk of falling below state standards. Such services and sessions may be provided during the school day, before or after school, or on the weekend and must occur no less than twice per week for no less than thirty minutes until the student is no longer designated as at risk. The funds set aside under this section shall only be used to supplement current federal, state and local funding and in no case shall supplant current district expenditures of federal, state or local funds on high-impact tutoring.

(1) For the two thousand twenty-three--two thousand twenty-four school year, for districts subject to a high-impact tutoring set-aside, this set-aside shall equal the greater of: (i) one hundred thousand dollars or (ii) the product of (A) one thousand one hundred seventy-seven thousandths (0.1177) multiplied by (B) the foundation aid increase base.

(2) A district shall be subject to the high-impact tutoring set-aside for the two thousand twenty-three--two thousand twenty-four school year if (i) the quotient arrived at when dividing the foundation aid increase by the foundation aid base is greater than three hundredths (0.03) and (ii) the foundation aid increase base is greater than one hundred thousand dollars (\$100,000).

(3) For purposes of this paragraph, "foundation aid increase" shall equal the positive difference of the amounts set forth for each school district as "FOUNDATION AID" under the heading "2023-24 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the executive budget request for the two thousand twenty-three--two thousand twenty-four school year and entitled "BT232-4" less the amounts set forth for each school district as "FOUNDATION AID" under the heading "2022-23 BASE YEAR AIDS" in such computer listing.

(4) For purposes of this paragraph, "foundation aid increase base" shall equal the positive difference of the foundation aid increase less the product of three hundredths (0.03) multiplied by the total foundation aid base.

§ 4. Subdivision 9 of section 2852 of the education law, as amended by section 2 of subpart A of part B of chapter 20 of the laws of 2015, is amended to read as follows:

1 9. The total number of charters issued pursuant to this article state-
2 wide shall not exceed four hundred sixty. (a) All charters issued on or
3 after July first, two thousand fifteen and counted toward the numerical
4 limits established by this subdivision shall be issued by the board of
5 regents upon application directly to the board of regents or on the
6 recommendation of the board of trustees of the state university of New
7 York pursuant to a competitive process in accordance with subdivision
8 nine-a of this section. ~~[Fifty of such charters issued on or after July~~
9 ~~first, two thousand fifteen, and no more, shall be granted to a charter~~
10 ~~for a school to be located in a city having a population of one million~~
11 ~~or more.]~~ The failure of any body to issue the regulations authorized
12 pursuant to this article shall not affect the authority of a charter
13 entity to propose a charter to the board of regents or the board of
14 regents' authority to grant such charter. A conversion of an existing
15 public school to a charter school, or the renewal or extension of a
16 charter approved by any charter entity, or the reissuance of a surren-
17 dered, revoked or terminated charter pursuant to paragraph (b) or (b-1)
18 of this subdivision shall not be counted toward the numerical limits
19 established by this subdivision.

20 (b) A charter that has been surrendered, revoked or terminated on or
21 before July first, two thousand fifteen, including a charter that has
22 not been renewed by action of its charter entity, may be reissued pursu-
23 ant to paragraph (a) of this subdivision by the board of regents either
24 upon application directly to the board of regents or on the recommenda-
25 tion of the board of trustees of the state university of New York pursu-
26 ant to a competitive process in accordance with subdivision nine-a of
27 this section. Provided that such reissuance shall not be counted toward
28 the statewide numerical limit established by this subdivision, and
29 provided further that no more than twenty-two charters may be reissued
30 pursuant to this paragraph.

31 (b-1) Notwithstanding any provision of law to the contrary, a charter
32 that has been surrendered, revoked or terminated after July first, two
33 thousand fifteen, including a charter that has not been renewed by
34 action of its charter entity, may be reissued pursuant to paragraph (a)
35 of this subdivision by the board of regents either upon application
36 directly to the board of regents or on the recommendation of the board
37 of trustees of the state university of New York pursuant to a compet-
38 itive process in accordance with subdivision nine-a of this section.
39 Provided that such reissuance shall not be counted toward the statewide
40 numerical limit established by this subdivision.

41 (c) For purposes of determining the total number of charters issued
42 within the numerical limits established by this subdivision, the
43 approval date of the charter entity shall be the determining factor.

44 (d) Notwithstanding any provision of this article to the contrary, any
45 charter authorized to be issued by chapter fifty-seven of the laws of
46 two thousand seven effective July first, two thousand seven, and that
47 remains unissued as of July first, two thousand fifteen, may be issued
48 pursuant to the provisions of law applicable to a charter authorized to
49 be issued by such chapter in effect as of June fifteenth, two thousand
50 fifteen~~[, provided however that nothing in this paragraph shall be~~
51 ~~construed to increase the numerical limit applicable to a city having a~~
52 ~~population of one million or more as provided in paragraph (a) of this~~
53 ~~subdivision, as amended by a chapter of the laws of two thousand fifteen~~
54 ~~which added this paragraph].~~

§ 5. Paragraph c of subdivision 1 of section 3602 of the education law, as amended by section 11 of part B of chapter 57 of the laws of 2007, is amended to read as follows:

c. "Actual valuation" shall mean the valuation of taxable real property in a school district obtained by taking the assessed valuation of taxable real property within such district as it appears upon the assessment roll of the town, city, village, or county in which such property is located, for the calendar year two years prior to the calendar year in which the base year commenced, after revision as provided by law, plus any assessed valuation that was exempted from taxation pursuant to the class one reassessment exemption authorized by section four hundred eighty-five-u of the real property tax law or the residential revaluation exemption authorized by section four hundred eighty-five-v of such law as added by chapter five hundred sixty of the laws of two thousand twenty-one, and dividing it by the state equalization rate as determined by the [~~state board of equalization and assessment~~] commissioner of taxation and finance, for the assessment roll of such town, city, village, or county completed during such preceding calendar year. The actual valuation of a central high school district shall be the sum of such valuations of its component districts. Such actual valuation shall include any actual valuation equivalent of payments in lieu of taxes determined pursuant to section four hundred eighty-five of the real property tax law. "Selected actual valuation" shall mean the lesser of actual valuation calculated for aid payable in the current year or the two-year average of the actual valuation calculated for aid payable in the current year and the actual valuation calculated for aid payable in the base year.

§ 6. Paragraph d of subdivision 1 of section 3602 of the education law, as amended by section 11 of part B of chapter 57 of the laws of 2007, is amended to read as follows:

d. "Average daily attendance" shall mean the total number of attendance days of pupils in a public school of a school district in kindergarten through grade twelve, or equivalent ungraded programs, plus the total number of instruction days for such pupils receiving homebound instruction including pupils receiving [~~instruction through a two-way telephone communication system~~] remote instruction as defined in the regulations of the commissioner, divided by the number of days the district school was in session as provided in this section. The attendance of pupils with disabilities attending under the provisions of paragraph c of subdivision two of section forty-four hundred one of this chapter shall be added to average daily attendance.

§ 7. Paragraph 1 of subdivision 1 of section 3602 of the education law, as amended by section 11 of part B of chapter 57 of the laws of 2007, is amended to read as follows:

1. "Average daily membership" shall mean the possible aggregate attendance of all pupils in attendance in a public school of the school district in kindergarten through grade twelve, or equivalent ungraded programs, including possible aggregate attendance for such pupils receiving homebound instruction, including pupils receiving [~~instruction through a two-way telephone communication system~~] remote instruction as defined in the regulations of the commissioner, with the possible aggregate attendance of such pupils in one-half day kindergartens multiplied by one-half, divided by the number of days the district school was in session as provided in this section. The full time equivalent enrollment of pupils with disabilities attending under the provisions of paragraph c of subdivision two of section forty-four hundred one of this chapter

1 shall be added to average daily membership. Average daily membership
2 shall include the equivalent attendance of the school district, as
3 computed pursuant to paragraph d of this subdivision. In any instance
4 where a pupil is a resident of another state or an Indian pupil is a
5 resident of any portion of a reservation located wholly or partly within
6 the borders of the state pursuant to subdivision four of section forty-
7 one hundred one of this chapter or a pupil is living on federally owned
8 land or property, such pupil's possible aggregate attendance shall be
9 counted as part of the possible aggregate attendance of the school
10 district in which such pupil is enrolled.

11 § 8. The closing paragraph of subdivision 5-a of section 3602 of the
12 education law, as amended by section 14 of part A of chapter 56 of the
13 laws of 2022, is amended to read as follows:

14 For the two thousand eight--two thousand nine school year, each school
15 district shall be entitled to an apportionment equal to the product of
16 fifteen percent and the additional apportionment computed pursuant to
17 this subdivision for the two thousand seven--two thousand eight school
18 year. For the two thousand nine--two thousand ten [~~through two thousand~~
19 ~~twenty-two--two thousand twenty-three~~] school [~~years~~] year and thereaft-
20 er each school district shall be entitled to an apportionment equal to
21 the amount set forth for such school district as "SUPPLEMENTAL PUB
22 EXCESS COST" under the heading "2008-09 BASE YEAR AIDS" in the school
23 aid computer listing produced by the commissioner in support of the
24 budget for the two thousand nine--two thousand ten school year and enti-
25 tled "SA0910".

26 § 9. Paragraph b of subdivision 6-c of section 3602 of the education
27 law, as amended by section 11 of part CCC of chapter 59 of the laws of
28 2018, is amended to read as follows:

29 b. For projects approved by the commissioner authorized to receive
30 additional building aid pursuant to this subdivision for the purchase of
31 stationary metal detectors, security cameras or other security devices
32 approved by the commissioner that increase the safety of students and
33 school personnel, provided that for purposes of this paragraph such
34 other security devices shall be limited to electronic security systems
35 and hardened doors, and provided that for projects approved by the
36 commissioner on or after the first day of July two thousand thirteen
37 [~~and before the first day of July two thousand twenty-three~~] such addi-
38 tional aid shall equal the product of (i) the building aid ratio
39 computed for use in the current year pursuant to paragraph c of subdivi-
40 sion six of this section plus ten percentage points, except that in no
41 case shall this amount exceed one hundred percent, and (ii) the actual
42 approved expenditures incurred in the base year pursuant to this subdivi-
43 sion, provided that the limitations on cost allowances prescribed by
44 paragraph a of subdivision six of this section shall not apply, and
45 provided further that any projects aided under this paragraph must be
46 included in a district's school safety plan. The commissioner shall
47 annually prescribe a special cost allowance for metal detectors, and
48 security cameras, and the approved expenditures shall not exceed such
49 cost allowance.

50 § 10. Paragraph i of subdivision 12 of section 3602 of the education
51 law, as amended by section 15 of part A of chapter 56 of the laws of
52 2022, is amended to read as follows:

53 i. For the two thousand twenty-one--two thousand twenty-two school
54 year [~~and~~] through the two thousand [~~twenty-two~~] twenty-three--two thou-
55 sand [~~twenty-three~~] twenty-four school year, each school district shall
56 be entitled to an apportionment equal to the amount set forth for such

1 school district as "ACADEMIC ENHANCEMENT" under the heading "2020-21
2 ESTIMATED AIDS" in the school aid computer listing produced by the
3 commissioner in support of the budget for the two thousand twenty--two
4 thousand twenty-one school year and entitled "SA202-1", and such apportionment shall be deemed to satisfy the state obligation to provide an
5 apportionment pursuant to subdivision eight of section thirty-six
6 hundred forty-one of this article.

7
8 § 11. The opening paragraph of subdivision 16 of section 3602 of the
9 education law, as amended by section 16 of part A of chapter 56 of the
10 laws of 2022, is amended to read as follows:

11 Each school district shall be eligible to receive a high tax aid
12 apportionment in the two thousand eight--two thousand nine school year,
13 which shall equal the greater of (i) the sum of the tier 1 high tax aid
14 apportionment, the tier 2 high tax aid apportionment and the tier 3 high
15 tax aid apportionment or (ii) the product of the apportionment received
16 by the school district pursuant to this subdivision in the two thousand
17 seven--two thousand eight school year, multiplied by the due-minimum
18 factor, which shall equal, for districts with an alternate pupil wealth
19 ratio computed pursuant to paragraph b of subdivision three of this
20 section that is less than two, seventy percent (0.70), and for all other
21 districts, fifty percent (0.50). Each school district shall be eligible
22 to receive a high tax aid apportionment in the two thousand nine--two
23 thousand ten through two thousand twelve--two thousand thirteen school
24 years in the amount set forth for such school district as "HIGH TAX AID"
25 under the heading "2008-09 BASE YEAR AIDS" in the school aid computer
26 listing produced by the commissioner in support of the budget for the
27 two thousand nine--two thousand ten school year and entitled "SA0910".
28 Each school district shall be eligible to receive a high tax aid apportionment in the two thousand thirteen--two thousand fourteen through two
29 thousand ~~[twenty-two]~~ twenty-three--two thousand ~~[twenty-three]~~ twenty-
30 four school years equal to the greater of (1) the amount set forth for
31 such school district as "HIGH TAX AID" under the heading "2008-09 BASE
32 YEAR AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand nine--two thousand
33 ten school year and entitled "SA0910" or (2) the amount set forth for
34 such school district as "HIGH TAX AID" under the heading "2013-14 ESTI-
35 MATED AIDS" in the school aid computer listing produced by the commis-
36 sioner in support of the executive budget for the 2013-14 fiscal year
37 and entitled "BT131-4".

38
39
40 § 12. Section 3602-e of the education law is amended by adding a new
41 subdivision 3 to read as follows:

42 3. Prospective prekindergarten enrollment reporting. a. Beginning in
43 the two thousand twenty-three--two thousand twenty-four school year, all
44 school districts eligible to receive an apportionment under this section
45 or section thirty-six hundred two-ee of this part shall annually report
46 to the commissioner: (i) the number of four-year-old prekindergarten
47 students the district intends to serve in full-day and half-day slots in
48 district-operated programs in the current year; (ii) the number of four-
49 year-old prekindergarten students the district intends to serve in full-
50 day and half-day slots in programs operated by community-based organiza-
51 tions in the current year; (iii) the number of four-year-old
52 prekindergarten students whose parent or guardian has applied for a seat
53 for them in the current year, but to whom the district lacks capacity to
54 offer a seat; (iv) the total number of four-year-old children residing
55 in the district who are eligible to be served under this section and
56 section thirty-six hundred two-ee of this part, including students whose

1 parent or guardian did not apply, where such information can be reason-
2 ably ascertained; (v) the total number of students who are eligible to
3 enroll in four-year-old prekindergarten but are served in private
4 settings or whose parent or guardian has not chosen to enroll the
5 student in a prekindergarten program where such information can be
6 reasonably ascertained; and (vi) any other information available to
7 districts and necessary to accurately estimate the unmet demand for
8 four-year-old prekindergarten services within the district. This report
9 shall be due no later than September first of each year and shall be
10 collected as part of the application specified pursuant to subdivision
11 five of this section. Beginning November first, two thousand twenty-
12 three, the commissioner shall annually submit a report to the chair-
13 person of the assembly ways and means committee, the chairperson of the
14 senate finance committee and the director of the budget which shall
15 include but not be limited to the information reported by districts
16 under this subdivision.

17 § 13. Subdivision 20 of section 3602-e of the education law is amended
18 by adding a new paragraph b to read as follows:

19 b. Two thousand twenty-three--two thousand twenty-four school year.

20 (i) The universal prekindergarten expansion for the two thousand twen-
21 ty-three--two thousand twenty-four school year shall be equal to twice
22 the product of (1) expansion slots multiplied by (2) selected aid per
23 prekindergarten pupil calculated pursuant to subparagraph (i) of para-
24 graph b of subdivision ten of this section for the two thousand twenty-
25 three--two thousand twenty-four school year.

26 (ii) For purposes of this paragraph, "expansion slots" shall be slots
27 for new full-day four-year-old prekindergarten pupils for purposes of
28 subparagraph (ii) of paragraph b of subdivision ten of this section.
29 Expansion slots shall be equal to the positive difference, if any, of
30 (1) the product of eight hundred ninety-seven thousandths (0.897) multi-
31 plied by unserved four-year-old prekindergarten pupils as defined in
32 subparagraph (iv) of paragraph b of subdivision ten of this section less
33 (2) the sum of four-year-old students served plus the underserved count.
34 If such expansion slots are greater than or equal to ten but less than
35 twenty, the expansion slots shall be twenty; if such expansion slots are
36 less than ten, the expansion slots shall be zero; and for a city school
37 district in a city having a population of one million or more, the
38 expansion slots shall be zero.

39 (iii) For purposes of this paragraph, "four-year-old students served"
40 shall be equal to the sum of (1) the number of four-year-old students
41 served in full-day and half-day settings in a state funded program which
42 must meet the requirements of this section as reported to the department
43 for the two thousand twenty-one--two thousand twenty-two school year,
44 plus (2) the number of four-year-old students served in full-day
45 settings in a state funded program which must meet the requirements of
46 section thirty-six hundred two-ee of this part and for which grants were
47 awarded prior to the two thousand twenty--two thousand twenty-one school
48 year, plus (3) the number of expansion slots allocated pursuant to para-
49 graph b of subdivision nineteen of this section, plus (4) the number of
50 expansion slots allocated pursuant to paragraph a of this subdivision,
51 plus (5) the maximum number of students that may be served in full-day
52 prekindergarten programs funded by grants which must meet the require-
53 ments of section thirty-six hundred two-ee of this part for grants
54 awarded in the two thousand twenty-one--two thousand twenty-two or two
55 thousand twenty-two--two thousand twenty-three school year.

(iv) For purposes of this paragraph, the underserved count shall be equal to the positive difference, if any, of (1) the sum of (a) eligible full-day four-year-old prekindergarten pupils as defined in subparagraph (ii) of paragraph b of subdivision ten of this section for the two thousand twenty-one--two thousand twenty-two school year, plus (b) the product of five-tenths (0.5) and the eligible half-day four-year-old prekindergarten pupils as defined in subparagraph (iii) of paragraph b of subdivision ten of this section for the two thousand twenty-one--two thousand twenty-two school year, less (2) the positive difference of (a) the number of four-year-old students served in full-day and half-day settings in a state-funded program which must meet the requirements of this section as reported to the department for the two thousand twenty-one--two thousand twenty-two school year, with students served in half-day settings multiplied by five-tenths (0.5), less (b) the number of pupils served in a conversion slot pursuant to section thirty-six hundred two-ee of this part in the two thousand twenty-one--two thousand twenty-two school year multiplied by five-tenths (0.5).

§ 14. Paragraph d of subdivision 12 of section 3602-e of the education law, as amended by section 17-b of part A of chapter 56 of the laws of 2022, is amended to read as follows:

d. transitional guidelines and rules which allow a program to meet the required staff qualifications and any other requirements set forth pursuant to this section and regulations adopted by the board of regents and the commissioner; provided that such guidelines include an annual process by which a district may apply to the commissioner by ~~[August]~~ September first of the current school year for a waiver that would allow personnel employed by an eligible agency that is collaborating with a school district to provide prekindergarten services and licensed by an agency other than the department, to meet the staff qualifications prescribed by the licensing or registering agency. Provided, further, that the commissioner shall annually submit a report by ~~[September]~~ November first to the chairperson of the assembly ways and means committee, the chairperson of the senate finance committee and the director of the budget which shall include but not be limited to the following: (a) a listing of the school districts receiving a waiver pursuant to this paragraph from the commissioner for the current school year; (b) the number and proportion of students within each district receiving a waiver pursuant to this paragraph for the current school year that are receiving instruction from personnel employed by an eligible agency that is collaborating with a school district to provide prekindergarten services and licensed by an agency other than the department; and (c) the number and proportion of total prekindergarten personnel for each school district that are providing instructional services pursuant to this paragraph that are employed by an eligible agency that is collaborating with a school district to provide prekindergarten services and licensed by an agency other than the department, to meet the staff qualifications prescribed by the licensing or registering agency.

§ 15. Paragraph c of subdivision 8 of section 3602-ee of the education law, as amended by section 17-a of part A of chapter 56 of the laws of 2022, is amended to read as follows:

(c) for eligible agencies as defined in paragraph b of subdivision one of section thirty-six hundred two-e of this part that are not schools, a bachelor's degree in early childhood education. Provided however, beginning with the two thousand twenty-two--two thousand twenty-three school year, a school district may annually apply to the commissioner by ~~[August]~~ September first of the current school year for a waiver that

1 would allow personnel employed by an eligible agency that is collaborat-
2 ing with a school district to provide prekindergarten services and
3 licensed by an agency other than the department, to meet the staff qual-
4 ifications prescribed by the licensing or registering agency. Provided
5 further that the commissioner shall annually submit a report by [~~Septem-~~
6 ~~ber~~] November first to the chairperson of the assembly ways and means
7 committee, the chairperson of the senate finance committee and the
8 director of the budget which shall include but not be limited to the
9 following: (a) a listing of the school districts receiving a waiver
10 pursuant to this paragraph from the commissioner for the current school
11 year; (b) the number and proportion of students within each district
12 receiving a waiver pursuant to this paragraph for the current school
13 year that are receiving instruction from personnel employed by an eligi-
14 ble agency that is collaborating with a school district to provide prek-
15 indergarten services and licensed by an agency other than the depart-
16 ment; and (c) the number and proportion of total prekindergarten
17 personnel for each school district that are providing instructional
18 services pursuant to this paragraph that are employed by an eligible
19 agency that is collaborating with a school district to provide prekin-
20 dergarten services and licensed by an agency other than the department,
21 to meet the staff qualifications prescribed by the licensing or regis-
22 tering agency.

23 § 16. Subdivision 16 of section 3602-ee of the education law, as
24 amended by section 17 of part A of chapter 56 of the laws of 2022, is
25 amended to read as follows:

26 16. The authority of the department to administer the universal full-
27 day pre-kindergarten program shall expire June thirtieth, two thousand
28 [~~twenty-three~~] twenty-four; provided that the program shall continue and
29 remain in full effect.

30 § 17. Paragraph a of subdivision 5 of section 3604 of the education
31 law, as amended by chapter 161 of the laws of 2005, is amended to read
32 as follows:

33 a. State aid adjustments. All errors or omissions in the apportionment
34 shall be corrected by the commissioner. Whenever a school district has
35 been apportioned less money than that to which it is entitled, the
36 commissioner may allot to such district the balance to which it is enti-
37 tled. Whenever a school district has been apportioned more money than
38 that to which it is entitled, the commissioner may, by an order, direct
39 such moneys to be paid back to the state to be credited to the general
40 fund local assistance account for state aid to the schools, or may
41 deduct such amount from the next apportionment to be made to said
42 district, provided, however, that, upon notification of excess payments
43 of aid for which a recovery must be made by the state through deduction
44 of future aid payments, a school district may request that such excess
45 payments be recovered by deducting such excess payments from the
46 payments due to such school district and payable in the month of June in
47 (i) the school year in which such notification was received and (ii) the
48 two succeeding school years, provided further that there shall be no
49 interest penalty assessed against such district or collected by the
50 state. Such request shall be made to the commissioner in such form as
51 the commissioner shall prescribe, and shall be based on documentation
52 that the total amount to be recovered is in excess of one percent of the
53 district's total general fund expenditures for the preceding school
54 year. The amount to be deducted in the first year shall be the greater
55 of (i) the sum of the amount of such excess payments that is recognized
56 as a liability due to other governments by the district for the preced-

ing school year and the positive remainder of the district's unreserved fund balance at the close of the preceding school year less the product of the district's total general fund expenditures for the preceding school year multiplied by five percent, or (ii) one-third of such excess payments. The amount to be recovered in the second year shall equal the lesser of the remaining amount of such excess payments to be recovered or one-third of such excess payments, and the remaining amount of such excess payments shall be recovered in the third year. Provided further that, notwithstanding any other provisions of this subdivision, any pending payment of moneys due to such district as a prior year adjustment payable pursuant to paragraph c of this subdivision for aid claims that had been previously paid as current year aid payments in excess of the amount to which the district is entitled and for which recovery of excess payments is to be made pursuant to this paragraph, shall be reduced at the time of actual payment by any remaining unrecovered balance of such excess payments, and the remaining scheduled deductions of such excess payments pursuant to this paragraph shall be reduced by the commissioner to reflect the amount so recovered. ~~[The commissioner shall certify no payment to a school district based on a claim submitted later than three years after the close of the school year in which such payment was first to be made. For claims for which payment is first to be made in the nineteen hundred ninety six ninety seven school year, the commissioner shall certify no payment to a school district based on a claim submitted later than two years after the close of such school year.]~~ For claims for which payment is first to be made ~~[in the nineteen hundred ninety seven ninety eight school year and thereafter]~~ prior to the two thousand twenty-two--two thousand twenty-three school year, the commissioner shall certify no payment to a school district based on a claim submitted later than one year after the close of such school year. For claims for which payment is first to be made in the two thousand twenty-two--two thousand twenty-three school year and thereafter, the commissioner shall certify no payment to a school district based on a claim submitted later than the first of November of such school year. Provided, however, no payments shall be barred or reduced where such payment is required as a result of a final audit of the state. ~~[It is further provided that, until June thirtieth, nineteen hundred ninety six, the commissioner may grant a waiver from the provisions of this section for any school district if it is in the best educational interests of the district pursuant to guidelines developed by the commissioner and approved by the director of the budget.]~~ It is further provided that, for any apportionments provided pursuant to sections seven hundred one, seven hundred eleven, seven hundred fifty-one, seven hundred fifty-three, nineteen hundred fifty, thirty-six hundred two, thirty-six hundred two-b, thirty-six hundred two-c, thirty-six hundred two-e and forty-four hundred five of this chapter for the two thousand twenty-two--two thousand twenty-three and two thousand twenty-three--two thousand twenty-four school years, the commissioner shall certify no payment to a school district, other than payments pursuant to subdivisions four, six-a, eleven, thirteen and fifteen of section thirty-six hundred two of this part, in excess of the payment computed based on an electronic data file used to produce the school aid computer listing produced by the commissioner in support of the executive budget request submitted for the two thousand twenty-three--two thousand twenty-four state fiscal year and entitled "BT232-4", and further provided that for any apportionments provided pursuant to sections seven hundred one, seven hundred eleven, seven hundred fifty-one, seven hundred fifty-three, nineteen

hundred fifty, thirty-six hundred two, thirty-six hundred two-b, thirty-six hundred two-c, thirty-six hundred two-e and forty-four hundred five of this chapter for the two thousand twenty-four--two thousand twenty-five school year and thereafter, the commissioner shall certify no payment to a school district, other than payments pursuant to subdivisions four, six-a, eleven, thirteen and fifteen of section thirty-six hundred two of this part, in excess of the payment computed based on an electronic data file used to produce the school aid computer listing produced by the commissioner in support of the executive budget request submitted for the state fiscal year in which the school year commences.

§ 18. The opening paragraph of section 3609-a of the education law, as amended by section 19 of part A of chapter 56 of the laws of 2022, is amended to read as follows:

For aid payable in the two thousand seven--two thousand eight school year through the two thousand twenty-two--two thousand twenty-three school year, "moneys apportioned" shall mean the lesser of (i) the sum of one hundred percent of the respective amount set forth for each school district as payable pursuant to this section in the school aid computer listing for the current year produced by the commissioner in support of the budget which includes the appropriation for the general support for public schools for the prescribed payments and individualized payments due prior to April first for the current year plus the apportionment payable during the current school year pursuant to subdivision six-a and subdivision fifteen of section thirty-six hundred two of this part minus any reductions to current year aids pursuant to subdivision seven of section thirty-six hundred four of this part or any deduction from apportionment payable pursuant to this chapter for collection of a school district basic contribution as defined in subdivision eight of section forty-four hundred one of this chapter, less any grants provided pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law, less any grants provided pursuant to subdivision five of section ninety-seven-nnnn of the state finance law, less any grants provided pursuant to subdivision twelve of section thirty-six hundred forty-one of this article, or (ii) the apportionment calculated by the commissioner based on data on file at the time the payment is processed; provided however, that for the purposes of any payments made pursuant to this section prior to the first business day of June of the current year, moneys apportioned shall not include any aids payable pursuant to subdivisions six and fourteen, if applicable, of section thirty-six hundred two of this part as current year aid for debt service on bond anticipation notes and/or bonds first issued in the current year or any aids payable for full-day kindergarten for the current year pursuant to subdivision nine of section thirty-six hundred two of this part. The definitions of "base year" and "current year" as set forth in subdivision one of section thirty-six hundred two of this part shall apply to this section.

~~[For aid payable in the two thousand twenty-two--two thousand twenty-three school year, reference to such "school aid computer listing for the current year" shall mean the printouts entitled "SA222-3".]~~ For aid

payable in the two thousand twenty-three--two thousand twenty-four school year and thereafter, "moneys apportioned" shall mean the sum of apportionments provided pursuant to subdivision four of section thirty-six hundred two of this article plus the lesser of: (i) the sum of one hundred percent of the respective amount set forth for each school district as payable pursuant to this section in the school aid computer listing for the current year produced by the commissioner in support of

1 the executive budget request which includes the appropriation for the
2 general support for public schools for the prescribed payments and indi-
3 vidualized payments due prior to April first for the current year plus
4 the apportionment payable during the current school year pursuant to
5 subdivisions six-a and fifteen of section thirty-six hundred two of this
6 part minus any reductions to current year aids pursuant to subdivision
7 seven of section thirty-six hundred four of this part or any deduction
8 from apportionment payable pursuant to this chapter for collection of a
9 school district basic contribution as defined in subdivision eight of
10 section forty-four hundred one of this chapter, less any grants provided
11 pursuant to subparagraph two-a of paragraph b of subdivision four of
12 section ninety-two-c of the state finance law, less any grants provided
13 pursuant to subdivision six of section ninety-seven-nnnn of the state
14 finance law, less any grants provided pursuant to subdivision twelve of
15 section thirty-six hundred forty-one of this article, less apportion-
16 ments provided pursuant to subdivision four of section thirty-six
17 hundred two of this article, or (ii) the apportionment calculated by the
18 commissioner based on data on file at the time the payment is processed,
19 excluding apportionments provided pursuant to subdivision four of
20 section thirty-six hundred two of this article; provided however, that
21 for the purposes of any payments made pursuant to this section prior to
22 the first business day of June of the current year, moneys apportioned
23 shall not include any aids payable pursuant to subdivisions six and
24 fourteen, if applicable, of section thirty-six hundred two of this part
25 as current year aid for debt service on bond anticipation notes and/or
26 bonds first issued in the current year or any aids payable for full-day
27 kindergarten for the current year pursuant to subdivision nine of
28 section thirty-six hundred two of this part. For aid payable in the two
29 thousand twenty-three--two thousand twenty-four school year, reference
30 to such "school aid computer listing for the current year" shall mean
31 the printouts entitled "BT232-4".

32 § 19. Section 3638 of the education law is amended by adding a new
33 subdivision 7 to read as follows:

34 7. Zero-emission bus progress reporting. a. Beginning in the two thou-
35 sand twenty-three--two thousand twenty-four school year, all school
36 districts eligible to receive an apportionment under subdivision seven
37 of section thirty-six hundred two of this article shall annually submit
38 to the commissioner a progress report on the implementation of zero-em-
39 ission buses as required under this section in a format prescribed by
40 the commissioner and approved by the director of the budget. The report
41 shall include, but not be limited to, (i) sufficiency of the electric
42 grid to support anticipated electrical needs, (ii) the availability and
43 installation of charging stations and other components required to
44 support the anticipated full needs for zero-emission school buses, (iii)
45 progress of the training and workforce development needed to support,
46 maintain, and service zero-emission buses, (iv) the number and propor-
47 tion of zero-emission buses purchased, leased, or utilized by districts
48 providing transportation services currently in use and the total antic-
49 ipated number for the next two years, and (v) the number and proportion
50 of zero-emission buses purchased, leased, or utilized by contractors
51 providing transportation services currently in use and the total antic-
52 ipated number for the next two years. These reports shall be due no
53 later than August first of each year. Beginning October first, two
54 thousand twenty-three, the commissioner shall annually submit a report
55 to the chairperson of the assembly ways and means committee, the chair-
56 person of the senate finance committee and the director of the budget

1 which shall include but not be limited to the information reported by
2 districts under this subdivision.

3 § 20. Subdivision b of section 2 of chapter 756 of the laws of 1992,
4 relating to funding a program for work force education conducted by the
5 consortium for worker education in New York city, as amended by section
6 20 of part A of chapter 56 of the laws of 2022, is amended to read as
7 follows:

8 b. Reimbursement for programs approved in accordance with subdivision
9 a of this section for the reimbursement for the 2018--2019 school year
10 shall not exceed 59.4 percent of the lesser of such approvable costs per
11 contact hour or fourteen dollars and ninety-five cents per contact hour,
12 reimbursement for the 2019--2020 school year shall not exceed 57.7
13 percent of the lesser of such approvable costs per contact hour or
14 fifteen dollars sixty cents per contact hour, reimbursement for the
15 2020--2021 school year shall not exceed 56.9 percent of the lesser of
16 such approvable costs per contact hour or sixteen dollars and twenty-
17 five cents per contact hour, reimbursement for the 2021--2022 school
18 year shall not exceed 56.0 percent of the lesser of such approvable
19 costs per contact hour or sixteen dollars and forty cents per contact
20 hour, [and] reimbursement for the 2022--2023 school year shall not
21 exceed 55.7 percent of the lesser of such approvable costs per contact
22 hour or sixteen dollars and sixty cents per contact hour, and reimburse-
23 ment for the 2023--2024 school year shall not exceed 54.7 percent of the
24 lesser of such approvable costs per contact hour or eighteen dollars per
25 contact hour, and where a contact hour represents sixty minutes of
26 instruction services provided to an eligible adult. Notwithstanding any
27 other provision of law to the contrary, for the 2018--2019 school year
28 such contact hours shall not exceed one million four hundred sixty-three
29 thousand nine hundred sixty-three (1,463,963); for the 2019--2020 school
30 year such contact hours shall not exceed one million four hundred
31 forty-four thousand four hundred forty-four (1,444,444); for the
32 2020--2021 school year such contact hours shall not exceed one million
33 four hundred six thousand nine hundred twenty-six (1,406,926); for the
34 2021--2022 school year such contact hours shall not exceed one million
35 four hundred sixteen thousand one hundred twenty-two (1,416,122); [and]
36 for the 2022--2023 school year such contact hours shall not exceed one
37 million four hundred six thousand nine hundred twenty-six (1,406,926);
38 and for the 2023--2024 school year such contact hours shall not exceed
39 one million one hundred sixty-eight thousand six hundred ninety-nine
40 (1,168,699). Notwithstanding any other provision of law to the contrary,
41 the apportionment calculated for the city school district of the city of
42 New York pursuant to subdivision 11 of section 3602 of the education law
43 shall be computed as if such contact hours provided by the consortium
44 for worker education, not to exceed the contact hours set forth herein,
45 were eligible for aid in accordance with the provisions of such subdivi-
46 sion 11 of section 3602 of the education law.

47 § 21. Section 4 of chapter 756 of the laws of 1992, relating to fund-
48 ing a program for work force education conducted by the consortium for
49 worker education in New York city, is amended by adding a new subdivi-
50 sion bb to read as follows:

51 bb. The provisions of this subdivision shall not apply after the
52 completion of payments for the 2023--24 school year. Notwithstanding any
53 inconsistent provisions of law, the commissioner of education shall
54 withhold a portion of employment preparation education aid due to the
55 city school district of the city of New York to support a portion of the
56 costs of the work force education program. Such moneys shall be credited

to the elementary and secondary education fund-local assistance account and shall not exceed eleven million five hundred thousand dollars (\$11,500,000).

§ 22. Section 6 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, as amended by section 22 of part A of chapter 56 of the laws of 2022, is amended to read as follows:

§ 6. This act shall take effect July 1, 1992, and shall be deemed repealed ~~[on]~~ June 30, ~~[2023]~~ 2024.

§ 23. Subdivision 2 of section 44 of part CCC of chapter 59 of the laws of 2018 amending the education law, relating to a statement of the total funding allocation, is amended to read as follows:

2. Sections four and four-a of this act shall expire and be deemed repealed June 30, ~~[2023]~~ 2028; and

§ 24. Section 12 of chapter 147 of the laws of 2001 amending the education law relating to conditional appointment of school district, charter school or BOCES employees, as amended by section 24 of part A of chapter 56 of the laws of 2022, is amended to read as follows:

§ 12. This act shall take effect on the same date as chapter 180 of the laws of 2000 takes effect~~[, and shall expire July 1, 2023 when upon such date the provisions of this act shall be deemed repealed]~~.

§ 25. Section 12 of part C of chapter 56 of the laws of 2020 directing the commissioner of education to appoint a monitor for the Rochester city school district, establishing the powers and duties of such monitor and certain other officers and relating to the apportionment of aid to such school district, is amended to read as follows:

§ 12. This act shall take effect immediately, provided, however, that sections two, three, four, five, six, seven, eight, nine and ten of this act shall expire and be deemed repealed June 30, ~~[2023]~~ 2025; and provided further, however that sections one and eleven of this act shall expire and be deemed repealed June 30, 2049.

§ 26. Subdivision 11 of section 94 of part C of chapter 57 of the laws of 2004 relating to the support of education, as amended by section 37 of part A of chapter 56 of the laws of 2020, is amended to read as follows:

11. section seventy-one of this act shall expire and be deemed repealed June 30, ~~[2023]~~ 2028;

§ 27. 1. The education department shall conduct a comprehensive study of alternative tuition rate-setting methodologies for approved providers operating school-age programs receiving funding under article 81 and article 89 of the education law and providers operating approved preschool special education programs under section 4410 of the education law. The department shall ensure that such study consider stakeholder feedback and include, but not be limited to, a comparative analysis of rate-setting methodologies utilized by other agencies of the state of New York, including the rate-setting methodology utilized by the office of children and family services for private residential school programs; options and recommendations for an alternative rate-setting methodology or methodologies; cost estimates for such alternative methodologies; and an analysis of current provider tuition rates compared to tuition rates that would be established under such alternative methodologies.

2. At a minimum, any recommended alternative rate-setting methodology or methodologies proposed for such preschool and school-age providers shall: (a) in total, be cost neutral to the state, school districts and counties; (b) substantially restrict or eliminate tuition rate appeals;

(c) establish tuition rates that are calculated based on standardized parameters and criteria, including, but not limited to, defined program and staffing models, regional costs, and minimum required enrollment levels as a percentage of program operating capacities; (d) include a schedule to phase in new tuition rates in accordance with the recommended methodology or methodologies; and (e) ensure tuition rates for all programs can be calculated no later than the beginning of each school year.

3. The education department shall present its recommendations and analysis to the division of the budget no later than July 1, 2025, provided, however, that the department shall regularly consult with the division of the budget throughout completion of its study. Adoption of any alternative rate-setting methodologies shall be subject to the approval of the director of the division of the budget.

§ 28. Section 3 of chapter 507 of the laws of 1974, relating to providing for the apportionment of state monies to certain nonpublic schools, to reimburse them for their expenses in complying with certain state requirements for the administration of state testing and evaluation programs and for participation in state programs for the reporting of basic educational data, as amended by section 38 of part A of chapter 56 of the laws of 2021, is amended to read as follows:

§ 3. Apportionment. a. The commissioner shall annually apportion to each qualifying school, for school years beginning on and after July first, nineteen hundred seventy-four, an amount equal to the actual cost incurred by each such school during the preceding school year for providing services required by law to be rendered to the state in compliance with the requirements of the state's pupil evaluation program, the basic educational data system, regents examinations, the statewide evaluation plan, the uniform procedure for pupil attendance reporting, the state's immunization program and other similar state prepared examinations and reporting procedures. Provided that each nonpublic school that seeks aid payable in the two thousand twenty--two thousand twenty-one school year to reimburse two thousand nineteen--two thousand twenty school year expenses shall submit a claim for such aid to the state education department no later than May fifteenth, two thousand twenty-one and such claims shall be paid by the state education department no later than June thirtieth, two thousand twenty-one. Provided further that each nonpublic school that seeks aid payable in the two thousand twenty-one--two thousand twenty-two school year and thereafter shall submit a claim for such aid to the state education department no later than April first of the school year in which aid is payable and such claims shall be paid by the state education department no later than May thirty-first of such school year. Provided further that, for aid payable in the two thousand twenty-three--two thousand twenty-four school year and thereafter, the state's liability under this section shall be limited to the annual amount appropriated for such purpose. In the event that total claims submitted exceed the appropriation available for such aid, each claimant shall only be reimbursed an amount equal to the percentage that each such claimant represents to the total of all claims submitted.

b. Such nonpublic schools shall be eligible to receive aid based on the number of days or portion of days attendance is taken and either a 5.0/5.5 hour standard instructional day, or another work day as certified by the nonpublic school officials, in accordance with the methodology for computing salary and benefits applied by the department in

1 paying aid for the two thousand twelve--two thousand thirteen and prior
2 school years.

3 c. The commissioner shall annually apportion to each qualifying school
4 in the cities of New York, Buffalo and Rochester, for school years
5 beginning on or after July first two thousand sixteen, an amount equal
6 to the actual cost incurred by each such school during the preceding
7 school year in meeting the recording and reporting requirements of the
8 state school immunization program, provided that the state's liability
9 shall be limited to the amount appropriated for this purpose.

10 § 29. Special apportionment for salary expenses. 1. Notwithstanding
11 any other provision of law, upon application to the commissioner of
12 education, not sooner than the first day of the second full business
13 week of June 2024 and not later than the last day of the third full
14 business week of June 2024, a school district eligible for an apportion-
15 ment pursuant to section 3602 of the education law shall be eligible to
16 receive an apportionment pursuant to this section, for the school year
17 ending June 30, 2024, for salary expenses incurred between April 1 and
18 June 30, 2023 and such apportionment shall not exceed the sum of (a) the
19 deficit reduction assessment of 1990--1991 as determined by the commis-
20 sioner of education, pursuant to paragraph f of subdivision 1 of section
21 3602 of the education law, as in effect through June 30, 1993, plus (b)
22 186 percent of such amount for a city school district in a city with a
23 population in excess of 1,000,000 inhabitants, plus (c) 209 percent of
24 such amount for a city school district in a city with a population of
25 more than 195,000 inhabitants and less than 219,000 inhabitants accord-
26 ing to the latest federal census, plus (d) the net gap elimination
27 adjustment for 2010--2011, as determined by the commissioner of educa-
28 tion pursuant to chapter 53 of the laws of 2010, plus (e) the gap elimi-
29 nation adjustment for 2011-- 2012 as determined by the commissioner of
30 education pursuant to subdivision 17 of section 3602 of the education
31 law, and provided further that such apportionment shall not exceed such
32 salary expenses. Such application shall be made by a school district,
33 after the board of education or trustees have adopted a resolution to do
34 so and in the case of a city school district in a city with a population
35 in excess of 125,000 inhabitants, with the approval of the mayor of such
36 city.

37 2. The claim for an apportionment to be paid to a school district
38 pursuant to subdivision 1 of this section shall be submitted to the
39 commissioner of education on a form prescribed for such purpose, and
40 shall be payable upon determination by such commissioner that the form
41 has been submitted as prescribed. Such approved amounts shall be payable
42 on the same day in September of the school year following the year in
43 which application was made as funds provided pursuant to subparagraph 4
44 of paragraph b of subdivision 4 of section 92-c of the state finance
45 law, on the audit and warrant of the state comptroller on vouchers
46 certified or approved by the commissioner of education in the manner
47 prescribed by law from moneys in the state lottery fund and from the
48 general fund to the extent that the amount paid to a school district
49 pursuant to this section exceeds the amount, if any, due such school
50 district pursuant to subparagraph 2 of paragraph a of subdivision 1 of
51 section 3609-a of the education law in the school year following the
52 year in which application was made.

53 3. Notwithstanding the provisions of section 3609-a of the education
54 law, an amount equal to the amount paid to a school district pursuant to
55 subdivisions 1 and 2 of this section shall first be deducted from the
56 following payments due the school district during the school year

1 following the year in which application was made pursuant to subpara-
2 graphs 1, 2, 3, 4 and 5 of paragraph a of subdivision 1 of section
3 3609-a of the education law in the following order: the lottery appor-
4 tionment payable pursuant to subparagraph 2 of such paragraph followed
5 by the fixed fall payments payable pursuant to subparagraph 4 of such
6 paragraph and then followed by the district's payments to the teachers'
7 retirement system pursuant to subparagraph 1 of such paragraph, and any
8 remainder to be deducted from the individualized payments due the
9 district pursuant to paragraph b of such subdivision shall be deducted
10 on a chronological basis starting with the earliest payment due the
11 district.

12 § 30. Special apportionment for public pension accruals. 1. Notwith-
13 standing any other provision of law, upon application to the commission-
14 er of education, not later than June 30, 2024, a school district eligi-
15 ble for an apportionment pursuant to section 3602 of the education law
16 shall be eligible to receive an apportionment pursuant to this section,
17 for the school year ending June 30, 2024 and such apportionment shall
18 not exceed the additional accruals required to be made by school
19 districts in the 2004--2005 and 2005--2006 school years associated with
20 changes for such public pension liabilities. The amount of such addi-
21 tional accrual shall be certified to the commissioner of education by
22 the president of the board of education or the trustees or, in the case
23 of a city school district in a city with a population in excess of
24 125,000 inhabitants, the mayor of such city. Such application shall be
25 made by a school district, after the board of education or trustees have
26 adopted a resolution to do so and in the case of a city school district
27 in a city with a population in excess of 125,000 inhabitants, with the
28 approval of the mayor of such city.

29 2. The claim for an apportionment to be paid to a school district
30 pursuant to subdivision 1 of this section shall be submitted to the
31 commissioner of education on a form prescribed for such purpose, and
32 shall be payable upon determination by such commissioner that the form
33 has been submitted as prescribed. Such approved amounts shall be payable
34 on the same day in September of the school year following the year in
35 which application was made as funds provided pursuant to subparagraph 4
36 of paragraph b of subdivision 4 of section 92-c of the state finance
37 law, on the audit and warrant of the state comptroller on vouchers
38 certified or approved by the commissioner of education in the manner
39 prescribed by law from moneys in the state lottery fund and from the
40 general fund to the extent that the amount paid to a school district
41 pursuant to this section exceeds the amount, if any, due such school
42 district pursuant to subparagraph 2 of paragraph a of subdivision 1 of
43 section 3609-a of the education law in the school year following the
44 year in which application was made.

45 3. Notwithstanding the provisions of section 3609-a of the education
46 law, an amount equal to the amount paid to a school district pursuant to
47 subdivisions 1 and 2 of this section shall first be deducted from the
48 following payments due the school district during the school year
49 following the year in which application was made pursuant to subpara-
50 graphs 1, 2, 3, 4 and 5 of paragraph a of subdivision 1 of section
51 3609-a of the education law in the following order: the lottery appor-
52 tionment payable pursuant to subparagraph 2 of such paragraph followed
53 by the fixed fall payments payable pursuant to subparagraph 4 of such
54 paragraph and then followed by the district's payments to the teachers'
55 retirement system pursuant to subparagraph 1 of such paragraph, and any
56 remainder to be deducted from the individualized payments due the

1 district pursuant to paragraph b of such subdivision shall be deducted
2 on a chronological basis starting with the earliest payment due the
3 district.

4 § 31. The amounts specified in this section shall be a set-aside from
5 the state funds which each such district is receiving from the total
6 foundation aid:

7 1. for the development, maintenance or expansion of magnet schools or
8 magnet school programs for the 2023--2024 school year. For the city
9 school district of the city of New York there shall be a set-aside of
10 foundation aid equal to forty-eight million one hundred seventy-five
11 thousand dollars (\$48,175,000) including five hundred thousand dollars
12 (\$500,000) for the Andrew Jackson High School; for the Buffalo city
13 school district, twenty-one million twenty-five thousand dollars
14 (\$21,025,000); for the Rochester city school district, fifteen million
15 dollars (\$15,000,000); for the Syracuse city school district, thirteen
16 million dollars (\$13,000,000); for the Yonkers city school district,
17 forty-nine million five hundred thousand dollars (\$49,500,000); for the
18 Newburgh city school district, four million six hundred forty-five thou-
19 sand dollars (\$4,645,000); for the Poughkeepsie city school district,
20 two million four hundred seventy-five thousand dollars (\$2,475,000); for
21 the Mount Vernon city school district, two million dollars (\$2,000,000);
22 for the New Rochelle city school district, one million four hundred ten
23 thousand dollars (\$1,410,000); for the Schenectady city school district,
24 one million eight hundred thousand dollars (\$1,800,000); for the Port
25 Chester city school district, one million one hundred fifty thousand
26 dollars (\$1,150,000); for the White Plains city school district, nine
27 hundred thousand dollars (\$900,000); for the Niagara Falls city school
28 district, six hundred thousand dollars (\$600,000); for the Albany city
29 school district, three million five hundred fifty thousand dollars
30 (\$3,550,000); for the Utica city school district, two million dollars
31 (\$2,000,000); for the Beacon city school district, five hundred sixty-
32 six thousand dollars (\$566,000); for the Middletown city school
33 district, four hundred thousand dollars (\$400,000); for the Freeport
34 union free school district, four hundred thousand dollars (\$400,000);
35 for the Greenburgh central school district, three hundred thousand
36 dollars (\$300,000); for the Amsterdam city school district, eight
37 hundred thousand dollars (\$800,000); for the Peekskill city school
38 district, two hundred thousand dollars (\$200,000); and for the Hudson
39 city school district, four hundred thousand dollars (\$400,000).

40 2. Notwithstanding any inconsistent provision of law to the contrary,
41 a school district setting aside such foundation aid pursuant to this
42 section may use such set-aside funds for: (a) any instructional or
43 instructional support costs associated with the operation of a magnet
44 school; or (b) any instructional or instructional support costs associ-
45 ated with implementation of an alternative approach to promote diversity
46 and/or enhancement of the instructional program and raising of standards
47 in elementary and secondary schools of school districts having substan-
48 tial concentrations of minority students.

49 3. The commissioner of education shall not be authorized to withhold
50 foundation aid from a school district that used such funds in accordance
51 with this subdivision, notwithstanding any inconsistency with a request
52 for proposals issued by such commissioner for the purpose of attendance
53 improvement and dropout prevention for the 2023--2024 school year, and
54 for any city school district in a city having a population of more than
55 one million, the set-aside for attendance improvement and dropout
56 prevention shall equal the amount set aside in the base year. For the

1 2023--2024 school year, it is further provided that any city school
2 district in a city having a population of more than one million shall
3 allocate at least one-third of any increase from base year levels in
4 funds set aside pursuant to the requirements of this section to communi-
5 ty-based organizations. Any increase required pursuant to this section
6 to community-based organizations must be in addition to allocations
7 provided to community-based organizations in the base year.

8 4. For the purpose of teacher support for the 2023--2024 school year:
9 for the city school district of the city of New York, sixty-two million
10 seven hundred seven thousand dollars (\$62,707,000); for the Buffalo city
11 school district, one million seven hundred forty-one thousand dollars
12 (\$1,741,000); for the Rochester city school district, one million seven-
13 ty-six thousand dollars (\$1,076,000); for the Yonkers city school
14 district, one million one hundred forty-seven thousand dollars
15 (\$1,147,000); and for the Syracuse city school district, eight hundred
16 nine thousand dollars (\$809,000). All funds made available to a school
17 district pursuant to this section shall be distributed among teachers
18 including prekindergarten teachers and teachers of adult vocational and
19 academic subjects in accordance with this section and shall be in addi-
20 tion to salaries heretofore or hereafter negotiated or made available;
21 provided, however, that all funds distributed pursuant to this section
22 for the current year shall be deemed to incorporate all funds distrib-
23 uted pursuant to former subdivision 27 of section 3602 of the education
24 law for prior years. In school districts where the teachers are repres-
25 ented by certified or recognized employee organizations, all salary
26 increases funded pursuant to this section shall be determined by sepa-
27 rate collective negotiations conducted pursuant to the provisions and
28 procedures of article 14 of the civil service law, notwithstanding the
29 existence of a negotiated agreement between a school district and a
30 certified or recognized employee organization.

31 § 32. Support of public libraries. The moneys appropriated for the
32 support of public libraries by a chapter of the laws of 2023 enacting
33 the aid to localities budget shall be apportioned for the 2023-2024
34 state fiscal year in accordance with the provisions of sections 271,
35 272, 273, 282, 284, and 285 of the education law as amended by the
36 provisions of such chapter and the provisions of this section, provided
37 that library construction aid pursuant to section 273-a of the education
38 law shall not be payable from the appropriations for the support of
39 public libraries and provided further that no library, library system or
40 program, as defined by the commissioner of education, shall receive less
41 total system or program aid than it received for the year 2001-2002
42 except as a result of a reduction adjustment necessary to conform to the
43 appropriations for support of public libraries.

44 Notwithstanding any other provision of law to the contrary the moneys
45 appropriated for the support of public libraries for the year 2023-2024
46 by a chapter of the laws of 2023 enacting the aid to localities budget
47 shall fulfill the state's obligation to provide such aid and, pursuant
48 to a plan developed by the commissioner of education and approved by the
49 director of the budget, the aid payable to libraries and library systems
50 pursuant to such appropriations shall be reduced proportionately to
51 ensure that the total amount of aid payable does not exceed the total
52 appropriations for such purpose.

53 § 33. Subparagraph 2 of paragraph a of section 1 of chapter 94 of the
54 laws of 2002 relating to the financial stability of the Rochester city
55 school district, is amended to read as follows:

(2) Notwithstanding any other provisions of law, for aid payable in the 2002-03 through ~~2022-23~~ 2027-28 school years, an amount equal to twenty million dollars (\$20,000,000) of general support for public schools otherwise due and payable to the Rochester city school district on or before September first of the applicable school year shall be for an entitlement period ending the immediately preceding June thirtieth.

§ 34. Severability. The provisions of this act shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this act to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this act or remainder thereof, as the case may be, to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 35. This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after April 1, 2023, provided, however, that:

1. Sections one, two, three, five, eight, nine, ten, eleven, fourteen, fifteen, sixteen, eighteen, twenty-two, thirty-one, and thirty-three of this act shall take effect July 1, 2023;

2. Section three of this act shall expire and be deemed repealed June 30, 2024;

3. Section nineteen of this act shall expire and be deemed repealed June 30, 2036; and

4. The amendments to chapter 756 of the laws of 1992 relating to funding a program for work force education conducted by a consortium for worker education in New York city made by sections twenty and twenty-one of this act shall not affect the repeal of such chapter and shall be deemed repealed therewith.

PART B

Section 1. The opening paragraph of subparagraph 4 of paragraph h of subdivision 2 of section 355 of the education law, as amended by section 1 of part JJJ of chapter 59 of the laws of 2017, is amended to read as follows:

The trustees shall not impose a differential tuition charge based upon need or income. Except as hereinafter provided, all students enrolled in programs leading to like degrees at state-operated institutions of the state university shall be charged a uniform rate of tuition except for differential tuition rates based on state residency. Provided, however, that the trustees may authorize the presidents of the colleges of technology and the colleges of agriculture and technology to set differing rates of tuition for each of the colleges for students enrolled in degree-granting programs leading to an associate degree and non-degree granting programs so long as such tuition rate does not exceed the tuition rate charged to students who are enrolled in like degree programs or degree-granting undergraduate programs leading to a baccalaureate degree at other state-operated institutions of the state university of New York. Provided further, that the trustees may establish a differential tuition charge for students attending the university centers at Albany, Binghamton, Buffalo, and Stony Brook pursuant to subdivision four-c of this section. Notwithstanding any other provision

1 of this subparagraph, the trustees may authorize the setting of a separate category of tuition rate, that shall be greater than the tuition rate for resident students and less than the tuition rate for non-resident students, only for students enrolled in distance learning courses who are not residents of the state. Except as otherwise authorized in this subparagraph, the trustees shall not adopt changes affecting tuition charges prior to the enactment of the annual budget, provided however that:

9 § 2. Subparagraph 4 of paragraph h of subdivision 2 of section 355 of the education law, as amended by section 2 of chapter 437 of the laws of 2015, is amended to read as follows:

12 (4) The trustees shall not impose a differential tuition charge based upon need or income. All students enrolled in programs leading to like degrees at state-operated institutions of the state university shall be charged a uniform rate of tuition except for differential tuition rates based on state residency. Provided, however, that the trustees may authorize the presidents of the colleges of technology and the colleges of agriculture and technology to set differing rates of tuition for each of the colleges for students enrolled in degree-granting programs leading to an associate degree and non-degree granting programs so long as such tuition rate does not exceed the tuition rate charged to students who are enrolled in like degree programs or degree-granting undergraduate programs leading to a baccalaureate degree at other state-operated institutions of the state university of New York. Provided further, that the trustees may establish a differential tuition charge for students attending the university centers at Albany, Binghamton, Buffalo, and Stony Brook pursuant to subdivision four-c of this section. Notwithstanding any other provision of this subparagraph, the trustees may authorize the setting of a separate category of tuition rate, that shall be greater than the tuition rate for resident students and less than the tuition rate for non-resident students, only for students enrolled in distance learning courses who are not residents of the state. The trustees shall not adopt changes affecting tuition charges prior to the enactment of the annual budget.

35 § 3. Paragraph h of subdivision 2 of section 355 of the education law is amended by adding two new subparagraphs 4-a-1 and 4-c to read as follows:

38 (4-a-1) Commencing in the two thousand twenty-three--two thousand twenty-four academic year through the two thousand twenty-seven--two thousand twenty-eight academic year, following the review and approval of the chancellor of the state university or his or her designee the board of trustees may annually raise non-resident undergraduate rates of tuition for the four university centers at Albany, Binghamton, Buffalo, and Stony Brook if the board shall determine that such rate increase is competitive with the rates of tuition charged by peer institutions, provided however that in no year shall such rate of tuition exceed one hundred and ten percent of the tuition rate for the university centers in the prior academic year.

49 (4-c) Commencing with the two thousand twenty-three--two thousand twenty-four academic year and thereafter, the board of trustees may raise resident undergraduate rates of tuition in excess of the tuition rates of the prior academic year by as much as the lower of (i) the general higher education price index (HEPI) released annually by the Commonfund Asset Management Company, Inc. founded in 1971, or other alternative entity that may be responsible for this index into the future, released most recently prior to the start of each academic year,

1 or (ii) three percent. Notwithstanding the preceding, and upon the
2 approval of the state university of New York board of trustees, the
3 following institutions may have additional increases to the resident
4 rates of undergraduate tuition that are in addition to any impact from
5 the preceding; for the university center at Albany, the university
6 center at Binghamton, the university center at Buffalo, and the univer-
7 sity center at Stony Brook such annual increase may include up to an
8 additional six percentage points. Notwithstanding the preceding, no
9 such additional annual increase shall result in a rate in excess of
10 thirty percent higher than the rate charged in such year for state-oper-
11 ated institutions other than the university center at Albany, the
12 university center at Binghamton, the university center at Buffalo, and
13 the university center at Stony Brook. Monies generated by these prospec-
14 tive increases shall be used directly to support student access, student
15 services, research and discovery, and the success of the university
16 system.

17 § 4. Paragraph (a) of subdivision 7 of section 6206 of the education
18 law is amended by adding a new subparagraph (vi) to read as follows:

19 (vi) Commencing with the two thousand twenty-three--two thousand twen-
20 ty-four academic year and thereafter, the city university of New York
21 board of trustees may raise resident undergraduate rates of tuition in
22 excess of the tuition rates of the prior academic year by as much as the
23 lower of (A) the general higher education price index (HEPI) released
24 annually by the Commonfund Asset Management Company, Inc. founded in
25 1971, or other alternative entity that may be responsible for this index
26 into the future, released most recently prior to the start of each
27 academic year, or (B) three percent. Monies generated by these prospec-
28 tive increases shall be used directly to support student access, student
29 services, research and discovery, and the success of the university
30 system.

31 § 5. Paragraph (a) of subdivision 7 of section 6206 of the education
32 law, as amended by chapter 669 of the laws of 2022, is amended to read
33 as follows:

34 (a) (i) The board of trustees shall establish positions, departments,
35 divisions and faculties; appoint and in accordance with the provisions
36 of law fix salaries of instructional and non-instructional employees
37 therein; establish and conduct courses and curricula; prescribe condi-
38 tions of student admission, attendance and discharge; and shall have the
39 power to determine in its discretion whether tuition shall be charged
40 and to regulate tuition charges, and other instructional and non-in-
41 structional fees and other fees and charges at the educational units of
42 the city university. The trustees shall review any proposed community
43 college tuition increase and the justification for such increase. The
44 justification provided by the community college for such increase shall
45 include a detailed analysis of ongoing operating costs, capital, debt
46 service expenditures, and all revenues. The trustees shall not impose a
47 differential tuition charge based upon need or income. All students
48 enrolled in programs leading to like degrees at the senior colleges
49 shall be charged a uniform rate of tuition, except for differential
50 tuition rates based on state residency. Notwithstanding any other
51 provision of this paragraph, the trustees may authorize the setting of a
52 separate category of tuition rate, that shall be greater than the
53 tuition rate for resident students and less than the tuition rate for
54 non-resident students, only for students enrolled in distance learning
55 courses who are not residents of the state. The trustees shall further
56 provide that the payment of tuition and fees by any student who is not a

1 resident of New York state, other than a non-immigrant noncitizen within
2 the meaning of paragraph (15) of subsection (a) of section 1101 of title
3 8 of the United States Code, shall be paid at a rate or charge no great-
4 er than that imposed for students who are residents of the state if such
5 student:

6 [~~(i)~~] (1) attended an approved New York high school for two or more
7 years, graduated from an approved New York high school and applied for
8 attendance at an institution or educational unit of the city university
9 within five years of receiving a New York state high school diploma; or

10 [~~(ii)~~] (2) attended an approved New York state program for general
11 equivalency diploma exam preparation, received a general equivalency
12 diploma issued within New York state and applied for attendance at an
13 institution or educational unit of the city university within five years
14 of receiving a general equivalency diploma issued within New York state;
15 or

16 [~~(iii)~~] (3) was enrolled in an institution or educational unit of the
17 city university in the fall semester or quarter of the two thousand
18 one--two thousand two academic year and was authorized by such institu-
19 tion or educational unit to pay tuition at the rate or charge imposed
20 for students who are residents of the state.

21 A student without lawful immigration status shall also be required to
22 file an affidavit with such institution or educational unit stating that
23 the student has filed an application to legalize his or her immigration
24 status, or will file such an application as soon as he or she is eligi-
25 ble to do so. The trustees shall not adopt changes in tuition charges
26 prior to the enactment of the annual budget. The board of trustees may
27 accept as partial reimbursement for the education of veterans of the
28 armed forces of the United States who are otherwise qualified such sums
29 as may be authorized by federal legislation to be paid for such educa-
30 tion. The board of trustees may conduct on a fee basis extension courses
31 and courses for adult education appropriate to the field of higher
32 education. In all courses and courses of study it may, in its
33 discretion, require students to pay library, laboratory, locker, break-
34 age and other instructional and non-instructional fees and meet the cost
35 of books and consumable supplies. In addition to the foregoing fees and
36 charges, the board of trustees may impose and collect fees and charges
37 for student government and other student activities and receive and
38 expend them as agent or trustee.

39 (ii) Commencing with the two thousand twenty-three--two thousand twen-
40 ty-four academic year and thereafter, the city university of New York
41 board of trustees may raise resident undergraduate rates of tuition in
42 excess of the tuition rates of the prior academic year by as much as the
43 lower of (1) the general higher education price index (HEPI) released
44 annually by the Commonfund Asset Management Company, Inc. founded in
45 1971, or other alternative entity that may be responsible for this index
46 into the future, released most recently prior to the start of each
47 academic year, or (2) three percent. Monies generated by these prospec-
48 tive increases shall be used directly to support student access, student
49 services, research and discovery, and the success of the university
50 system.

51 § 6. This act shall take effect immediately; provided however:

52 a. the amendments to subparagraph 4 of paragraph h of subdivision 2 of
53 section 355 of the education law made by section one of this act shall
54 be subject to the expiration and reversion of such subparagraph pursuant
55 to section 16 of chapter 260 of the laws of 2011 as amended, when upon

1 such date the provisions of section two of this act shall take effect;
2 and
3 b. the amendments to paragraph (a) of subdivision 7 of section 6206 of
4 the education law made by section four of this act shall be subject to
5 the expiration and reversion of such paragraph pursuant to section 16 of
6 chapter 260 of the laws of 2011 as amended, when upon such date the
7 provisions of section five of this act shall take effect.

PART C

9 Section 1. The education law is amended by adding a new section 6438-b
10 to read as follows:

11 § 6438-b. Access to medication abortion prescription drugs. 1. Every
12 campus of the state university of New York and every campus of the city
13 university of New York, which shall include the community college
14 campuses of such institutions, shall provide access to medication
15 abortion prescription drugs for all students enrolled at such insti-
16 tutions.

17 2. For purposes of this section, "access to medication abortion
18 prescription drugs" means either:

19 (a) the prescribing and dispensing of medication abortion prescription
20 drugs directly to a student, performed by individuals legally certified
21 to prescribe and dispense such medication employed by or working on
22 behalf of the campus; or

23 (b) referral to a healthcare provider or pharmacy in the community
24 certified to dispense such medication.

25 3. The trustees of the state university of New York and the trustees
26 of the city university of New York shall adopt uniform policies for each
27 university ensuring effective access to medication abortion prescription
28 drugs pursuant to this section.

29 § 2. This act shall take effect August 1, 2023. Effective immediately,
30 the addition, amendment and/or repeal of any rule or regulation neces-
31 sary for the implementation of this act on its effective date are
32 authorized to be made and completed on or before such effective date.

PART D

34 Section 1. Paragraphs b and c of subdivision 4 of section 612 of the
35 education law, as added by chapter 425 of the laws of 1988, are amended
36 to read as follows:

37 ~~[b. A grant to a recipient of an award under this section shall not~~
38 ~~exceed the amount of three hundred thousand dollars for any grant year,~~
39 ~~provided that a recipient may receive a grant in excess of such amount~~
40 ~~at the rate of twelve hundred fifty dollars for each student, in excess~~
41 ~~of two hundred forty students, who is provided compensatory and support~~
42 ~~services by the recipient during such grant year.~~

43 e.] b. The grant recipients shall provide students at public and
44 nonpublic schools the opportunity to receive compensatory and support
45 services in an equitable manner consistent with the number and need of
46 the children in such schools.

47 § 2. This act shall take effect immediately.

PART E

49 Section 1. Section 1503 of the business corporation law is amended by
50 adding a new paragraph (h) to read as follows:

(h) Any firm established for the business purpose of incorporating as a professional service corporation formed to lawfully engage in the practice of public accountancy, as such practice is defined under article 149 of the education law shall be required to show (i) that a simple majority of the ownership of the firm, in terms of financial interests and voting rights held by the firm's owners, belongs to individuals licensed to practice public accountancy in some state, and (ii) that all shareholders of a professional service corporation whose principal place of business is in this state, and who are engaged in the practice of public accountancy in this state, hold a valid license issued under section 7404 of the education law. For purposes of this paragraph, "financial interest" means capital stock, capital accounts, capital contributions, capital interest, or interest in undistributed earnings of a business entity. Although firms registered with the education department may include non-licensee owners, a registered firm and its owners must comply with rules promulgated by the state board of regents. Notwithstanding the foregoing, a firm incorporated under this section may not have non-licensee owners if the firm's name includes the words "certified public accountant," or "certified public accountants," or the abbreviations "CPA" or "CPAs". Each non-licensee owner of a firm that is incorporated under this section shall be a natural person who actively participates in the business of the firm or its affiliated entities. For purposes of this subdivision, "actively participate" means to provide services to clients or to otherwise individually take part in the day-to-day business or management of the firm or an affiliated entity. Such a firm shall have attached to its certificate of incorporation a certificate or certificates demonstrating the firm's compliance with this paragraph, in lieu of the certificate or certificates required by subparagraph (ii) of paragraph (b) of this section.

§ 2. Section 1507 of the business corporation law is amended by adding a new paragraph (c) to read as follows:

(c) Any firm established for the business purpose of incorporating as a professional service corporation pursuant to paragraph (h) of section 1503 of this article may issue shares to individuals who are authorized by law to practice in this state the profession which such corporation is authorized to practice or who will engage in the practice of such profession in such corporation within thirty days of the date such shares are issued and may also issue shares to employees of the corporation not licensed as certified public accountants, provided that:

(i) at least a simple majority of the outstanding shares of stock of the corporation are owned by certified public accountants,

(ii) at least a simple majority of the directors are certified public accountants, and

(iii) at least a simple majority of the officers are certified public accountants, and

(iv) the president, the chairperson of the board of directors and the chief executive officer or officers are certified public accountants. No shareholder of a professional service corporation established pursuant to paragraph (h) of section 1503 of this article shall enter into a voting trust agreement, proxy or any other type of agreement vesting in another person, the authority to exercise voting power of any or all of his or her shares. All agreements made or proxies granted in violation of this section shall be void.

§ 3. Section 1508 of the business corporation law is amended by adding a new paragraph (c) to read as follows:

(c) The directors and officers of any firm established for the business purpose of incorporating as a professional service corporation pursuant to paragraph (h) of section 1503 of this article may include individuals who are not licensed to practice public accountancy in any state, provided however that at least a simple majority of the directors, at least a simple majority of the officers and the president, the chairperson of the board of directors and the chief executive officer or officers are authorized by law to practice in any state the profession which such corporation is authorized to practice, and are either shareholders of such corporation or engaged in the practice of their professions in such corporation.

§ 4. Section 1509 of the business corporation law, as amended by chapter 550 of the laws of 2011, is amended to read as follows:

§ 1509. Disqualification of shareholders, directors, officers and employees.

If any shareholder, director, officer or employee of a professional service corporation, including a design professional service corporation, who has been rendering professional service to the public becomes legally disqualified to practice his or her profession within this state, he or she shall sever all employment with, and financial interests (other than interests as a creditor) in, such corporation forthwith or as otherwise provided in section 1510 of this article. All provisions of law regulating the rendering of professional services by a person elected or appointed to a public office shall be applicable to a shareholder, director, officer and employee of such corporation in the same manner and to the same extent as if fully set forth herein. Such legal disqualification to practice his or her profession within this state shall be deemed to constitute an irrevocable offer by the disqualified shareholder to sell his or her shares to the corporation, pursuant to the provisions of section 1510 of this article or of the certificate of incorporation, by-laws or agreement among the corporation and all shareholders, whichever is applicable. Compliance with the terms of such offer shall be specifically enforceable in the courts of this state. A professional service corporation's failure to enforce compliance with this provision shall constitute a ground for forfeiture of its certificate of incorporation and its dissolution.

§ 5. Paragraph (a) of section 1511 of the business corporation law, as amended by chapter 550 of the laws of 2011, is amended and a new paragraph (c) is added to read as follows:

(a) No shareholder of a professional service corporation ~~[or]~~, including a design professional service corporation, may sell or transfer his or her shares in such corporation except to another individual who is eligible to have shares issued to him or her by such corporation or except in trust to another individual who would be eligible to receive shares if he or she were employed by the corporation. Nothing herein contained shall be construed to prohibit the transfer of shares by operation of law or by court decree. No transferee of shares by operation of law or court decree may vote the shares for any purpose whatsoever except with respect to corporate action under sections 909 and 1001 of this chapter. The restriction in the preceding sentence shall not apply, however, where such transferee would be eligible to have shares issued to him or her if he or she were an employee of the corporation and, if there are other shareholders, a majority of such other shareholders shall fail to redeem the shares so transferred, pursuant to section 1510 of this article, within sixty days of receiving written notice of such transfer. Any sale or transfer, except by operation of law or court

1 decree or except for a corporation having only one shareholder, may be
2 made only after the same shall have been approved by the board of direc-
3 tors, or at a shareholders' meeting specially called for such purpose by
4 such proportion, not less than a majority, of the outstanding shares as
5 may be provided in the certificate of incorporation or in the by-laws of
6 such professional service corporation. At such shareholders' meeting the
7 shares held by the shareholder proposing to sell or transfer his or her
8 shares may not be voted or counted for any purpose, unless all share-
9 holders consent that such shares be voted or counted. The certificate of
10 incorporation or the by-laws of the professional service corporation, or
11 the professional service corporation and the shareholders by private
12 agreement, may provide, in lieu of or in addition to the foregoing
13 provisions, for the alienation of shares and may require the redemption
14 or purchase of such shares by such corporation at prices and in a manner
15 specifically set forth therein. The existence of the restrictions on the
16 sale or transfer of shares, as contained in this article and, if appli-
17 cable, in the certificate of incorporation, by-laws, stock purchase or
18 stock redemption agreement, shall be noted conspicuously on the face or
19 back of every certificate for shares issued by a professional service
20 corporation. Any sale or transfer in violation of such restrictions
21 shall be void.

22 (c) A firm established for the business purpose of incorporating as a
23 professional service corporation pursuant to paragraph (h) of section
24 1503 of this article, shall purchase or redeem the shares of a non-li-
25 icensed professional shareholder in the case of his or her termination of
26 employment within thirty days after such termination. A firm estab-
27 lished for the business purpose of incorporating as a professional
28 service corporation pursuant to paragraph (h) of section 1503 of this
29 article, shall not be required to purchase or redeem the shares of a
30 terminated non-licensed professional share-holder if such shares, within
31 thirty days after such termination, are sold or transferred to another
32 employee of the corporation pursuant to this article.

33 § 6. Section 1514 of the business corporation law is amended by adding
34 a new paragraph (c) to read as follows:

35 (c) Each firm established for the business purpose of incorporating as
36 a professional service corporation pursuant to paragraph (h) of section
37 1503 of this article shall, at least once every three years on or before
38 the date prescribed by the licensing authority, furnish a statement to
39 the licensing authority listing the names and residence addresses of
40 each shareholder, director and officer of such corporation and certify
41 as the date of certification and at all times over the entire three year
42 period that:

43 (i) at least a simple majority of the outstanding shares of stock of
44 the corporation are and were owned by certified public accountants,

45 (ii) at least a simple majority of the directors are and were certi-
46 fied public accountants,

47 (iii) at least a simple majority of the officers are and were certi-
48 fied public accountants, and

49 (iv) the president, the chairperson of the board of directors and the
50 chief executive officer or officers are and were certified public
51 accountants.

52 The statement shall be signed by the president or any certified public
53 accountant vice-president and attested to by the secretary or any
54 assistant secretary of the corporation.

55 § 7. Paragraph (d) of section 1525 of the business corporation law, as
56 added by chapter 505 of the laws of 1983, is amended to read as follows:

(d) "Foreign professional service corporation" means a professional service corporation, whether or not denominated as such, organized under the laws of a jurisdiction other than this state, all of the shareholders, directors and officers of which are authorized and licensed to practice the profession for which such corporation is licensed to do business; except that all shareholders, directors and officers of a foreign professional service corporation which provides health services in this state shall be licensed in this state. A foreign professional service corporation formed to lawfully engage in the practice of public accountancy as a firm, as such practice is defined under article 149 of the education law, or equivalent state law, shall be required to show (i) that a simple majority of the ownership of the firm, in terms of financial interests and voting rights held by the firm's owners, belongs to individuals licensed to practice public accountancy in some state, and (ii) that all shareholders of a foreign professional service corporation whose principal place of business is in this state, and who are engaged in the practice of public accountancy in this state, hold a valid license issued under section 7404 of the education law. For purposes of this paragraph, "financial interest" means capital stock, capital accounts, capital contributions, capital interest, or interest in undistributed earnings of a business entity. Although firms registered with the education department may include non-licensee owners, a registered firm and its owners must comply with rules promulgated by the state board of regents. Notwithstanding the foregoing, a firm registered with the education department may not have non-licensee owners if the firm's name includes the words "certified public accountant," or "certified public accountants," or the abbreviations "CPA" or "CPAs". Each non-licensee owner of a firm that is operating under this section shall be a natural person who actively participates in the business of the firm or its affiliated entities, provided each beneficial owner of an equity interest in such entity is a natural person who actively participates in the business conducted by the firm or its affiliated entities. For purposes of this paragraph, "actively participate" means to provide services to clients or to otherwise individually take part in the day-to-day business or management of the firm or an affiliated entity.

§ 8. Subdivision (q) of section 121-1500 of the partnership law, as amended by chapter 475 of the laws of 2014, is amended to read as follows:

(q) Each partner of a registered limited liability partnership formed to provide medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in this state and each partner of a registered limited liability partnership formed to provide dental services in this state must be licensed pursuant to article 133 of the education law to practice dentistry in this state. Each partner of a registered limited liability partnership formed to provide veterinary services in this state must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. Each partner of a registered limited liability partnership formed to provide public accountancy services as a firm, whose principal place of business is in this state and who provides public accountancy services, must be licensed pursuant to article 149 of the education law to practice public accountancy in this state. Each partner of a registered limited liability partnership formed to provide professional engineering, land surveying, geological services, architectural and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice

one or more of such professions in this state. Each partner of a registered limited liability partnership formed to provide licensed clinical social work services in this state must be licensed pursuant to article 154 of the education law to practice clinical social work in this state. Each partner of a registered limited liability partnership formed to provide creative arts therapy services in this state must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. Each partner of a registered limited liability partnership formed to provide marriage and family therapy services in this state must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. Each partner of a registered limited liability partnership formed to provide mental health counseling services in this state must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. Each partner of a registered limited liability partnership formed to provide psychoanalysis services in this state must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state. Each partner of a registered limited liability partnership formed to provide applied behavior analysis service in this state must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. A registered limited liability partnership formed to lawfully engage in the practice of public accountancy as a firm, as such practice is defined under article 149 of the education law, shall be required to show (i) that a simple majority of the ownership of the firm, in terms of financial interests and voting rights held by the firm's owners, belongs to individuals licensed to practice public accountancy in some state, and (ii) that all partners of a limited liability partnership whose principal place of business is in this state, and who are engaged in the practice of public accountancy in this state, hold a valid license issued under section 7404 of the education law. For purposes of this subdivision, "financial interest" means capital stock, capital accounts, capital contributions, capital interest, or interest in undistributed earnings of a business entity. Although firms registered with the education department may include non-licensee owners, a registered firm and its owners must comply with rules promulgated by the state board of regents. Notwithstanding the foregoing, a firm registered with the education department may not have non-licensee owners if the firm's name includes the words "certified public accountant," or "certified public accountants," or the abbreviations "CPA" or "CPAs". Each non-licensee owner of a firm that is formed under this section shall be (i) a natural person who actively participates in the business of the firm or its affiliated entities, or (ii) an entity, including, but not limited to, a partnership or professional corporation, provided each beneficial owner of an equity interest in such entity is a natural person who actively participates in the business conducted by the firm or its affiliated entities. For purposes of this subdivision, "actively participate" means to provide services to clients or to otherwise individually take part in the day-to-day business or management of the firm or an affiliated entity.

§ 9. Subdivision (q) of section 121-1502 of the partnership law, as amended by chapter 475 of the laws of 2014, is amended to read as follows:

(q) Each partner of a foreign limited liability partnership which provides medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in the state and each partner of a foreign limited liability partnership which provides

dental services in the state must be licensed pursuant to article 133 of the education law to practice dentistry in this state. Each partner of a foreign limited liability partnership which provides veterinary service in the state shall be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. Each partner of a foreign limited liability partnership which provides professional engineering, land surveying, geological services, architectural and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions. Each partner of a foreign limited liability partnership formed to provide public accountancy services as a firm, whose principal place of business is in this state and who provides public accountancy services, must be licensed pursuant to article 149 of the education law to practice public accountancy in this state. Each partner of a foreign limited liability partnership which provides licensed clinical social work services in this state must be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. Each partner of a foreign limited liability partnership which provides creative arts therapy services in this state must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. Each partner of a foreign limited liability partnership which provides marriage and family therapy services in this state must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. Each partner of a foreign limited liability partnership which provides mental health counseling services in this state must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. Each partner of a foreign limited liability partnership which provides psychoanalysis services in this state must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state. Each partner of a foreign limited liability partnership which provides applied behavior analysis services in this state must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. A foreign limited liability partnership formed to lawfully engage in the practice of public accountancy as a firm, as such practice is defined under article 149 of the education law, shall be required to show (i) that a simple majority of the ownership of the firm, in terms of financial interests and voting rights held by the firm's owners, belongs to individuals licensed to practice public accountancy in some state, and (ii) that all partners of the foreign limited liability partnership whose principal place of business is in this state, and who are engaged in the practice of public accountancy in this state, hold a valid license issued under section 7404 of the education law. For purposes of this subdivision, "financial interest" means capital stock, capital accounts, capital contributions, capital interest, or interest in undistributed earnings of a business entity. Although firms registered with the education department may include non-licensee owners, a registered firm and its owners must comply with rules promulgated by the state board of regents. Notwithstanding the foregoing, a firm registered with the education department may not have non-licensee owners if the firm's name includes the words "certified public accountant," or "certified public accountants," or the abbreviations "CPA" or "CPAs". Each non-licensee owner of a firm that is formed under this section shall be (i) a natural person who actively participates in the business of the firm or its affiliated entities, or

(ii) an entity, including, but not limited to, a partnership or professional corporation, provided that each beneficial owner of an equity interest in such entity is a natural person who actively participates in the business conducted by the firm or its affiliated entities. For purposes of this subdivision, "actively participate" means to provide services to clients or to otherwise individually take part in the day-to-day business or management of the firm or an affiliated entity.

§ 10. Subdivision (b) of section 1207 of the limited liability company law, as amended by chapter 475 of the laws of 2014, is amended to read as follows:

(b) With respect to a professional service limited liability company formed to provide medical services as such services are defined in article 131 of the education law, each member of such limited liability company must be licensed pursuant to article 131 of the education law to practice medicine in this state. With respect to a professional service limited liability company formed to provide dental services as such services are defined in article 133 of the education law, each member of such limited liability company must be licensed pursuant to article 133 of the education law to practice dentistry in this state. With respect to a professional service limited liability company formed to provide veterinary services as such services are defined in article 135 of the education law, each member of such limited liability company must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. With respect to a professional service limited liability company formed to provide professional engineering, land surveying, architectural, landscape architectural and/or geological services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such limited liability company must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. With respect to a professional service limited liability company formed to provide public accountancy services as such services are defined in article 149 of the education law each member of such limited liability company whose principal place of business is in this state and who provides public accountancy services, must be licensed pursuant to article 149 of the education law to practice public accountancy in this state. With respect to a professional service limited liability company formed to provide licensed clinical social work services as such services are defined in article 154 of the education law, each member of such limited liability company shall be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. With respect to a professional service limited liability company formed to provide creative arts therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. With respect to a professional service limited liability company formed to provide marriage and family therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. With respect to a professional service limited liability company formed to provide mental health counseling services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice mental health

counseling in this state. With respect to a professional service limited liability company formed to provide psychoanalysis services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state. With respect to a professional service limited liability company formed to provide applied behavior analysis services as such services are defined in article 167 of the education law, each member of such limited liability company must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. A professional service limited liability company formed to lawfully engage in the practice of public accountancy as a firm, as such practice is defined under article 149 of the education law shall be required to show (i) that a simple majority of the ownership of the firm, in terms of financial interests, and voting rights held by the firm's owners, belongs to individuals licensed to practice public accountancy in some state, and (ii) that all members of a limited professional service limited liability company, whose principal place of business is in this state, and who are engaged in the practice of public accountancy in this state, hold a valid license issued under section 7404 of the education law. For purposes of this subdivision, "financial interest" means capital stock, capital accounts, capital contributions, capital interest, or interest in undistributed earnings of a business entity. Although firms registered with the education department may include non-licensee owners, a registered firm and its owners must comply with rules promulgated by the state board of regents. Notwithstanding the foregoing, a firm registered with the education department may not have non-licensee owners if the firm's name includes the words "certified public accountant," or "certified public accountants," or the abbreviations "CPA" or "CPAs". Each non-licensee owner of a firm that is registered under this section shall be (i) a natural person who actively participates in the business of the firm or its affiliated entities, or (ii) an entity, including, but not limited to, a partnership or professional corporation, provided each beneficial owner of an equity interest in such entity is a natural person who actively participates in the business conducted by the firm or its affiliated entities. For purposes of this subdivision, "actively participate" means to provide services to clients or to otherwise individually take part in the day-to-day business or management of the firm or an affiliated entity.

§ 11. Subdivision (a) of section 1301 of the limited liability company law, as amended by chapter 475 of the laws of 2014, is amended to read as follows:

(a) "Foreign professional service limited liability company" means a professional service limited liability company, whether or not denominated as such, organized under the laws of a jurisdiction other than this state, (i) each of whose members and managers, if any, is a professional authorized by law to render a professional service within this state and who is or has been engaged in the practice of such profession in such professional service limited liability company or a predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or each of whose members and managers, if any, is a professional at least one of such members is authorized by law to render a professional service within this state and who is or has been engaged in the practice of such profession in such professional service limited liability company or a predecessor entity,

1 or will engage in the practice of such profession in the professional
2 service limited liability company within thirty days of the date such
3 professional becomes a member, or (ii) authorized by, or holding a
4 license, certificate, registration or permit issued by the licensing
5 authority pursuant to, the education law to render a professional
6 service within this state; except that all members and managers, if any,
7 of a foreign professional service limited liability company that
8 provides health services in this state shall be licensed in this state.
9 With respect to a foreign professional service limited liability company
10 which provides veterinary services as such services are defined in arti-
11 cle 135 of the education law, each member of such foreign professional
12 service limited liability company shall be licensed pursuant to article
13 135 of the education law to practice veterinary medicine. With respect
14 to a foreign professional service limited liability company which
15 provides medical services as such services are defined in article 131 of
16 the education law, each member of such foreign professional service
17 limited liability company must be licensed pursuant to article 131 of
18 the education law to practice medicine in this state. With respect to a
19 foreign professional service limited liability company which provides
20 dental services as such services are defined in article 133 of the
21 education law, each member of such foreign professional service limited
22 liability company must be licensed pursuant to article 133 of the educa-
23 tion law to practice dentistry in this state. With respect to a foreign
24 professional service limited liability company which provides profes-
25 sional engineering, land surveying, geologic, architectural and/or land-
26 scape architectural services as such services are defined in article
27 145, article 147 and article 148 of the education law, each member of
28 such foreign professional service limited liability company must be
29 licensed pursuant to article 145, article 147 and/or article 148 of the
30 education law to practice one or more of such professions in this state.
31 With respect to a foreign professional service limited liability company
32 which provides public accountancy services as such services are defined
33 in article 149 of the education law, each member of such foreign profes-
34 sional service limited liability company whose principal place of busi-
35 ness is in this state and who provides public accountancy services,
36 shall be licensed pursuant to article 149 of the education law to prac-
37 tice public accountancy in this state. With respect to a foreign profes-
38 sional service limited liability company which provides licensed clin-
39 ical social work services as such services are defined in article 154 of
40 the education law, each member of such foreign professional service
41 limited liability company shall be licensed pursuant to article 154 of
42 the education law to practice clinical social work in this state. With
43 respect to a foreign professional service limited liability company
44 which provides creative arts therapy services as such services are
45 defined in article 163 of the education law, each member of such foreign
46 professional service limited liability company must be licensed pursuant
47 to article 163 of the education law to practice creative arts therapy in
48 this state. With respect to a foreign professional service limited
49 liability company which provides marriage and family therapy services as
50 such services are defined in article 163 of the education law, each
51 member of such foreign professional service limited liability company
52 must be licensed pursuant to article 163 of the education law to prac-
53 tice marriage and family therapy in this state. With respect to a
54 foreign professional service limited liability company which provides
55 mental health counseling services as such services are defined in arti-
56 cle 163 of the education law, each member of such foreign professional

1 service limited liability company must be licensed pursuant to article
2 163 of the education law to practice mental health counseling in this
3 state. With respect to a foreign professional service limited liability
4 company which provides psychoanalysis services as such services are
5 defined in article 163 of the education law, each member of such foreign
6 professional service limited liability company must be licensed pursuant
7 to article 163 of the education law to practice psychoanalysis in this
8 state. With respect to a foreign professional service limited liability
9 company which provides applied behavior analysis services as such
10 services are defined in article 167 of the education law, each member of
11 such foreign professional service limited liability company must be
12 licensed or certified pursuant to article 167 of the education law to
13 practice applied behavior analysis in this state. A foreign professional
14 service limited liability company formed to lawfully engage in the prac-
15 tice of public accountancy as a firm, as such practice is defined under
16 article 149 of the education law shall be required to show (i) that a
17 simple majority of the ownership of the firm, in terms of financial
18 interests, and voting rights held by the firm's owners, belongs to indi-
19 viduals licensed to practice public accountancy in some state, and (ii)
20 that all members of a foreign limited professional service limited
21 liability company, whose principal place of business is in this state,
22 and who are engaged in the practice of public accountancy in this state,
23 hold a valid license issued under section 7404 of the education law. For
24 purposes of this subdivision, "financial interest" means capital stock,
25 capital accounts, capital contributions, capital interest, or interest
26 in undistributed earnings of a business entity. Although firms regis-
27 tered with the education department may include non-licensee owners, a
28 registered firm and its owners must comply with rules promulgated by the
29 state board of regents. Notwithstanding the foregoing, a firm regis-
30 tered with the education department may not have non-licensee owners if
31 the firm's name includes the words "certified public accountant," or
32 "certified public accountants," or the abbreviations "CPA" or "CPAs".
33 Each non-licensee owner of a firm that is registered under this section
34 shall be (i) a natural person who actively participates in the business
35 of the firm or its affiliated entities, or (ii) an entity, including,
36 but not limited to, a partnership or professional corporation, provided
37 each beneficial owner of an equity interest in such entity is a natural
38 person who actively participates in the business conducted by the firm
39 or its affiliated entities. For purposes of this subdivision, "actively
40 participate" means to provide services to clients or to otherwise indi-
41 vidually take part in the day-to-day business or management of the firm
42 or an affiliated entity.

43 § 12. Notwithstanding any other provision of law to the contrary, if a
44 firm which is registered with the education department to lawfully
45 engage in the practice of public accountancy has one or more non-licen-
46 see owners, each such non-licensee owner of the firm whose principal
47 place of business is in New York state shall pay a fee of nine hundred
48 dollars to the department of education on a triennial basis.

49 § 13. This act shall take effect immediately.

50 PART F

51 Section 1. Short title. This article shall be known and cited as the
52 "new homes targets and fast-track approval act".

§ 2. Article 20 of the general municipal law is renumbered to be article 21, sections 1000 and 1001 are renumbered to be sections 1020 and 1021, and a new article 20 is added to read as follows:

ARTICLE 20
NEW HOMES TARGETS AND FAST TRACK APPROVAL

Section 1000. Legislative findings and declarations.

1001. Definitions.

1002. Applicability.

1003. Safe harbor.

1004. Local procedures outside of safe harbor/general appeal process.

1005. Housing review board.

1006. Land use appeals before the supreme court.

§ 1000. Legislative findings and declarations. The legislature hereby finds, determines, and declares that:

1. The lack of housing, especially affordable and supportive housing, is a critical problem that threatens the economic, environmental, and social quality of life throughout New York state and disproportionately burdens various vulnerable populations that disproportionately need more affordable housing options including, but not limited to, low- and moderate-income, racial and ethnic minority, and elderly households.

2. Housing in the state of New York is among the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by a lack of new housing production due to the prevalence of local governmental land use policies that limit the opportunities for and place procedural impediments on the approval of housing developments and thereby increase development costs and restrict the housing supply.

3. Local governmental limitations on and barriers to housing development are especially common for multi-family housing development, which constrains the supply of affordable and supportive housing that often require multi-family development to be economically feasible.

4. Among the consequences of the prevalence of local restrictions on housing development are the lack of housing to support employment growth; imbalance in number of jobs and housing supply, with the former outstripping the latter; sprawl; excessive commuting; and the potential for discrimination against low-income and minority households who disproportionately require affordable housing opportunities.

5. Many local governments do not give adequate attention to the local and broader regional economic, environmental, and social costs of local policies and actions that have the effect of stagnating or reducing the supply of housing, including affordable and supportive housing, or how such policies and actions thereby produce threats to the public health, safety, and general welfare.

6. Additionally, many local governments do not give adequate attention to the local and broader regional economic, environmental, and social costs of local policies and actions that result in disapprovals or inhibition of proposals for housing development projects that would benefit the public health, safety, and general welfare; a reduction in density of such housing projects; and creation of excessive land use and other barriers for such housing developments to be built.

7. Legislation is necessary to forestall restrictive land use practices that inhibit and limit housing development, and to forestall undue local disapprovals of housing development projects, especially afford-

1 ble and supportive housing, given that such practices and disapprovals
2 produce threats to the public health, safety, and general welfare.

3 8. The state of New York must ensure that local governments give
4 adequate attention to the local and broader regional economic, environ-
5 mental, and social costs of land use zoning and planning policies and
6 actions, as well as the denial of applications to build new housing,
7 which collectively and individually may result in a dearth of appropri-
8 ate housing to meet the needs of all residents in the community or
9 region.

10 9. In furtherance of overall housing production goals and to promote
11 the greatest efficiency and coordinated development efforts of locali-
12 ties within the state, it is both a matter of state concern and the
13 policy of the state that local governments address their land use poli-
14 cies, practices, and decisions that make housing developments, and espe-
15 cially multi-family, affordable, and supportive housing developments,
16 impossible or infeasible.

17 10. To further address the shortage of affordable and supportive hous-
18 ing in New York and encourage reduction of land use restrictions and the
19 production of much needed housing, this article creates an impartial
20 forum and a process for specially designating judges to resolve
21 conflicts arising from local decisions on the development of affordable
22 and supportive housing.

23 11. In order to prevent housing insecurity, hardship, and dislocation,
24 the provisions of this act are necessary and designed to protect the
25 public health, safety, and general welfare of the residents of New York
26 state.

27 § 1001. Definitions. The following definitions apply for the purposes
28 of this article:

29 1. "Accessory dwelling unit" shall mean an attached or a detached
30 residential dwelling unit that provides housing for one or more persons
31 which is located on a lot with a proposed or existing primary residen-
32 tial dwelling unit and shall include permanent provisions for living,
33 sleeping, eating, cooking, and sanitation on the same lot as the primary
34 single-family or multi-family dwelling.

35 2. "Affordable housing" shall mean any income restricted housing,
36 whether intended for rental or homeownership, that is subject to a regu-
37 latory agreement with a local, state or federal governmental entity.

38 3. "Application" shall mean an application for a building permit,
39 variance, waiver, conditional use permit, special permit, zoning text
40 amendment, zoning map amendment, amendment to zoning districts, certif-
41 ication, authorization, site plan approval, subdivision approval, or
42 other discretionary land use determination by a lead agency equivalent.

43 4. "Division" shall mean the division of housing and community
44 renewal.

45 5. "Economically infeasible" shall mean any condition brought about by
46 any single factor or combination of factors to the extent that it makes
47 it substantially unlikely for an owner to proceed in building a residen-
48 tial housing project and still realize a reasonable return in building
49 or operating such housing without substantially changing the rent
50 levels, residential dwelling unit sizes, or residential dwelling unit
51 counts proposed by the owner.

52 6. "Housing review board" shall mean the housing review board estab-
53 lished pursuant to this article.

54 7. "Land use action" shall mean any enactment of or amendment to a
55 provision of a zoning local law, ordinance, resolution, policy, program,

1 procedure, comprehensive plan, site plan, subdivision plan, criteria,
2 rule, regulation, or requirement of a local agency.

3 8. "Land use requirements" shall mean any and all local laws, ordi-
4 nances, resolutions, or regulations, that shall be adopted or enacted
5 under this chapter, the municipal home rule law, or any general, special
6 or other law pertaining to land use, and shall include but not be limit-
7 ed to a locality's:

8 a. written or other comprehensive plan or plans;

9 b. zoning ordinance, local laws, resolutions, or regulations;

10 c. special use permit, special exception permit, or special permit
11 ordinance, local laws, resolutions, or regulations;

12 d. subdivision ordinance, local laws, resolutions, or regulations;

13 e. site plan review ordinance, local laws, resolutions, or regu-
14 lations; and

15 f. policies or procedures, or any planning, zoning, or other regulato-
16 ry tool that controls or establishes standards for the use and occupancy
17 of land, the area and dimensional requirements for the development of
18 land, or the intensity of such development.

19 9. "Lead agency equivalent" shall be defined as any legislative body
20 of a locality, planning board, zoning board of appeals, planning divi-
21 sion, planning commission, board of standards and appeals, board of
22 zoning appeals, or any official or employee, or any other agency,
23 department, board or other entity related to a locality with the author-
24 ity to approve or disapprove of any specific project or amendment to any
25 land use requirements as defined in this article.

26 10. "Locality" shall refer to all cities, towns, or villages that
27 regulate land use pursuant to the general city law, the town law, the
28 village law, or other state law, as applicable. Provided further that in
29 a city with a population of one million or more, "locality" shall refer
30 to a community board district as defined by chapter sixty-nine of the
31 charter of the city of New York. Provided further that "locality" shall
32 refer to any city, town, or village within a county, where such county
33 regulates or otherwise has approval authority over land use require-
34 ments.

35 11. "Metropolitan transportation commuter district" shall refer to the
36 counties of the Bronx, Kings (Brooklyn), New York, Richmond (Staten
37 Island), Queens, Westchester, Orange, Putnam, Dutchess, Rockland,
38 Nassau, and Suffolk.

39 12. "Objective standards" shall be defined as standards that involve
40 no personal or subjective judgment by a public official or employee and
41 are uniformly verifiable by reference to a publicly available and
42 uniform benchmark or criterion available and knowable by both the devel-
43 opment applicant and the public official or employee before submittal of
44 a residential land use application.

45 13. "Previously disturbed land" shall mean a parcel or lot of land
46 that was occupied or formerly occupied by a building or otherwise
47 improved or utilized that is not located in a 100-year floodplain or was
48 not being used for commercial agricultural purposes as of the effective
49 date of this article.

50 14. "Qualifying project" shall refer to an application that is for at
51 least ten dwelling units in localities not located in the metropolitan
52 transportation commuter district or at least twenty dwelling units in
53 localities located in the metropolitan transportation commuter district
54 and at least twenty percent of the dwelling units are affordable housing
55 units restricted to households at or below fifty percent of the area
56 median income or supportive dwelling units, or at least twenty-five

1 percent of the dwelling units are affordable housing units restricted to
2 households at or below eighty percent of the area median income or
3 supportive dwelling units.

4 15. "Residential dwelling unit" shall mean any building or structure
5 or portion thereof which is legally occupied in whole or in part as the
6 home, residence or sleeping place of one or more human beings, however
7 the term does not include any class B multiple dwellings as defined in
8 section four of the multiple dwelling law or housing that is intended to
9 be used on a seasonal basis.

10 16. "Safe harbor" shall mean that a locality's denials of applications
11 are not subject to appeal pursuant to section one thousand four, one
12 thousand five or one thousand six of this article for a three-year cycle
13 as set forth in section one thousand three of this article.

14 17. "Supportive housing" shall mean residential dwelling units with
15 supportive services for tenants.

16 18. "Three-year cycle" shall mean a term of three calendar years with
17 the first cycle beginning on January first, two thousand twenty-four,
18 and each cycle commencing three calendar years thereafter.

19 § 1002. Applicability. This article shall apply to all localities as
20 defined in subdivision ten of section one thousand one of this article.

21 § 1003. Safe harbor. 1. Determinations. a. The division, using the
22 information submitted pursuant to this section, may make and publish a
23 determination as to whether a locality is in safe harbor as a result of
24 such locality achieving its growth targets, as defined in subdivision
25 three of this section. Such determination may only be reviewed by a
26 court or the housing review board as part of an appeal of a denial of a
27 specific qualifying project.

28 b. Safe harbor, as defined in section one thousand one of this arti-
29 cle, shall be granted to localities based upon a three-year cycle with
30 the first cycle beginning on January first, two thousand twenty-four,
31 provided further that all localities shall be deemed in safe harbor for
32 the duration of the first cycle beginning on January first, two thousand
33 twenty-four and terminating after December thirty-first, two thousand
34 twenty-six.

35 (i) A locality shall be deemed to be in safe harbor if such locality
36 satisfactorily enacts at least two preferred actions, as set forth in
37 subdivision four of this section. Except as otherwise set forth in this
38 article, any determination issued by the division that a locality is in
39 safe harbor based on the enactment of preferred actions, as set forth in
40 subdivision four of this section, shall be in effect from the effective
41 date of such determination through the end of the three-year cycle that
42 is current on the date on which such determination is issued, provided
43 further, however, that any determination as to whether safe harbor
44 should apply based on the locality's enactment of such preferred actions
45 shall be based on such preferred actions enacted during the three-year
46 cycle immediately preceding the three-year cycle in which the determi-
47 nation was issued. In the event that a locality rescinds any such
48 preferred action that contributed to a locality being determined to be
49 in safe harbor within ten years of such preferred action's enactment,
50 such locality shall be ineligible for safe harbor for ten years, start-
51 ing on the date such locality was initially deemed to be in safe harbor
52 as a result of such rescinded preferred action.

53 (ii) A locality shall be deemed to be in safe harbor if such locality
54 met or exceeded their growth targets as set forth in subdivision three
55 of this section. Except as otherwise set forth in this article, any
56 determination issued by the division that a locality is in safe harbor

1 based on the locality meeting or exceeding their growth targets set
2 forth in subdivision three of this section shall be in effect from the
3 effective date of such determination through the end of the three-year
4 cycle that was current at the time such determination was issued by the
5 division; provided further, however, that any determination as to wheth-
6 er safe harbor should apply shall be based on the locality meeting or
7 exceeding their growth targets in the three-year cycle immediately
8 preceding the three-year cycle in which the determination was issued.

9 (iii) A locality shall be determined to be in safe harbor for the
10 three-year cycle beginning on January first, two thousand twenty-seven,
11 and ending on December thirty-first, two thousand twenty-nine, if, from
12 a period beginning on January first, two thousand twenty-one, and ending
13 on December thirty-first, two thousand twenty-three, such locality met
14 or exceeded their growth targets as set forth in subdivision three of
15 this section.

16 2. Local reporting requirements. Each locality subject to this article
17 shall submit housing production information to the division. Such infor-
18 mation shall be submitted pursuant to the deadlines set forth by section
19 twenty-a of the public housing law and shall contain the information
20 prescribed in such section. Notwithstanding any other provision of this
21 section, any failure of a locality to provide such information pursuant
22 to this subdivision to the division shall result in the locality being
23 deemed ineligible for safe harbor until such time as the information is
24 properly submitted.

25 3. Growth targets. a. A locality may be determined to be in safe
26 harbor for a three-year cycle, if, in the previous three-year cycle, a
27 locality located outside of the metropolitan transportation commuter
28 district permitted the construction of new eligible residential dwelling
29 units in an amount equal to one percent of the amount of residential
30 housing units existing in the locality as reported in the most recently
31 published United States decennial census.

32 b. A locality may be determined to be in safe harbor for a three-year
33 cycle, if, in the previous three-year cycle, a locality located inside
34 of the metropolitan transportation commuter district permitted the
35 construction of new eligible residential dwelling units in an amount
36 equal to three percent of the amount of residential housing units exist-
37 ing in the locality as reported in the most recently published United
38 States decennial census.

39 c. Subject to paragraph d of this subdivision, the number of eligible
40 residential dwelling units shall be calculated using the following
41 formula:

42 (i) a permitted new residential dwelling unit shall be counted as one
43 eligible residential dwelling unit, provided that a permitted new resi-
44 dential dwelling unit that is income restricted to households earning no
45 more than an amount that is determined pursuant to a regulatory agree-
46 ment with a federal, state, or local governmental entity shall be count-
47 ed as two eligible residential dwelling units; and

48 (ii) every permitted residential dwelling unit that became suitable
49 for occupancy and that previously had been deemed abandoned pursuant to
50 article nineteen-A of the real property actions and proceedings law
51 shall be counted as one and one-half eligible residential dwelling
52 units.

53 For the purposes of this subdivision, a project shall be considered to
54 be permitted if it has received all necessary local authorizations
55 required prior to requesting a building permit.

1 d. The following permitted residential dwelling units shall not be
2 counted as eligible residential dwelling units:

3 (i) any permitted residential dwelling unit where more than twelve
4 months have passed between the authorization granting permission and the
5 commencement of construction; and

6 (ii) any permitted residential dwelling unit where more than twenty-
7 four months have passed between the authorization granting permission
8 and the issuance of a certificate of occupancy or temporary certificate
9 of occupancy.

10 e. In the event a permitted residential dwelling unit is not counted
11 as an eligible residential unit pursuant to paragraph d of this subdivi-
12 sion, such residential dwelling unit may be counted as an eligible resi-
13 dential dwelling unit when the certificate of occupancy or temporary
14 certificate of occupancy is issued for such residential dwelling unit.
15 Provided, further, that in no event shall an eligible residential dwell-
16 ing unit be counted towards a locality's growth target in more than one
17 three-year cycle.

18 4. Preferred actions. a. Accessory dwelling units. It shall be consid-
19 ered to be a preferred action pursuant to this section if a locality
20 enacts by local law the provisions of this paragraph. For any locality
21 within a city with a population of one million or more, it shall be
22 considered to be such a preferred action if such city enacts by local
23 law the provisions of this paragraph throughout such locality. For any
24 locality located within a county wherein such county is empowered to
25 approve or amend some or all of the land use requirements applicable
26 within the locality, to the extent the county is so empowered, it shall
27 be considered such a preferred action if such county enacts by local law
28 the provisions of this paragraph to be in effect throughout such locali-
29 ty.

30 (i) Definitions. For the purposes of this paragraph:

31 A. "Local government" shall mean a county, city, town or village.

32 B. "Nonconforming zoning condition" shall mean a physical improvement
33 on a property that does not conform with current zoning standards.

34 C. "Proposed dwelling" shall mean a dwelling that is the subject of a
35 permit application and that meets the requirements for permitting.

36 (ii) A local government shall, by local law, provide for the creation
37 of accessory dwelling units. Such local law shall:

38 A. designate areas within the jurisdiction of the local government
39 where accessory dwelling units shall be permitted. Designated areas
40 shall include all areas that permit single-family or multi-family resi-
41 dential use, and all lots with an existing residential use;

42 B. authorize the creation of at least one accessory dwelling unit per
43 lot;

44 C. provide reasonable standards for accessory dwelling units that may
45 include, but are not limited to, height, landscape, architectural review
46 and maximum size of a unit. In no case shall such standards unreasonably
47 restrict the creation of accessory dwelling units; and

48 D. require accessory dwelling units to comply with the following:

49 (1) such accessory dwelling unit may be rented separate from the
50 primary residential dwelling unit, but shall not be sold or otherwise
51 conveyed separate from the primary residential dwelling unit;

52 (2) such accessory dwelling unit shall be located on a lot that
53 includes a proposed dwelling or existing residential dwelling unit;

54 (3) such accessory dwelling unit shall not be rented for a term of
55 less than thirty days; and

1 (4) if there is an existing primary residential dwelling unit, the
2 total floor area of an accessory dwelling unit shall not exceed fifty
3 percent of the existing primary residential dwelling unit, unless such
4 limit would prevent the creation of an accessory dwelling unit that is
5 no greater than six hundred square feet.

6 (iii) A local government shall not establish by local law any of the
7 following:

8 A. in a local government having a population of one million or more, a
9 minimum square footage requirement for an accessory dwelling unit great-
10 er than two hundred square feet, or in a local government having a popu-
11 lation of less than one million, a minimum square footage requirement
12 for an accessory dwelling unit that is greater than five hundred fifty
13 square feet;

14 B. a maximum square footage requirement for an accessory dwelling unit
15 that is less than fifteen hundred square feet;

16 C. any other minimum or maximum size for or other limits on an acces-
17 sory dwelling unit that does not permit at least an eight hundred square
18 foot accessory dwelling unit with four-foot side and rear yard setbacks
19 to be constructed in compliance with other local standards, including
20 any such minimum or maximum size based upon a percentage of the proposed
21 dwelling or existing primary residential dwelling unit, or any such
22 other limits on lot coverage, floor area ratio, open space, and minimum
23 lot size. Notwithstanding any other provision of this section, a local
24 government may provide, where a lot contains an existing residential
25 dwelling unit, that an accessory dwelling unit located within and/or
26 attached to the primary residential dwelling unit shall not exceed the
27 buildable envelope for the existing residential dwelling unit, and that
28 an accessory dwelling unit that is detached from an existing residential
29 dwelling unit shall be constructed in the same location and to the same
30 dimensions as an existing structure, if such structure exists;

31 D. a ceiling height requirement greater than seven feet, unless the
32 local government can demonstrate that such a requirement is necessary
33 for the preservation of health and safety;

34 E. any requirement that a pathway exist or be constructed in conjunc-
35 tion with the creation of an accessory dwelling unit, unless the local
36 government can demonstrate that such requirement is necessary for the
37 preservation of health and safety;

38 F. any setback for an existing residential dwelling unit or accessory
39 structure or a structure constructed in the same location and to the
40 same dimensions as an existing structure that is converted to an acces-
41 sory dwelling unit or to a portion of an accessory dwelling unit, or any
42 setback of more than four feet from the side and rear lot lines for an
43 accessory dwelling unit that is not converted from an existing structure
44 or a new structure constructed in the same location and to the same
45 dimensions as an existing structure; or

46 G. any health or safety requirements on accessory dwelling units that
47 are not necessary to protect health and safety. Nothing in this
48 provision shall be construed to prevent a local government from requir-
49 ing that accessory dwelling units are, where applicable, supported by
50 septic capacity necessary to meet state health, safety and sanitary
51 standards, that the creation of such accessory dwelling units comports
52 with flood resiliency policies or efforts, and that such accessory
53 dwelling units are consistent with the protection of wetlands and
54 watersheds.

55 (iv) No parking requirement shall be imposed on an accessory dwelling
56 unit; provided, however, that where no adjacent public street permits

1 year-round on-street parking and the accessory dwelling unit is greater
2 than one-half mile from access to public transportation, a local govern-
3 ment may require up to one off-street parking space per accessory unit.

4 (v) A local government shall not require that off-street parking spac-
5 es be replaced if a garage, carport, or covered parking structure is
6 demolished in conjunction with the construction of an accessory dwelling
7 unit or converted to an accessory dwelling unit.

8 (vi) Notwithstanding any local law, ordinance, resolution, or regu-
9 lations, a permit application to create an accessory dwelling unit in
10 conformance with a local law adopted pursuant to this paragraph shall be
11 considered ministerially, without discretionary review or a hearing. If
12 there is an existing single-family or multi-family residential dwelling
13 unit on the lot, the permitting local government shall act on the appli-
14 cation to create an accessory dwelling unit within ninety days from the
15 date the local agency receives a completed application or, in a local
16 government having a population of one million or more, within sixty
17 days. If the permit application to create an accessory dwelling unit is
18 submitted with a permit application to create a new primary residential
19 dwelling unit on the lot, the permitting local government may delay
20 acting on the permit application for the accessory dwelling unit until
21 the permitting local government acts on the permit application to create
22 the new primary residential dwelling unit, but the application to create
23 the accessory dwelling unit shall be considered without discretionary
24 review or hearing. If the applicant requests a delay, the time period
25 for review shall be tolled for the period of the delay. Such review
26 shall include all necessary permits and approvals including, without
27 limitation, those related to health and safety. A local government shall
28 not require an additional or amended certificate of occupancy in
29 connection with an accessory dwelling unit. A local government may
30 charge a fee not to exceed one thousand dollars per application for the
31 reimbursement of the actual costs such local agency incurs pursuant to
32 the local law enacted pursuant to this paragraph.

33 (vii) Local governments shall establish an administrative appeal proc-
34 ess to a local agency for applications to create accessory dwelling
35 units. The jurisdiction of the local agency to decide such appeals shall
36 be limited to reviewing any order, requirement, decision, interpreta-
37 tion, or determination issued under the local law adopted pursuant to
38 this paragraph and deciding the matter from which any such appeal was
39 taken. When a permit to create an accessory dwelling unit pursuant to a
40 local law adopted pursuant to this paragraph is denied, the local agency
41 that denied the permit shall issue a notice of denial which shall
42 contain the reason or reasons such permit application was denied and
43 instructions on how the applicant may appeal such denial. Such notice
44 shall be made part of the record of appeals. All appeals shall be
45 submitted to the local agency authorized by the governing body of the
46 local government to decide such appeals, in writing within thirty days
47 of any order, requirement, decision, interpretation, or determination
48 related to the creation of accessory dwelling units.

49 (viii) No other local law, ordinance, policy, or regulation shall be
50 the basis for the denial of a building permit or a use permit under this
51 paragraph except to the extent necessary to protect health and safety
52 and provided such law, policy, or regulation is consistent with the
53 requirements of this paragraph.

54 (ix) A local government shall not require, as a condition for minis-
55 terial approval of a permit application for the creation of an accessory
56 dwelling unit, the correction of nonconforming zoning conditions,

1 noncomplying zoning conditions, or other minor violations of any local
2 law.

3 (x) Where an accessory dwelling unit requires a new or separate utili-
4 ty connection directly between the accessory dwelling unit and the util-
5 ity, the connection may be subject to a connection fee or capacity
6 charge that shall be proportionate to the burden of the proposed acces-
7 sory dwelling unit, based upon either its size or the number of its
8 plumbing fixtures upon the water or sewer system. Such fee or charge
9 shall not exceed the reasonable cost of providing such utility
10 connection. A local government shall not impose any other fee in
11 connection with an accessory dwelling unit.

12 (xi) A property owner who is denied a permit by a local government in
13 violation of this paragraph shall have a private cause of action in a
14 court of competent jurisdiction.

15 (xii) Any amendment undertaken pursuant to this paragraph shall be
16 exempt from any environmental review requirements pursuant to article
17 eight of the environmental conservation law and any rules and regu-
18 lations promulgated pursuant thereto, and any substantially equivalent
19 local law, regulation or rule to article eight of the environmental
20 conservation law, including, but not limited to, in a city with a popu-
21 lation greater than one million people, city environmental quality
22 review.

23 b. Lot splits. It shall be considered to be a preferred action pursu-
24 ant to this section if a locality enacts by local law the provisions of
25 this paragraph. For any locality within a city with a population of one
26 million or more, it shall be a considered to be such a preferred action
27 if such city enacts by local law the provisions of this paragraph
28 throughout such locality. For any locality located within a county wher-
29 ein such county is empowered to approve or amend some or all of the land
30 use requirements applicable within the locality, to the extent the coun-
31 ty is so empowered, it shall be considered such a preferred action if
32 such county enacts by local law the provisions of this paragraph to be
33 in effect throughout such locality.

34 (i) Notwithstanding any other provision of state or local law, rule or
35 regulation, a lead agency equivalent shall ministerially approve, as set
36 forth by the local law adopted to establish a preferred action in
37 accordance with this paragraph, a lot to be split if the lead agency
38 equivalent determines that the lot meets all of the following require-
39 ments:

40 A. the lot to be split creates no more than two new lots of approxi-
41 mately equal lot area, provided that one lot shall not be smaller than
42 forty percent of the lot area of the original lot proposed for the
43 subdivision;

44 B. the lot to be split is located in an area where single-family resi-
45 dential use is permitted;

46 C. the lot was not created from a previous lot split permitted pursu-
47 ant to the local law that was enacted pursuant to this paragraph; and

48 D. the proposed lot split would not require demolition or alteration
49 of any of the following types of housing:

50 (1) housing that is subject to a recorded covenant, ordinance, law or
51 regulatory agreement that restricts rents to levels affordable to
52 persons and families of a set income;

53 (2) housing that is subject to the emergency rent stabilization law or
54 the emergency tenant protection act; or

1 (3) housing that is listed on the state registry of historic places or
2 had an application pending to be listed on such registry as of the
3 effective date of this article.

4 (ii) An application for a lot split shall be approved in accordance
5 with the following requirements:

6 A. A lead agency equivalent shall approve or deny an application for a
7 lot split ministerially without discretionary review.

8 B. A lead agency equivalent shall not require dedications of rights-
9 of-way or the construction of offsite improvements for the lots being
10 created as a condition of approving a lot split pursuant to a local law
11 adopted pursuant to this paragraph.

12 C. A lead agency equivalent shall not impose land use standards,
13 zoning standards, subdivision standards, design review standards, or
14 other development standards that would have the effect of physically
15 precluding the construction of two units, one on each of the resulting
16 lots, or that would result in a unit size of less than eight hundred
17 square feet, provided further that no setback shall be required for an
18 existing structure or a structure constructed in the same location and
19 to the same dimensions as an existing structure.

20 D. Notwithstanding clause C of this subparagraph, a lead agency equiv-
21 alent may require a setback of up to four feet from the side and rear
22 lot lines.

23 (iii) A lead agency equivalent may deny a lot split if the lead agency
24 equivalent makes a written finding, based upon a preponderance of the
25 evidence, that a proposed residential dwelling unit on one of the new
26 lots would have a specific, adverse impact upon public health or safety
27 for which there is no feasible method to satisfactorily mitigate the
28 specific adverse impact.

29 (iv) A lead agency equivalent may require any of the following condi-
30 tions when considering an application to undertake a lot split:

31 A. easements required for the provision of public services and facili-
32 ties;

33 B. a requirement that the lots have access to, provide access to, or
34 adjoin the public right-of-way; and

35 C. off-street parking of up to one space per residential dwelling
36 unit, except that a lead agency equivalent shall not impose parking
37 requirements in either of the following instances:

38 (1) where year-round parking is permitted on an adjacent street; or

39 (2) where the split lot is within one-half mile of access to public
40 transportation.

41 (v) A lead agency equivalent shall not impose owner occupancy require-
42 ments on a lot split authorized pursuant to a local law adopted pursuant
43 to this paragraph.

44 (vi) A lead agency equivalent shall require that a rental of any unit
45 created pursuant to a local law adopted pursuant to this paragraph be
46 for a term longer than thirty days.

47 (vii) A lead agency equivalent shall not require, as a condition for
48 ministerial approval of a lot split pursuant to a local law adopted
49 pursuant to this paragraph, correction of nonconforming or noncomplying
50 zoning conditions.

51 (viii) A request for a lot split pursuant to a local law adopted
52 pursuant to this paragraph shall not be denied solely because it
53 proposed adjacent or connected structures, provided that the structures
54 meet building code safety standards and are sufficient to allow separate
55 conveyance.

1 (ix) Any amendment undertaken pursuant to this paragraph shall be
2 exempt from any environmental review requirements pursuant to article
3 eight of the environmental conservation law and any rules and regu-
4 lations promulgated pursuant thereto, and any substantially equivalent
5 local law, regulation or rule to article eight of the environmental
6 conservation law, including, but not limited to, in a city with a popu-
7 lation of one million or more, city environmental quality review.

8 c. Remove exclusionary measures. It shall be considered to be a
9 preferred action pursuant to this section if a locality enacts by local
10 law the provisions of this paragraph. For any locality within a city
11 with a population of one million or more, it shall be considered to be
12 such a preferred action if such city enacts by local law the provisions
13 of this paragraph throughout such locality. For any locality located
14 within a county wherein such county is empowered to approve or amend
15 some or all of the land use requirements applicable within the locality,
16 to the extent the county is so empowered, it shall be considered such a
17 preferred action if such county enacts by local law the provisions of
18 this paragraph to be in effect throughout such locality.

19 (i) No locality shall, as part of its land use laws, ordinances, rules
20 or regulations, including, but not limited to, zoning laws, ordinances,
21 rules or regulations, site plan review laws, ordinances, rules or regu-
22 lations, subdivision laws, rules or regulations, or comprehensive plan-
23 ning laws, rules or regulations, impose:

24 A. minimum lot size requirements for mixed-use or residential uses;

25 B. height limits that preclude or unduly restrict the ability to build
26 residential accommodations, including multi-family residential build-
27 ings;

28 C. lot coverage restrictions that preclude or unduly restrict the
29 ability to build residential accommodations, including multi-family
30 residential buildings; or

31 D. parking minimums on any site that exceed one parking space per
32 residential dwelling unit, provided, further, that no parking minimums
33 may be imposed for any site that includes residential dwelling units
34 when such site is located within one-half mile from access to public
35 transportation.

36 (ii) Any amendment undertaken pursuant to this paragraph shall be
37 exempt from any environmental review requirements pursuant to article
38 eight of the environmental conservation law and any rules and regu-
39 lations promulgated pursuant thereto, and any substantially equivalent
40 local law, regulation or rule to article eight of the environmental
41 conservation law, including, but not limited to, in a city with a popu-
42 lation of one million or more, city environmental quality review.

43 d. Smart growth rezonings. It shall be considered to be a preferred
44 action pursuant to this section if a locality enacts by local law the
45 provisions of this paragraph. Such preferred action shall be designed
46 and implemented in such a manner that it complies with federal and state
47 fair housing laws, including the requirement to affirmatively further
48 fair housing, which shall include compliance with the requirements set
49 forth in subdivision three of section six hundred of the public housing
50 law. For any locality within a city with a population of one million or
51 more, it shall be considered to be such a preferred action if such city
52 enacts by local law the provisions of this paragraph throughout such
53 locality. For any locality located within a county wherein such county
54 is empowered to approve or amend some or all of the land use require-
55 ments applicable within the locality, to the extent the county is so
56 empowered, it shall be considered such a preferred action if such county

1 enacts by local law the provisions of this paragraph to be in effect
2 throughout such locality.

3 (i) A lead agency equivalent shall undertake a land use action to
4 amend its land use requirements, as applicable, to permit the
5 construction of residential housing with an aggregate density of at
6 least twenty-five residential dwelling units per acre over an area or
7 areas consisting solely of previously disturbed land that, in the aggre-
8 gate, are equal to one-third of the previously disturbed land mass of
9 the locality.

10 (ii) Such land use action shall not include any measure that makes the
11 development of residential housing economically infeasible, including,
12 but not limited to, unduly restrictive height limits, excessive yard or
13 open space requirements, the imposition of minimum or maximum residen-
14 tial dwelling unit size limits, or restrictions on the total number of
15 permitted residential dwelling units within a residential housing
16 project based on lot size or other criteria other than the aggregate
17 density.

18 (iii) Such land use action shall permit commercial uses on a reason-
19 able percentage of the lots impacted by the amendment with the goal of
20 granting residents access to amenities, goods, and services within walk-
21 ing distance of their residences.

22 (iv) Any amendment undertaken pursuant to this paragraph shall be
23 exempt from any environmental review requirements pursuant to article
24 eight of the environmental conservation law and any rules and regu-
25 lations promulgated pursuant thereto, and any substantially equivalent
26 local law, regulation or rule to article eight of the environmental
27 conservation law, including, but not limited to, in a city with a popu-
28 lation greater than one million people, city environmental quality
29 review.

30 (v) Any proposed project that provides residential housing and
31 complies with a locality's land use requirements, after such land use
32 requirements have been amended pursuant to this paragraph, shall be
33 exempt from review requirements pursuant to article eight of the envi-
34 ronmental conservation law and any rules and regulations promulgated
35 thereto, and any substantially equivalent local law, regulation or rule
36 to article eight of the environmental conservation law, including, but
37 not limited to, in a city with a population greater than one million
38 people, city environmental quality review.

39 (vi) Project specific review of any project that provides residential
40 housing and complies with a locality's land use requirements, after such
41 requirements have been amended pursuant to this paragraph, shall:

42 A. be completed with written approval or denial being delivered to the
43 applying party within one hundred twenty days of the application being
44 submitted; and

45 B. be limited to a review of the following:

46 (1) the capacity of local infrastructure to provide adequate drinking
47 water and wastewater services to the proposed project;

48 (2) the capacity of local infrastructure to provide adequate utility
49 services to the proposed project; and

50 (3) the aesthetics of the proposed project, provided that any aesthet-
51 ic review must be based on published objective standards. If no objec-
52 tive standards are published, no project specific review may consider
53 aesthetics. Provided further that no aesthetic requirements may increase
54 the cost of a project to make such project as proposed economically
55 infeasible.

1 C. Unless specifically set forth by this paragraph, nothing set forth
2 in this subparagraph shall be interpreted to override or otherwise waive
3 any permitting required pursuant to state or federal laws or regu-
4 lations.

5 e. Adaptive reuse rezonings. It shall be considered to be a preferred
6 action pursuant to this section if a locality enacts by local law the
7 provisions of this paragraph. Such preferred action shall be designed
8 and implemented in such a manner that it complies with federal and state
9 fair housing laws, including the requirement to affirmatively further
10 fair housing, which shall include compliance with the requirements set
11 forth in subdivision three of section six hundred of the public housing
12 law. For any locality within a city with a population greater than one
13 million people, it shall be considered to be such a preferred action if
14 such city enacts by local law the provisions of this paragraph through-
15 out such locality. For any locality located within a county wherein
16 such county is empowered to approve or amend some or all of the land use
17 requirements applicable within the locality, to the extent the county is
18 so empowered, it shall be considered such a preferred action if such
19 county enacts by local law the provisions of this paragraph to be in
20 effect throughout such locality.

21 (i) A lead agency equivalent shall undertake a land use action to
22 amend its land use requirements to permit the construction and occupancy
23 of residential housing with an aggregate density of at least twenty-five
24 residential dwelling units per acre in an area that, prior to such
25 amendment, permitted only commercial use.

26 A. Such land use action must encompass an area of at least one hundred
27 acres.

28 B. Such land use action shall not include any measure that makes the
29 development of residential housing economically infeasible, including,
30 but not limited to, unduly restrictive height limits, excessive yard or
31 open space requirements, the imposition of minimum or maximum unit size
32 limits, or restrictions on the total number of permitted residential
33 dwelling units within a residential housing project based on lot size or
34 other criteria other than the aggregate density.

35 C. Such land use action shall permit commercial uses on a reasonable
36 percentage of the lots impacted by the amendment with the goal of grant-
37 ing residents access to amenities, goods, and services within walking
38 distance of their residences.

39 (ii) Any amendment undertaken pursuant to this paragraph shall be
40 exempt from any environmental review requirements pursuant to article
41 eight of the environmental conservation law and any rules and regu-
42 lations promulgated pursuant thereto, and any substantially equivalent
43 local law, regulation or rule to article eight of the environmental
44 conservation law, including, but not limited to, in a city with a popu-
45 lation greater than one million people, city environmental quality
46 review.

47 (iii) Any proposed project that provides residential housing and
48 complies with land use requirements, after such land use requirements
49 have been amended pursuant to this paragraph, shall be exempt from
50 review requirements pursuant to article eight of the environmental
51 conservation law and any rules and regulations promulgated pursuant
52 thereto, and any substantially equivalent local law, regulation or rule
53 to article eight of the environmental conservation law, including, but
54 not limited to, in a city with a population greater than one million
55 people, city environmental quality review.

1 (iv) Any project that provides residential housing and complies with
2 applicable land use requirements, after such land use requirements have
3 been amended pursuant to this paragraph, shall be buildable as of right,
4 and any project specific review relating to such project shall:

5 A. be completed with written approval or denial being delivered to the
6 applying party within one hundred twenty days of the application being
7 submitted; and

8 B. be limited to a review of the following:

9 (1) the capacity of local infrastructure to provide adequate drinking
10 water and wastewater services to the proposed project;

11 (2) the capacity of local infrastructure to provide adequate utility
12 services to the proposed project; and

13 (3) the aesthetics of the proposed project, provided that any aesthet-
14 ic review must be based on published objective standards. If no objec-
15 tive standards are published, no project specific review may consider
16 aesthetics. Provided further that no aesthetic requirements may increase
17 the cost of a project to make such project as proposed economically
18 infeasible.

19 C. unless specifically set forth by this paragraph, nothing set forth
20 in this subparagraph shall be interpreted to override or otherwise waive
21 any permitting required pursuant to state or federal laws or regu-
22 lations.

23 § 1004. Local procedures outside of safe harbor/general appeal proc-
24 ess. Effective January first, two thousand twenty-seven, when a locality
25 is not in safe harbor:

26 1. An applicant may propose a qualifying project to a lead agency
27 equivalent, regardless of whether the qualifying project complies with
28 the land use requirements applicable to the site where the qualifying
29 project is proposed. No lead agency equivalent may reject a proposed
30 qualifying project due to such project failing to comply with the land
31 use requirements on the site where the qualifying project is proposed,
32 unless such qualifying project is not located on previously disturbed
33 land.

34 2. The lead agency equivalent must approve or deny the application for
35 the qualifying project within one hundred twenty days if the proposed
36 qualifying project contains at least ten residential dwelling units but
37 less than one hundred residential dwelling units, and within one hundred
38 eighty days if the proposed qualifying project contains one hundred or
39 more residential dwelling units. Failure to approve or deny an applica-
40 tion within the time periods specified in this subdivision shall be
41 deemed to be a constructive denial, provided further that the imposition
42 of conditions on the project by the lead agency equivalent that render
43 the project economically infeasible shall be deemed to be a constructive
44 denial, and subject to appeal pursuant to this section, section one
45 thousand five or section one thousand six of this article.

46 3. Any project specific review related to a proposed qualifying
47 project shall be exempt from review requirements pursuant to article
48 eight of the environmental conservation law and any rules and regu-
49 lations promulgated pursuant thereto, and any substantially equivalent
50 local law, regulation or rule to article eight of the environmental
51 conservation law, including, but not limited to, in a city with a popu-
52 lation of one million or more, city environmental quality review, and
53 shall be limited to a review of the following:

54 a. The capacity of local infrastructure to provide adequate drinking
55 water and wastewater services to the proposed project;

1 b. The capacity of local infrastructure to provide adequate utility
2 services to the proposed project; and

3 c. The aesthetics of the proposed project, provided that any aesthetic
4 review must be based on published objective standards. If no objective
5 standards are published, no project specific review may consider
6 aesthetics. Provided further that no aesthetic requirements may increase
7 the cost of a project to make such project as proposed economically
8 infeasible.

9 Nothing set forth in this subdivision shall be interpreted to override
10 or otherwise waive any permitting required pursuant to state or federal
11 laws or regulations, unless specifically set forth in this article.

12 4. Any denial of an application must be accompanied by the specific
13 reasons for the denial set forth in writing.

14 5. When an applicant is denied permission to proceed with a qualifying
15 project, the applicant may file an appeal of the denial pursuant to
16 section one thousand five or one thousand six of this article within
17 sixty days of the denial. An applicant may only file one such appeal per
18 qualifying project and may only file either pursuant to section one
19 thousand five or one thousand six.

20 § 1005. Housing review board. 1. Structure and powers of the housing
21 review board.

22 a. There is hereby established, within the division, a housing review
23 board, to effectuate the provisions of this article.

24 b. The housing review board shall consist of five members. Three
25 members shall be appointed by the governor, one member shall be
26 appointed by the speaker of the assembly, and one member shall be
27 appointed by the temporary president of the senate. The board members
28 shall serve five year terms, and shall only be relieved for cause. Any
29 vacancies on the board shall be filled within a reasonable time period
30 by the official who appointed the board member whose absence has caused
31 the vacancy.

32 c. The housing review board shall have the power and duties to conduct
33 hearings, take oaths, issue orders, and otherwise perform any function
34 necessary to operate in conformity with the provisions of this article.
35 The powers of the housing review board shall include, but not be limited
36 to, the powers granted to the commissioner of housing by subdivision one
37 of section fourteen of the public housing law, and the statutes, rules,
38 regulations and other documents governing the administration of housing
39 by the division of homes and community renewal.

40 d. The division shall provide any administrative and staff support,
41 including, but not limited to, administrative law judges, to the housing
42 review board necessary for the effective implementation of the
43 provisions of this article.

44 e. If the division determines that a locality does or does not qualify
45 for safe harbor, the housing review board, or any court hearing an
46 appeal related to such locality shall take judicial notice of the divi-
47 sion's determination. If the division has not issued a determination as
48 to whether a locality is in safe harbor based on the three-year cycle
49 that was completed immediately prior to the applicable three-year cycle,
50 and such a determination is necessary to adjudicate an appeal before the
51 housing review board or a court, such housing review board or court may
52 make such a determination that applies only to the application pending
53 before the housing review board or the court, provided further, however,
54 that if the housing review board or a court makes a determination that a
55 locality is in safe harbor as a result of the locality enacting
56 preferred actions pursuant to subdivision four of section one thousand

1 three of this article, such determination shall be applied to future
2 proceedings pursuant to this section and section one thousand six of
3 this article for the remainder of the three-year cycle for which such
4 determination was made. The division, at its discretion, may take notice
5 of such determination and the facts underlying such determination, and
6 issue its own determination as to the application of safe harbor that
7 would be applied to all further appeals relating to such locality for
8 the duration that safe harbor applies.

9 2. Appeals before the housing review board. a. Beginning on January
10 first, two thousand twenty-seven, any applicant whose application relat-
11 ing to a qualifying project is denied by a lead agency equivalent may
12 appeal such denial to the housing review board within sixty days of the
13 issuance of the denial.

14 b. If an appeal is brought before the housing review board and the
15 division has already determined that the locality at issue is in safe
16 harbor for the applicable three-year cycle, then the appeal shall be
17 denied and the determination by the lead agency equivalent shall be
18 maintained. If no determination has been made as to whether the locality
19 is in safe harbor, the housing review board shall determine as a thresh-
20 old issue whether such locality is in safe harbor.

21 c. If a locality is found to not be in safe harbor, the housing review
22 board shall issue a determination as to whether the lead agency equiv-
23 alent properly denied the application at issue in the appeal pursuant to
24 the requirements set forth in section one thousand four of this article.

25 d. In issuing a determination, the housing review board may:

26 (i) remand the proceeding to the lead agency equivalent and direct
27 such lead agency equivalent to issue a comprehensive permit or approval
28 to the applicant;

29 (ii) deny the appeal and uphold the lead agency equivalent's denial of
30 the application; or

31 (iii) remand the proceeding to the lead agency equivalent and direct
32 such lead agency equivalent to consider the application as amended to
33 address any legitimate concerns raised by the lead agency equivalent.
34 The housing review board may require that the lead agency equivalent
35 consider any such amended application on an expedited basis.

36 e. In considering the denial of an application, the housing review
37 board may only consider the reasons for the denial given by the lead
38 agency equivalent at the time the application was denied.

39 f. Once a determination has been issued by the housing review board,
40 such determination may be appealed within sixty days to an administra-
41 tive law judge designated to hear such matters. Any determination issued
42 by an administrative law judge shall be considered to be a final agency
43 determination and may be appealed pursuant to article seventy-eight of
44 the civil practice law and rules.

45 3. Burden of proof before the housing review board. a. (i) During a
46 proceeding before the housing review board, the locality which denied
47 the permit for the qualifying project shall initially carry the burden
48 of proof to demonstrate, based upon clear and convincing evidence, that
49 the permit was properly denied pursuant to one or more of the reasons
50 set forth in subdivision three of section one thousand four of this
51 article, that the locality is in safe harbor, or that the project at
52 issue is not a qualifying project.

53 (ii) Notwithstanding any other provision in this article, a locality
54 that is not in safe harbor may raise as an affirmative defense that the
55 amount of eligible residential dwelling units, as weighted pursuant to
56 subdivision three of section one thousand three of this article,

1 constructed in the three-year cycle during which the appeal was filed,
2 combined with the amount of eligible residential dwelling units
3 constructed in the three-year cycle immediately preceding the cycle in
4 which the appeal was filed, constitute an amount of eligible residential
5 dwelling units to qualify the locality for safe harbor for the three-
6 year cycle in which the appeal was filed. Provided, further that eligi-
7 ble residential dwelling units shall only be credited for one three-year
8 cycle, regardless of when such dwelling units were permitted or built.
9 Such defense must be demonstrated by clear and convincing evidence, and
10 must be substantiated by documentation such as temporary or final
11 certificates of occupancy for the housing. If the locality meets the
12 burden set forth in this paragraph, unless the applicant successfully
13 rebutts the evidence or reasons for rejection provided by the locality
14 pursuant to paragraph b of this subdivision, such locality shall be
15 deemed to be in safe harbor for the remainder of the three-year cycle in
16 effect at the time the appeal was filed, effective the date such deter-
17 mination is made.

18 b. If the locality meets the burden set forth in paragraph a of this
19 subdivision, the applicant shall be given an opportunity to rebut the
20 evidence and reasons for rejection provided by the locality.

21 c. If the division issues a determination as to whether a locality is
22 in safe harbor, the housing review board and administrative law judges
23 shall take notice of such determination. If no such determination has
24 been issued by the division, except as provided in paragraph e of subdi-
25 vision one of this section, the housing review board and administrative
26 law judges may make a determination as to whether a locality is in safe
27 harbor, based on the three-year cycle that was completed immediately
28 prior to the applicable three-year cycle, solely for the purposes of
29 issuing a determination regarding the application that is the subject of
30 the appeal being considered.

31 4. Costs shall not be allowed against the local government and the
32 officer or officers whose failure or refusal gave rise to the special
33 proceeding, unless it shall appear to the court that the local govern-
34 ment and its officers acted with gross negligence or in bad faith or
35 with malice.

36 § 1006. Land use appeals before the supreme court. 1. Judges of the
37 supreme court that are specially designated as land use judges by the
38 chief administrator of the courts shall hear land use appeals. Such
39 judges shall be selected from a list of qualified candidates as created
40 by the land use advisory council. Only such land use judges shall be
41 empowered to adjudicate land use appeals pursuant to this section aris-
42 ing anywhere in the State of New York, regardless of what county the
43 judge serves in over the course of their normal duties.

44 2. There shall be established a land use advisory council. a. The
45 land use advisory council shall be composed of five members. Three
46 members shall be appointed by the governor, one member shall be
47 appointed by the speaker of the assembly, and one member shall be
48 appointed by the temporary president of the senate. The members shall
49 serve five year terms, and shall only be relieved for cause. Any vacan-
50 cies on the council shall be filled within a reasonable time period by
51 the official who appointed the member whose absence has caused the
52 vacancy.

53 b. The land use advisory council shall meet at least four times a
54 year, and on such additional occasions as they may require or as may be
55 required by the administrative judge. Members shall receive no compen-
56 sation.

1 c. The land use advisory council shall publish a list of supreme court
2 judges qualified to hear land use appeals based on training, experience
3 and judicial temperament.

4 3. Appeals before a land use judge. a. Beginning on January first, two
5 thousand twenty-seven, any applicant whose application related to a
6 qualifying project is denied by a lead agency equivalent may appeal such
7 denial before a land use judge designated pursuant to this section in
8 supreme court. The applicant shall choose the forum in which to file the
9 appeal.

10 b. If an appeal is brought before such land use judge and the division
11 has already determined that the locality at issue is in safe harbor for
12 the applicable three-year cycle, then the appeal shall be denied and the
13 determination by the lead agency equivalent shall be maintained. If no
14 determination has been made as to whether the locality is in safe
15 harbor, such land use judge shall determine as a threshold issue whether
16 such locality is in safe harbor based on the three-year cycle that was
17 completed immediately prior to the applicable three-year cycle.

18 c. If a locality is found to not be in safe harbor, such land use
19 judge shall issue a determination as to whether the lead agency equiv-
20 alent properly denied the application at issue in the appeal pursuant to
21 the requirements set forth in section one thousand four of this article.

22 d. In issuing a determination, such land use judge may:

23 (i) remand the proceeding to the lead agency equivalent and direct
24 such lead agency equivalent to issue a comprehensive permit or approval
25 to the applicant;

26 (ii) deny the appeal and uphold the lead agency equivalent's denial of
27 the application; or

28 (iii) remand the proceeding to the lead agency equivalent and direct
29 such lead agency equivalent to consider the application as amended to
30 address any legitimate concerns raised by the lead agency equivalent.
31 Such land use judge may require that the lead agency equivalent consider
32 any such amended application on an expedited basis.

33 e. In considering the denial of an application, such land use judge
34 may only consider the reasons for the denial given by the lead agency
35 equivalent at the time the application was denied.

36 4. Burden of proof before a court. a. (i) During a proceeding before a
37 land use judge designated pursuant to this section, the locality which
38 denied the permit for the qualifying project shall initially carry the
39 burden of proof to demonstrate, based upon clear and convincing
40 evidence, that the permits were properly denied pursuant to one or more
41 of the reasons set forth in subdivision three of section one thousand
42 four of this article, that the locality is in safe harbor, or that the
43 project at issue is not a qualifying project.

44 (ii) Notwithstanding any other provision in this article, a locality
45 that is not in safe harbor may raise as an affirmative defense that the
46 amount of eligible residential dwelling units, as weighted pursuant to
47 subdivision three of section one thousand three of this article,
48 constructed in the three-year cycle during which the appeal was filed,
49 combined with the amount of eligible residential dwelling units
50 constructed in the three-year cycle immediately preceding the cycle in
51 which the appeal was filed, constitute an amount of eligible residential
52 dwelling units needed to qualify the locality for safe harbor for the
53 three-year cycle in which the appeal was filed. Provided, further, that
54 eligible residential dwelling units shall only be credited for one
55 three-year cycle, regardless of when such dwelling units were permitted
56 or built. Such defense must be demonstrated by clear and convincing

1 evidence, and must be substantiated by documentation such as temporary
2 or final certificates of occupancy for the housing. If the locality
3 meets the burden set forth in this paragraph, unless the applicant
4 successfully rebuts the evidence or reasons for rejection provided by
5 the locality pursuant to paragraph b of this subdivision, such locality
6 shall be deemed to be in safe harbor for the remainder of the three-year
7 cycle in effect at the time the appeal was filed, effective the date
8 such determination is made.

9 b. If the locality meets the burden set forth in paragraph a of this
10 subdivision, the applicant shall be given an opportunity to rebut the
11 evidence and reasons for rejection provided by the locality.

12 c. If the division issues a determination as to whether a locality is
13 in safe harbor, such land use judge shall take notice of such determi-
14 nation. If no such determination has been issued by the division, except
15 as provided in paragraph e of subdivision one of section one thousand
16 five of this article, such land use judge may make a determination as to
17 whether a locality is in safe harbor, based on the three-year cycle that
18 was completed immediately prior to the applicable three-year cycle,
19 solely for the purposes of issuing a determination regarding the appli-
20 cation that is the subject of the appeal being considered.

21 5. Any final order issued by a land use judge designated pursuant to
22 this section shall be appealed in a manner consistent with the civil
23 practice law and rules.

24 6. The chief administrator of the court shall promulgate rules and
25 regulations to carry out the mandate of this section.

26 7. Costs shall not be allowed against the local government and the
27 officer or officers whose failure or refusal gave rise to the special
28 proceeding, unless it shall appear to the court that the local govern-
29 ment and its officers acted with gross negligence or in bad faith or
30 with malice.

31 8. Employees and agents of localities may only be sued in their offi-
32 cial capacity for non-compliance with this article.

33 § 3. Section 14 of the public housing law is amended by adding a new
34 subdivision 8 to read as follows:

35 8. The division shall have the authority to promulgate regulations,
36 rules and policies related to land use by cities, towns, and villages as
37 it relates to the development of housing, including, but not limited to,
38 the administration and enforcement of article twenty of the general
39 municipal law, the Transit-Oriented Development Act of 2023, and section
40 twenty-a of the public housing law. Such enforcement authority shall
41 include, but not be limited to, all of the powers granted by subdivision
42 one of this section, in addition to the statutes, rules, regulation and
43 other documents regarding the authority of the division, and, where
44 applicable, the power to issue orders and administer funding and grants
45 to localities to assist with land use planning.

46 § 4. Severability. In the event it is determined by a court of compe-
47 tent jurisdiction that any phrase, clause, part, subdivision, paragraph
48 or subsection, or any of the provisions of this article is unconstitu-
49 tional or otherwise invalid or inoperative, such determination shall not
50 affect the validity or effect of the remaining provisions of this arti-
51 cle.

52 § 5. This act shall take effect immediately.

1 Section 1. Short title. This act shall be known and may be cited as
2 the "transit-oriented development act of 2023".

3 § 2. Legislative findings and statement of purpose. The legislature
4 hereby finds, determines and declares:

5 New York State has a vital interest in reducing harmful greenhouse gas
6 emissions. New York State further recognizes that encouraging and facil-
7 itating use of rail-based mass transit is a valuable method for reducing
8 greenhouse gas emissions. New York State further recognizes that creat-
9 ing walkable living environments with a variety of housing options near
10 rail-based mass transit not only advances the goal of encouraging the
11 use of rail-based mass transit, but also promotes local and regional
12 economic development.

13 Housing in the state of New York is among the most expensive in the
14 nation and housing insecurity remains a problem for many low- and moder-
15 ate-income families. The excessive cost of the state's housing supply is
16 partially caused by a lack of housing near public transit access points.
17 This lack of available housing is especially pronounced in well-re-
18 sourced municipalities and neighborhoods with access to jobs, educa-
19 tional resources, and health infrastructure that engender social and
20 economic mobility.

21 Many local governments do not give adequate attention to or planning
22 for the local and broader regional economic, environmental, and social
23 costs of local policies and actions that have the effect of stagnating
24 or reducing the supply of housing, including affordable and supportive
25 housing, or how such policies and actions thereby produce threats to the
26 public health, safety, and general welfare.

27 Increasing the supply of housing in close proximity to rail stations
28 is a matter of state concern and critical to promoting housing afforda-
29 bility, reducing housing insecurity, driving economic growth, encourag-
30 ing social and economic mobility, and actualizing the goals of the
31 Climate Leadership and Community Protection Act.

32 A public policy purpose would be served and the interests of the
33 people of the state would be advanced by requiring local planning and
34 zoning changes that will facilitate the production of multifamily hous-
35 ing in areas near rail stations.

36 § 3. The general city law is amended by adding a new section 20-h to
37 read as follows:

38 § 20-h. Density of residential dwellings near transit stations. 1.
39 Definitions. As used in this section, the following terms shall have the
40 following meanings:

41 (a) "Aggregate density requirement" shall be defined as a required
42 minimum average density of residential dwellings per acre across a tran-
43 sit-oriented development zone, provided that exempt land shall not be
44 included in the calculation to determine the aggregate density require-
45 ment. Provided further that:

46 (i) Within a tier 1 transit-oriented development zone, the required
47 minimum average density shall be fifty residential dwellings per acre;

48 (ii) Within a tier 2 transit-oriented development zone, the required
49 minimum average density shall be thirty residential dwellings per acre;

50 (iii) Within a tier 3 transit-oriented development zone, the required
51 minimum average density shall be twenty residential dwellings per acre;
52 and

53 (iv) Within a tier 4 transit-oriented development zone, the required
54 minimum average density shall be fifteen residential dwellings per acre.

1 (b) "Amendment" shall be defined as any local legislative, executive,
2 or administrative change made to a city's local land use tools pursuant
3 to subdivision two of this section.

4 (c) "Economically infeasible" shall mean any condition brought about
5 by any single factor or combination of factors to the extent that it
6 makes it substantially unlikely for an owner to proceed in building a
7 residential housing project and still realize a reasonable return in
8 building or operating such housing without substantially changing the
9 rent levels, unit sizes, or unit counts proposed by the owner.

10 (d) "Exempt land" shall be defined as non-buildable land, cemeteries,
11 mapped or dedicated parks, registered historic sites, and highways.

12 (e) "Highways" shall be defined as a vehicle road designated and iden-
13 tified pursuant to the New York state or federal interstate highway
14 system.

15 (f) "Lead agency equivalent" shall be defined as any city or common
16 council or other legislative body of the city, planning board, zoning
17 board of appeals, planning division, planning commission, board of stan-
18 dards and appeals, board of zoning appeals, or any official or employee,
19 or any other agency, department, board, body, or other entity in a city
20 with the authority to approve or disapprove of any specific project or
21 amendment to any local land use tools as defined herein.

22 (g) "Local land use tools" shall be adopted or enacted under this
23 chapter, the municipal home rule law, or any general, special or other
24 law pertaining to land use, and shall include but not be limited to a
25 city's:

26 (i) written or other comprehensive plan or plans;
27 (ii) zoning ordinance, local laws, resolutions or regulations;
28 (iii) special use permit, special exception permit, or special permit
29 ordinance, local laws, resolutions or regulations;
30 (iv) subdivision ordinance, local laws, resolutions, or regulations;
31 (v) site plan review ordinance, local laws, resolutions or regu-
32 lations; and/or

33 (vi) policies or procedures, or any planning, zoning, or other land
34 use regulatory tool that controls or establishes standards for the use
35 and occupancy of land, the area and dimensional requirements for the
36 development of land or the intensity of such development.

37 (h) "Mapped or dedicated parks" shall be defined as:

38 (i) any land designated on an official map established as authorized
39 by law or depicted on another map adopted or enacted by the local
40 governing board as a publicly accessible space designated for park or
41 recreational use on or before the effective date of this section; or

42 (ii) any parkland expressly or impliedly dedicated to park or recre-
43 ational use on or before the effective date of this section.

44 (i) "Non-buildable land" shall be defined as any land that cannot be
45 built upon without significant alterations to the natural terrain needed
46 to make such land suitable for construction, including but not limited
47 to rivers and streams, freshwater and tidal wetlands, marshlands, coas-
48 tal erosion hazard areas, one-hundred-year flood plain, and protected
49 forests. No land that has previously had a building or other improve-
50 ment, including but not limited to parking lots, constructed on it shall
51 be considered non-buildable land.

52 (j) "Objective standards" shall be defined as standards that involve
53 no personal or subjective judgment by a public official or employee and
54 are uniformly verifiable by reference to a publicly available and
55 uniform benchmark or criterion available and knowable by both the devel-

1 opment applicant and the public official or employee before submittal of
2 a land use application to locate and develop residential dwellings.

3 (k) "Project specific review" shall be defined as any review or
4 approval process related to a specific site, or to a proposed develop-
5 ment or an application, regardless of the number of sites, including,
6 but not limited to, variance, waiver, special permit, site plan review
7 or subdivision review.

8 (l) "Qualifying project" shall be defined as a proposed project that
9 consists primarily of residential dwellings that is or will be located
10 within a transit-oriented development zone and which will be connected
11 to publicly-owned water and sewage systems.

12 (m) "Registered historic sites" shall be defined as sites, districts,
13 structures, landmarks, or buildings listed on the state register of
14 historic places as of the effective date of this section.

15 (n) "Residential dwellings" shall be defined as any building or struc-
16 ture or portion thereof which is legally occupied in whole or in part as
17 the home, residence or sleeping place of one or more human beings,
18 however the term does not include any class B multiple dwellings as
19 defined in section four of the multiple dwelling law or housing that is
20 intended to be used on a seasonal basis.

21 (o) "Residential zone" shall be defined as any land within a transit-
22 oriented development zone wherein residential dwellings are permitted as
23 of the effective date of this section.

24 (p) "Transit-oriented development review process" is the process by
25 which all project specific reviews in a transit-oriented development
26 zone and all other land use actions undertaken pursuant to this section
27 shall be reviewed, which shall:

28 (i) Be completed with approval or denial delivered to the applying
29 party within one hundred twenty days of the application being submitted;
30 and

31 (ii) Be limited to a review of the following:

32 (A) The capacity of local infrastructure to provide adequate drinking
33 water and wastewater services to the proposed project;

34 (B) The capacity of local infrastructure to provide adequate utility
35 services to the proposed project; and

36 (C) The aesthetics of the proposed project, provided that any aesthet-
37 ic review must be based on published objective standards. If no objec-
38 tive standards are published, no transit-oriented development review
39 process may consider aesthetics, and provided further that no aesthetic
40 requirements shall increase the cost of a qualifying project to make
41 such project as proposed economically infeasible.

42 All proposed actions subject to review pursuant to a transit-oriented
43 development review process shall be exempt from any environmental review
44 requirements pursuant to article eight of the environmental conservation
45 law and any rules and regulations promulgated thereto, and any local
46 equivalent law, regulation or rule, including, but not limited to, in
47 the city of New York, city environmental quality review. Provided
48 further that nothing set forth in this paragraph shall be interpreted to
49 override or otherwise waive any permitting required pursuant to state or
50 federal laws or regulations, unless specifically set forth herein.

51 (q) "Tier 1 qualifying transit station" shall be defined as any rail
52 station, including subway stations, within the state of New York that is
53 not operated on an exclusively seasonal basis and that is owned, oper-
54 ated or otherwise served by metro-north railroad, the Long Island rail-
55 road, the port authority of New York and New Jersey, the New Jersey
56 transit corporation, the New York city transit authority, or the metro-

1 politan transportation authority where any portion of such station is
2 located either within a city with a population of greater than one
3 million people, or no more than fifteen miles from the nearest border of
4 a city with a population of greater than one million people, as measured
5 on a straight line from such city's nearest border to such rail station.

6 (r) "Tier 2 qualifying transit station" shall be defined as any rail
7 station, including subway stations, within the state of New York that is
8 not operated on an exclusively seasonal basis and that is owned, oper-
9 ated or otherwise served by metro-north railroad, the Long Island rail-
10 road, the port authority of New York and New Jersey, the New Jersey
11 transit corporation, the New York city transit authority, or the metro-
12 politan transportation authority where any portion of such station is
13 located more than fifteen and no more than thirty miles from the nearest
14 border of a city with a population of greater than one million people,
15 as measured on a straight line from such city's nearest border to such
16 rail station.

17 (s) "Tier 3 qualifying transit station" shall be defined as any rail
18 station, including subway stations, within the state of New York that is
19 not operated on an exclusively seasonal basis and that is owned, oper-
20 ated or otherwise served by metro-north railroad, the Long Island rail-
21 road, the port authority of New York and New Jersey, the New Jersey
22 transit corporation, the New York city transit authority, or the metro-
23 politan transportation authority where any portion of such station is
24 located more than thirty and no more than fifty miles from the nearest
25 border of a city with a population of greater than one million people,
26 as measured on a straight line from such city's nearest border to such
27 rail station.

28 (t) "Tier 4 qualifying transit station" shall be defined as any rail
29 station, including subway stations, within the state of New York that is
30 not operated on an exclusively seasonal basis and that is owned, oper-
31 ated or otherwise served by metro-north railroad, the Long Island rail-
32 road, the port authority of New York and New Jersey, the New Jersey
33 transit corporation, the New York city transit authority, or the metro-
34 politan transportation authority where the entirety of such station is
35 located more than fifty miles from the nearest border of a city with a
36 population of greater than one million people, as measured on a straight
37 line from such city's nearest border to such rail station.

38 (u) "Tier 1 transit-oriented development zone" shall be defined as any
39 land, other than exempt land, located within a one-half mile radius of
40 any publicly accessible areas of a tier 1 qualifying transit station,
41 provided that such publicly accessible areas include, but are not limit-
42 ed to, platforms, ticketing areas, waiting areas, entrances and exits,
43 and parking lots or parking structures that provide parking for custom-
44 ers of such tier 1 qualifying transit stations, and are appurtenant to
45 such tier 1 qualifying transit stations, regardless of the ownership of
46 such parking structures or facilities, as of the effective date of this
47 section. Provided further that any tier 1 qualifying transit station
48 shall be considered to be part of such tier 1 transit-oriented develop-
49 ment zone.

50 (v) "Tier 2 transit-oriented development zone" shall be defined as any
51 land, other than exempt land, located within a one-half mile radius of
52 any publicly accessible areas of a tier 2 qualifying transit station,
53 provided that such publicly accessible areas include, but are not limit-
54 ed to, platforms, ticketing areas, waiting areas, entrances and exits,
55 and parking lots or parking structures that provide parking for custom-
56 ers of such tier 2 qualifying transit stations, and are appurtenant to

1 such tier 2 qualifying transit stations, regardless of the ownership of
2 such parking structures or facilities, as of the effective date of this
3 section. Provided further that any tier 2 qualifying transit station
4 shall be considered to be part of such tier 2 transit-oriented develop-
5 ment zone.

6 (w) "Tier 3 transit-oriented development zone" shall be defined as any
7 land, other than exempt land, located within a one-half mile radius of
8 any publicly accessible areas of a tier 3 qualifying transit station,
9 provided that such publicly accessible areas include, but are not limit-
10 ed to, platforms, ticketing areas, waiting areas, entrances and exits,
11 and parking lots or parking structures that provide parking for custom-
12 ers of such tier 3 qualifying transit stations, and are appurtenant to
13 such tier 3 qualifying transit stations, regardless of the ownership of
14 such parking structures or facilities, as of the effective date of this
15 section. Provided further that any tier 3 qualifying transit station
16 shall be considered to be part of such tier 3 transit-oriented develop-
17 ment zone.

18 (x) "Tier 4 transit-oriented development zone" shall be defined as any
19 land, other than exempt land, located within a one-half mile radius of
20 any publicly accessible areas of a tier 4 qualifying transit station,
21 provided that such publicly accessible areas include, but are not limit-
22 ed to, platforms, ticketing areas, waiting areas, entrances and exits,
23 and parking lots or parking structures that provide parking for custom-
24 ers of such tier 4 qualifying transit stations, and are appurtenant to
25 such tier 4 qualifying transit stations, regardless of the ownership of
26 such parking structures or facilities, as of the effective date of this
27 section. Provided further that any tier 4 qualifying transit station
28 shall be considered to be part of such tier 4 transit-oriented develop-
29 ment zone.

30 (y) "Transit-oriented development zone" shall refer to a tier 1 trans-
31 it oriented development zone, a tier 2 transit-oriented development
32 zone, a tier 3 transit-oriented development zone, or a tier 4 transit-
33 oriented development zone, as applicable.

34 2. Amendment to local land use tools. (a) A city's local land use
35 tools shall be amended to meet or exceed the aggregate density require-
36 ment on or before the date that is three years subsequent to the effec-
37 tive date of this section unless such aggregate density requirement is
38 permitted pursuant to a city's local land use tools without requiring
39 any amendment.

40 (b) Any amendment undertaken pursuant to paragraph (a) of this subdivi-
41 sion shall be exempt from any review required pursuant to article
42 eight of the environmental conservation law and any rules and regu-
43 lations promulgated thereto, and any local equivalent law, regulation,
44 or rule, including, but not limited to, in the city of New York, city
45 environmental quality review, provided further that any amendment to the
46 permissible use of non-buildable land shall be subject to such review,
47 as applicable.

48 (c) No amendment undertaken pursuant to paragraph (a) of this subdivi-
49 sion shall create or otherwise impose any unreasonable laws, rules,
50 regulations, guidelines or restrictions that effectively prevent the
51 construction or occupation of qualifying projects, including, but not
52 limited to, any such laws, rules, regulations, guidelines or
53 restrictions governing lot coverage, open space, height, setbacks, floor
54 area ratios, or parking requirements.

(d) Prior to the finalization of the amendment undertaken pursuant to paragraph (a) of this subdivision, the lead agency equivalent shall set forth in writing and publish:

(i) a description of the land that is part of the applicable transit-oriented development zone;

(ii) a description of the land that is exempt from the aggregate density requirement;

(iii) a description of any exempt land that would otherwise be included in the transit-oriented development zone;

(iv) a specific description of the permissible land uses within the applicable transit-oriented development zone prior to the amendment;

(v) a specific description of the proposed permissible land uses within the applicable transit-oriented development zone following the amendment;

(vi) the allowable aggregate density, meaning the average allowable density within the applicable transit-oriented development zone, of residential dwellings prior to the amendment;

(vii) the allowable aggregate density, meaning the average allowable density within the applicable transit-oriented development zone, of residential dwellings subsequent to the amendment;

(viii) the capacity of the drinking water supply and wastewater treatment services, as applicable, to support the proposed increased residential dwellings density contemplated by the amendment;

(ix) the capacity of local infrastructure to provide adequate utility services to support the proposed increased residential dwellings density contemplated by the amendment;

(x) the existence of sites containing or contaminated by hazardous waste within the area contemplated by the amendment;

(xi) any required stormwater runoff strategies or requirements contemplated by the amendment; and

(xii) a specific description of any land within the applicable transit-oriented development zone located within the one-hundred-year flood plain or where the depth to the water table is less than three feet.

(e) In the event that a city fails to finalize the amendment pursuant to and within the required time set forth in paragraph (a) of this subdivision, and until such time as a city comprehensively updates its local land use tools in compliance with paragraph (a) of this subdivision, and notwithstanding the provisions of any general, special, local, or other law, including the common law, to the contrary:

(i) All cities shall permit the construction and occupation of residential dwellings with a density up to and including the applicable aggregate density requirement in any residential zone;

(ii) No city shall impose restrictions that effectively prevent the construction or occupancy of such residential dwellings, including, but not limited to, any such restrictions related to lot coverage, open space, height, setbacks, floor area ratios, or parking requirements; and

(iii) A project for residential dwellings, which would otherwise be classified as a qualifying project if a city timely adopted an amendment pursuant to paragraph (a) of this subdivision and which is approved by a city or lead agency equivalent pursuant to a transit-oriented development review process prior to the date of the amendment, shall be vested upon the issuance of a building permit in the event a subsequently enacted amendment or any updates to the land use tools are contrary to the rights granted for such project. Such vested rights shall exist without the need for the permit holder to demonstrate substantial expenditure and substantial construction in accordance with the permit

1 prior to the effective date of the amendment or any updates to the land
2 use tools.

3 3. Transit-oriented development review process. (a) In the event that
4 a city fails to finalize the amendment pursuant to and within the
5 required time set forth in paragraph (a) of subdivision two of this
6 section, and until such time as a city comprehensively updates its local
7 land use tools in compliance with paragraph (a) of subdivision two of
8 this section, any project specific review related to a proposed qualify-
9 ing project shall be reviewed pursuant to the transit-oriented develop-
10 ment review process.

11 (b) After the finalization of the amendment undertaken pursuant to
12 paragraph (a) of subdivision two of this section, any project specific
13 review related to a proposed qualifying project shall be reviewed pursu-
14 ant to the transit-oriented development review process.

15 4. Enforcement. (a) (i) The attorney general of the state of New York
16 may commence an action in a court of appropriate jurisdiction to compel
17 a city to amend its local land use tools in compliance with the require-
18 ments set forth in subdivision two of this section if the city fails to
19 do so within the required timeframe set forth therein.

20 (ii) A party may pursue a cause of action pursuant to paragraph (b) of
21 this subdivision if such party is improperly denied permission by a lead
22 agency equivalent to build a qualifying project pursuant to paragraph
23 (b) of subdivision three of this section.

24 (b) (i) Upon a failure of a city to comply with the deadlines set
25 forth in subdivision two of this section, or a lead agency equivalent's
26 denial of any application submitted in relation to a qualifying project
27 in violation of paragraph (a) of subdivision three of this section, any
28 party aggrieved by any such failure or denial may commence a special
29 proceeding against the subject city or lead agency equivalent and the
30 officers of such city and lead agency equivalent in the supreme court
31 within the judicial district in which the city or the greater portion of
32 the territory of such city is located to compel compliance with the
33 provisions of this section.

34 (ii) If, upon commencement of such proceeding, it shall appear to the
35 court that testimony is necessary for the proper disposition of the
36 matter, the court may take evidence and determine the matter. Alterna-
37 tively, the court may appoint a hearing officer pursuant to article
38 forty-three of the civil practice law and rules to take such evidence as
39 it may direct and report the same to the court with the hearing offi-
40 cer's findings of fact and conclusions of law, which shall constitute a
41 part of the proceedings upon which the determination of the court shall
42 be made.

43 (iii) The city or lead agency equivalent must set forth the reasons
44 for the denial of the application and must demonstrate by clear and
45 convincing evidence that the city or lead agency equivalent denied the
46 application due to bona fide health and safety concerns, or pursuant to
47 the transit-oriented development review process that complies with the
48 requirements of this section. If the city or lead agency equivalent
49 meets such burden, the applicant shall be given the opportunity to
50 demonstrate that the concerns raised by the city or lead agency equiv-
51 alent are pretextual or that such concerns can be addressed or mitigated
52 by changes to the qualifying project.

53 (iv) The court may reverse or affirm, wholly or partly, or may modify
54 the decision brought up for review. The court may also remand to the
55 city or lead agency equivalent to process or further consider an appli-

1 cation consistent with the terms of any order of the court, including on
2 an expedited basis.

3 (v) Costs shall not be allowed against the city, lead agency equiv-
4 alent, and the officer whose failure or refusal gave rise to the special
5 proceeding, unless it shall appear to the court that the city, lead
6 agency equivalent, and its officers or employees acted with gross negli-
7 gence, in bad faith, or with malice.

8 § 4. The town law is amended by adding a new section 261-d to read as
9 follows:

10 § 261-d. Density of residential dwellings near transit stations. 1.
11 Definitions. As used in this section, the following terms shall have the
12 following meanings:

13 (a) "Aggregate density requirement" shall be defined as a required
14 minimum average density of residential dwellings per acre across a tran-
15 sit-oriented development zone, provided that exempt land shall not be
16 included in the calculation to determine the aggregate density require-
17 ment. Provided further that:

18 (i) Within a tier 1 transit-oriented development zone, the required
19 minimum average density shall be fifty residential dwellings per acre;

20 (ii) Within a tier 2 transit-oriented development zone, the required
21 minimum average density shall be thirty residential dwellings per acre;

22 (iii) Within a tier 3 transit-oriented development zone, the required
23 minimum average density shall be twenty residential dwellings per acre;
24 and

25 (iv) Within a tier 4 transit-oriented development zone, the required
26 minimum average density shall be fifteen residential dwellings per acre.

27 (b) "Amendment" shall be defined as any local legislative, executive,
28 or administrative change made to a town's local land use tools pursuant
29 to subdivision two of this section.

30 (c) "Economically infeasible" shall mean any condition brought about
31 by any single factor or combination of factors to the extent that it
32 makes it substantially unlikely for an owner to proceed in building a
33 residential housing project and still realize a reasonable return in
34 building or operating such housing without substantially changing the
35 rent levels, unit sizes, or unit counts proposed by the owner.

36 (d) "Exempt land" shall be defined as non-buildable land, cemeteries,
37 mapped or dedicated parks, registered historic sites, and highways.

38 (e) "Highways" shall be defined as a vehicle road designated and iden-
39 tified pursuant to the New York state or federal interstate highway
40 system.

41 (f) "Lead agency equivalent" shall be defined as any town or common
42 council or other legislative body of the town, planning board, zoning
43 board of appeals, planning division, planning commission, board of stan-
44 dards and appeals, board of zoning appeals, or any official or employee,
45 or any other agency, department, board, body, or other entity in a town
46 with the authority to approve or disapprove of any specific project or
47 amendment to any local land use tools as defined herein.

48 (g) "Local land use tools" shall be adopted or enacted under this
49 chapter, the municipal home rule law, or any general, special or other
50 law pertaining to land use, and shall include but not be limited to a
51 town's:

52 (i) written or other comprehensive plan or plans;

53 (ii) zoning ordinance, local laws, resolutions or regulations;

54 (iii) special use permit, special exception permit, or special permit
55 ordinance, local laws, resolutions or regulations;

56 (iv) subdivision ordinance, local laws, resolutions or regulations;

1 (v) site plan review ordinance, local laws, resolutions or regu-
2 lations; and/or

3 (vi) policies or procedures, or any planning, zoning, or other land
4 use regulatory tool that controls or establishes standards for the use
5 and occupancy of land, the area and dimensional requirements for the
6 development of land or the intensity of such development.

7 (h) "Mapped or dedicated parks" shall be defined as:

8 (i) any land designated on an official map established as authorized
9 by law or depicted on another map adopted or enacted by the local
10 governing board as a publicly accessible space designated for park or
11 recreational use on or before the effective date of this section; or

12 (ii) any parkland expressly or impliedly dedicated to park or recre-
13 ational use on or before the effective date of this section.

14 (i) "Non-buildable land" shall be defined as any land that cannot be
15 built upon without significant alterations to the natural terrain needed
16 to make such land suitable for construction, including but not limited
17 to rivers and streams, freshwater and tidal wetlands, marshlands, coas-
18 tal erosion hazard areas, one-hundred-year flood plain, and protected
19 forests. No land that has previously had a building or other improve-
20 ment, including but not limited to parking lots, constructed on it shall
21 be considered non-buildable land.

22 (j) "Objective standards" shall be defined as standards that involve
23 no personal or subjective judgment by a public official or employee and
24 are uniformly verifiable by reference to a publicly available and
25 uniform benchmark or criterion available and knowable by both the devel-
26 opment applicant and the public official or employee before submittal of
27 a land use application to locate and develop residential dwellings.

28 (k) "Project specific review" shall be defined as any review or
29 approval process related to a specific site, or to a proposed develop-
30 ment or an application, regardless of the number of sites, including,
31 but not limited to, variance, waiver, special permit, site plan review
32 or subdivision review.

33 (l) "Qualifying project" shall be defined as a proposed project that
34 consists primarily of residential dwellings that is or will be located
35 within a transit-oriented development zone and which will be connected
36 to publicly-owned water and sewage systems.

37 (m) "Registered historic sites" shall be defined as sites, districts,
38 structures, landmarks, or buildings listed on the state register of
39 historic places as of the effective date of this section.

40 (n) "Residential dwellings" shall be defined as any building or struc-
41 ture or portion thereof which is legally occupied in whole or in part as
42 the home, residence or sleeping place of one or more human beings,
43 however the term does not include any class B multiple dwellings as
44 defined in section four of the multiple dwelling law or housing that is
45 intended to be used on a seasonal basis.

46 (o) "Residential zone" shall be defined as any land within a transit-
47 oriented development zone wherein residential dwellings are permitted as
48 of the effective date of this section.

49 (p) "Transit-oriented development review process" is the process by
50 which all project specific reviews in a transit-oriented development
51 zone and all other land use actions undertaken pursuant to this section
52 shall be reviewed, which shall:

53 (i) Be completed with approval or denial delivered to the applying
54 party within one hundred twenty days of the application being submitted;
55 and

56 (ii) Be limited to a review of the following:

1 (A) The capacity of local infrastructure to provide adequate drinking
2 water and wastewater services to the proposed project;

3 (B) The capacity of local infrastructure to provide adequate utility
4 services to the proposed project; and

5 (C) The aesthetics of the proposed project, provided that any aesthet-
6 ic review must be based on published objective standards. If no objec-
7 tive standards are published, no transit-oriented development review
8 process may consider aesthetics, and provided further that no aesthetic
9 requirements shall increase the cost of a qualifying project to make
10 such project as proposed economically infeasible.

11 All proposed actions subject to review pursuant to a transit-oriented
12 development review process shall be exempt from any environmental review
13 requirements pursuant to article eight of the environmental conservation
14 law and any rules and regulations promulgated thereto, and any local
15 equivalent law, regulation or rule. Provided further that nothing set
16 forth in this paragraph shall be interpreted to override or otherwise
17 waive any permitting required pursuant to state or federal laws or regu-
18 lations, unless specifically set forth herein.

19 (q) "Tier 1 qualifying transit station" shall be defined as any rail
20 station, including subway stations, within the state of New York that is
21 not operated on an exclusively seasonal basis and that is owned, oper-
22 ated or otherwise served by metro-north railroad, the Long Island rail-
23 road, the port authority of New York and New Jersey, the New Jersey
24 transit corporation, the New York city transit authority, or the metro-
25 politan transportation authority where any portion of such station is
26 located either within a town with a population of greater than one
27 million people, or no more than fifteen miles from the nearest border of
28 a city with a population of greater than one million people, as measured
29 on a straight line from such city's nearest border to such rail station.

30 (r) "Tier 2 qualifying transit station" shall be defined as any rail
31 station, including subway stations, within the state of New York that is
32 not operated on an exclusively seasonal basis and that is owned, oper-
33 ated or otherwise served by metro-north railroad, the Long Island rail-
34 road, the port authority of New York and New Jersey, the New Jersey
35 transit corporation, the New York city transit authority, or the metro-
36 politan transportation authority where any portion of such station is
37 located more than fifteen and no more than thirty miles from the nearest
38 border of a city with a population of greater than one million people,
39 as measured on a straight line from such city's nearest border to such
40 rail station.

41 (s) "Tier 3 qualifying transit station" shall be defined as any rail
42 station, including subway stations, within the state of New York that is
43 not operated on an exclusively seasonal basis and that is owned, oper-
44 ated or otherwise served by metro-north railroad, the Long Island rail-
45 road, the port authority of New York and New Jersey, the New Jersey
46 transit corporation, the New York city transit authority, or the metro-
47 politan transportation authority where any portion of such station is
48 located more than thirty and no more than fifty miles from the nearest
49 border of a city with a population of greater than one million people,
50 as measured on a straight line from such city's nearest border to such
51 rail station.

52 (t) "Tier 4 qualifying transit station" shall be defined as any rail
53 station, including subway stations, within the state of New York that is
54 not operated on an exclusively seasonal basis and that is owned, oper-
55 ated or otherwise served by metro-north railroad, the Long Island rail-
56 road, the port authority of New York and New Jersey, the New Jersey

1 transit corporation, the New York city transit authority, or the metro-
2 politan transportation authority where the entirety of such station is
3 located more than fifty miles from the nearest border of a city with a
4 population of greater than one million people, as measured on a straight
5 line from such city's nearest border to such rail station.

6 (u) "Tier 1 transit-oriented development zone" shall be defined as any
7 land, other than exempt land, located within a one-half mile radius of
8 any publicly accessible areas of a tier 1 qualifying transit station,
9 provided that such publicly accessible areas include, but are not limit-
10 ed to, platforms, ticketing areas, waiting areas, entrances and exits,
11 and parking lots or parking structures that provide parking for custom-
12 ers of such tier 1 qualifying transit stations, and are appurtenant to
13 such tier 1 qualifying transit stations, regardless of the ownership of
14 such parking structures or facilities, as of the effective date of this
15 section. Provided further that any tier 1 qualifying transit station
16 shall be considered to be part of such tier 1 transit-oriented develop-
17 ment zone.

18 (v) "Tier 2 transit-oriented development zone" shall be defined as any
19 land, other than exempt land, located within a one-half mile radius of
20 any publicly accessible areas of a tier 2 qualifying transit station,
21 provided that such publicly accessible areas include, but are not limit-
22 ed to, platforms, ticketing areas, waiting areas, entrances and exits,
23 and parking lots or parking structures that provide parking for custom-
24 ers of such tier 2 qualifying transit stations, and are appurtenant to
25 such tier 2 qualifying transit stations, regardless of the ownership of
26 such parking structures or facilities, as of the effective date of this
27 section. Provided further that any tier 2 qualifying transit station
28 shall be considered to be part of such tier 2 transit-oriented develop-
29 ment zone.

30 (w) "Tier 3 transit-oriented development zone" shall be defined as any
31 land, other than exempt land, located within a one-half mile radius of
32 any publicly accessible areas of a tier 3 qualifying transit station,
33 provided that such publicly accessible areas include, but are not limit-
34 ed to, platforms, ticketing areas, waiting areas, entrances and exits,
35 and parking lots or parking structures that provide parking for custom-
36 ers of such tier 3 qualifying transit stations, and are appurtenant to
37 such tier 3 qualifying transit stations, regardless of the ownership of
38 such parking structures or facilities, as of the effective date of this
39 section. Provided further that any tier 3 qualifying transit station
40 shall be considered to be part of such tier 3 transit-oriented develop-
41 ment zone.

42 (x) "Tier 4 transit-oriented development zone" shall be defined as any
43 land, other than exempt land, located within a one-half mile radius of
44 any publicly accessible areas of a tier 4 qualifying transit station,
45 provided that such publicly accessible areas include, but are not limit-
46 ed to, platforms, ticketing areas, waiting areas, entrances and exits,
47 and parking lots or parking structures that provide parking for custom-
48 ers of such tier 4 qualifying transit stations, and are appurtenant to
49 such tier 4 qualifying transit stations, regardless of the ownership of
50 such parking structures or facilities, as of the effective date of this
51 section. Provided further that any tier 4 qualifying transit station
52 shall be considered to be part of such tier 4 transit-oriented develop-
53 ment zone.

54 (y) "Transit-oriented development zone" shall refer to a tier 1 tran-
55 sit-oriented development zone, a tier 2 transit-oriented development

1 zone, a tier 3 transit-oriented development zone, or a tier 4 transit-
2 oriented development zone, as applicable.

3 2. Amendment to local land use tools. (a) A town's local land use
4 tools shall be amended to meet or exceed the aggregate density require-
5 ment on or before the date that is three years subsequent to the effec-
6 tive date of this section unless such aggregate density requirement is
7 permitted pursuant to a town's local land use tools without requiring
8 any amendment.

9 (b) Any amendment undertaken pursuant to paragraph (a) of this subdi-
10 vision shall be exempt from any review required pursuant to article
11 eight of the environmental conservation law and any rules and regu-
12 lations promulgated thereto, and any local equivalent law, regulation,
13 or rule, provided further that any amendment to the permissible use of
14 non-buildable land shall be subject to such review, as applicable.

15 (c) No amendment undertaken pursuant to paragraph (a) of this subdivi-
16 sion shall create or otherwise impose any unreasonable laws, rules,
17 regulations, guidelines or restrictions that effectively prevent the
18 construction or occupation of qualifying projects, including, but not
19 limited to, any such laws, rules, regulations, guidelines or
20 restrictions governing lot coverage, open space, height, setbacks, floor
21 area ratios, or parking requirements.

22 (d) Prior to the finalization of the amendment undertaken pursuant to
23 paragraph (a) of this subdivision, the lead agency equivalent shall set
24 forth in writing and publish:

25 (i) a description of the land that is part of the applicable transit-
26 oriented development zone;

27 (ii) a description of the land that is exempt from the aggregate
28 density requirement;

29 (iii) a description of any exempt land that would otherwise be
30 included in the transit-oriented development zone;

31 (iv) a specific description of the permissible land uses within the
32 applicable transit-oriented development zone prior to the amendment;

33 (v) a specific description of the proposed permissible land uses with-
34 in the applicable transit-oriented development zone following the amend-
35 ment;

36 (vi) the allowable aggregate density, meaning the average allowable
37 density within the applicable transit-oriented development zone, of
38 residential dwellings prior to the amendment;

39 (vii) the allowable aggregate density, meaning the average allowable
40 density within the applicable transit-oriented development zone, of
41 residential dwellings subsequent to the amendment;

42 (viii) the capacity of the drinking water supply and wastewater treat-
43 ment services, as applicable, to support the proposed increased residen-
44 tial dwellings density contemplated by the amendment;

45 (ix) the capacity of local infrastructure to provide adequate utility
46 services to support the proposed increased residential dwellings density
47 contemplated by the amendment;

48 (x) the existence of sites containing or contaminated by hazardous
49 waste within the area contemplated by the amendment;

50 (xi) any required stormwater runoff strategies or requirements contem-
51 plated by the amendment; and

52 (xii) a specific description of any land within the applicable tran-
53 sit-oriented development zone located within the one-hundred-year flood
54 plain or where the depth to the water table is less than three feet.

55 (e) In the event that a town fails to finalize the amendment pursuant
56 to and within the required time set forth in paragraph (a) of this

1 subdivision, and until such time as a town comprehensively updates its
2 local land use tools in compliance with paragraph (a) of this subdivi-
3 sion, and notwithstanding the provisions of any general, special, local,
4 or other law, including the common law, to the contrary:

5 (i) All towns shall permit the construction and occupation of residen-
6 tial dwellings with a density up to and including the applicable aggre-
7 gate density requirement in any residential zone;

8 (ii) No town shall impose restrictions that effectively prevent the
9 construction or occupancy of such residential dwellings, including, but
10 not limited to, any such restrictions related to lot coverage, open
11 space, height, setbacks, floor area ratios, or parking requirements; and

12 (iii) A project for residential dwellings, which would otherwise be
13 classified as a qualifying project if a town timely adopted an amendment
14 pursuant to paragraph (a) of this subdivision and which is approved by a
15 town or lead agency equivalent pursuant to a transit-oriented develop-
16 ment review process prior to the date of the amendment, shall be vested
17 upon the issuance of a building permit in the event a subsequently
18 enacted amendment or any updates to the land use tools are contrary to
19 the rights granted for such project. Such vested rights shall exist
20 without the need for the permit holder to demonstrate substantial
21 expenditure and substantial construction in accordance with the permit
22 prior to the effective date of the amendment or any updates to the land
23 use tools.

24 3. Transit-oriented development review process. (a) In the event that
25 a town fails to finalize the amendment pursuant to and within the
26 required time set forth in paragraph (a) of subdivision two of this
27 section, and until such time as a town comprehensively updates its local
28 land use tools in compliance with paragraph (a) of subdivision two of
29 this section, any project specific review related to a proposed qualify-
30 ing project shall be reviewed pursuant to the transit-oriented develop-
31 ment review process.

32 (b) After the finalization of the amendment undertaken pursuant to
33 paragraph (a) of subdivision two, any project specific review related to
34 a proposed qualifying project shall be reviewed pursuant to the tran-
35 sit-oriented development review process.

36 4. Enforcement. (a)(i) The attorney general of the state of New York
37 may commence an action in a court of appropriate jurisdiction to compel
38 a town to amend its local land use tools in compliance with the require-
39 ments set forth in subdivision two of this section if the town fails to
40 do so within the required timeframe set forth therein.

41 (ii) A party may pursue a cause of action pursuant to paragraph (b) of
42 this subdivision if such party is improperly denied permission by a lead
43 agency equivalent to build a qualifying project pursuant to paragraph
44 (b) of subdivision three of this section.

45 (b) (i) Upon a failure of a town to comply with the deadlines set
46 forth in subdivision two of this section, or a lead agency equivalent's
47 denial of any application submitted in relation to a qualifying project
48 in violation of paragraph (a) of subdivision three of this section, any
49 party aggrieved by any such failure or denial may commence a special
50 proceeding against the subject town or lead agency equivalent and the
51 officers of such town and lead agency equivalent in the supreme court
52 within the judicial district in which the town or the greater portion of
53 the territory of such town is located to compel compliance with the
54 provisions of this section.

55 (ii) If, upon commencement of such proceeding, it shall appear to the
56 court that testimony is necessary for the proper disposition of the

1 matter, the court may take evidence and determine the matter. Alterna-
2 tively, the court may appoint a hearing officer pursuant to article
3 forty-three of the civil practice law and rules to take such evidence as
4 it may direct and report the same to the court with the hearing offi-
5 cer's findings of fact and conclusions of law, which shall constitute a
6 part of the proceedings upon which the determination of the court shall
7 be made.

8 (iii) The town or lead agency equivalent must set forth the reasons
9 for the denial of the application and must demonstrate by clear and
10 convincing evidence that the town or lead agency equivalent denied the
11 application due to bona fide health and safety concerns, or pursuant to
12 the transit-oriented development review process that complies with the
13 requirements of this section. If the town or lead agency equivalent
14 meets such burden, the applicant shall be given the opportunity to
15 demonstrate that the concerns raised by the town or lead agency equiv-
16 alent are pretextual or that such concerns can be addressed or mitigated
17 by changes to the qualifying project.

18 (iv) The court may reverse or affirm, wholly or partly, or may modify
19 the decision brought up for review. The court may also remand to the
20 town or lead agency equivalent to process or further consider an appli-
21 cation consistent with the terms of any order of the court, including on
22 an expedited basis.

23 (v) Costs shall not be allowed against the town, lead agency equiv-
24 alent, and the officers whose failure or refusal gave rise to the
25 special proceeding, unless it shall appear to the court that the town,
26 lead agency equivalent, and its officers or employees acted with gross
27 negligence, in bad faith, or with malice.

28 § 5. The village law is amended by adding a new section 7-700-a to
29 read as follows:

30 § 7-700-a Density of residential dwellings near transit stations. 1.
31 Definitions. As used in this section, the following terms shall have the
32 following meanings:

33 (a) "Aggregate density requirement" shall be defined as a required
34 minimum average density of residential dwellings per acre across a tran-
35 sit-oriented development zone, provided that exempt land shall not be
36 included in the calculation to determine the aggregate density require-
37 ment. Provided further that:

38 (i) Within a tier 1 transit-oriented development zone, the required
39 minimum average density shall be fifty residential dwellings per acre;

40 (ii) Within a tier 2 transit-oriented development zone, the required
41 minimum average density shall be thirty residential dwellings per acre;

42 (iii) Within a tier 3 transit-oriented development zone, the required
43 minimum average density shall be twenty residential dwellings per acre;

44 and

45 (iv) Within a tier 4 transit-oriented development zone, the required
46 minimum average density shall be fifteen residential dwellings per acre.

47 (b) "Amendment" shall be defined as any local legislative, executive,
48 or administrative change made to a village's local land use tools pursu-
49 ant to subdivision two of this section.

50 (c) "Economically infeasible" shall mean any condition brought about
51 by any single factor or combination of factors to the extent that it
52 makes it substantially unlikely for an owner to proceed in building a
53 residential housing project and still realize a reasonable return in
54 building or operating such housing without substantially changing the
55 rent levels, unit sizes, or unit counts proposed by the owner.

1 (d) "Exempt land" shall be defined as non-buildable land, cemeteries,
2 mapped or dedicated parks, registered historic sites, and highways.

3 (e) "Highways" shall be defined as a vehicle road designated and iden-
4 tified pursuant to the New York state or federal interstate highway
5 system.

6 (f) "Lead agency equivalent" shall be defined as any village or common
7 council or other legislative body of the village, planning board, zoning
8 board of appeals, planning division, planning commission, board of stan-
9 dards and appeals, board of zoning appeals, or any official or employee,
10 or any other agency, department, board, body, or other entity in a
11 village with the authority to approve or disapprove of any specific
12 project or amendment to any local land use tools as defined herein.

13 (g) "Local land use tools" shall be adopted or enacted under this
14 chapter, the municipal home rule law, or any general, special or other
15 law pertaining to land use, and shall include but not be limited to a
16 village's:

17 (i) written or other comprehensive plan or plans;

18 (ii) zoning ordinance, local laws, resolutions or regulations;

19 (iii) special use permit, special exception permit, or special permit
20 ordinance, local laws, resolutions or regulations;

21 (iv) subdivision ordinance, local laws, resolutions or regulations;

22 (v) site plan review ordinance, local laws, resolutions or regu-
23 lations; and/or

24 (vi) policies or procedures, or any planning, zoning, or other land
25 use regulatory tool that controls or establishes standards for the use
26 and occupancy of land, the area and dimensional requirements for the
27 development of land or the intensity of such development.

28 (h) "Mapped or dedicated parks" shall be defined as:

29 (i) any land designated on an official map established as authorized
30 by law or depicted on another map adopted or enacted by the local
31 governing board as a publicly accessible space designated for park or
32 recreational use on or before the effective date of this section; or

33 (ii) any parkland expressly or impliedly dedicated to park or recre-
34 ational use on or before the effective date of this section.

35 (i) "Non-buildable land" shall be defined as any land that cannot be
36 built upon without significant alterations to the natural terrain needed
37 to make such land suitable for construction, including but not limited
38 to rivers and streams, freshwater and tidal wetlands, marshlands, coas-
39 tal erosions hazard areas, one-hundred-year flood plain, and protected
40 forests. No land that has previously had a building or other improve-
41 ment, including but not limited to parking lots, constructed on it shall
42 be considered non-buildable land.

43 (j) "Objective standards" shall be defined as standards that involve
44 no personal or subjective judgment by a public official or employee and
45 are uniformly verifiable by reference to a publicly available and
46 uniform benchmark or criterion available and knowable by both the devel-
47 opment applicant and the public official or employee before submittal of
48 a land use application to locate and develop residential dwellings.

49 (k) "Project specific review" shall be defined as any review or
50 approval process related to a specific site, or to a proposed develop-
51 ment or an application, regardless of the number of sites, including,
52 but not limited to, variance, waiver, special permit, site plan review
53 or subdivision review.

54 (l) "Qualifying project" shall be defined as a proposed project that
55 consists primarily of residential dwellings that is or will be located

1 within a transit-oriented development zone and which will be connected
2 to publicly-owned water and sewage systems.

3 (m) "Registered historic sites" shall be defined as sites, districts,
4 structures, landmarks, or buildings listed on the state register of
5 historic places as of the effective date of this section.

6 (n) "Residential dwellings" shall be defined as any building or struc-
7 ture or portion thereof which is legally occupied in whole or in part as
8 the home, residence or sleeping place of one or more human beings,
9 however the term does not include any class B multiple dwellings as
10 defined in section four of the multiple dwelling law or housing that is
11 intended to be used on a seasonal basis.

12 (o) "Residential zone" shall be defined as any land within a transit-
13 oriented development zone wherein residential dwellings are permitted as
14 of the effective date of this section.

15 (p) "Transit-oriented development review process" is the process by
16 which all project specific reviews in a transit-oriented development
17 zone and all other land use actions undertaken pursuant to this section
18 shall be reviewed, which shall:

19 (i) Be completed with approval or denial delivered to the applying
20 party within one hundred twenty days of the application being submitted;
21 and

22 (ii) Be limited to a review of the following:

23 (A) The capacity of local infrastructure to provide adequate drinking
24 water and wastewater services to the proposed project;

25 (B) The capacity of local infrastructure to provide adequate utility
26 services to the proposed project; and

27 (C) The aesthetics of the proposed project, provided that any aesthet-
28 ic review must be based on published objective standards. If no objec-
29 tive standards are published, no transit-oriented development review
30 process may consider aesthetics, and provided further that no aesthetic
31 requirements shall increase the cost of a qualifying project to make
32 such project as proposed economically infeasible.

33 All proposed actions subject to review pursuant to a transit-oriented
34 development review process shall be exempt from any environmental review
35 requirements pursuant to article eight of the environmental conservation
36 law and any rules and regulations promulgated thereto, and any local
37 equivalent law, regulation or rule. Provided further that nothing set
38 forth in this paragraph shall be interpreted to override or otherwise
39 waive any permitting required pursuant to state or federal laws or regu-
40 lations, unless specifically set forth herein.

41 (q) "Tier 1 qualifying transit station" shall be defined as any rail
42 station, including subway stations, within the state of New York that is
43 not operated on an exclusively seasonal basis and that is owned, oper-
44 ated or otherwise served by metro-north railroad, the Long Island rail-
45 road, the port authority of New York and New Jersey, the New Jersey
46 transit corporation, the New York city transit authority, or the metro-
47 politan transportation authority where any portion of such station is
48 located either within a village with a population of greater than one
49 million people, or no more than fifteen miles from the nearest border of
50 a city with a population of greater than one million people, as measured
51 on a straight line from such city's nearest border to such rail station.

52 (r) "Tier 2 qualifying transit station" shall be defined as any rail
53 station, including subway stations, within the state of New York that is
54 not operated on an exclusively seasonal basis and that is owned, oper-
55 ated or otherwise served by metro-north railroad, the Long Island rail-
56 road, the port authority of New York and New Jersey, the New Jersey

1 transit corporation, the New York city transit authority, or the metro-
2 politan transportation authority where any portion of such station is
3 located more than fifteen and no more than thirty miles from the nearest
4 border of a city with a population of greater than one million people,
5 as measured on a straight line from such city's nearest border to such
6 rail station.

7 (s) "Tier 3 qualifying transit station" shall be defined as any rail
8 station, including subway stations, within the state of New York that is
9 not operated on an exclusively seasonal basis and that is owned, oper-
10 ated or otherwise served by metro-north railroad, the Long Island rail-
11 road, the port authority of New York and New Jersey, the New Jersey
12 transit corporation, the New York city transit authority, or the metro-
13 politan transportation authority where any portion of such station is
14 located more than thirty and no more than fifty miles from the nearest
15 border of a city with a population of greater than one million people,
16 as measured on a straight line from such city's nearest border to such
17 rail station.

18 (t) "Tier 4 qualifying transit station" shall be defined as any rail
19 station, including subway stations, within the state of New York that is
20 not operated on an exclusively seasonal basis and that is owned, oper-
21 ated or otherwise served by metro-north railroad, the Long Island rail-
22 road, the port authority of New York and New Jersey, the New Jersey
23 transit corporation, the New York city transit authority, or the metro-
24 politan transportation authority where the entirety of such station is
25 located more than fifty miles from the nearest border of a city with a
26 population of greater than one million people, as measured on a straight
27 line from such city's nearest border to such rail station.

28 (u) "Tier 1 transit-oriented development zone" shall be defined as any
29 land, other than exempt land, located within a one-half mile radius of
30 any publicly accessible areas of a tier 1 qualifying transit station,
31 provided that such publicly accessible areas include, but are not limit-
32 ed to, platforms, ticketing areas, waiting areas, entrances and exits,
33 and parking lots or parking structures that provide parking for custom-
34 ers of such tier 1 qualifying transit stations, and are appurtenant to
35 such tier 1 qualifying transit stations, regardless of the ownership of
36 such parking structures or facilities, as of the effective date of this
37 section. Provided further that any tier 1 qualifying transit station
38 shall be considered to be part of such tier 1 transit-oriented develop-
39 ment zone.

40 (v) "Tier 2 transit-oriented development zone" shall be defined as any
41 land, other than exempt land, located within a one-half mile radius of
42 any publicly accessible areas of a tier 2 qualifying transit station,
43 provided that such publicly accessible areas include, but are not limit-
44 ed to, platforms, ticketing areas, waiting areas, entrances and exits,
45 and parking lots or parking structures that provide parking for custom-
46 ers of such tier 2 qualifying transit stations, and are appurtenant to
47 such tier 2 qualifying transit stations, regardless of the ownership of
48 such parking structures or facilities, as of the effective date of this
49 section. Provided further that any tier 2 qualifying transit station
50 shall be considered to be part of such tier 2 transit-oriented develop-
51 ment zone.

52 (w) "Tier 3 transit-oriented development zone" shall be defined as any
53 land, other than exempt land, located within a one-half mile radius of
54 any publicly accessible areas of a tier 3 qualifying transit station,
55 provided that such publicly accessible areas include, but are not limit-
56 ed to, platforms, ticketing areas, waiting areas, entrances and exits,

1 and parking lots or parking structures that provide parking for custom-
2 ers of such tier 3 qualifying transit stations, and are appurtenant to
3 such tier 3 qualifying transit stations, regardless of the ownership of
4 such parking structures or facilities, as of the effective date of this
5 section. Provided further that any tier 3 qualifying transit station
6 shall be considered to be part of such tier 3 transit-oriented develop-
7 ment zone.

8 (x) "Tier 4 transit-oriented development zone" shall be defined as any
9 land, other than exempt land, located within a one-half mile radius of
10 any publicly accessible areas of a tier 4 qualifying transit station,
11 provided that such publicly accessible areas include, but are not limit-
12 ed to, platforms, ticketing areas, waiting areas, entrances and exits,
13 and parking lots or parking structures that provide parking for custom-
14 ers of such tier 4 qualifying transit stations, and are appurtenant to
15 such tier 4 qualifying transit stations, regardless of the ownership of
16 such parking structures or facilities, as of the effective date of this
17 section. Provided further that any tier 4 qualifying transit station
18 shall be considered to be part of such tier 4 transit-oriented develop-
19 ment zone.

20 (y) "Transit-oriented development zone" shall refer to a tier 1 tran-
21 sit-oriented development zone, a tier 2 transit-oriented development
22 zone, a tier 3 transit-oriented development zone, or a tier 4 transit-
23 oriented development zone, as applicable.

24 2. Amendment to local land use tools. (a) A village's local land use
25 tools shall be amended to meet or exceed the aggregate density require-
26 ment on or before the date that is three years subsequent to the effec-
27 tive date of this section unless such aggregate density requirement is
28 permitted pursuant to a village's local land use tools without requiring
29 any amendment.

30 (b) Any amendment undertaken pursuant to paragraph (a) of this subdivi-
31 sion shall be exempt from any review required pursuant to article
32 eight of the environmental conservation law and any rules and regu-
33 lations promulgated thereto, and any local equivalent law, regulation,
34 or rule, provided further that any amendment to the permissible use of
35 non-buildable land shall be subject to such review, as applicable.

36 (c) No amendment undertaken pursuant to paragraph (a) of this subdivi-
37 sion shall create or otherwise impose any unreasonable laws, rules,
38 regulations, guidelines or restrictions that effectively prevent the
39 construction or occupation of qualifying projects, including, but not
40 limited to, any such laws, rules, regulations, guidelines or
41 restrictions governing lot coverage, open space, height, setbacks, floor
42 area ratios, or parking requirements.

43 (d) Prior to the finalization of the amendment undertaken pursuant to
44 paragraph (a) of this subdivision, the lead agency equivalent shall set
45 forth in writing and publish:

46 (i) a description of the land that is part of the applicable transit-
47 oriented development zone;

48 (ii) a description of the land that is exempt from the aggregate
49 density requirement;

50 (iii) a description of any exempt land that would otherwise be
51 included in the transit-oriented development zone;

52 (iv) a specific description of the permissible land uses within the
53 applicable transit-oriented development zone prior to the amendment;

54 (v) a specific description of the proposed permissible land uses with-
55 in the applicable transit-oriented development zone following the amend-
56 ment;

1 (vi) the allowable aggregate density, meaning the average allowable
2 density within the applicable transit-oriented development zone, of
3 residential dwellings prior to the amendment;

4 (vii) the allowable aggregate density, meaning the average allowable
5 density within the applicable transit-oriented development zone, of
6 residential dwellings subsequent to the amendment;

7 (viii) the capacity of the drinking water supply and wastewater treat-
8 ment services, as applicable, to support the proposed increased residen-
9 tial dwellings density contemplated by the amendment;

10 (ix) the capacity of local infrastructure to provide adequate utility
11 services to support the proposed increased residential dwellings density
12 contemplated by the amendment;

13 (x) the existence of sites containing or contaminated by hazardous
14 waste within the area contemplated by the amendment;

15 (xi) any required stormwater runoff strategies or requirements contem-
16 plated by the amendment; and

17 (xii) a specific description of any land within the applicable tran-
18 sit-oriented development zone located within the one-hundred-year flood
19 plain or where the depth to the water table is less than three feet.

20 (e) In the event that a village fails to finalize the amendment pursu-
21 ant to and within the required time set forth in paragraph (a) of this
22 subdivision, and until such time as a village comprehensively updates
23 its local land use tools in compliance with paragraph (a) of this subdi-
24 vision, and notwithstanding the provisions of any general, special,
25 local, or other law, including the common law, to the contrary:

26 (i) All villages shall permit the construction and occupation of resi-
27 dential dwellings with a density up to and including the applicable
28 aggregate density requirement in any residential zone;

29 (ii) No village shall impose restrictions that effectively prevent the
30 construction or occupancy of such residential dwellings, including, but
31 not limited to, any such restrictions related to lot coverage, open
32 space, height, setbacks, floor area ratios, or parking requirements; and

33 (iii) A project for residential dwellings, which would otherwise be
34 classified as a qualifying project if a village timely adopted an amend-
35 ment pursuant to paragraph (a) of this subdivision and which is approved
36 by a village or lead agency equivalent pursuant to a transit-oriented
37 development review process prior to the date of the amendment, shall be
38 vested upon the issuance of a building permit in the event a subsequent-
39 ly enacted amendment or any updates to the land use tools are contrary
40 to the rights granted for such project. Such vested rights shall exist
41 without the need for the permit holder to demonstrate substantial
42 expenditure and substantial construction in accordance with the permit
43 prior to the effective date of the amendment or any updates to the land
44 use tools.

45 3. Transit-oriented development review process. (a) In the event that
46 a village fails to finalize the amendment pursuant to and within the
47 required time set forth in paragraph (a) of subdivision two of this
48 section, and until such time as a village comprehensively updates its
49 local land use tools in compliance with paragraph (a) of subdivision two
50 of this section, any project specific review related to a proposed qual-
51 ifying project shall be reviewed pursuant to the transit-oriented devel-
52 opment review process.

53 (b) After the finalization of the amendment undertaken pursuant to
54 paragraph (a) of subdivision two of this section, any project specific
55 review related to a proposed qualifying project shall be reviewed pursu-
56 ant to the transit-oriented development review process.

1 4. Enforcement. (a)(i) The attorney general of the state of New York
2 may commence an action in a court of appropriate jurisdiction to compel
3 a village to amend its local land use tools in compliance with the
4 requirements set forth in subdivision two of this section if the village
5 fails to do so within the required timeframe set forth therein.

6 (ii) A party may pursue a cause of action pursuant to paragraph (b) of
7 this subdivision if such party is improperly denied permission by a lead
8 agency equivalent to build a qualifying project pursuant to paragraph
9 (b) of subdivision three of this section.

10 (b)(i) Upon a failure of a village to comply with the deadlines set
11 forth in subdivision two of this section, or a lead agency equivalent's
12 denial of any application submitted in relation to a qualifying project
13 in violation of paragraph (a) of subdivision three of this section, any
14 party aggrieved by any such failure or denial may commence a special
15 proceeding against the subject village or lead agency equivalent and the
16 officers of such village and lead agency equivalent in the supreme court
17 within the judicial district in which the village or the greater portion
18 of the territory of such village is located to compel compliance with
19 the provisions of this section.

20 (ii) If, upon commencement of such proceeding, it shall appear to the
21 court that testimony is necessary for the proper disposition of the
22 matter, the court may take evidence and determine the matter. Alterna-
23 tively, the court may appoint a hearing officer pursuant to article
24 forty-three of the civil practice law and rules to take such evidence as
25 it may direct and report the same to the court with the hearing offi-
26 cer's findings of fact and conclusions of law, which shall constitute a
27 part of the proceedings upon which the determination of the court shall
28 be made.

29 (iii) The village or lead agency equivalent must set forth the reasons
30 for the denial of the application and must demonstrate by clear and
31 convincing evidence that the village or lead agency equivalent denied
32 the application due to bona fide health and safety concerns, or pursuant
33 to the transit-oriented development review process that complies with
34 the requirements of this section. If the village or lead agency equiv-
35 alent meets such burden, the applicant shall be given the opportunity to
36 demonstrate that the concerns raised by the village or lead agency
37 equivalent are pretextual or that such concerns can be addressed or
38 mitigated by changes to the qualifying project.

39 (iv) The court may reverse or affirm, wholly or partly, or may modify
40 the decision brought up for review. The court may also remand to the
41 village or lead agency equivalent to process or further consider an
42 application consistent with the terms of any order of the court, includ-
43 ing on an expedited basis.

44 (v) Costs shall not be allowed against the village, lead agency equiv-
45 alent, and the officer whose failure or refusal gave rise to the special
46 proceeding, unless it shall appear to the court that the village, lead
47 agency equivalent, and its officers or employees acted with gross negli-
48 gence, in bad faith, or with malice.

49 § 6. This act shall take effect immediately.

50 PART H

51 Section 1. The public housing law is amended by adding a new section
52 20-a to read as follows:

53 § 20-a. Housing production reporting. 1. For the purposes of this
54 section, the following terms shall have the following meanings:

1 (a) "Local board" means any city, town, or village board, commission,
2 officer or other agency or office having supervision of the construction
3 of buildings or the power of enforcing municipal building laws.

4 (b) "Housing site" means the site of planned construction, conversion,
5 alteration, demolition, or consolidation of one or more residential
6 buildings.

7 (c) "Dwelling unit" means a dwelling within a residential building
8 which is either sold, rented, leased, let or hired out, to be occupied,
9 or is occupied as the residence or home of one or more individuals that
10 is independent of other dwellings within such residential building.

11 2. The commissioner shall require each local board to submit to the
12 division of housing and community renewal annually, in the manner and
13 format to be directed by the division of housing and community renewal,
14 the following information regarding new construction, conversion, alter-
15 ation, demolition, or consolidation of a housing site within the juris-
16 isdiction of such local board that is required to be reported to such
17 local board:

18 (a) the address of such housing site;

19 (b) the block and/or lot number of such housing site;

20 (c) the total number of dwelling units in such housing site;

21 (d) the building type, any relevant dates of approval, permits, and
22 completions associated with such housing site;

23 (e) any associated governmental subsidies or program funds being allo-
24 cated to such housing site that such local board is aware of;

25 (f) the specific details of such construction, conversion, alteration,
26 demolition, or consolidation of such housing site;

27 (g) any permits requested to build dwelling units, and the status of
28 such requests as of the date of the report; and

29 (h) the total number of dwelling units within the jurisdiction of the
30 local board as of the date of the report.

31 3. Beginning on the thirty-first of January next succeeding the effec-
32 tive date of this section, and annually thereafter, the commissioner
33 shall require each local board to submit to the commissioner, in a
34 manner and format to be determined by the commissioner, a digital file
35 containing a zoning map or maps of such local board's jurisdiction that
36 contains the following information for the prior year:

37 (a) The geographic extents of areas where residential housing, commer-
38 cial, industrial, or other developments are or are not permitted;

39 (b) In areas zoned for residential buildings, where residential build-
40 ings containing two, three, and four or more dwelling units are allowed
41 per lot;

42 (c) Any minimum lot size requirements for residential buildings;

43 (d) Any minimum size requirements for individual dwelling units;

44 (e) Any parking requirements for residential buildings;

45 (f) Any setback or lot coverage requirements for residential build-
46 ings;

47 (g) Designation of whether each zoning approval granted by such local
48 board was as-of-right or discretionary;

49 (h) The geographic bounds of any areas which have been amended since
50 such local board's previous submission pursuant to this subdivision;

51 (i) Any floor area ratio restrictions for residential buildings;

52 (j) In areas where residential development is not permitted, the
53 reasons such development is not permitted; and

54 (k) Any other information deemed relevant by the commissioner.

55 4. The commissioner may make the information submitted pursuant to
56 subdivisions two and three of this section publicly available on the

division of housing and community renewal's website, updated annually to reflect the most recent submissions.

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

PART I

Section 1. Paragraph (b) of subdivision 1 of section 1971 of the real property actions and proceedings law, as amended by chapter 529 of the laws of 2008, is amended to read as follows:

(b) In the case of a vacant dwelling, it is not sealed or continuously guarded, in that admittance to the property may be gained without damaging any portion of the property, as required by law or it was sealed or is continuously guarded by a person other than the owner, a mortgagee, lienor or agent thereof, and ~~[either]~~ any of the following facts exists:

(i) A vacate order of the department or other governmental agency currently prohibits occupancy of the dwelling; or

(ii) The tax on such premises has been due and unpaid for a period of at least one year; or

(iii) The property has had a zoning, building or property maintenance code violation which has the potential to injure, endanger or unreasonably annoy the health and safety of others that has been continuously outstanding and not remedied for a period of at least one year from the date the original notice of violation was served upon the property owner pursuant to subdivision four of section three hundred eight of the civil practice law and rules if the owner is a natural person, or pursuant to section three hundred ten, three hundred ten-a, three hundred eleven or three hundred eleven-a of the civil practice law and rules if the owner is a partnership, limited partnership, corporation or limited liability company, respectively; or

§ 2. This act shall take effect immediately.

PART J

Section 1. Subdivision 11 of section 3 of the multiple dwelling law, as amended by chapter 806 of the laws of 1972, is amended to read as follows:

11. Notwithstanding any other provision of this section, the following enumerated articles, sections and subdivisions of sections of this chapter shall not apply to the construction or alteration of multiple dwellings for which an application for a permit is made to the department after December sixth, nineteen hundred sixty-nine in a city having a population of one million or more ~~[which adopts or has adopted local laws, ordinances, resolutions or regulations providing protection from fire hazards and making provision for escape from fire in the construction and alteration of multiple dwellings and in other respects as protective as local law seventy-six of the laws of the city of New York for nineteen hundred sixty-eight and covering the same subject matter as the following]~~ subdivisions twenty-five, twenty-seven, twenty-eight, thirty-five-c, thirty-six and thirty-nine of section four, subdivision three of section twenty-eight, sections thirty-six, thirty-seven, fifty, fifty-one, fifty-two, fifty-three, fifty-five, sixty, sixty-one, sixty-seven, subdivisions one, two, four and five of section

seventy-five, article four, article five, article five-A[~~7~~] ~~and~~ article six [~~and article seven-B~~]; except that after December sixth, nineteen hundred sixty-nine where a multiple dwelling erected prior to December sixth, nineteen hundred sixty-nine is altered, or a building erected prior to December sixth, nineteen hundred sixty-nine is converted to a multiple dwelling pursuant to a permit applied for to the department having jurisdiction, the foregoing articles, sections and subdivisions of sections shall remain applicable where a local law of such city authorizes such alteration or conversion to be made, at the option of the owner, either in accordance with the requirements of the building law and regulations in effect in such city prior to December sixth, nineteen hundred sixty-eight or the requirements of the building law and regulations in effect after such date, and the owner elects to comply with the requirements of the building law and regulations in effect prior to December sixth, nineteen hundred sixty-eight.

§ 2. Section 275 of the multiple dwelling law, as added by chapter 734 of the laws of 1985, is amended to read as follows:

§ 275. Legislative findings. It is hereby declared and found that in cities with a population in excess of one million, large numbers of loft, manufacturing, commercial, institutional, public and community facility buildings have lost, and continue to lose, their tenants to more modern premises; and that the untenanted portions of such buildings constitute a potential housing stock within such cities which is capable, when appropriately altered, of accommodating general residential use, thereby contributing to an alleviation of the housing shortage most severely affecting moderate and middle income families, and of accommodating joint living-work quarters for artists by making readily available space which is physically and economically suitable for use by persons regularly engaged in the arts.

There is a public purpose to be served by making accommodations readily available for joint living-work quarters for artists for the following reasons: persons regularly engaged in the arts require larger amounts of space for the pursuit of their artistic endeavors and for the storage of the materials therefor and of the products thereof than are regularly to be found in dwellings subject to this article; that the financial remunerations to be obtained from pursuit of a career in the arts are generally small; that as a result of such limited financial remuneration persons regularly engaged in the arts generally find it financially impossible to maintain quarters for the pursuit of their artistic endeavors separate and apart from their places of residence; that the cultural life of cities of more than one million persons within this state and of the state as a whole is enhanced by the residence in such cities of large numbers of persons regularly engaged in the arts; that the high cost of land within such cities makes it particularly difficult for persons regularly engaged in the arts to obtain the use of the amounts of space required for their work as aforesaid; and that the residential use of the space is secondary or accessory to the primary use as a place of work.

It is further declared that the legislation governing the alteration of such buildings to accommodate general residential use must of necessity be more restrictive than statutes heretofore in effect, which affected only joint living-work quarters for artists.

It is the intention of this legislation to promulgate statewide minimum standards for all alterations of non-residential buildings to residential use, but the legislature is cognizant that the use of such buildings for residential purposes must be consistent with local zoning

ordinances. The legislature further recognizes that it is the role of localities to adopt regulations which will define in further detail the manner in which alterations should be carried out where building types and conditions are peculiar to their local environment. It is hereby additionally declared and found that in cities with a population in excess of one million, large numbers of commercial buildings have lost, and continue to lose, their tenants to more modern premises and to the changing nature of remote office work in the wake of the COVID-19 pandemic; and that the untenanted portions of such buildings constitute a potential housing stock within such cities which is capable, when appropriately altered, of accommodating general residential use, thereby contributing to an alleviation of the housing shortage.

§ 3. Section 276 of the multiple dwelling law, as amended by chapter 420 of the laws of 2022, is amended to read as follows:

§ 276. [~~Definition of an artist~~] Definitions. As used in this article, the following terms shall have the following meanings:

1. The word "artist" means a person who is regularly engaged in the fine arts, such as painting and sculpture or in the performing or creative arts, including choreography and filmmaking, or in the composition of music on a professional basis, and is so certified by the city department of cultural affairs and/or state council on the arts. For joint living-work quarters for artists limited to artists' occupancy by local zoning resolution, any permanent occupant whose residence therein began on or before December fifteenth, two thousand twenty-one shall be deemed to meet such occupancy requirements under the same rights as an artist so certified in accordance with applicable law.

2. The term "general residential purposes" means use of a building as a class A multiple dwelling, except that such term shall not include a rooming unit as defined in section 27-2004 of the administrative code of the city of New York other than a rooming unit in a class A or class B multiple dwelling that is authorized pursuant to section 27-2077 of such administrative code.

§ 4. The multiple dwelling law is amended by adding a new section 279 to read as follows:

§ 279. Occupancy of commercial buildings. 1. Any building in a city with a population of one million or more persons which was occupied for loft, commercial, institutional, public, community facility or manufacturing purposes at any time prior to December thirty-first, nineteen hundred ninety, may be occupied, in whole or in part, for general residential purposes if such occupancy is in compliance with this article, notwithstanding any other article of this chapter, or any provision of law covering the same subject matter, except as otherwise required by the zoning resolution of such city.

2. Occupancy pursuant to this section shall be permitted only if the conditions in subdivisions one through sixteen of section two hundred seventy-seven of this article are complied with, except that the conversion shall not be required to include joint living-work quarters for artists, and provided further that conversions undertaken pursuant to this section shall not be subject to subdivision three of section twenty-six of this chapter.

3. Notwithstanding any state or local law, rule, or regulation, including any other provision of this section or article to the contrary, the provisions of this section shall apply to any building located in a district that otherwise would have been subject to the provisions of section 15-01 of the zoning resolution of a city with a population of one million or more persons.

§ 5. An application for conversion of a building pursuant to the provisions of this act, which application for a permit containing complete plans and specifications is filed prior to December 31, 2030, shall be permitted to proceed as if subdivision 3 of section 279 of the multiple dwelling law, as added by section four of this act, remained in effect, so long as construction of such project begins within the earlier to occur of three years from December 31, 2030 or such time which the permit otherwise expires.

§ 6. This act shall take effect immediately; provided, however, that subdivision 3 of section 279 of the multiple dwelling law as added by section four of this act shall expire and be deemed repealed on December 31, 2030; provided further, however, that the repeal of subdivision 3 of section 279 of the multiple dwelling law as added by section four of this act shall not affect the use of any building for general residential purposes, as such term is defined in article 7-B of the multiple dwelling law, permitted prior to such repeal.

PART K

Section 1. The multiple dwelling law is amended by adding a new article 7-D to read as follows:

ARTICLE 7-D

LEGALIZATION AND CONVERSION OF BASEMENT DWELLING UNITS

Section 288. Definitions.

289. Basement local laws and regulations.

290. Tenant protections in inhabited basement dwelling units.

§ 288. Definitions. As used in this article, the following terms shall have the following meanings:

1. The term "inhabited basement dwelling unit" means a basement unlawfully occupied as a residence by one or more tenants on or prior to the effective date of this article;

2. The term "rented" means leased, let, or hired out, with or without a written agreement; and

3. The term "tenant" means an individual to whom an inhabited basement dwelling unit is rented.

§ 289. Basement local laws and regulations. 1. Notwithstanding any other provision of state or local law to the contrary, in a city with a population of one million or more, the local legislative body may, by local law, establish a program to address, provided that health and safety are protected, (a) the legalization of specified inhabited basement dwelling units in existence prior to the effective date of this article through conversion to legal dwelling units, or (b) the conversion of other specified basement dwelling units in existence prior to the effective date of this article to legal dwelling units. The local law authorized by this section, and any rules or regulations promulgated thereunder, shall not be subject to environmental review, including environmental review conducted pursuant to article eight of the environmental conservation law and any state and local regulations promulgated thereunder.

2. The program established by such local law may provide to an owner who converts an inhabited basement dwelling unit in accordance with a local law authorized by this article or who otherwise abates the illegal occupancy of a basement dwelling unit, (a) freedom from any civil or administrative liability, citations, fines, penalties, judgments or any other determinations of or prosecution for civil violations of this chapter, other state law or local law or rules, and the zoning resol-

1 ution of such city, and (b) relief from any outstanding civil judgments
2 issued in connection with any such violation of such laws, rules or
3 zoning resolution issued before the effective date of this article.
4 Provided that such local law shall require that all applications for
5 conversions be filed by a date certain subsequent to the effective date
6 of this article, provided further that such date shall not exceed five
7 years after the effective date of this article.

8 3. Such local law may provide that any provision of this chapter or
9 local law, rule or regulation, shall not be applicable to provide for
10 the alterations necessary for the conversion of a specified inhabited
11 basement dwelling unit or other specified basement dwelling unit in
12 existence prior to the effective date into a lawful dwelling unit. Any
13 amendment of the zoning resolution necessary to enact such program shall
14 be subject to a public hearing at the planning commission of such local-
15 ity, and approval by such commission and the legislative body of such
16 local government, provided, however, that it shall not require environ-
17 mental review, including environmental review conducted pursuant to
18 article eight of the environmental conservation law and any state and
19 local regulations promulgated thereunder, or any additional land use
20 review.

21 § 290. Tenant protections in inhabited basement dwelling units. 1.
22 The program authorized by this article shall require an application to
23 make alterations to legalize an inhabited basement dwelling unit be
24 accompanied by a certification indicating whether such unit was rented
25 to a tenant on the effective date of this article, notwithstanding
26 whether the occupancy of such unit was authorized by law. A city may not
27 use such certification as the basis for an enforcement action for ille-
28 gal occupancy of such unit, provided that nothing contained in this
29 article shall be construed to limit such city from issuing a vacate
30 order for hazardous or unsafe conditions.

31 2. The local law authorized by this article shall provide that a
32 tenant in occupancy at the time of the effective date of this article,
33 who is evicted or otherwise removed from such unit as a result of an
34 alteration necessary to bring an inhabited basement dwelling unit into
35 compliance with the standards established by the local law authorized by
36 this article, shall have a right of first refusal to return to such unit
37 as a tenant upon its first lawful occupancy as a legal dwelling unit,
38 notwithstanding whether the occupancy at the time of the effective date
39 of this article was authorized by law. Such local law shall specify how
40 to determine priority when multiple tenants may claim such right.

41 3. A tenant unlawfully denied a right of first refusal to return to a
42 legal dwelling unit, as provided pursuant to the local law authorized by
43 this article, shall have a cause of action in any court of competent
44 jurisdiction for compensatory damages or declaratory and injunctive
45 relief as the court deems necessary in the interests of justice,
46 provided that such compensatory relief shall not exceed the annual
47 rental charges for such legal dwelling unit.

48 § 2. Subdivision 1 of section 472 of the private housing finance law,
49 as amended by chapter 479 of the laws of 2005, is amended to read as
50 follows:

51 1. Notwithstanding the provisions of any general, special or local
52 law, a municipality, acting through an agency, is authorized: (a) to
53 make, or contract to make, loans to low and moderate income owner-occu-
54 pants of one to four unit existing private or multiple dwellings within
55 its territorial limits, subject to the limitation of subdivisions two
56 through seven of this section, in such amounts as shall be required for

1 the rehabilitation of such dwellings, provided, however, that such loans
2 shall not exceed sixty thousand dollars per dwelling unit, except that
3 the limitation on the maximum amount of a loan, as described in this
4 paragraph, shall not apply to any such loan for, in whole or in part,
5 rehabilitation of a specified inhabited basement dwelling unit or other
6 specified basement dwelling unit for which such owner has sought a
7 permit pursuant to the local law authorized pursuant to section two
8 hundred eighty-nine of the multiple dwelling law. Such loans may also
9 include the refinancing of the outstanding indebtedness of such dwell-
10 ings, and the municipality may make temporary loans or advances to such
11 owner-occupants in anticipation of permanent loans for such purposes;
12 and

13 (b) to make or contract to make grants to any owner described in para-
14 graph (a) of this subdivision, on the same terms as permitted under such
15 paragraph for a loan.

16 § 3. Section 472 of the private housing finance law is amended by
17 adding a new subdivision 1-a to read as follows:

18 1-a. As used in this article, the term "loan" shall include any grant
19 made by a municipality pursuant to this article, provided, however, that
20 provisions of this article concerning the repayment or forgiveness of,
21 or security for, a loan shall not apply to any grant made pursuant to
22 this article.

23 § 4. Subdivision 2 of section 473 of the private housing finance law,
24 as added by chapter 786 of the laws of 1987, is amended to read as
25 follows:

26 2. A municipality shall neither make nor participate in a loan to an
27 owner-occupant of an existing private or multiple dwelling pursuant to
28 this article unless the agency finds that the area in which such dwell-
29 ing is situated is a blighted, deteriorated or deteriorating area or has
30 a blighting influence on the surrounding area, or is in danger of becom-
31 ing a slum or a blighted area because of the existence of substandard,
32 unsanitary, deteriorating or deteriorated conditions, an aged housing
33 stock, or other factors indicating an inability of the private sector to
34 cause such rehabilitation to be made, except that any such finding shall
35 not be required for any such loan for, in whole or in part, rehabili-
36 tation of a specified inhabited basement dwelling unit or other speci-
37 fied basement dwelling unit for which such owner has sought a permit
38 pursuant to the local law authorized pursuant to section two hundred
39 eighty-nine of the multiple dwelling law.

40 § 5. This act shall take effect immediately.

41 PART L

42 Section 1. Subdivision 3 of section 26 of the multiple dwelling law,
43 as amended by chapter 748 of the laws of 1961, is amended to read as
44 follows:

45 3. Floor area ratio (FAR). ~~[The]~~ Except as otherwise provided in and
46 determined under a zoning law, ordinance, or resolution of a city with a
47 population of one million or more, or after consultation with local
48 officials, as provided in a general project plan of the New York state
49 urban development corporation, the floor area ratio (FAR) of any dwell-
50 ing or dwellings on a lot shall not exceed 12.0, except that a fireproof
51 class B dwelling in which six or more passenger elevators are maintained
52 and operated in any city having a local zoning law, ordinance or resol-
53 ution restricting districts in such city to residential use, may be
54 erected in accordance with the provisions of such zoning law, ordinance

1 or resolution, if such class B dwelling is erected in a district no part
2 of which is restricted by such zoning law, ordinance or resolution to
3 residential uses.

4 § 2. This act shall take effect immediately.

5 PART M

6 Section 1. Section 489 of the real property tax law is amended by
7 adding a new subdivision 21 to read as follows:

8 21. (a) Definitions. For purposes of this subdivision:

9 (1) "Affordable rent" shall mean the maximum rent within the marketing
10 band that is allowed for an affordable rental unit as such rent is
11 established by the local housing agency.

12 (2) "Affordable rental unit" shall mean a dwelling unit in an eligible
13 rental building that, as of the filing of an application for a certif-
14 icate of eligibility and reasonable cost, has a rent at or below the
15 applicable affordable rent.

16 (3) "Certificate of eligibility and reasonable cost" shall mean a
17 document issued by the local housing agency that establishes that a
18 property is eligible for rehabilitation program benefits and sets forth
19 the certified reasonable cost of the eligible construction for which
20 such benefits shall be received.

21 (4) "Certified reasonable cost schedule" shall mean a table providing
22 maximum dollar limits for specified alterations and improvements, estab-
23 lished, and updated as necessary, by the local housing agency.

24 (5) "Checklist" shall mean a document that the local housing agency
25 issues requesting additional information or documentation that is neces-
26 sary for further assessment of an application for a certificate of
27 eligibility and reasonable cost where such application contained all
28 information and documentation required at the initial filing.

29 (6) "Commencement date" shall mean, with respect to eligible
30 construction, the date on which any physical operation undertaken for
31 the purpose of performing such eligible construction lawfully begins.

32 (7) "Completion date" shall mean, with respect to eligible
33 construction, the date on which:

34 (A) every physical operation undertaken for the purpose of all eligi-
35 ble construction has concluded; and

36 (B) all such eligible construction has been completed to a reasonable
37 and customary standard that renders such eligible construction capable
38 of use for the purpose for which such eligible construction was
39 intended.

40 (8) "Dwelling unit" shall mean any residential accommodation in a
41 class A multiple dwelling that:

42 (A) is arranged, designed, used or intended for use by one or more
43 persons living together and maintaining a common household;

44 (B) contains at least one room; and

45 (C) contains within such accommodation lawful sanitary and kitchen
46 facilities reserved for its occupants.

47 (9) "Eligible building" shall mean an eligible rental building, an
48 eligible homeownership building, or an eligible regulated homeownership
49 building, provided that such building contains three or more dwelling
50 units.

51 (10) "Eligible construction" shall mean alterations or improvements to
52 an eligible building that:

53 (A) are specifically identified on the certified reasonable cost sche-
54 dule;

1 (B) meet the minimum scope of work threshold;

2 (C) have a completion date that is after June twenty-ninth, two thou-
3 sand twenty-two and prior to June thirtieth, two thousand twenty-six and
4 that is not more than thirty months after their commencement date; and

5 (D) are not attributable to any increased cubic content in such eligi-
6 ble building.

7 (11) "Eligible homeownership building" shall mean an existing building
8 that:

9 (A) is a class A multiple dwelling operated as condominium or cooper-
10 ative housing;

11 (B) is not operating in whole or in part as a hotel; and

12 (C) has an average assessed valuation, including the valuation of the
13 land, that as of the commencement date does not exceed the homeownership
14 average assessed valuation limitation.

15 (12) "Eligible regulated homeownership building" shall mean an exist-
16 ing building that is a class A multiple dwelling owned and operated by
17 either:

18 (A) a mutual company that continues to be organized and operated as a
19 mutual company and that has entered into and recorded a mutual company
20 regulatory agreement; or

21 (B) a mutual redevelopment company that continues to be organized and
22 operated as a mutual redevelopment company and that has entered into and
23 recorded a mutual redevelopment company regulatory agreement.

24 (13) "Eligible rental building" shall mean an existing building that:

25 (A) is a class A multiple dwelling in which all of the dwelling units
26 are operated as rental housing;

27 (B) is not operating in whole or in part as a hotel; and

28 (C) satisfies one of the following conditions:

29 (i) not less than fifty percent of the dwelling units in such building
30 are affordable rental units;

31 (ii) such building is owned and operated by a limited-profit housing
32 company; or

33 (iii) such building is the recipient of substantial governmental
34 assistance.

35 (14) "Existing building" shall mean an enclosed structure which:

36 (A) is permanently affixed to the land;

37 (B) has one or more floors and a roof;

38 (C) is bounded by walls;

39 (D) has at least one principal entrance utilized for day-to-day pedes-
40 trian ingress and egress;

41 (E) has a certificate of occupancy or equivalent document that is in
42 effect prior to the commencement date; and

43 (F) exclusive of the land, has an assessed valuation of more than one
44 thousand dollars for the fiscal year immediately preceding the commence-
45 ment date.

46 (15) "Homeownership average assessed valuation limitation" shall mean
47 an average assessed valuation of forty-five thousand dollars per dwell-
48 ing unit.

49 (16) "Limited-profit housing company" shall have the same meaning as
50 "company" set forth in section twelve of the private housing finance
51 law.

52 (17) "Market rental unit" shall mean a dwelling unit in an eligible
53 rental building other than an affordable rental unit.

54 (18) "Marketing band" shall mean maximum rent amounts ranging from
55 twenty percent of eighty percent of the area median income, adjusted for

1 family size, to thirty percent of eighty percent of the area median
2 income, adjusted for family size.

3 (19) "Minimum scope of work threshold" shall mean a total amount of
4 certified reasonable cost established by rules and regulations of the
5 local housing agency, provided that such amount shall be no less than
6 one thousand five hundred dollars for each dwelling unit in existence on
7 the completion date.

8 (20) "Multiple dwelling" shall have the meaning as set forth in
9 section four of the multiple dwelling law.

10 (21) "Mutual company" shall have the meaning as set forth in section
11 twelve of the private housing finance law.

12 (22) "Mutual company regulatory agreement" shall mean a binding and
13 irrevocable agreement between a mutual company and the commissioner of
14 housing, the mutual company supervising agency, the New York city hous-
15 ing development corporation, or the New York state housing finance agen-
16 cy prohibiting the dissolution or reconstitution of such mutual company
17 pursuant to section thirty-five of the private housing finance law for
18 not less than fifteen years from the commencement of rehabilitation
19 program benefits for the existing building owned and operated by such
20 mutual company.

21 (23) "Mutual company supervising agency" shall have the same meaning,
22 with respect to any mutual company, as "supervising agency" set forth in
23 section two of the private housing finance law.

24 (24) "Mutual redevelopment company" shall have the same meaning as
25 "mutual" when applied to a redevelopment company, as set forth in
26 section one hundred two of the private housing finance law.

27 (25) "Mutual redevelopment company regulatory agreement" shall mean a
28 binding and irrevocable agreement between a mutual redevelopment company
29 and the commissioner of housing, the redevelopment company supervising
30 agency, the New York city housing development corporation, or the New
31 York state housing finance agency prohibiting the dissolution or recon-
32 stitution of such mutual redevelopment company pursuant to section one
33 hundred twenty-three of the private housing finance law until the earli-
34 er of:

35 (A) fifteen years from the commencement of rehabilitation program
36 benefits for the existing building owned and operated by such mutual
37 redevelopment company; or

38 (B) the expiration of any tax exemption granted to such mutual rede-
39 velopment company pursuant to section one hundred twenty-five of the
40 private housing finance law.

41 (26) "Redevelopment company" shall have the same meaning as set forth
42 in section one hundred two of the private housing finance law.

43 (27) "Redevelopment company supervising agency" shall have the same
44 meaning, with respect to any redevelopment company, as "supervising
45 agency" set forth in section one hundred two of the private housing
46 finance law.

47 (28) "Rehabilitation program benefits" shall mean abatement of real
48 property taxes pursuant to this subdivision.

49 (29) "Rent regulation" shall mean, collectively, the emergency housing
50 rent control law, any local law enacted pursuant to the local emergency
51 housing rent control act, the rent stabilization law of nineteen hundred
52 sixty-nine, the rent stabilization code, and the emergency tenant
53 protection act of nineteen seventy-four, all as in effect as of the
54 effective date of the chapter of the laws of two thousand twenty-three
55 that added this subdivision, or as any such statute is amended thereaft-

er, together with any successor statutes or regulations addressing substantially the same subject matter.

(30) "Restriction period" shall mean, notwithstanding any termination or revocation of rehabilitation program benefits prior to such period, fifteen years from the initial receipt of rehabilitation program benefits, or such additional period of time as may be imposed pursuant to clause (A) of subparagraph five of paragraph (e) of this subdivision.

(31) "Substantial governmental assistance" shall mean grants, loans, or subsidies from any federal, state or local governmental agency or instrumentality in furtherance of a program for the development of affordable housing approved by the local housing agency, provided that such grants, loans, or subsidies are provided in accordance with a regulatory agreement entered into with such agency or instrumentality that is in effect as of the filing date of the application for a certificate of eligibility and reasonable cost.

(32) "Substantial interest" shall mean an ownership interest of ten percent or more.

(b) Abatement. Notwithstanding the provisions of any other subdivision of this section or of any general, special or local law to the contrary, any city to which the multiple dwelling law is applicable, acting through its local legislative body or other governing agency, is hereby authorized and empowered, until and including June thirtieth, two thousand twenty-five, to adopt and amend local laws or ordinances providing an abatement of real property taxes on an eligible building in which eligible construction has been completed, provided that:

(1) such abatement shall not exceed seventy percent of the certified reasonable cost of the eligible construction, as determined under rules and regulations of the local housing agency;

(2) such abatement shall not be effective for more than twenty years;

(3) the annual abatement of real property taxes on such eligible building shall not exceed eight and one-third percent of the total certified reasonable cost of such eligible construction;

(4) the annual abatement of real property taxes on such eligible building in any consecutive twelve-month period shall in no event exceed the amount of real property taxes payable in such twelve-month period for such building, provided, however, that such abatement shall not exceed fifty percent of the amount of real property taxes payable in such twelve-month period for any of the following:

(A) an eligible rental building owned by a limited-profit housing company or a redevelopment company; (B) an eligible homeownership building; and

(C) an eligible regulated homeownership building; and

(5) such abatement shall become effective beginning with the first quarterly tax bill immediately following the date of issuance of the certificate of eligibility and reasonable cost.

(c) Authority of city to adopt rules and regulations. Any such local law or ordinance shall authorize the adoption of rules and regulations, not inconsistent with this subdivision, by the local housing agency and any other local agency necessary for the implementation of this subdivision.

(d) Applications. (1) Any such local law or ordinance shall require that an application for a certificate of eligibility and reasonable cost pursuant to this subdivision be made after the completion date and on or before the later of (A) four months from the effective date of such local law or ordinance; or (B) four months from such completion date.

1 (2) Such application shall include evidence of eligibility for reha-
2 bilitation program benefits and evidence of reasonable cost as shall be
3 satisfactory to the local housing agency including, but not limited to,
4 evidence showing the cost of eligible construction.

5 (3) The local housing agency shall require a non-refundable filing fee
6 that shall be paid by a certified check or cashier's check upon the
7 filing of an application for a certificate of eligibility and reasonable
8 cost. Such fee shall be (A) one thousand dollars, plus (B) seventy-five
9 dollars for each dwelling unit in excess of six dwelling units in the
10 eligible building that is the subject of such application.

11 (4) Any application that is filed pursuant to this paragraph that is
12 missing any of the information and documentation required at initial
13 filing by such local law or ordinance and any rules and regulations of
14 the local housing agency shall be denied, provided that a new applica-
15 tion for the same eligible construction, together with a new non-refund-
16 able filing fee, may be filed within fifteen days of the date of issu-
17 ance of such denial. If such second application is also missing any such
18 required information and documentation, it shall be denied and no
19 further applications for the same eligible construction shall be permit-
20 ted.

21 (5) The failure of an applicant to respond to any checklist within
22 thirty days of the date of its issuance by the local housing agency
23 shall result in denial of such application, and no further applications
24 for the same eligible construction shall be permitted. The local housing
25 agency shall issue not more than three checklists per application. An
26 application for a certificate of eligibility and reasonable cost shall
27 be denied when the local housing agency does not have a sufficient basis
28 to issue a certificate of eligibility and reasonable cost after the
29 timely response of an applicant to the third checklist concerning such
30 application. After the local housing agency has denied an application
31 for the reason described in the preceding sentence, such agency shall
32 permit no further applications for the same eligible construction.

33 (6) An application for a certificate of eligibility and reasonable
34 cost shall also include an affidavit of no harassment.

35 (A) Such affidavit shall set forth the following information:

36 (i) the name of every owner of record and owner of a substantial
37 interest in the eligible building or entity owning the eligible building
38 or sponsoring the eligible construction; and

39 (ii) a statement that none of such persons had, within the five years
40 prior to the completion date, been found to have harassed or unlawfully
41 evicted tenants by judgment or determination of a court or agency,
42 including a non-governmental agency having appropriate legal jurisdic-
43 tion, under the penal law, any state or local law regulating rents or
44 any state or local law relating to harassment of tenants or unlawful
45 eviction.

46 (B) No eligible building shall be eligible for an abatement pursuant
47 to paragraph (b) of this subdivision where:

48 (i) any affidavit required under this subparagraph has not been filed;

49 (ii) any such affidavit contains a willful misrepresentation or omis-
50 sion of any material fact; or

51 (iii) any owner of record or owner of a substantial interest in the
52 eligible building or entity owning the eligible building or sponsoring
53 the eligible construction has been found, by judgment or determination
54 of a court or agency, including a non-governmental agency having appro-
55 priate legal jurisdiction, under the penal law, any state or local law
56 regulating rents or any state or local law relating to harassment of

1 tenants or unlawful eviction, to have, within the five years prior to
2 the completion date, harassed or unlawfully evicted tenants, until and
3 unless the finding is reversed on appeal.

4 (C) Notwithstanding the provisions of any general, special or local
5 law to the contrary, the corporation counsel or other legal represen-
6 tative of a city having a population of one million or more or the
7 district attorney of any county, may institute an action or proceeding
8 in any court of competent jurisdiction that may be appropriate or neces-
9 sary to determine whether any owner of record or owner of a substantial
10 interest in the eligible building or entity owning the eligible building
11 or sponsoring the eligible construction has harassed or unlawfully
12 evicted tenants as described in this subparagraph.

13 (7) Notwithstanding the provisions of any general, special or local
14 law to the contrary, the local housing agency may require by rules and
15 regulations that an application for a certificate of eligibility and
16 reasonable cost be filed electronically.

17 (e) Additional requirements for an eligible rental building other than
18 one owned and operated by a limited-profit housing company. Any such
19 local law or ordinance shall, in addition to all other conditions of
20 eligibility for rehabilitation program benefits set forth in this subdi-
21 vision, require that an eligible rental building, other than one owned
22 and operated by a limited-profit housing company, also comply with all
23 provisions of this paragraph. Notwithstanding the foregoing, an eligible
24 rental building that is the recipient of substantial governmental
25 assistance shall not be required to comply with the provisions of
26 subparagraph three of this paragraph.

27 (1) Notwithstanding any provision of rent regulation to the contrary,
28 any market rental unit within such eligible rental building subject to
29 rent regulation as of the filing date of the application for a certif-
30 icate of eligibility and reasonable cost and any affordable rental unit
31 within such eligible rental building shall be subject to rent regulation
32 until such unit first becomes vacant after the expiration of the
33 restriction period at which time such unit, unless it would be subject
34 to rent regulation for reasons other than the provisions of this subdi-
35 vision, shall be deregulated, provided, however, that during the
36 restriction period, no exemption or exclusion from any requirement of
37 rent regulation shall apply to such dwelling units.

38 (2) Additional requirements for an eligible rental building that is
39 not a recipient of substantial governmental assistance.

40 (A) Not less than fifty percent of the dwelling units in such eligible
41 rental building shall be designated as affordable rental units.

42 (B) The owner of such eligible rental building shall ensure that no
43 affordable rental unit is held off the market for a period that is long-
44 er than reasonably necessary.

45 (C) The owner of such eligible rental building shall waive the
46 collection of any major capital improvement rent increase granted by the
47 New York state division of housing and community renewal pursuant to
48 rent regulation that is attributable to eligible construction for which
49 such eligible rental building receives rehabilitation program benefits,
50 and shall file a declaration with the New York state division of housing
51 and community renewal providing such waiver.

52 (D) An affordable rental unit shall not be rented on a temporary,
53 transient or short-term basis. Every lease and renewal thereof for an
54 affordable rental unit shall be for a term of one or two years, at the
55 option of the tenant, and shall include a notice in at least twelve-
56 point type informing such tenant of their rights pursuant to this subdi-

1 vision, including an explanation of the restrictions on rent increases
2 that may be imposed on such affordable rental unit.

3 (E) The local housing agency may establish by rules and regulations
4 such requirements as the local housing agency deems necessary or appro-
5 priate for designating affordable rental units, including, but not
6 limited to, designating the unit mix and distribution requirements of
7 such affordable rental units in an eligible building.

8 (3) The owner of such eligible rental building shall not engage in or
9 cause any harassment of the tenants of such eligible rental building or
10 unlawfully evict any such tenants during the restriction period.

11 (4) No dwelling units within such eligible rental building shall be
12 converted to cooperative or condominium ownership during the restriction
13 period.

14 (5) Any non-compliance of an eligible rental building with the
15 provisions of this paragraph shall permit the local housing agency to
16 take the following action:

17 (A) extend the restriction period;

18 (B) increase the number of affordable rental units in such eligible
19 rental building;

20 (C) impose a penalty of not more than the product of one thousand
21 dollars per instance of non-compliance and the number of dwelling units
22 contained in such eligible rental building; and

23 (D) terminate or revoke any rehabilitation program benefits in accord-
24 ance with paragraph (m) of this subdivision.

25 (f) Compliance with applicable law. Any such local law or ordinance
26 may also provide that rehabilitation program benefits shall not be
27 allowed for any eligible building unless and until such eligible build-
28 ing complies with all applicable provisions of law.

29 (g) Implementation of rehabilitation program benefits. Upon issuance
30 of a certificate of eligibility and reasonable cost and payment of
31 outstanding fees, the local housing agency shall be authorized to trans-
32 mit such certificate of eligibility and reasonable cost to the local
33 agency responsible for real property tax assessment. Upon receipt of a
34 certificate of eligibility and reasonable cost, the local agency respon-
35 sible for real property tax assessment shall certify the amount of taxes
36 to be abated pursuant to paragraph (b) of this subdivision and pursuant
37 to such certificate of eligibility and reasonable cost provided by the
38 local housing agency.

39 (h) Outstanding taxes and charges. Any such local law or ordinance
40 shall also provide that rehabilitation program benefits shall not be
41 allowed for an eligible building in either of the following cases:

42 (1) there are outstanding real estate taxes or water and sewer charges
43 or payments in lieu of taxes that are due and owing as of the last day
44 of the tax period preceding the date of the receipt of the certificate
45 of eligibility and reasonable cost by the local agency responsible for
46 real property tax assessment; or

47 (2) real estate taxes or water and sewer charges due at any time
48 during the authorized term of such benefits remain unpaid for one year
49 after the same are due and payable.

50 (i) Additional limitations on eligibility. Any such local law or ordi-
51 nance shall also provide that:

52 (1) rehabilitation program benefits shall not be allowed for any
53 eligible building receiving tax exemption or abatement concurrently for
54 rehabilitation or new construction under any other provision of state or
55 local law or ordinance with the exception of any eligible construction

1 to an eligible building receiving a tax exemption or abatement under the
2 provisions of the private housing finance law;

3 (2) rehabilitation program benefits shall not be allowed for any item
4 of eligible construction in an eligible building if such eligible build-
5 ing is receiving tax exemption or abatement for the same or a similar
6 item of eligible construction as of the December thirty-first preceding
7 the date of application for a certificate of eligibility and reasonable
8 cost for such rehabilitation program benefits;

9 (3) where the eligible construction includes or benefits a portion of
10 an eligible building that is not occupied for dwelling purposes, the
11 assessed valuation of such eligible building and the cost of the eligi-
12 ble construction shall be apportioned so that rehabilitation program
13 benefits shall not be provided for eligible construction made for other
14 than dwelling purposes; and

15 (4) rehabilitation program benefits shall not be applied to abate or
16 reduce the taxes upon the land portion of real property, which shall
17 continue to be taxed based upon the assessed valuation of the land and
18 the applicable tax rate at the time such taxes are levied.

19 (j) Re-inspection penalty. Any such local law or ordinance shall also
20 provide that if the local housing agency cannot verify the eligible
21 construction claimed by an applicant upon the first inspection by the
22 local housing agency of the eligible building, such applicant shall be
23 required to pay ten times the actual cost of any additional inspection
24 needed to verify such eligible construction.

25 (k) Strict liability for inaccurate applications. Any such local law
26 or ordinance shall also provide that if the local housing agency deter-
27 mines that an application for a certificate of eligibility and reason-
28 able cost contains a material misstatement of fact, the local housing
29 agency may reject such application and bar the submission of any other
30 application pursuant to this subdivision with respect to such eligible
31 building for a period not to exceed three years. An applicant shall not
32 be relieved from liability under this paragraph because it submitted its
33 application under a mistaken belief of fact. Furthermore, any person or
34 entity that files more than six applications containing such a material
35 misstatement of fact within any twelve-month period shall be barred from
36 submitting any new application for rehabilitation program benefits on
37 behalf of any eligible building for a period not to exceed five years.

38 (l) Investigatory authority. Any such local law or ordinance shall
39 also allow the local housing agency to require such certifications and
40 consents necessary to access records, including other tax records, as
41 may be deemed appropriate to enforce the eligibility requirements of
42 this subdivision. Any such local law or ordinance shall further provide
43 that, for purposes of determining and certifying eligibility for reha-
44 bilitation program benefits and the reasonable cost of any eligible
45 construction, the local housing agency shall be authorized to:

46 (1) administer oaths to and take the testimony of any person, includ-
47 ing, but not limited to, the owner of such eligible building;

48 (2) issue subpoenas requiring the attendance of such persons and the
49 production of any bills, books, papers or other documents as it may deem
50 necessary;

51 (3) make preliminary estimates of the maximum reasonable cost of such
52 eligible construction;

53 (4) establish maximum allowable costs of specified units, fixtures or
54 work in such eligible construction;

55 (5) require the submission of plans and specifications of such eligi-
56 ble construction before the commencement thereof;

1 (6) require physical access to inspect the eligible building; and
2 (7) on an annual basis, require the submission of leases for any
3 dwelling unit in a building granted a certificate of eligibility and
4 reasonable cost.

5 (m) Termination or revocation. Any such local law or ordinance shall
6 provide that failure to comply with the provisions of this subdivision,
7 any such local law or ordinance, any rules and regulations promulgated
8 thereunder, or any mutual company regulatory agreement or mutual rede-
9 velopment company regulatory agreement entered into thereunder, may
10 result in revocation of any rehabilitation program benefits retroactive
11 to the commencement thereof. Such termination or revocation shall not
12 exempt such eligible building from continued compliance with the
13 requirements of this subdivision, such local law or ordinance, such
14 rules and regulations, and such mutual company regulatory agreement or
15 mutual redevelopment company regulatory agreement.

16 (n) Criminal liability for unauthorized uses. Any such local law or
17 ordinance shall also provide that in the event that any recipient of
18 rehabilitation program benefits uses any dwelling unit in such eligible
19 building in violation of the requirements of such local law or ordinance
20 as adopted pursuant to this subdivision and any rules and regulations
21 promulgated pursuant thereto, such recipient shall be guilty of an
22 unclassified misdemeanor punishable by a fine in an amount equivalent to
23 double the value of the gain of such recipient from such unlawful use or
24 imprisonment for not more than ninety days, or both.

25 (o) Private right of action. Any prospective, present, or former
26 tenant of an eligible rental building may sue to enforce the require-
27 ments and prohibitions of this subdivision, any such local law or ordi-
28 nance, or any rules and regulations promulgated thereunder, in the
29 supreme court of New York. Any such individual harmed by reason of a
30 violation of such requirements and prohibitions may sue therefor in the
31 supreme court of New York on behalf of himself or herself, and shall
32 recover threefold the damages sustained and the cost of the suit,
33 including a reasonable attorney's fee. The local housing agency may use
34 any court decision under this paragraph that is adverse to the owner of
35 an eligible building as the basis for further enforcement action.
36 Notwithstanding any other provision of law, an action by a tenant of an
37 eligible rental building under this paragraph must be commenced within
38 six years from the date of the latest violation.

39 (p) Appointment of receiver. In addition to the remedies for non-com-
40 pliance provided for in subparagraph five of paragraph (e) of this
41 subdivision, any such local law or ordinance may also provide that the
42 local housing agency may make application for the appointment of a
43 receiver in accordance with the procedures contained in such local law
44 or ordinance. Any receiver appointed pursuant to this paragraph shall be
45 authorized, in addition to any other powers conferred by law, to effect
46 compliance with the provisions of this subdivision, such local law or
47 ordinance, and rules and regulations of the local housing agency. Any
48 expenditures incurred by the receiver to effect such compliance shall
49 constitute a debt of the owner and a lien upon the property, and upon
50 the rents and income thereof, in accordance with the procedures
51 contained in such local law or ordinance. The local housing agency in
52 its discretion may provide funds to be expended by the receiver, and
53 such funds shall constitute a debt recoverable from the owner in accord-
54 ance with applicable local laws or ordinances.

55 (r) Authority of city to limit local law. Where a city enacts or
56 amends a local law or ordinance under this subdivision, such local law

1 or ordinance may restrict, limit or condition the eligibility, scope or
2 amount of rehabilitation program benefits under the local law or ordi-
3 nance in any manner, provided that the local law or ordinance may not
4 grant rehabilitation program benefits beyond those provided in this
5 subdivision.

6 § 2. This act shall take effect immediately.

7 PART N

8 Section 1. The real property tax law is amended by adding a new
9 section 421-p to read as follows:

10 § 421-p. Exemption of newly-constructed rental multiple dwellings. 1.

11 (a) A city, town or village may, by local law, provide for the exemption
12 of rental multiple dwellings constructed in a benefit area designated in
13 such local law from taxation and special ad valorem levies, as provided
14 in this section. Subsequent to the adoption of such a local law, any
15 other municipal corporation in which the designated benefit area is
16 located may likewise exempt such property from its taxation and special
17 ad valorem levies by local law, or in the case of a school district, by
18 resolution.

19 (b) As used in this section, the term "benefit area" means the area
20 within a city, town or village, designated by local law, to which an
21 exemption, established pursuant to this section, applies.

22 (c) The term "rental multiple dwelling" means a structure, other than
23 a hotel, consisting of twenty or more dwelling units, where all of the
24 units are rented for residential purposes, and at least twenty percent
25 of such units, upon initial rental and upon each subsequent rental
26 following a vacancy during the restriction period or extended
27 restriction period, as applicable, is affordable to and restricted to
28 occupancy by individuals or families whose household income does not
29 exceed eighty percent of the area median income, adjusted for family
30 size, on average, at the time that such households initially occupy such
31 dwelling units, provided further that all of the income restricted units
32 upon initial rental and upon each subsequent rental following a vacancy
33 during the restriction period or extended restriction period, as appli-
34 cable, shall be affordable to and restricted to occupancy by individuals
35 or families whose household income does not exceed one hundred percent
36 of the area median income, adjusted for family size, at the time that
37 such households initially occupy such dwelling units. Such restriction
38 period shall be in effect coterminous with the benefit period, provided,
39 however, that the tenant or tenants in an income restricted dwelling
40 unit at the time such restriction period ends shall have the right to
41 lease renewals at the income restricted level until such time as such
42 tenant or tenants permanently vacate the dwelling unit.

43 2. Eligible newly-constructed rental multiple dwellings in a desig-
44 nated benefit area shall be wholly exempt from taxation while under
45 construction, subject to a maximum of three years. Such property shall
46 then be exempt for an additional period of twenty-five years, provided,
47 that the exemption percentage during such additional period of twenty-
48 five years shall begin at ninety-six percent and shall decrease by four
49 percent each year thereafter. Provided, however:

50 (a) Taxes shall be paid during the exemption period in an amount at
51 least equal to the taxes paid on such land and any improvements thereon
52 during the tax year preceding the commencement of such exemption.

53 (b) No other exemption may be granted concurrently to the same
54 improvements under any other section of law.

1 3. To be eligible for exemption under this section, such construction
2 shall take place on vacant, predominantly vacant or underutilized land,
3 or on land improved with a non-conforming use or on land containing one
4 or more substandard or structurally unsound dwellings, or a dwelling
5 that has been certified as unsanitary by the local health agency.

6 4. Application for exemption under this section shall be made on a
7 form prescribed by the commissioner and filed with the assessor on or
8 before the applicable taxable status date.

9 5. In the case of newly constructed property which is used partially
10 as a rental multiple dwelling and partially for commercial or other
11 purposes, the portion of the newly constructed property that is used as
12 a rental multiple dwelling shall be eligible for the exemption author-
13 ized by this section if:

14 (a) The square footage of the portion used as a rental multiple dwell-
15 ing represents at least fifty percent of the square footage of the
16 entire property;

17 (b) The rental units are affordable to individuals or families as
18 determined according to the criteria set forth in paragraph (c) of
19 subdivision one of this section; and

20 (c) The requirements of this section are otherwise satisfied with
21 respect to the portion of the property used as a rental multiple dwell-
22 ing.

23 6. The exemption authorized by this section shall not be available in
24 a city with a population of one million or more.

25 7. Any recipient of the exemption authorized by this section or their
26 designee shall certify compliance with the provisions of this section
27 under penalty of perjury, at such time or times and in such manner as
28 may be prescribed in the local law adopted by the city, town or village
29 pursuant to paragraph (a) of subdivision one of this section, or by a
30 subsequent local law. Such city, town or village may establish such
31 procedures as it deems necessary for monitoring and enforcing compliance
32 of an eligible building with the provisions of this section.

33 § 2. This act shall take effect immediately.

34 PART O

35 Section 1. The real property tax law is amended by adding a new
36 section 421-p to read as follows:

37 § 421-p. Exemption of capital improvements to residential new
38 construction involving the creation of accessory dwelling units. 1.
39 Residential buildings reconstructed, altered, improved, or newly
40 constructed in order to create one or more additional residential dwell-
41 ing units on the same parcel as a pre-existing residential building to
42 provide independent living facilities for one or more persons subsequent
43 to the effective date of a local law or resolution enacted pursuant to
44 this section shall be exempt from taxation and special ad valorem levies
45 to the extent provided hereinafter. After a public hearing, the govern-
46 ing board of a county, city, town or village may adopt a local law and a
47 school district, other than a school district subject to article fifty-
48 two of the education law, may adopt a resolution to grant the exemption
49 authorized pursuant to this section. A copy of such local law or resol-
50 ution shall be filed with the commissioner and the assessor of such
51 county, city, town or village who prepares the assessment roll on which
52 the taxes of such county, city, town, village or school district are
53 levied.

1 2. (a) Such buildings shall be exempt for a period of five years to
2 the extent of one hundred per centum of the increase in assessed value
3 thereof attributable to such reconstruction, alteration, improvement, or
4 new construction for such additional residential unit or units that
5 provide independent living facilities for one or more persons, and for
6 an additional period of five years subject to the following:

7 (i) The extent of such exemption shall be decreased by twenty-five per
8 centum of the "exemption base" for each of the first three years during
9 such additional period and shall be decreased by a further ten per
10 centum of the "exemption base" during each of the final two years of
11 such additional period. The exemption shall expire at the end of the
12 extended period. The "exemption base" shall be the increase in assessed
13 value as determined in the initial year of the term of the exemption,
14 except as provided in subparagraph (ii) of this paragraph.

15 (ii) In any year in which a change in level of assessment of fifteen
16 percent or more is certified for a final assessment roll pursuant to the
17 rules of the commissioner, the exemption base shall be multiplied by a
18 fraction, the numerator of which shall be the total assessed value of
19 the parcel on such final assessment roll (after accounting for any phys-
20 ical or quantity changes to the parcel since the immediately preceding
21 assessment roll), and the denominator of which shall be the total
22 assessed value of the parcel on the immediately preceding final assess-
23 ment roll. The result shall be the new exemption base. The exemption
24 shall thereupon be recomputed to take into account the new exemption
25 base, notwithstanding the fact that the assessor receives certification
26 of the change in level of assessment after the completion, verification
27 and filing of the final assessment roll. In the event the assessor does
28 not have custody of the roll when such certification is received, the
29 assessor shall certify the recomputed exemption to the local officers
30 having custody and control of the roll, and such local officers are
31 hereby directed and authorized to enter the recomputed exemption certi-
32 fied by the assessor on the roll. The assessor shall give written notice
33 of such recomputed exemption to the property owner, who may, if he or
34 she believes that the exemption was recomputed incorrectly, apply for a
35 correction in the manner provided by title three of article five of this
36 chapter for the correction of clerical errors.

37 (iii) Such exemption shall be limited to two hundred thousand dollars
38 in increased market value of the property attributable to such recon-
39 struction, alteration, improvement, or new construction and any increase
40 in market value greater than such amount shall not be eligible for the
41 exemption pursuant to this section. For the purposes of this section,
42 the market value of the reconstruction, alteration, improvement, or new
43 construction as authorized by subdivision one of this section shall be
44 equal to the increased assessed value attributable to such recon-
45 struction, alteration, improvement or new construction divided by the
46 class one ratio in a special assessing unit or the most recently estab-
47 lished state equalization rate or special equalization rate in the
48 remainder of the state, except where the state equalization rate or
49 special equalization rate equals or exceeds ninety-five percent, in
50 which case the increase in assessed value attributable to such recon-
51 struction, alteration, improvement or new construction shall be deemed
52 to equal the market value of such reconstruction, alteration, improve-
53 ment, or new construction.

54 (b) No such exemption shall be granted for reconstruction, alter-
55 ations, improvements, or new construction unless:

(i) such reconstruction, alteration, improvement, or new construction was commenced subsequent to the effective date of the local law or resolution adopted pursuant to subdivision one of this section; and

(ii) the value of such reconstruction, alteration, improvement, or new construction exceeds three thousand dollars; and

(iii) such reconstruction, alteration, improvement, or new construction created one or more additional residential dwelling units on the same parcel as the preexisting residential building to provide independent living facilities for one or more persons.

(c) For purposes of this section the terms reconstruction, alteration, improvement, and new construction shall not include ordinary maintenance and repairs.

3. Such exemption shall be granted only upon application by the owner of such building on a form prescribed by the commissioner. The application shall be filed with the assessor of the city, town, village or county having the power to assess property for taxation on or before the appropriate taxable status date of such city, town, village or county.

4. If satisfied that the applicant is entitled to an exemption pursuant to this section, the assessor shall approve the application and such building shall thereafter be exempt from taxation and special ad valorem levies as herein provided commencing with the assessment roll prepared on the basis of the taxable status date referred to in subdivision three of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

5. For the purposes of this section, a residential building shall mean any building or structure designed and occupied exclusively for residential purposes by not more than two families.

6. In the event that a building granted an exemption pursuant to this section ceases to be used primarily for residential purposes, or title thereto is transferred to other than the heirs or distributees of the owner, the exemption granted pursuant to this section shall cease.

7. (a) A county, city, town or village may, by its local law, or school district, by its resolution:

(i) reduce the per centum of exemption otherwise allowed pursuant to this section;

(ii) limit eligibility for the exemption to those forms of reconstruction, alterations, improvements, or new construction as are prescribed in such local law or resolution.

(b) No such local law or resolution shall repeal an exemption granted pursuant to this section until the expiration of the period for which such exemption was granted.

§ 2. This act shall take effect immediately and shall apply to assessment rolls based on taxable status dates occurring on or after such effective date.

PART P

Section 1. Paragraph a of subdivision 3 of section 224-a of the labor law, as added by section 1 of Part FFF of chapter 58 of the laws of 2020, is amended to read as follows:

a. Benefits under section four hundred twenty-one-a or four hundred sixty-seven-m of the real property tax law;

§ 2. The real property tax law is amended by adding a new section 467-m to read as follows:

1 § 467-m. Exemption from local real property taxation of certain multi-
2 ple dwellings in a city having a population of one million or more. 1.
3 Definitions. For purposes of this section, the following terms shall
4 have the following meanings:

5 a. "Affordable housing from commercial conversions tax incentive bene-
6 fits" hereinafter referred to as "AHCC program benefits", shall mean the
7 exemption from real property taxation authorized pursuant to this
8 section.

9 b. "Affordability requirement" shall mean that within any eligible
10 multiple dwelling: (i) not less than twenty percent of the dwelling
11 units are affordable housing units; (ii) not less than five percent of
12 the dwelling units are affordable housing forty percent units; (iii) the
13 weighted average of all income bands for all of the affordable housing
14 units does not exceed seventy percent of the area median income,
15 adjusted for family size; (iv) there are no more than three income bands
16 for all of the affordable housing units; and (v) no income band for
17 affordable housing units exceeds one hundred percent of the area median
18 income, adjusted for family size.

19 c. "Affordable housing forty percent unit" shall mean a dwelling unit
20 that: (i) is situated within the eligible multiple dwelling for which
21 AHCC program benefits are granted; and (ii) upon initial rental and upon
22 each subsequent rental following a vacancy during the restriction peri-
23 od, is affordable to and restricted to occupancy by individuals or fami-
24 lies whose household income does not exceed forty percent of the area
25 median income, adjusted for family size, at the time that such household
26 initially occupies such dwelling unit.

27 d. "Affordable housing unit" shall mean, collectively and individual-
28 ly: (i) an affordable housing forty percent unit; and (ii) any other
29 unit that meets the affordability requirement upon initial occupancy and
30 upon each subsequent rental following a vacancy during the restriction
31 period, and is affordable to and restricted to occupancy by individuals
32 or families whose household income does not exceed the income bands
33 established in conjunction with such affordability requirement.

34 e. "Agency" shall mean the New York city department of housing preser-
35 vation and development.

36 f. "Application" shall mean an application for AHCC program benefits.

37 g. "Building service employee" shall mean any person who is regularly
38 employed at, and performs work in connection with the care or mainte-
39 nance of, an eligible multiple dwelling, including, but not limited to,
40 a watchman, guard, doorman, building cleaner, porter, handyman, janitor,
41 gardener, groundskeeper, elevator operator and starter, and window
42 cleaner, but not including persons regularly scheduled to work fewer
43 than eight hours per week at such eligible multiple dwelling.

44 h. "Commencement date" shall mean the date upon which the actual
45 construction of the eligible conversion lawfully begins in good faith.

46 i. "Completion date" shall mean the date upon which the local depart-
47 ment of buildings issues the first temporary or permanent certificate of
48 occupancy covering all residential areas of an eligible multiple dwell-
49 ing.

50 j. "Construction period" shall mean, with respect to any eligible
51 multiple dwelling, a period: (i) beginning on the later of the commence-
52 ment date or three years before the completion date; and (ii) ending on
53 the day preceding the completion date.

54 k. "Dwelling" or "dwellings" shall have the same meaning as set forth
55 in subdivision four of section four of the multiple dwelling law.

1 1. "Eligible conversion" shall mean the conversion of a non-residen-
2 tial building to an eligible multiple dwelling.

3 m. "Eligible multiple dwelling" shall mean a multiple dwelling in
4 which: (i) all dwelling units included in any application are operated
5 as rental housing; (ii) six or more dwelling units have been created
6 through an eligible conversion; (iii) the commencement date is after
7 December thirty-first, two thousand twenty-two and on or before December
8 thirty-first, two thousand thirty-two; and (iv) the completion date is
9 on or before December thirty-first, two thousand thirty-eight.

10 n. "Fiscal officer" shall mean the comptroller or other analogous
11 officer in a city having a population of one million or more.

12 o. "Floor area" shall mean the horizontal areas of the several floors,
13 or any portion thereof, of a dwelling or dwellings, and accessory struc-
14 tures on a lot measured from the exterior faces of exterior walls, or
15 from the center line of party walls.

16 p. "Income band" shall mean a percentage of the area median income,
17 adjusted for family size, that is a multiple of ten percent.

18 q. "Manhattan prime development area" shall mean any tax lot now
19 existing or hereafter created which is located entirely south of 96th
20 street in the borough of Manhattan.

21 r. "Market unit" shall mean a dwelling unit in an eligible multiple
22 dwelling other than an affordable housing unit.

23 s. "Marketing band" shall mean maximum rent amounts ranging from twen-
24 ty percent to thirty percent of the area median income or income band,
25 respectively, that is applicable to a specific affordable housing unit.

26 t. "Multiple dwelling" shall have the same meaning as set forth in
27 subdivision seven of section four of the multiple dwelling law.

28 u. "Nineteen-year benefit" shall mean: (i) for the construction peri-
29 od, a one hundred percent exemption from real property taxation, other
30 than assessments for local improvements; (ii) for the first fifteen
31 years of the restriction period, (A) within the Manhattan prime develop-
32 ment area, a fifty percent exemption from real property taxation, other
33 than assessments for local improvements, and (B) outside of the Manhat-
34 tan prime development area, a thirty-five percent exemption from real
35 property taxation, other than assessments for local improvements; (iii)
36 for the sixteenth year of the restriction period, (A) within the Manhat-
37 tan prime development area, a forty percent exemption from real property
38 taxation, other than assessments for local improvements, and (B) outside
39 of the Manhattan prime development area, a twenty-eight percent
40 exemption from real property taxation, other than assessments for local
41 improvements; (iv) for the seventeenth year of the restriction period,
42 (A) within the Manhattan prime development area, a thirty percent
43 exemption from real property taxation, other than assessments for local
44 improvements, and (B) outside of the Manhattan prime development area, a
45 twenty-one percent exemption from real property taxation, other than
46 assessments for local improvements; (v) for the eighteenth year of the
47 restriction period, (A) within the Manhattan prime development area, a
48 twenty percent exemption from real property taxation, other than assess-
49 ments for local improvements, and (B) outside of the Manhattan prime
50 development area, a fourteen percent exemption from real property taxa-
51 tion, other than assessments for local improvements; and (vi) for the
52 nineteenth year of the restriction period, (A) within the Manhattan
53 prime development area, a ten percent exemption from real property taxa-
54 tion, other than assessments for local improvements, and (B) outside of
55 the Manhattan prime development area, a seven percent exemption from
56 real property taxation, other than assessments for local improvements.

1 v. "Non-residential building" shall mean a structure or portion of a
2 structure having at least one floor, a roof and at least three walls
3 enclosing all or most of the space used in connection with the structure
4 or portion of the structure, which has a certificate of occupancy for
5 commercial, manufacturing or other non-residential use for not less than
6 ninety percent of the aggregate floor area of such structure or portion
7 of such structure, or other proof of such non-residential use as is
8 acceptable to the agency.

9 w. "Non-residential tax lot" shall mean a tax lot that does not
10 contain any dwelling units.

11 x. "Rent stabilization" shall mean, collectively, the rent stabiliza-
12 tion law of nineteen hundred sixty-nine, the rent stabilization code,
13 and the emergency tenant protection act of nineteen seventy-four, all as
14 in effect as of the effective date of this section or as amended there-
15 after, together with any successor statutes or regulations addressing
16 substantially the same subject matter.

17 y. "Residential tax lot" shall mean a tax lot that contains dwelling
18 units.

19 z. "Restriction period" shall mean a period commencing on the
20 completion date and extending in perpetuity, notwithstanding any earlier
21 termination or revocation of AHCC program benefits.

22 2. Benefit. In cities having a population of one million or more,
23 notwithstanding the provisions of any other general, special or local
24 law to the contrary, a new eligible multiple dwelling, except a hotel,
25 that complies with the provisions of this section shall be exempt from
26 real property taxation, other than assessments for local improvements,
27 in the amounts and for the periods specified in this section, provided
28 that such eligible multiple dwelling is used or held out for use for
29 dwelling purposes. An eligible multiple dwelling that meets all of the
30 requirements of this section shall receive a nineteen-year benefit.

31 3. Tax payments. In addition to any other amounts payable pursuant to
32 this section, the owner of any eligible multiple dwelling receiving AHCC
33 program benefits shall pay, in each tax year in which such AHCC program
34 benefits are in effect, all assessments for local improvements.

35 4. Limitation on benefits for non-residential space. If the aggregate
36 floor area of commercial, community facility and accessory use space in
37 an eligible multiple dwelling exceeds twelve percent of the aggregate
38 floor area in such eligible multiple dwelling, any AHCC program benefits
39 shall be reduced by a percentage equal to such excess. If an eligible
40 multiple dwelling contains multiple tax lots, the tax arising out of
41 such reduction in AHCC program benefits shall first be apportioned pro
42 rata among any non-residential tax lots. After any such non-residential
43 tax lots are fully taxable, the remainder of the tax arising out of such
44 reduction in AHCC program benefits, if any, shall be apportioned pro
45 rata among the remaining residential tax lots. For the purposes of this
46 section, accessory use space shall not include home occupation space or
47 accessory parking space located not more than twenty-three feet above
48 the curb level.

49 5. Application of benefit. Based on the certification of the agency
50 certifying eligibility for AHCC program benefits, the department of
51 finance shall determine the amount of the exemption pursuant to subdivi-
52 sions two and four of this section and shall apply the exemption to the
53 assessed value of the eligible multiple dwelling.

54 6. Affordability requirements. An eligible multiple dwelling shall
55 comply with the following affordability requirements during the
56 restriction period:

1 a. All affordable housing units in an eligible multiple dwelling shall
2 share the same common entrances and common areas as rental market rate
3 units in such eligible multiple dwelling and shall not be isolated to a
4 specific floor or area of an eligible multiple dwelling. Common
5 entrances shall mean any means of ingress or egress regularly used by
6 any resident of a rental dwelling unit in the eligible multiple dwell-
7 ing.

8 b. Unless preempted by the requirements of a federal, state or local
9 housing program, either: (i) the affordable housing units in an eligible
10 multiple dwelling shall have a unit mix proportional to the rental
11 market units; or (ii) at least fifty percent of the affordable housing
12 units in an eligible multiple dwelling shall have two or more bedrooms
13 and no more than twenty-five percent of the affordable housing units
14 shall have less than one bedroom.

15 c. Notwithstanding any provision of rent stabilization to the contra-
16 ry: (i) all affordable housing units shall remain fully subject to rent
17 stabilization during the restriction period; and (ii) any affordable
18 housing unit occupied by a tenant that has been approved by the agency
19 prior to the agency's denial of an eligible multiple dwelling's applica-
20 tion for AHCC program benefits shall remain subject to rent stabiliza-
21 tion until such tenant vacates such affordable housing unit.

22 d. All rent stabilization registrations required to be filed shall
23 contain a designation that specifically identifies affordable housing
24 units created pursuant to this section as "AHCC program affordable hous-
25 ing units" and shall contain an explanation of the requirements that
26 apply to all such affordable housing units.

27 e. Failure to comply with the provisions of this subdivision that
28 require the creation, maintenance, rent stabilization compliance, and
29 occupancy of affordable housing units shall result in revocation of AHCC
30 program benefits.

31 f. Nothing in this section shall: (i) prohibit the occupancy of an
32 affordable housing unit by individuals or families whose income at any
33 time is less than the maximum percentage of the area median income or
34 income band, as applicable, adjusted for family size, specified for such
35 affordable housing unit pursuant to this section; or (ii) prohibit the
36 owner of an eligible multiple dwelling from requiring, upon initial
37 rental or upon any rental following a vacancy, the occupancy of any
38 affordable housing unit by such lower income individuals or families.

39 g. Following issuance of a temporary certificate of occupancy and upon
40 each vacancy thereafter, an affordable housing unit shall promptly be
41 offered for rental by individuals or families whose income does not
42 exceed the maximum percentage of the area median income or income band,
43 as applicable, adjusted for family size, specified for such affordable
44 housing unit pursuant to this section and who intend to occupy such
45 affordable housing unit as their primary residence. An affordable hous-
46 ing unit shall not be: (i) rented to a corporation, partnership or other
47 entity; or (ii) held off the market for a period longer than is reason-
48 ably necessary to perform repairs needed to make such affordable housing
49 unit available for occupancy.

50 h. An affordable housing unit shall not be rented on a temporary,
51 transient or short-term basis. Every lease and renewal thereof for an
52 affordable housing unit shall be for a term of one or two years, at the
53 option of the tenant.

54 i. An affordable housing unit shall not be converted to cooperative or
55 condominium ownership.

1 j. The agency may establish by rule such requirements as the agency
2 deems necessary or appropriate for: (i) the marketing of affordable
3 housing units, both upon initial occupancy and upon any vacancy; (ii)
4 monitoring compliance with the provisions of this subdivision; and (iii)
5 the establishment of marketing bands for affordable housing units. Such
6 requirements may include, but need not be limited to, retaining a moni-
7 tor approved by the agency and paid for by the owner of the eligible
8 multiple dwelling.

9 k. Notwithstanding any provision of this section to the contrary, a
10 market unit shall not be subject to rent stabilization unless, in the
11 absence of AHCC program benefits, the unit would be subject to rent
12 stabilization.

13 7. Building service employees. a. For the purposes of this subdivi-
14 sion, "applicant" shall mean an applicant for AHCC program benefits, any
15 successor to such applicant, or any employer of building service employ-
16 ees for such applicant including, but not limited to, a property manage-
17 ment company or contractor.

18 b. All building service employees employed by the applicant at the
19 eligible multiple dwelling shall receive the applicable prevailing wage
20 for the duration of the nineteen-year benefit period, regardless of
21 whether such benefits are revoked or terminated.

22 c. The fiscal officer shall have the power to enforce the provisions
23 of this subdivision. In enforcing such provisions, the fiscal officer
24 shall have the power: (i) to investigate or cause an investigation to be
25 made to determine the prevailing wages for building service employees,
26 and in making such investigation, the fiscal officer may utilize wage
27 and fringe benefit data from various sources, including, but not limited
28 to, data and determinations of federal, state or other governmental
29 agencies; provided, however, that the provision of a dwelling unit shall
30 not be considered wages or a fringe benefit; (ii) to institute and
31 conduct inspections at the site of the work or elsewhere; (iii) to exam-
32 ine the books, documents and records pertaining to the wages paid to,
33 and the hours of work performed by, building service employees; (iv) to
34 hold hearings and, in connection therewith, to issue subpoenas, the
35 enforcement of which shall be regulated by the civil practice law and
36 rules, administer oaths and examine witnesses; (v) to make a classifica-
37 tion by craft, trade or other generally recognized occupational category
38 of the building service employees and to determine whether such work has
39 been performed by the building service employees in such classification;
40 (vi) to require the applicant to file with the fiscal officer a record
41 of the wages actually paid by such applicant to the building service
42 employees and of their hours of work; (vii) to delegate any of the fore-
43 going powers to his or her deputy or other authorized representative;
44 (viii) to promulgate rules as he or she shall consider necessary for the
45 proper execution of the duties, responsibilities and powers conferred
46 upon him or her by the provisions of this subdivision; and (ix) to
47 prescribe appropriate sanctions for failure to comply with the
48 provisions of this subdivision. For each violation of paragraph b of
49 this subdivision, the fiscal officer may require the payment of (A) back
50 wages and fringe benefits; (B) liquidated damages up to three times the
51 amount of the back wages and fringe benefits for willful violations;
52 and/or (C) reasonable attorneys' fees. If the fiscal officer finds that
53 the applicant has failed to comply with the provisions of this subdivi-
54 sion, he or she shall present evidence of such non-compliance to the
55 agency.

1 d. Paragraph b of this subdivision shall not be applicable to: (i) an
2 eligible multiple dwelling containing less than thirty dwelling units;
3 or (ii) an eligible multiple dwelling whose eligible conversion is
4 carried out with the substantial assistance of grants, loans or subsi-
5 dies provided by a federal, state or local governmental agency or
6 instrumentality pursuant to a program for the development of affordable
7 housing.

8 e. The applicant shall submit a sworn affidavit with its application
9 certifying that it shall comply with the requirements of this subdivi-
10 sion or is exempt in accordance with paragraph d of this subdivision.
11 Upon the agency's approval of such application, the applicant who is not
12 exempt in accordance with paragraph d of this subdivision shall submit
13 annually a sworn affidavit to the fiscal officer certifying that it
14 shall comply with the requirements of this subdivision.

15 8. Concurrent exemptions or abatements. An eligible multiple dwelling
16 receiving AHCC program benefits shall not receive any exemption from or
17 abatement of real property taxation under any other law.

18 9. Voluntary renunciation or termination. Notwithstanding the
19 provisions of any general, special or local law to the contrary, an
20 owner shall not be entitled to voluntarily renounce or terminate AHCC
21 program benefits unless the agency authorizes such renunciation or
22 termination in connection with the commencement of a tax exemption
23 pursuant to the private housing finance law or section four hundred
24 twenty-c of this title.

25 10. Termination or revocation. The agency may terminate or revoke AHCC
26 program benefits for noncompliance with this section. All of the afford-
27 able housing units shall remain subject to rent stabilization and all
28 other requirements of this section for the duration of the restriction
29 period, regardless of whether such benefits have been terminated or
30 revoked.

31 11. Powers cumulative. The enforcement provisions of this section
32 shall not be exclusive, and are in addition to any other rights, reme-
33 dies or enforcement powers set forth in any other law or available at
34 law or in equity.

35 12. Multiple tax lots. If an eligible multiple dwelling contains
36 multiple tax lots, an application may be submitted with respect to one
37 or more of such tax lots. The agency shall determine eligibility for
38 AHCC program benefits based upon the tax lots included in such applica-
39 tion and benefits for each such eligible multiple dwelling shall be
40 based upon the completion date of each such multiple dwelling.

41 13. Applications. a. The application with respect to any eligible
42 multiple dwelling shall be filed with the agency no earlier than the
43 completion date and not later than one year after the completion date of
44 such eligible multiple dwelling.

45 b. Notwithstanding the provisions of any general, special, or local
46 law to the contrary, the agency may require by rule that applications be
47 filed electronically.

48 c. The agency may rely on certification by an architect or engineer
49 submitted by an applicant in connection with the filing of an applica-
50 tion. A false certification by such architect or engineer shall be
51 deemed to be professional misconduct pursuant to section sixty-five
52 hundred nine of the education law. Any architect or engineer found
53 guilty of such misconduct under the procedures prescribed in section
54 sixty-five hundred ten of the education law shall be subject to the
55 penalties prescribed in section sixty-five hundred eleven of the educa-

tion law and shall thereafter be ineligible to submit a certification pursuant to this section.

d. Such application shall also certify that all taxes, water charges, and sewer rents currently due and owing on the property which is the subject of the application have been paid or are currently being paid in timely installments pursuant to a written agreement with the department of finance or other appropriate agency.

14. Filing fee. The agency may require a filing fee of no less than three thousand dollars per dwelling unit in connection with any application, except that the agency may promulgate rules:

a. imposing a lesser fee for an eligible multiple dwelling whose eligible conversion is carried out with the substantial assistance of grants, loans or subsidies provided by a federal, state or local governmental agency or instrumentality pursuant to a program for the development of affordable housing; and

b. requiring a portion of the filing fee to be paid upon the submission of the information the agency requires in advance of approving the commencement of the marketing process for such eligible conversion.

15. Rules. Except as provided in subdivision seven of this section, the agency shall have the sole authority to enforce the provisions of this section and may promulgate rules to carry out the provisions of this section.

16. Penalties for violations of affordability requirements. a. On or after the expiration date of the nineteen-year benefit, the agency may impose, after notice and an opportunity to be heard, a penalty for any violation by an eligible multiple dwelling of the affordability requirements of subdivision six of this section.

b. A penalty imposed under this subdivision shall be computed as a percentage of the capitalized value of all AHCC program benefits on the eligible multiple dwelling, calculated as of the first year that benefits were granted, not to exceed one thousand percent. The agency shall establish a schedule and method of calculation of such penalties pursuant to subdivision fifteen of this section.

c. A penalty imposed under this subdivision shall be imposed against the owner of the eligible multiple dwelling at the time the violation occurred, even if such owner no longer owns such eligible multiple dwelling at the time of the agency's determination.

d. A person or entity who fails to pay a penalty imposed pursuant to this subdivision shall be guilty of a misdemeanor punishable by imprisonment not to exceed six months.

§ 3. This act shall take effect immediately.

PART Q

Section 1. Notwithstanding any other provision of law, the housing trust fund corporation may provide, for purposes of the neighborhood preservation program, a sum not to exceed \$12,830,000 for the fiscal year ending March 31, 2024. Notwithstanding any other provision of law, and subject to the approval of the New York state director of the budget, the board of directors of the state of New York mortgage agency shall authorize the transfer to the housing trust fund corporation, for the purposes of reimbursing any costs associated with neighborhood preservation program contracts authorized by this section, a total sum not to exceed \$12,830,000, such transfer to be made from (i) the special account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law, in an amount not to exceed the

1 actual excess balance in the special account of the mortgage insurance
2 fund, as determined and certified by the state of New York mortgage
3 agency for the fiscal year 2022-2023 in accordance with section 2429-b
4 of the public authorities law, if any, and/or (ii) provided that the
5 reserves in the project pool insurance account of the mortgage insurance
6 fund created pursuant to section 2429-b of the public authorities law
7 are sufficient to attain and maintain the credit rating (as determined
8 by the state of New York mortgage agency) required to accomplish the
9 purposes of such account, the project pool insurance account of the
10 mortgage insurance fund, such transfer to be made as soon as practicable
11 but no later than June 30, 2023.

12 § 2. Notwithstanding any other provision of law, the housing trust
13 fund corporation may provide, for purposes of the rural preservation
14 program, a sum not to exceed \$5,360,000 for the fiscal year ending March
15 31, 2024. Notwithstanding any other provision of law, and subject to
16 the approval of the New York state director of the budget, the board of
17 directors of the state of New York mortgage agency shall authorize the
18 transfer to the housing trust fund corporation, for the purposes of
19 reimbursing any costs associated with rural preservation program
20 contracts authorized by this section, a total sum not to exceed
21 \$5,360,000, such transfer to be made from (i) the special account of the
22 mortgage insurance fund created pursuant to section 2429-b of the public
23 authorities law, in an amount not to exceed the actual excess balance in
24 the special account of the mortgage insurance fund, as determined and
25 certified by the state of New York mortgage agency for the fiscal year
26 2022-2023 in accordance with section 2429-b of the public authorities
27 law, if any, and/or (ii) provided that the reserves in the project pool
28 insurance account of the mortgage insurance fund created pursuant to
29 section 2429-b of the public authorities law are sufficient to attain
30 and maintain the credit rating (as determined by the state of New York
31 mortgage agency) required to accomplish the purposes of such account,
32 the project pool insurance account of the mortgage insurance fund, such
33 transfer to be made as soon as practicable but no later than June 30,
34 2023.

35 § 3. Notwithstanding any other provision of law, the housing trust
36 fund corporation may provide, for purposes of the rural rental assist-
37 ance program pursuant to article 17-A of the private housing finance
38 law, a sum not to exceed \$21,710,000 for the fiscal year ending March
39 31, 2024. Notwithstanding any other provision of law, and subject to
40 the approval of the New York state director of the budget, the board of
41 directors of the state of New York mortgage agency shall authorize the
42 transfer to the housing trust fund corporation, for the purposes of
43 reimbursing any costs associated with rural rental assistance program
44 contracts authorized by this section, a total sum not to exceed
45 \$21,710,000, such transfer to be made from (i) the special account of
46 the mortgage insurance fund created pursuant to section 2429-b of the
47 public authorities law, in an amount not to exceed the actual excess
48 balance in the special account of the mortgage insurance fund, as deter-
49 mined and certified by the state of New York mortgage agency for the
50 fiscal year 2022-2023 in accordance with section 2429-b of the public
51 authorities law, if any, and/or (ii) provided that the reserves in the
52 project pool insurance account of the mortgage insurance fund created
53 pursuant to section 2429-b of the public authorities law are sufficient
54 to attain and maintain the credit rating, as determined by the state of
55 New York mortgage agency, required to accomplish the purposes of such
56 account, the project pool insurance account of the mortgage insurance

1 fund, such transfer shall be made as soon as practicable but no later
2 than June 30, 2023.

3 § 4. Notwithstanding any other provision of law, the homeless housing
4 and assistance corporation may provide, for purposes of the New York
5 state supportive housing program, the solutions to end homelessness
6 program or the operational support for AIDS housing program, or to qual-
7 ified grantees under such programs, in accordance with the requirements
8 of such programs, a sum not to exceed \$50,781,000 for the fiscal year
9 ending March 31, 2024. The homeless housing and assistance corporation
10 may enter into an agreement with the office of temporary and disability
11 assistance to administer such sum in accordance with the requirements of
12 such programs. Notwithstanding any other provision of law, and subject
13 to the approval of the New York state director of the budget, the board
14 of directors of the state of New York mortgage agency shall authorize
15 the transfer to the homeless housing and assistance corporation, a total
16 sum not to exceed \$50,781,000, such transfer to be made from (i) the
17 special account of the mortgage insurance fund created pursuant to
18 section 2429-b of the public authorities law, in an amount not to exceed
19 the actual excess balance in the special account of the mortgage insur-
20 ance fund, as determined and certified by the state of New York mortgage
21 agency for the fiscal year 2022-2023 in accordance with section 2429-b
22 of the public authorities law, if any, and/or (ii) provided that the
23 reserves in the project pool insurance account of the mortgage insurance
24 fund created pursuant to section 2429-b of the public authorities law
25 are sufficient to attain and maintain the credit rating as determined by
26 the state of New York mortgage agency, required to accomplish the
27 purposes of such account, the project pool insurance account of the
28 mortgage insurance fund, such transfer shall be made as soon as practi-
29 cable but no later than March 31, 2024.

30 § 5. This act shall take effect immediately.

31 PART R

32 Section 1. Subparagraph (xxviii) of paragraph (a) of subdivision 16 of
33 section 421-a of the real property tax law, as amended by section 3 of
34 part TTT of chapter 59 of the laws of 2017, is amended to read as
35 follows:

36 (xxviii) "Eligible multiple dwelling" shall mean a multiple dwelling
37 or homeownership project containing six or more dwelling units created
38 through new construction or eligible conversion for which the commence-
39 ment date is after December thirty-first, two thousand fifteen and on or
40 before June fifteenth, two thousand twenty-two, and for which the
41 completion date is on or before June fifteenth, two thousand [~~twenty-~~
42 ~~six~~] thirty.

43 § 2. This act shall take effect immediately.

44 PART S

45 Section 1. Section 652 of the labor law is amended by adding a new
46 subdivision 1-a to read as follows:

47 1-a. Annual minimum wage increase. (a) New York city. On and after
48 December thirty-first, two thousand twenty-three, every employer regard-
49 less of size shall pay to each of its employees for each hour worked in
50 the city of New York, a wage of not less than the adjusted minimum wage
51 rate established annually by the commissioner. Such adjusted minimum
52 wage rate shall be determined by increasing the current year's minimum

1 wage rate by the lesser of three percent and the rate of change in the
2 average of the most recent period between the first of August and the
3 thirty-first of July over the preceding twelve months published by the
4 United States department of labor non-seasonally adjusted consumer price
5 index for northeast region urban wage earners and clerical workers
6 (CPI-W) or any successor index as calculated by the United States
7 department of labor.

8 (b) Remainder of downstate. On and after December thirty-first, two
9 thousand twenty-three, every employer shall pay to each of its employees
10 for each hour worked in the counties of Nassau, Suffolk, and Westches-
11 ter, a wage of not less than the adjusted minimum wage rate established
12 annually by the commissioner. Such adjusted minimum wage rate shall be
13 determined by increasing the current year's minimum wage rate by the
14 lesser of three percent and the rate of change in the average of the
15 most recent period between the first of August and the thirty-first of
16 July over the preceding twelve months for the northeast region CPI-W or
17 any successor index as calculated by the United States department of
18 labor.

19 (c) Remainder of state. On and after December thirty-first, two thou-
20 sand twenty-three, in the year following the year the minimum wage rate
21 equals fifteen dollars for each hour worked outside of the city of New
22 York and the counties of Nassau, Suffolk, and Westchester pursuant to
23 subdivision one of this section, every employer shall pay to each of its
24 employees for each hour worked outside of the city of New York and the
25 counties of Nassau, Suffolk, and Westchester a wage of not less than the
26 adjusted minimum wage rate established annually by the commissioner.
27 Such adjusted minimum wage rate shall be determined by increasing the
28 current year's minimum wage rate by the lesser of three percent and the
29 rate of change in the average of the most recent period between the
30 first of August and the thirty-first of July over the preceding twelve
31 months for the northeast region CPI-W or any successor index as calcu-
32 lated by the United States department of labor.

33 (d) Notwithstanding paragraphs (a), (b), and (c) of this subdivision,
34 the minimum wage for a home care aide as defined in section thirty-six
35 hundred fourteen-c of the public health law shall be set by subdivisions
36 two and three of section thirty-six hundred fourteen-f of the public
37 health law.

38 (e) Exceptions. Notwithstanding paragraphs (a), (b) and (c) of this
39 subdivision, there shall be no increase in the minimum wage in the state
40 for the following year if:

41 (i) the rate of change in the average of the most recent period of the
42 first of August to the thirty-first of July over the preceding period of
43 the first of August to the thirty-first of July for the northeast region
44 CPI-W is negative;

45 (ii) the three-month moving average of the seasonally adjusted New
46 York state unemployment rate as determined by the U-3 measure of labor
47 underutilization for the most recent period ending the thirty-first of
48 July as calculated by the United States department of labor rises by
49 one-half percentage point or more relative to its low during the previ-
50 ous twelve months; or

51 (iii) seasonally adjusted, total non-farm employment for New York
52 state in July, calculated by the United States department of labor,
53 decreased from the seasonally adjusted, total non-farm employment for
54 New York state in April, and seasonally adjusted, total non-farm employ-
55 ment for New York state in July, calculated by the United States depart-

1 ment of labor, decreased from the seasonally adjusted, total non-farm
2 employment for New York state in January.

3 (f) The commissioner shall publish the adjusted minimum wage rates no
4 later than the first of October of each year to take effect on the thir-
5 ty-first day of December. The commissioner shall publish the adjusted
6 minimum wage rates that will go into effect on December thirty-first,
7 two thousand twenty-three no later than October first, two thousand
8 twenty-three.

9 § 2. Subdivisions 2, 4 and 5 of section 652 of the labor law, subdivi-
10 sion 2 as amended by chapter 38 of the laws of 1990, the opening para-
11 graph of subdivision 2 as amended by section 6 of part II of chapter 58
12 of the laws of 2020, and subdivisions 4 and 5 as amended by section 2 of
13 part K of chapter 54 of the laws of 2016, are amended to read as
14 follows:

15 2. Existing wage orders. The minimum wage orders in effect on the
16 effective date of this act shall remain in full force and effect, except
17 as modified in accordance with the provisions of this article; provided,
18 however, that the minimum wage order for farm workers codified at part
19 one hundred ninety of title twelve of the New York code of rules and
20 regulations in effect on January first, two thousand twenty shall be
21 deemed to be a wage order established and adopted under this article and
22 shall remain in full force and effect except as modified in accordance
23 with the provisions of this article or article nineteen-A of this chap-
24 ter.

25 Such minimum wage orders shall be modified by the commissioner to
26 increase all monetary amounts specified therein in the same proportion
27 as the increase in the hourly minimum wage as provided in [~~subdivision~~]
28 subdivisions one and one-a of this section, including the amounts speci-
29 fied in such minimum wage orders as allowances for gratuities, and when
30 furnished by the employer to its employees, for meals, lodging, apparel
31 and other such items, services and facilities. All amounts so modified
32 shall be rounded off to the nearest five cents. The modified orders
33 shall be promulgated by the commissioner without a public hearing, and
34 without reference to a wage board, and shall become effective on the
35 effective date of such increases in the minimum wage except as otherwise
36 provided in this subdivision, notwithstanding any other provision of
37 this article.

38 4. Notwithstanding subdivisions one, one-a and two of this section,
39 the wage for an employee who is a food service worker receiving tips
40 shall be a cash wage of at least two-thirds of the minimum wage rates
41 set forth in subdivision one of this section, rounded to the nearest
42 five cents or seven dollars and fifty cents, whichever is higher,
43 provided that the tips of such an employee, when added to such cash
44 wage, are equal to or exceed the minimum wage in effect pursuant to
45 [~~subdivision~~] subdivisions one and one-a of this section and provided
46 further that no other cash wage is established pursuant to section six
47 hundred fifty-three of this article.

48 5. Notwithstanding subdivisions one, one-a and two of this section,
49 meal and lodging allowances for a food service worker receiving a cash
50 wage pursuant to subdivision four of this section shall not increase
51 more than two-thirds of the increase required by subdivision two of this
52 section as applied to state wage orders in effect pursuant to [~~subdivi-~~
53 ~~sion~~] subdivisions one and one-a of this section.

54 § 3. Section 3614-f of the public health law, as added by section 1 of
55 part XX of chapter 56 of the laws of 2022, is amended to read as
56 follows:

§ 3614-f. Home care minimum wage increase. 1. For the purpose of this section, "home care aide" shall have the same meaning as defined in section thirty-six hundred fourteen-c of this article.

2. ~~[In addition to the otherwise applicable minimum wage under section six hundred fifty-two of the labor law, or any otherwise applicable wage rule or order under article nineteen of the labor law]~~ Notwithstanding any increase to the minimum wage under paragraph (a), (b), or (c) of subdivision one-a of section six hundred fifty-two of the labor law, the minimum wage for a home care aide shall be increased by an amount of three dollars and zero cents from the minimum wage established under subdivision one of section six hundred fifty-two of the labor law for each region of the state in accordance with the following schedule:

(a) beginning October first, two thousand twenty-two, the minimum wage for a home care aide shall be increased by an amount of two dollars and zero cents, and

(b) beginning October first, two thousand twenty-three, the minimum wage for a home care aide shall be increased by an additional amount of one dollar and zero cents.

3. On and after December thirty-first, two thousand twenty-three, the minimum wage for a home care aide shall be the greater of either:

(a) the rate established in accordance with subdivision two of this section; or

(b) the rate established in accordance with section six hundred fifty-two of the labor law.

4. At no time shall the minimum wage for a home care aide be higher than eighteen dollars until such time as the minimum wage rate pursuant to subdivision one-a of section six hundred fifty-two of the labor law in the locality of the state in which such home care aide works is higher than eighteen dollars.

5. Where any home care aide is paid less than what is required ~~by subdivision~~ under subdivisions two and three of this section, the home care aide, or the commissioner of labor acting on behalf of the home care aide, may bring a civil action under article six or nineteen of the labor law; provided that this shall not preclude the commissioner of labor from taking direct administrative enforcement action under article six of the labor law.

§ 4. This act shall take effect immediately.

PART T

Section 1. Legislative findings. The legislature finds that both within the city of New York and across the United States, over the past several decades, income inequality has expanded and that poverty is frequently concentrated in economically disadvantaged regions. The legislature also finds that economic disparities among individuals and across communities have further expanded due to the economic and health effects of the virus known as COVID-19. The purpose of this legislation is to remediate these economic disparities by authorizing the city of New York, the city school district of the city of New York, the New York city school construction authority, the New York city health and hospitals corporation, the New York city industrial development agency, and other city-affiliated not-for-profit corporations to use the economic power of their transactions to implement programs by administrative rule requiring contractors and subcontractors benefitting from such transactions to make best efforts to employ qualified economically disadvan-

1 tagged candidates and qualified candidates from economically disadvan-
2 tagged regions.

3 § 2. The New York city charter is amended by adding a new chapter 79
4 to read as follows:

5 CHAPTER 79

6 COMMUNITY HIRING AND WORKFORCE DEVELOPMENT

7 § 3501. Absorption hire. The term "absorption hire" means an individual
8 who fills a building service opportunity and who:

9 (1) was employed to perform building service work within the preceding
10 six months at the same facility to which such individual is assigned; or

11 (2) fills such building service opportunity as a result of a reassign-
12 ment by a contractor or subcontractor, as applicable, due to a displace-
13 ment caused by the closure of another facility, a staffing reduction at
14 another facility, or any other similar event.

15 Apprentice. The term "apprentice" means an individual who is receiving
16 training and performing labor pursuant to an apprenticeship agreement.

17 Apprenticeship agreement. The term "apprenticeship agreement" means an
18 agreement, as such term is defined by section eight hundred sixteen of
19 the labor law, that has been registered with, and approved by, the
20 commissioner of labor of the state of New York pursuant to article twen-
21 ty-three of the labor law.

22 Building service opportunity. The term "building service opportunity"
23 means an employment opportunity to perform building service work.

24 Building service opportunity labor hour. The term "building service
25 opportunity labor hour" means a labor hour performed by an individual
26 employed to fill a building service opportunity.

27 Building service work. The term "building service work" means the
28 classifications of labor that the applicable fiscal officer has identi-
29 fied as consistent with section two hundred thirty of the labor law,
30 regardless of whether such labor constitutes building service work for
31 which workers are entitled to prevailing wage pursuant to article nine
32 of the labor law.

33 City-affiliated not-for-profit corporation. The term "city-affiliated
34 not-for-profit corporation" means a local development corporation or
35 other not-for-profit corporation, a majority of whose members are
36 appointed by the mayor.

37 Construction. The term "construction" means:

38 (1) any labor of a type that the applicable fiscal officer, as defined
39 in paragraph e of subdivision five of section two hundred twenty of the
40 labor law, has identified in a published schedule as a classification of
41 work performed by laborers, workmen or mechanics, regardless of whether
42 such labor constitutes public work pursuant to such section; and

43 (2) any additional types of labor identified by the director by rule,
44 provided that such labor shall not include building service work.

45 Contractor. The term "contractor" means an individual, company, corpo-
46 ration, partnership, or other entity that has entered into a transaction
47 with the city, except that the term "contractor" does not include:

48 (1) any governmental entity;

49 (2) any microbusiness, other than a microbusiness performing
50 construction work under a transaction; or

51 (3) any labor organization.

52 Director. The term "director" means the director of the office of
53 community hiring and workforce development or his or her designee.

54 Economically disadvantaged candidate. The term "economically disadvan-
55 tagged candidate" means an individual:

1 (1) whose income or household income falls below an applicable quanti-
2 tative threshold determined by the director, provided that such income
3 shall not include any types of public benefits provided by the federal
4 government or a state or local government and identified by the direc-
5 tor; and

6 (2) who is certified as meeting all applicable requirements.

7 Economically disadvantaged region. The term "economically disadvan-
8 tagged region" means an area, represented by its ZIP code, in which at
9 least fifteen percent of residents have household incomes below the
10 federal poverty threshold.

11 Economically disadvantaged region candidate. The term "economically
12 disadvantaged region candidate" means an individual who is certified as
13 meeting all applicable requirements and who is a:

14 (1) resident of an address within an economically disadvantaged
15 region;

16 (2) resident of a building that is:

17 (i) owned or operated by the New York city housing authority; and

18 (ii) subject to section nine of the United States Housing Act of nine-
19 teen hundred thirty-seven, as amended; or

20 (3) resident of a dwelling unit that is:

21 (i) subject to a regulatory agreement with a federal, state or local
22 government agency requiring that occupancy of such unit be restricted
23 based on the income of the occupants; and

24 (ii) located in a building that was previously operated by the New
25 York city housing authority, was previously subject to section nine of
26 the United States Housing Act of nineteen hundred thirty-seven, as
27 amended, and is subject to section eight of such act.

28 Employment opportunity. The term "employment opportunity" means a
29 vacancy in a position to perform services under a transaction.

30 Exempt transaction. The term "exempt transaction" includes any:

31 (1) contract procured pursuant to section one hundred sixty-two of the
32 state finance law;

33 (2) contract for the performance of services by a city-affiliated
34 not-for-profit corporation;

35 (3) contract the principal purpose of which is the supply of goods;

36 (4) contract in an amount below the small purchase threshold set
37 pursuant to the authority and procedure set forth in subdivision a of
38 section three hundred fourteen of this charter;

39 (5) contract for confidential or investigative services or any other
40 type of contract excluded by a rule adopted by the director based on a
41 determination that the application of goals under this program would
42 substantially undermine the primary objective of that type of contract;

43 (6) contract subject to federal or state funding requirements that
44 preclude or substantially conflict with the application of goals under
45 this program;

46 (7) contract for emergency demolition services procured by the depart-
47 ment of housing preservation and development pursuant to the procedure
48 set forth in section three hundred fifteen of this charter; or

49 (8) a contract for which contractor selection is made by an elected
50 official other than the mayor or an agency other than a mayoral agency,
51 except as otherwise provided by rule by the director.

52 Labor organization. The term "labor organization" has the meaning
53 provided in section one hundred fifty-two of title twenty-nine of the
54 United States code, or any successor provision.

55 Mayoral agency. The term "mayoral agency" includes:

56 (1) any agency the head of which is appointed by the mayor;

(2) any agency headed by a board, commission, or other multi-member body, the majority of the membership of which is appointed by the mayor; and

(3) the office of the mayor.

Microbusiness. The term "microbusiness" means an individual, company, corporation, partnership, or other entity that employs no less than one employee and no more than nine employees.

MWBE. The term "MWBE" means a business certified as a minority or women-owned business enterprise pursuant to article fifteen-A of the executive law or section thirteen hundred four of this charter.

Project labor agreement. The term "project labor agreement" means a pre-hire collective bargaining agreement entered into between the city and a bona fide building and construction trade labor organization establishing the labor organization or its affiliates as the collective bargaining representative for all persons who will perform construction work on a transaction, provided such agreement:

(1) provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform such work on such transaction; and

(2) includes goals for the employment of qualified economically disadvantaged region candidates to perform such work.

Referral source. The term "referral source" means an individual, company, corporation, partnership, agency, union referral system, or other entity selected pursuant to paragraph three of subdivision a of section thirty-five hundred two of this chapter to make referrals of candidates to contractors, prospective contractors, subcontractors, and prospective subcontractors for the purposes of meeting the applicable employment goals set forth in such section; provided that union referral systems that have affiliated registered apprentice programs with direct entry access from pre-apprentice programs that are compliant with United States department of labor or New York state department of labor regulations, as well as union referral systems with community recruitment programs, shall be deemed an approved referral source for the purposes of paragraph three of subdivision a of section thirty-five hundred two of this chapter.

Small business. The term "small business" means an entity that:

(1) is independently owned and operated; and

(2) has annual gross revenues not exceeding five million dollars or a lesser amount established by the director by rule.

Subcontractor. The term "subcontractor" means an individual, company, corporation, partnership or other entity that has entered into an agreement with a contractor or another subcontractor in order to perform services or any other obligation under a transaction, provided that such agreement involves the performance of construction work of any value, or the total dollar value of such agreement exceeds twenty thousand dollars, and further provided that the term "subcontractor" does not include:

(1) employees;

(2) governmental entities;

(3) microbusinesses, other than microbusinesses performing construction work under a transaction; or

(4) labor organizations.

Transaction. The term "transaction" means, a procurement contract except that the term "transaction" shall not include any exempt transaction.

1 § 3502. Office of community hiring and workforce development. a.
2 Office established. The mayor shall establish an office of community
3 hiring and workforce development. Such office may be established as a
4 separate office or within any department the head of which is appointed
5 by the mayor. The office of community hiring and workforce development
6 shall be headed by a director who shall be appointed by the mayor or
7 head of such department. The director shall, as the director deems
8 appropriate, adopt rules consistent with the purpose of this chapter
9 relating to employment goals on transactions, including rules:

10 (1) requiring contractors and subcontractors to agree to publicly
11 disclose employment opportunities;

12 (2) establishing a procedure for the certification of individuals as
13 economically disadvantaged candidates, economically disadvantaged region
14 candidates, or both, provided that such certification procedure shall,
15 to the extent the director deems feasible, use data sources and adminis-
16 trative processes established or maintained by the city for other
17 programs or operations in order to minimize administrative burdens on
18 contractors, subcontractors, and individuals;

19 (3) establishing a procedure by which the director may approve refer-
20 ral sources for the purposes of this section, whereby the director
21 shall:

22 (i) publicly release a referral source solicitation that includes a
23 description of functions of a referral source, the manner in which
24 responses must be submitted, and the criteria by which responding enti-
25 ties will be approved, and authorize one or more entities, as appropri-
26 ate, to function as referral sources, based on the criteria included in
27 the solicitation;

28 (ii) authorize an agency in writing to function as a referral source;

29 (iii) authorize, in writing, an entity engaged pursuant to an agree-
30 ment with an agency for employment recruitment services or other work-
31 force development services to function as a referral source; or

32 (iv) identify and deem union referral systems that have affiliated
33 registered apprentice programs with direct entry access from pre-appren-
34 tice programs and that are compliant with United States department of
35 labor or New York state department of labor regulations, as well as
36 union referral systems with community recruitment programs, as approved
37 referral systems;

38 (4) establishing a procedure through which the director may provide
39 information regarding referral sources to contractors, subcontractors,
40 prospective contractors, and prospective subcontractors;

41 (5) establishing a procedure by which the director shall monitor and
42 criteria by which the director shall evaluate the performance of each
43 referral source on an annual basis, and where the director determines
44 that a referral source has performed inadequately, terminate or suspend
45 the referral source;

46 (6) requiring contractors to agree to make best efforts to interview,
47 as appropriate, and to employ qualified economically disadvantaged
48 region candidates in order to meet employment goals relating to building
49 service work based on:

50 (i) the percentage of building service opportunities filled by econom-
51 ically disadvantaged region candidates, provided that in calculating
52 such goals, absorption hires shall not be considered; or

53 (ii) the percentage of building service opportunity labor hours
54 performed by economically disadvantaged region candidates, provided that
55 in calculating such goals, building service opportunity labor hours
56 performed by absorption hires shall not be considered;

1 (7) requiring contractors and subcontractors to agree to make best
2 efforts to employ qualified economically disadvantaged region candidates
3 to perform no less than thirty percent of the cumulative hours of
4 construction labor on transactions involving construction work, and
5 additionally requiring, to the extent feasible consistent with the maxi-
6 mum ratios of apprentices to journey-level workers established by the
7 New York state department of labor, that such contractors and subcon-
8 tractors agree to make best efforts to employ apprentices who are quali-
9 fied economically disadvantaged region candidates to perform no less
10 than nine percent of such cumulative hours of construction labor,
11 provided that labor performed by apprentices who are qualified econom-
12 ically disadvantaged region candidates shall be credited towards the
13 achievement of both employment goals set forth in this paragraph, and
14 further provided that prior to releasing a solicitation for a trans-
15 action or otherwise initiating a process for entering into a trans-
16 action, as applicable, the director may waive such requirements where
17 the director determines in writing that such waiver is in the best
18 interest of the city;

19 (8) requiring contractors to agree to make best efforts to interview
20 and to employ qualified economically disadvantaged candidates in order
21 to meet employment goals relating to work that neither involves
22 construction work nor building service work, and establishing such goals
23 based on:

24 (i) the percentage of the cumulative hours of labor performed by such
25 candidates;

26 (ii) the percentage of employment opportunities filled by such candi-
27 dates; or

28 (iii) the total value of the transaction;

29 (9) requiring subcontractors to agree to make best efforts to inter-
30 view, as appropriate, and to extend offers of employment to qualified
31 candidates in order to meet any employment goals described in paragraph
32 six or eight of this subdivision and established pursuant to rules
33 adopted by the director;

34 (10) establishing a schedule of civil penalties, based on factors
35 including but not limited to a contractor's industry or any relevant
36 occupations employed by a contractor or subcontractor, that the director
37 or an applicable agency may impose on a contractor due to the contrac-
38 tor's or subcontractor's non-compliance with an obligation created
39 pursuant to this section and a procedure for the imposition of such
40 penalties, which will not exclude other remedies established in this
41 charter or any other law, provided that any civil penalties imposed
42 pursuant to this paragraph shall not exceed two thousand five hundred
43 dollars for each non-compliance with such an obligation or each failure
44 to correct such non-compliance, and further provided that when promul-
45 gating rules establishing or amending such a schedule of civil penal-
46 ties, the director shall consider the potential impact of such penalties
47 on contractors and subcontractors that are MWBEs, not-for-profit corpo-
48 rations, or small businesses;

49 (11) designating paper or electronic formats for the submission of
50 documents related to the selection and operation of referral sources and
51 contractors and subcontractors subject to goals pursuant to paragraphs
52 six through nine of this subdivision, as applicable, including but not
53 limited to, documents containing information required pursuant to para-
54 graphs one and three of this subdivision and subdivision c and subpara-
55 graphs (E) and (F) of paragraph one of subdivision d of this section;
56 solicitation documents and responses, including bids and proposals; and

1 data related to labor performed pursuant to transactions, including
2 payroll reports, as applicable; and

3 (12) (A) authorizing the director to establish factors by which goals
4 described in paragraphs six, eight, and nine of this subdivision will be
5 established for individual transactions, including:

6 (i) the scope of the transaction;

7 (ii) the availability of qualified economically disadvantaged candi-
8 dates and economically disadvantaged region candidates;

9 (iii) the nature of any employment opportunities that the director
10 expects will result from the transaction;

11 (iv) the potential impact of such goal on contractors and subcontrac-
12 tors, as applicable, that are MWBEs, not-for-profit corporations, or
13 small businesses; and

14 (v) any other similar factors.

15 (B) prior to setting a goal pursuant to this subdivision for an indi-
16 vidual transaction, the agency entering into the transaction shall
17 consider the goals set for previous, similar transactions and whether
18 such goals were appropriate for such transactions.

19 b. Lists of economically disadvantaged regions. No later than ninety
20 days after the effective date of this section, and at least once during
21 each twelve-month period thereafter, the director shall publish a report
22 including an updated list of all economically disadvantaged regions
23 within a radius of one hundred miles of the city or all such econom-
24 ically disadvantaged regions within the metropolitan area. Nothing shall
25 preclude an individual whose residence is within an economically disad-
26 vantaged region that is not included in such list from qualifying as an
27 economically disadvantaged region candidate for the purposes of goals
28 set forth under this section.

29 c. Reporting. No later than one hundred eighty days after the effec-
30 tive date of this section and each quarter thereafter, the office of
31 community hiring and workforce development shall publish a report on a
32 website maintained or controlled by the city, pursuant to rules adopted
33 by the director, that shall include, for each transaction subject to a
34 goal established pursuant to paragraph six, seven, or eight of subdivi-
35 sion a of this section, information demonstrating the corresponding
36 contractor's progress towards meeting such goal and, if applicable, any
37 subcontractors' progress towards meeting any goal established pursuant
38 to paragraph seven or nine of subdivision a of this section, and aggre-
39 gate information regarding the demographics and compensation of econom-
40 ically disadvantaged region candidates, economically disadvantaged
41 candidates, and apprentices who are economically disadvantaged region
42 candidates, as applicable, relative to all individuals employed by such
43 contractor and, if applicable, subcontractors on such transaction. In
44 compiling this report, the director shall, to the extent he or she deems
45 feasible, use data sources established or maintained by the city for
46 other programs or operations in order to minimize administrative burdens
47 on contractors and subcontractors, provided that where the director
48 determines that such data sources cannot be used to complete such
49 report, the director may adopt rules requiring contractors and subcon-
50 tractors to provide such additional data necessary to complete this
51 report, and to certify the accuracy of such additional information.
52 Nothing in this subdivision shall be interpreted to authorize the direc-
53 tor to promulgate rules requiring labor organizations to provide infor-
54 mation on a regular basis to complete such reports.

55 d. Best efforts. (1) In determining whether a contractor or subcon-
56 tractor has exercised best efforts to meet the employment goals estab-

lished pursuant to subdivision a of this section, the director shall consider the degree to which the contractor or subcontractor has endeavored:

(A) to review economically disadvantaged region candidates' and economically disadvantaged candidates' qualifications, as applicable, in good faith;

(B) to advertise employment opportunities, as applicable, in a manner reasonably intended to attract qualified economically disadvantaged candidates or economically disadvantaged region candidates, except that contractors and subcontractors performing construction work pursuant to a project labor agreement shall not be required to advertise employment opportunities for construction work;

(C) to coordinate with referral sources or apprenticeship programs, as applicable, in order to interview, if applicable, and employ such candidates identified by such referral sources or apprenticeship programs, provided that for contractors and subcontractors performing construction work pursuant to a project labor agreement, the director shall only consider the degree to which the contractor or subcontractor has endeavored to meet such goals by complying with the referral provisions of such project labor agreement;

(D) to review and organize the work under the transaction in order to eliminate obstacles to meeting such employment goals;

(E) to monitor and to document the contractor's or subcontractor's efforts to meet the employment goals;

(F) to contact the office of community hiring and workforce development at routine intervals, or as otherwise required by rule, to inform the director of the contractor's or subcontractor's efforts to meet the employment goals; and

(G) to take all other commercially reasonable actions to meet the employment goals.

(2) In order to exercise best efforts, neither contractors nor subcontractors are required:

(A) to undertake an undue financial burden;

(B) to terminate or substantially reduce the work levels of any of a contractor's or subcontractor's existing employees;

(C) to extend an offer of employment to an individual whose labor would not be commercially useful; or

(D) to forgo filling building service opportunities with absorption hires.

e. Discretionary application of goals. Notwithstanding any other provision of this section, employment goals authorized under paragraphs six, seven, eight and nine of subdivision a of this section may, but are not required to be, established for transactions that are emergency procurement contracts procured pursuant to the procedure set forth in section three hundred fifteen of this charter.

f. Adjustment of construction goals. On a biannual basis, the director shall review and thereafter may promulgate rules increasing or decreasing the value of the employment goals established under paragraph seven of subdivision a of this section.

g. Wage payment assurances. The director may promulgate rules setting forth standards and a procedure by which contractors and subcontractors that the director has determined have a record of failing to pay wages, including but not limited to prevailing wages and benefits required pursuant to article eight of the labor law, to individuals performing construction labor under a transaction shall be required to provide additional assurances acceptable to the director in order to receive

1 credit towards the achievement of employment goals set forth in para-
2 graph seven of subdivision a of this section.

3 § 3. Paragraph 1 of subdivision b of section 311 of the New York city
4 charter, as amended by local law number 20 of the city of New York for
5 the year 2004, is amended to read as follows:

6 1. the methods for soliciting bids or proposals and awarding
7 contracts, consistent with the provisions of this chapter, provided that
8 the director of the office of community hiring and workforce development
9 may promulgate rules authorizing agencies to incorporate into the award
10 methodology for any contract a quantitative factor based on a bidder or
11 proposer's capacity to meet or exceed goals established pursuant to
12 subdivision a of section thirty-five hundred two of this charter, and
13 further provided that agencies incorporating such a quantitative factor
14 into the award methodology for a contract pursuant to such a rule shall
15 consider the potential impact of such a quantitative factor on busi-
16 nesses certified as minority or women-owned business enterprises pursu-
17 ant to article fifteen-A of the executive law or section thirteen
18 hundred four of this charter, not-for-profit corporations, and small
19 businesses, as such term is defined in section thirty-five hundred one
20 of this charter;

21 § 4. Subparagraphs (x) and (xi) of paragraph a of subdivision 36 of
22 section 2590-h of the education law, as amended by chapter 98 of the
23 laws of 2019, are amended and two new subparagraphs (xii) and (xiii) are
24 added to read as follows:

25 (x) a process for emergency procurement in the case of an unforeseen
26 danger to life, safety, property or a necessary service provided that
27 such procurement shall be made with such competition as is practicable
28 under the circumstances and that a written determination of the basis
29 for the emergency procurement shall be required and filed with the comp-
30 troller of the city of New York when such emergency contract is filed
31 with such comptroller; ~~and~~

32 (xi) procedures for the fair and equitable resolution of contract
33 disputes~~[-]~~;

34 (xii) employment goals established in accordance with the program
35 established pursuant to section thirty-five hundred two of the New York
36 city charter, including but not limited to employment goals established
37 pursuant to paragraph seven of subdivision a and the corresponding best
38 efforts provisions set forth in subdivision d of such section; provided,
39 however, that where a provision of such section requires action by the
40 director of the office of community hiring and workforce development,
41 such action shall not be taken by the director of the office of communi-
42 ty hiring and workforce development but shall be taken by the chancellor
43 or his or her designee; and

44 (xiii) a quantitative factor to be used in the evaluation of bids,
45 proposals or other offers for the purposes of awarding of contracts
46 based on a bidder, proposer or other offerer's capacity to meet or
47 exceed goals established pursuant to subparagraph (xii) of this para-
48 graph, provided that, when incorporating such a quantitative factor into
49 the award process for a contract, the chancellor, superintendent, or
50 school, as applicable, shall consider the potential impact of such a
51 quantitative factor on businesses certified as minority or women-owned
52 business enterprises pursuant to article fifteen-A of the executive law
53 or section thirteen hundred four of the New York city charter, not-for-
54 profit corporations, and small businesses, as such term is defined in
55 section thirty-five hundred one of such charter.

§ 5. Subdivision (c) of section 917 of the general municipal law, as separately amended by chapter 1082 of the laws of 1974 and chapter 239 of the laws of 2001, is amended to read as follows:

(c) For the benefit of the city and the inhabitants thereof an industrial development agency, to be known as the New York City Industrial Development Agency, is hereby established for the accomplishment of any or all of the purposes specified in title one of article eighteen-A of this chapter, except that it shall not have the power to construct or rehabilitate any residential facility or housing of any nature and kind whatsoever, nor shall it use any of its funds to further the construction or rehabilitation of any residential facility or housing of any nature and kind whatsoever. It shall constitute a body corporate and politic, and be perpetual in duration. It shall only have the powers and duties conferred by title one of article eighteen-A of this chapter upon industrial development agencies as of January 1, 1973 except that it shall have the power to finance a rail freight facility and the power to establish employment goals in accordance with the program established pursuant to section thirty-five hundred two of the New York city charter, including but not limited to employment goals established pursuant to paragraph seven of subdivision a and the corresponding best efforts provisions set forth in subdivision d of such section; provided, however, that where a provision of such section requires action by the director of the office of community hiring and workforce development, such action shall not be taken by the director of the office of community hiring and workforce development but shall be taken by the chief executive officer of the agency or his or her designee, and it shall not have the power of condemnation. In the exercise of the powers conferred upon such agency with respect to the acquisition of real property by article eighteen-A of this chapter such agency shall be limited to the geographical jurisdictional limits of the city.

§ 6. Section 816-b of the labor law, as added by chapter 571 of the laws of 2001, is amended to read as follows:

§ 816-b. Apprenticeship participation on ~~construction~~ certain governmental contracts. 1. For purposes of this section:

(a) "governmental entity" shall mean the state, any state agency, as that term is defined in section two-a of the state finance law, municipal corporation, commission appointed pursuant to law, school district, district corporation, board of education, board of cooperative educational services, soil conservation district, and public benefit corporation; ~~and~~

(b) "construction contract" shall mean any contract to which a governmental entity may be a direct or indirect party which involves the design, construction, reconstruction, improvement, rehabilitation, maintenance, repair, furnishing, equipping of or otherwise providing for any building, facility or physical structure of any kind; and

(c) "city governmental entity" means a governmental entity that is (i) a city with a population of one million or more inhabitants; or (ii) a city school district or public benefit corporation operating primarily within a city with a population of one million or more inhabitants.

2. Notwithstanding any other provision of this article, of section one hundred three of the general municipal law, of section one hundred thirty-five of the state finance law, of section one hundred fifty-one of the public housing law, or of any other general, special or local law or administrative code, in entering into any construction contract, a governmental entity ~~which~~ that is to be a direct or indirect party to such contract may require that any contractors and subcontractors have,

1 prior to entering into such contract, apprenticeship agreements appro-
2 priate for the type and scope of work to be performed, that have been
3 registered with, and approved by, the commissioner pursuant to the
4 requirements found in this article. A city governmental entity that is a
5 direct or indirect party to a contract, including but not limited to a
6 construction contract, may establish in its specifications a requirement
7 that, in performing the work, the contractor and its subcontractors
8 utilize a minimum ratio of apprentices to journey-level workers, as
9 established by the governmental entity but subject to any maximum ratio
10 established by the department, for any classification appropriate for
11 the type and scope of work to be performed, provided that no such mini-
12 imum ratio shall be established for labor performed pursuant to a
13 construction contract subject to a goal for the employment of appren-
14 tices who reside in economically disadvantaged regions. Whenever utiliz-
15 ing [~~this requirement~~] these requirements, the governmental entity may,
16 in addition to whatever considerations are required by law, consider the
17 degree to which career opportunities in apprenticeship training programs
18 approved by the commissioner may be provided.

19 § 7. Notwithstanding any provision of law to the contrary, any city-
20 affiliated not-for-profit corporation, as such term is defined in
21 section 3501 of the New York city charter, is authorized to establish
22 employment goals in accordance with the program established pursuant to
23 section 3502 of such charter, including but not limited to employment
24 goals established pursuant to paragraph 7 of subdivision a and the
25 corresponding best efforts provisions set forth in subdivision d of such
26 section; provided, however, that where a provision of such section
27 requires action by the director of the office of community hiring and
28 workforce development of the city of New York, such action shall not be
29 taken by the director of the office of community hiring and workforce
30 development but shall be taken by the chief executive officer of such
31 corporation, or a duly appointed designee.

32 § 8. Section 1728 of the public authorities law is amended by adding a
33 new subdivision 15-a to read as follows:

34 15-a. To establish employment goals in accordance with the program
35 established pursuant to section thirty-five hundred two of the New York
36 city charter, including but not limited to employment goals established
37 pursuant to paragraph seven of subdivision a and the corresponding best
38 efforts provisions set forth in subdivision d of such section; provided,
39 however, that where a provision of such section requires action by the
40 director of the office of community hiring and workforce development,
41 such action shall not be taken by the director of the office of communi-
42 ty hiring and workforce development but shall be taken by the president
43 of the authority or his or her designee;

44 § 9. The opening paragraph of paragraph d of subdivision 5 of section
45 1734 of the public authorities law, as added by chapter 738 of the laws
46 of 1988, is amended to read as follows:

47 the authority determines that it is in the public interest to award
48 contracts pursuant to a process for competitive requests for proposals
49 as hereinafter set forth. For purposes of this section, a process for
50 competitive requests for proposals shall mean a method of soliciting
51 proposals and awarding a contract on the basis of a formal evaluation of
52 the characteristics, such as quality, cost, delivery schedule, the
53 capacity to meet or exceed the goals set forth in subdivision fifteen-a
54 of section seventeen hundred twenty-eight of this title and financing of
55 such proposals against stated selection criteria. Public notice of the
56 requests for proposals shall be given in the same manner as provided in

subdivision three of this section and shall include the selection criteria. In the event the authority makes a material change in the selection criteria from those previously stated in the notice, it will inform all proposers of such change and permit proposers to modify their proposals. When the authority includes in the selection criteria for a request for proposals a quantitative factor based on a proposer's capacity to meet or exceed the goals set forth in subdivision fifteen-a of section seven-teen hundred twenty-eight of this title, the authority shall consider the potential impact of such a quantitative factor on businesses certified as minority or women-owned business enterprises pursuant to article fifteen-A of the executive law, section thirteen hundred four of the New York city charter, or section seventeen hundred forty-three of this title, not-for-profit corporations, and small businesses, as such term is defined in section thirty-five hundred one of the New York city charter.

§ 10. Section 5 of section 1 of chapter 1016 of the laws of 1969 constituting the New York city health and hospitals corporation act, is amended by adding a new subdivision 20-a to read as follows:

20-a. To establish employment goals in accordance with the program established pursuant to section thirty-five hundred two of the New York city charter, including but not limited to employment goals established pursuant to paragraph seven of subdivision a and the corresponding best efforts provisions set forth in subdivision d of such section; provided, however, that where a provision of such section requires action by the director of the office of community hiring and workforce development, such action shall not be taken by the director of the office of community hiring and workforce development but shall be taken by a duly appointed designee of the corporation; and

§ 11. Section 8 of section 1 of chapter 1016 of the laws of 1969 constituting the New York city health and hospitals corporation act, is amended by adding a new subdivision 1-a to read as follows:

1-a. Notwithstanding any other provision in this act, the corporation may establish a quantitative factor to be used in the evaluation of bids for the purposes of awarding of contracts based on a bidder's capacity to meet or exceed goals established pursuant to subdivision twenty-a of section five of this act, provided that when establishing such a quantitative factor, the corporation shall consider the potential impact of such a quantitative factor on businesses certified as minority or women-owned business enterprises pursuant to article fifteen-A of the executive law or section thirteen hundred four of the New York city charter, not-for-profit corporations, and small businesses, as such term is defined in section thirty-five hundred one of the New York city charter;

§ 12. Subdivision b of section 2 of chapter 749 of the laws of 2019 constituting the New York city public works investment act, is amended by adding a new paragraph 12-a to read as follows:

(12-a) A quantitative factor to be used in the evaluation of bids or offers for awarding of contracts based on a bidder or offerer's capacity to meet or exceed goals established pursuant to subdivision a of section 3502 of the New York city charter;

§ 13. No provision of this act shall be construed to invalidate any provision of a project labor agreement, as such term is defined in section 3501 of the New York city charter, as added by section two of this act, or otherwise affect the contractual rights of any party to such an agreement.

§ 14. Severability. If any clause, sentence, paragraph, or section of this act is declared invalid or unconstitutional by any court of competent jurisdiction, after exhaustion of all further judicial review, such portion shall be deemed severable, and the court's judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, or section of this act directly involved in the controversy in which the judgment was rendered.

§ 15. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that:

(a) sections one, two, three, five, six, seven, eight, nine, ten, eleven, thirteen, and fourteen of this act shall expire and be deemed repealed seven years after this act takes effect, provided that such expiration and repeal shall not affect any transaction, as such term is defined by section 3501 of the New York city charter, as added by section two of this act, entered into or for which a solicitation was released prior to such expiration and repeal, or to any renewals, extensions, modifications, or amendments to such transaction;

(b) the amendments to paragraph a of subdivision 36 of section 2590-h of the education law made by section four of this act shall not affect the expiration of such subdivision and section pursuant to section 34 of chapter 91 of the laws of 2002 and subdivision 12 of section 17 of chapter 345 of the laws of 2009, as amended, and shall expire and be deemed repealed therewith, or seven years after this act takes effect, whichever occurs earlier, provided that such expiration and repeal shall not affect any transaction entered into or for which a solicitation was released prior to such expiration and repeal, or to any renewals, extensions, modifications, or amendments to such transaction; and

(c) the amendments to chapter 749 of the laws of 2019 constituting the New York city public works investment act made by section twelve of this act shall not affect the expiration and repeal of such chapter pursuant to section 14 of such chapter, as amended, and shall expire and be deemed repealed therewith, or seven years after this act takes effect, whichever occurs earlier.

Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date by the director of the office of community hiring and workforce development of the city of New York, the chancellor and the city board of the city school district of the city of New York, the president of the New York city school construction authority, the duly appointed designee of the New York city health and hospitals corporation, the chief executive officer of the New York city industrial development agency, and the chief executive officer of any city-affiliated not-for-profit corporation, as such term is defined by section 3501 of the New York city charter, as added by section two of this act.

PART U

Section 1. Subdivision 2 of section 410-u of the social services law, as amended by section 1 of part L of chapter 56 of the laws of 2022, is amended to read as follows:

2. The state block grant for child care shall be divided into two parts pursuant to a plan developed by the department and approved by the director of the budget. One part shall be retained by the state to provide child care on a statewide basis to special groups and for activ-

ities to increase the availability and/or quality of child care programs, including, but not limited to, the start-up of child care programs, the operation of child care resource and referral programs, training activities, the regulation and monitoring of child care programs, the development of computerized data systems, and consumer education, provided however, that child care resource and referral programs funded under title five-B of article six of this chapter shall meet additional performance standards developed by the department of social services including but not limited to: increasing the number of child care placements for persons who are at or below ~~[two hundred percent of the state income standard, or three hundred percent of the state income standard effective August first, two thousand twenty-two, provided such persons are at or below]~~ eighty-five percent of the state median income, with emphasis on placements supporting local efforts in meeting federal and state work participation requirements, increasing technical assistance to all modalities of legal child care to persons who are at or below ~~[two hundred percent of the state income standard, or three hundred percent of the state income standard effective August first, two thousand twenty-two, provided such persons are at or below]~~ eighty-five percent of the state median income, including the provision of training to assist providers in meeting child care standards or regulatory requirements, and creating new child care opportunities, and assisting social services districts in assessing and responding to child care needs for persons at or below ~~[two hundred percent of the state income standard, or three hundred percent of the state income standard effective August first, two thousand twenty-two, provided such persons are at or below]~~ eighty-five percent of the state median income. The department shall have the authority to withhold funds from those agencies which do not meet performance standards. Agencies whose funds are withheld may have funds restored upon achieving performance standards. The other part shall be allocated to social services districts to provide child care assistance to families receiving family assistance and to other low income families.

§ 2. Subdivisions 1 and 3 of section 410-w of the social services law, subdivision 1 as amended by section 2 of part L of chapter 56 of the laws of 2022, and subdivision 3 as amended by chapter 834 of the laws of 2022, are amended to read as follows:

1. A social services district may use the funds allocated to it from the block grant to provide child care assistance to:

(a) families receiving public assistance when such child care assistance is necessary: to enable a parent or caretaker relative to engage in work, participate in work activities or perform a community service pursuant to title nine-B of article five of this chapter; to enable a teenage parent to attend high school or other equivalent training program; because the parent or caretaker relative is physically or mentally incapacitated; or because family duties away from home necessitate the parent or caretaker relative's absence; child day care shall be provided during breaks in activities~~[, for a period of up to two weeks]~~. Such child day care ~~[may]~~ shall be authorized ~~[for a period of up to one month if child care arrangements shall be lost if not continued, and the program or employment is scheduled to begin within such period]~~ for the period designated by the regulations of the department;

(b) families with incomes up to ~~[two hundred percent of the state income standard, or three hundred percent of the state income standard effective August first, two thousand twenty-two]~~ eighty-five percent of the state median income who are attempting through work activities to

1 transition off of public assistance when such child care is necessary in
2 order to enable a parent or caretaker relative to engage in work
3 provided such families' public assistance has been terminated as a
4 result of increased hours of or income from employment or increased
5 income from child support payments or the family voluntarily ended
6 assistance; provided that the family received public assistance at least
7 three of the six months preceding the month in which eligibility for
8 such assistance terminated or ended or provided that such family has
9 received child care assistance under subdivision four of this section[
10 ~~and provided, the family income does not exceed eighty-five percent of~~
11 ~~the state median income~~];

12 (c) families with incomes up to [~~two hundred percent of the state~~
13 ~~income standard, or three hundred percent of the state income standard~~
14 ~~effective August first, two thousand twenty-two~~] eighty-five percent of
15 the state median income, which are determined in accordance with the
16 regulations of the department to be at risk of becoming dependent on
17 family assistance[~~, provided, the family income does not exceed eighty-~~
18 ~~five percent of the state median income~~];

19 (d) families with incomes up to [~~two hundred percent of the state~~
20 ~~income standard, or three hundred percent of the state income standard~~
21 ~~effective August first, two thousand twenty-two~~] eighty-five percent of
22 the state median income, who are attending a post secondary educational
23 program[~~, provided, the family income does not exceed eighty-five~~
24 ~~percent of the state median income~~]; and

25 (e) other families with incomes up to [~~two hundred percent of the~~
26 ~~state income standard, or three hundred percent of the state income~~
27 ~~standard effective August first, two thousand twenty-two, which the~~
28 ~~social services district designates in its consolidated services plan as~~
29 ~~eligible for child care assistance~~] eighty-five percent of the state
30 median income in accordance with criteria established by the depart-
31 ment[~~, provided, the family income does not exceed eighty-five percent~~
32 ~~of the state median income~~].

33 3. A social services district shall guarantee child care assistance to
34 families in receipt of public assistance with children under thirteen
35 years of age when such child care assistance is necessary for a parent
36 or caretaker relative to engage in work or participate in work activ-
37 ities pursuant to the provisions of title nine-B of article five of this
38 chapter. Child care assistance shall continue to be guaranteed for such
39 a family for a period of twelve months or may be provided by a social
40 service district for a period up to twenty-four months, after the month
41 in which the family's eligibility for public assistance has terminated
42 or ended when such child care is necessary in order to enable the parent
43 or caretaker relative to engage in work, provided that the family's
44 public assistance has been terminated as a result of an increase in the
45 hours of or income from employment or increased income from child
46 support payments or because the family voluntarily ended assistance;
47 that the family received public assistance in at least three of the six
48 months preceding the month in which eligibility for such assistance
49 terminated or ended or provided that such family has received child care
50 assistance under subdivision four of this section; and that the family's
51 income does not exceed [~~two hundred percent of the state income stand-~~
52 ~~ard, or three hundred percent of the state income standard effective~~
53 ~~August first, two thousand twenty-two; and that the family income does~~
54 ~~not exceed~~] eighty-five percent of the state median income. Such child
55 day care shall recognize the need for continuity of care for the child

1 and a district shall not move a child from an existing provider unless
2 the participant consents to such move.

3 § 3. Paragraph (a) of subdivision 2 of section 410-x of the social
4 services law, as amended by chapter 416 of the laws of 2000, is amended
5 to read as follows:

6 (a) ~~[A social services district]~~ The department may establish priori-
7 ties for the families which will be eligible to receive funding;
8 provided that the priorities provide that eligible families will receive
9 equitable access to child care assistance funds to the extent that these
10 funds are available.

11 § 4. Paragraphs (b) and (c) of subdivision 2 of section 410-x of the
12 social services law are REPEALED.

13 § 5. This act shall take effect October 1, 2023. The office of chil-
14 dren and family services is hereby authorized to promulgate such rules
15 and regulations as may be necessary, including on an emergency basis, to
16 implement the provisions of this act.

17 PART V

18 Section 1. Section 3 of part N of chapter 56 of the laws of 2020,
19 amending the social services law relating to restructuring financing for
20 residential school placements, as amended by section 1 of part M of
21 chapter 56 of the laws of 2022, is amended to read as follows:

22 § 3. This act shall take effect immediately ~~[and shall expire and be~~
23 ~~deemed repealed April 1, 2023]~~; provided however that the amendments to
24 subdivision 10 of section 153 of the social services law made by section
25 one of this act, shall not affect the expiration of such subdivision and
26 shall be deemed to expire therewith.

27 § 2. This act shall take effect immediately.

28 PART W

29 Section 1. Section 11 of subpart A of part G of chapter 57 of the laws
30 of 2012, amending the social services law and the family court act
31 relating to establishing a juvenile justice services close to home
32 initiative, as amended by section 2 of part G of chapter 56 of the laws
33 of 2018, is amended to read as follows:

34 § 11. This act shall take effect April 1, 2012 ~~[and shall expire on~~
35 ~~March 31, 2023 when upon such date the provisions of this act shall be~~
36 ~~deemed repealed; provided, however, that effective immediately, the~~
37 ~~addition, amendment and/or repeal of any rule or regulation necessary~~
38 ~~for the implementation of this act on its effective date are authorized~~
39 ~~and directed to be made and completed on or before such effective date,~~
40 ~~provided, however, upon the repeal of this act, a social services~~
41 ~~district that has custody of a juvenile delinquent pursuant to an~~
42 ~~approved juvenile justice services close to home initiative shall retain~~
43 ~~custody of such juvenile delinquent until custody may be legally trans-~~
44 ~~ferred in an orderly fashion to the office of children and family~~
45 ~~services]~~.

46 § 2. Section 7 of subpart B of part G of chapter 57 of the laws of
47 2012, amending the social services law, the family court act and the
48 executive law relating to juvenile delinquents, as amended by section 3
49 of part G of chapter 56 of the laws of 2018, is amended to read as
50 follows:

51 § 7. This act shall take effect April 1, 2012 ~~[and shall expire on~~
52 ~~March 31, 2023 when upon such date the provisions of this act shall be~~

~~deemed repealed, provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date].~~

§ 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 31, 2023.

PART X

Section 1. Subdivision 1 of section 336-a of the social services law, as amended by chapter 275 of the laws of 2017, is amended to read as follows:

1. Social services districts shall make available vocational educational training and educational activities. Such activities may include but need not be limited to, high school education or education designed to prepare a participant for a high school equivalency certificate, basic and remedial education, education in English proficiency, education or a course of instruction in financial literacy and personal finance that includes instruction on household cash management techniques, career advice to obtain a well paying and secure job, using checking and savings accounts, obtaining and utilizing short and long term credit, securing a loan or other long term financing arrangement for high cost items, participation in a higher education course of instruction or trade school, and no more than a total of four years of post-secondary education (or the part-time equivalent). Educational activities pursuant to this section may be offered with any of the following providers which meet the performance or assessment standards established in regulations by the commissioner for such providers: a community college, licensed trade school, registered business school, or a two-year or four-year college; provided, however, that such post-secondary education must be necessary to the attainment of the participant's individual employment goal as set forth in the employability plan and such goal must relate directly to obtaining useful employment ~~[in a recognized occupation]~~. When making ~~[any]~~ an assignment to any educational activity pursuant to this subdivision, such assignment shall be permitted only to the extent that such assignment is consistent with the individual's assessment and employment plan goals in accordance with sections three hundred thirty-five and three hundred thirty-five-a of this title and shall require that the individual maintains satisfactory academic progress and hourly participation is documented consistent with federal and state requirements. For purposes of this provision "satisfactory academic progress" shall mean having a cumulative C average, or its equivalent, as determined by the academic institution. The requirement to maintain satisfactory academic progress may be waived if done so by the academic institution and the social services district based on undue hardship caused by an event such as a personal injury or illness of the student, the death of a relative of the student or other extenuating circumstances. ~~[Any enrollment in post-secondary education beyond a twelve month period must be combined with no less than twenty hours of participation averaged weekly in paid employment or work activities or community service when paid employment is not available.]~~ Participation in an educational and/or vocational training program, that shall include, but not be limited to, a two-year post-secondary degree program, which is necessary for the participant to attain their individual employment goal and is likely to lead to a degree or certification and sustained employment, shall be approved consistent with such indi-

vidual's assessment and employability plan to the extent that such approval does not jeopardize the state's ability to comply with federal work participation rates, as determined by the office of temporary and disability assistance.

§ 2. Paragraph (a) of subdivision 8 of section 131-a of the social services law is amended by adding two new subparagraphs (xi) and (xii) to read as follows:

(xi) all of the earned income of a recipient of public assistance that is derived from participation in a qualified work activity or training program as determined by the office of temporary and disability assistance, to the extent that such earned income has not already been disregarded pursuant to subparagraph (vii) of this paragraph, provided that the recipient's total income shall not be more than two hundred percent of the federal poverty level.

(xii) once during the lifetime of a recipient of public assistance, all of the earned income of such recipient will be disregarded following job entry, provided that such exemption of income for purposes of public assistance eligibility shall be for no more than six consecutive months from the initial date of obtaining such employment and that the recipient's total income shall not be more than two hundred percent of the federal poverty level.

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

PART Y

Section 1. The social services law is amended by adding a new section 152-d to read as follows:

§ 152-d. Replacement of stolen public assistance. 1. Notwithstanding section three hundred fifty-j of this article and subdivision eleven of section one hundred thirty-one of this title, and in accordance with this section, public assistance recipients shall receive replacement assistance for the loss of public assistance, as defined in subdivision nineteen of section two of this chapter, in instances when such public assistance has been stolen as a result of card skimming, cloning, third party misrepresentation or other similar fraudulent activities, consistent with guidance issued by the office of temporary and disability assistance.

2. The office of temporary and disability assistance shall establish a protocol for recipients to report incidents of stolen public assistance.

3. Social services districts shall promptly replace stolen public assistance, however, such replacement shall occur no later than five business days after the social services district has verified the public assistance was stolen in accordance with guidance established by the office of temporary and disability assistance.

4. For public assistance that is verified as stolen, replacement assistance shall be provided by the social services district in accordance with this section as follows:

(a) the lesser of: (i) the amount of public assistance that was stolen; or (ii) the amount of public assistance provided during the two most recent months prior to such assistance being stolen; and

(b)(i) no more than twice in a federal fiscal year to cover public assistance stolen on or after October first, two thousand twenty-two through September thirtieth, two thousand twenty-four; or (ii) no more than once in a federal fiscal year to cover public assistance stolen on or after October first, two thousand twenty-four.

5. Any replacement assistance provided under this section shall be exempt from recoupment and recovery provisions under title six of article three of this chapter; provided, however, that assistance shall not be exempt from recoupment and recovery if it is later determined that the public assistance that was replaced pursuant to this section was not stolen as a result of card skimming, cloning, third party misrepresentation or other similar fraudulent activities.

§ 2. This act shall take effect immediately.

PART Z

Section 1. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section 131-o of the social services law, as amended by section 1 of part S of chapter 56 of the laws of 2022, are amended to read as follows:

(a) in the case of each individual receiving family care, an amount equal to at least [~~\$161.00~~] \$175.00 for each month beginning on or after January first, two thousand [~~twenty-two~~] twenty-three.

(b) in the case of each individual receiving residential care, an amount equal to at least [~~\$186.00~~] \$202.00 for each month beginning on or after January first, two thousand [~~twenty-two~~] twenty-three.

(c) in the case of each individual receiving enhanced residential care, an amount equal to at least [~~\$222.00~~] \$241.00 for each month beginning on or after January first, two thousand [~~twenty-two~~] twenty-three.

(d) for the period commencing January first, two thousand [~~twenty-three~~] twenty-four, the monthly personal needs allowance shall be an amount equal to the sum of the amounts set forth in subparagraphs one and two of this paragraph:

(1) the amounts specified in paragraphs (a), (b) and (c) of this subdivision; and

(2) the amount in subparagraph one of this paragraph, multiplied by the percentage of any federal supplemental security income cost of living adjustment which becomes effective on or after January first, two thousand [~~twenty-three~~] twenty-four, but prior to June thirtieth, two thousand [~~twenty-three~~] twenty-four, rounded to the nearest whole dollar.

§ 2. Paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 2 of section 209 of the social services law, as amended by section 2 of part S of chapter 56 of the laws of 2022, are amended to read as follows:

(a) On and after January first, two thousand [~~twenty-two~~] twenty-three, for an eligible individual living alone, [~~\$928.00~~] \$1,001.00; and for an eligible couple living alone, [~~\$1,365.00~~] \$1,475.00.

(b) On and after January first, two thousand [~~twenty-two~~] twenty-three, for an eligible individual living with others with or without in-kind income, [~~\$864.00~~] \$937.00; and for an eligible couple living with others with or without in-kind income, [~~\$1,307.00~~] \$1,417.00.

(c) On and after January first, two thousand [~~twenty-two~~] twenty-three, (i) for an eligible individual receiving family care, [~~\$1,107.48~~] \$1,180.48 if he or she is receiving such care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible couple receiving family care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland, two times the amount set forth in subparagraph (i) of this paragraph; or (iii) for an eligible individual receiving such care in any other county in the state,

1 [~~\$1,069.48~~] \$1,142.48; and (iv) for an eligible couple receiving such
2 care in any other county in the state, two times the amount set forth in
3 subparagraph (iii) of this paragraph.

4 (d) On and after January first, two thousand [~~twenty-two~~]
5 twenty-three, (i) for an eligible individual receiving residential care,
6 [~~\$1,276.00~~] \$1,349.00 if he or she is receiving such care in the city of
7 New York or the county of Nassau, Suffolk, Westchester or Rockland; and
8 (ii) for an eligible couple receiving residential care in the city of
9 New York or the county of Nassau, Suffolk, Westchester or Rockland, two
10 times the amount set forth in subparagraph (i) of this paragraph; or
11 (iii) for an eligible individual receiving such care in any other county
12 in the state, [~~\$1,246.00~~] \$1,319.00; and (iv) for an eligible couple
13 receiving such care in any other county in the state, two times the
14 amount set forth in subparagraph (iii) of this paragraph.

15 (e) On and after January first, two thousand [~~twenty-two~~]
16 twenty-three, (i) for an eligible individual receiving enhanced residen-
17 tial care, [~~\$1,535.00~~] \$1,608.00; and (ii) for an eligible couple
18 receiving enhanced residential care, two times the amount set forth in
19 subparagraph (i) of this paragraph.

20 (f) The amounts set forth in paragraphs (a) through (e) of this subdivi-
21 sion shall be increased to reflect any increases in federal supple-
22 mental security income benefits for individuals or couples which become
23 effective on or after January first, two thousand [~~twenty-three~~] twen-
24 ty-four but prior to June thirtieth, two thousand [~~twenty-three~~] twen-
25 ty-four.

26 § 3. This act shall take effect December 31, 2023.

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

36 § 3. This act shall take effect immediately provided, however, that
37 the applicable effective date of Parts A through Z of this act shall be
38 as specifically set forth in the last section of such Parts.