# STATE OF NEW YORK

S. 4008 A. 3008

# 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 vehicle and traffic law, in relation to owner liability for failure of operator to comply with bus operation-related local law or regulation traffic restrictions and to the adjudication of certain parking infractions; to amend part II of chapter 59 of the laws of 2010, amending the vehicle and traffic law and the public officers law relating to establishing a bus rapid transit demonstration program to restrict the use of bus lanes by means of bus lane photo devices, in relation to the effectiveness thereof; and providing for the repeal of certain provisions upon expiration thereof (Part A); to amend the vehicle and traffic law, in relation to establishing a Triborough bridge and tunnel authority photo speed violation monitoring system demonstration program; and providing for the repeal of such provisions upon expiration thereof (Part B); to amend part PP of chapter 54 of the laws of 2016, amending the public authorities law relating to the New York transit authority and the metropolitan transportation authority, in relation to making permanent certain tax increment financing provisions; to amend the public authorities law, in relation to contracts entered into by the metropolitan commuter transportation district; to amend part OO of chapter 54 of the laws of 2016, amending the public authorities law relating to procurements by the New York City transit authority and the metropolitan transportation authority, in relation to extending certain metropolitan transportation authority procurement provisions; to amend the public authorities law, in relation to making conforming changes; and to repeal subdivisions 1, 2, 3, 4 and 6 of section 1209 of the public authorities law, relating to contracts for public work and purchasing contracts (Part C); to amend the public authorities law and the state finance law, in relation to alignment of transit fare costs; to amend the state finance law, in relation to establishing the Metropolitan transportation authority schoolfare assistance fund; and to amend

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

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part UUU of chapter 58 of the laws of 2020 amending the state finance law relating to providing funding for the Metropolitan Transportation Authority 2020-2024 capital program and paratransit operating expenses, in relation to the effectiveness thereof (Part D); to amend the insurance law, in relation to extending owner controlled insurance programs in certain instances (Part E); to amend the vehicle and traffic law, in relation to increasing the penalties for purposefully obstructed license plates (Part F); to amend chapter 929 of the laws of 1986 amending the tax law and other laws relating to the metropolitan transportation authority, in relation to extending certain provisions thereof applicable to the resolution of labor disputes (Part G); to amend the penal law and the vehicle and traffic law, in relation to assaults upon certain employees of a transit agency or authority, highway workers, motor vehicle inspectors, motor carrier investigators, and certain classes of public employees (Part H); to amend the penal law, in relation to transit crimes and prohibition orders relating to such crimes (Part I); to amend part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, in relation to the effectiveness thereof (Part J); to amend the vehicle and traffic law, in relation to establishing speed limits in cities with populations in excess of one million people (Part K); to amend the vehicle and traffic law, in relation to certain convictions which shall preclude relicensing of drivers (Part L); to amend the vehicle and traffic law, in relation to county clerk retention of fees (Part M); to amend the vehicle and traffic law, in relation to the increasing fees for violations, to notices of violations and dismissal of violations, and to appeals of final determinations of a hearing examiner (Part N); to amend the transportation law, in relation to allowing for the immediate suspension, seizure, and impoundment of certain passenger carrying vehicles regulated by the department of transportation (Part O); to amend the vehicle and traffic law, in relation to requiring the driver of a vehicle involved in an accident involving no personal injury or death, to move the vehicle to a safe location in the vicinity of the incident (Part P); to amend the tax law, in relation to the metropolitan commuter transportation mobility tax rate; and providing for the repeal of certain provisions upon the expiration thereof (Part Q); to amend the racing, pari-mutuel wagering and breeding law, the state finance law and the public authorities law, in relation to the disposition of money from certain gaming activity; and providing for the repeal of such provisions upon expiration thereof (Part R); to amend the banking law, in relation to authorizing the department of financial services to promulgate regulations relating to the payment of debit and credit transactions and imposition of related fees by banking organizations (Part S); to amend the real property law, in relation to condominium declarations; and to repeal certain provisions of such law relating thereto (Part T); to amend chapter 495 of the laws of 2004, amending the insurance law and the public health law relating to the New York state health insurance continuation assistance demonstration project, in relation to the effectiveness thereof (Part U); to amend the general business law, the not-for-profit corporation law and the public health law, in relation to creating a natural organic reduction process (Part V); to amend the insurance law, in relation to inspections of automobiles; and providing for the repeal of such provisions upon expiration thereof (Part W); to amend the public officers law, in relation to providing virtual meeting flexibility for public bodies

serving individuals with disabilities (Part X); to amend the general business law, in relation to reducing barriers to occupational licensing for cosmetologists (Part Y); to amend the New York state medical care facilities finance agency act, in relation to the ability to issue certain bonds and notes (Part Z); to amend the public authorities law, in relation to authorizing the dormitory authority to provide its services to recipients of grants and loans from the downtown revitalization program and NY forward program (Part AA); to amend chapter 97 of the laws of 2019 amending the public authorities law relating to the award of contracts to small businesses, minority-owned business enterprises and women-owned business enterprises, in relation to extending the effectiveness thereof (Part BB); to amend the economic development law, the education law, the real property tax law, the tax law, the labor law and the administrative code of the city of New York, in relation to creating the EPIC program (Part CC); to amend the urban development corporation act, in relation to the small business innovation research and small business technology transfer grant programs (Part DD); to amend the public authorities law, in relation to the Battery Park city authority (Part EE); to amend the state finance law, in relation to the excelsior linked deposit program (Part FF); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act relating to the powers of the New York state urban development corporation to make loans, in relation to extending loan powers (Part GG); to amend the executive law, in relation to reciprocal minority and women-owned business enterprise certification; to amend the state finance law, in relation to discretionary purchases to certified minority and women-owned business enterprises; to amend the New York city charter, in relation to procurements of goods, services and construction; and to repeal certain provisions of the executive law relating thereto (Part HH); to amend the New York city public works investment act, in relation to authorizing the use of certain alternative project delivery methods (Part II); to amend the New York state urban development corporation act, in relation to extending the authority of the New York state urban development corporation to administer the empire state economic development fund (Part JJ); to amend the insurance law, in relation to exempting certain public construction projects from certain restrictions (Part KK); to amend part BB of chapter 58 of the laws of 2012, amending the public authorities law, relating to authorizing the dormitory authority to enter into certain design and construction management agreements, in relation to the effectiveness thereof (Part LL); to amend the vehicle and traffic law and the parks, recreation and historic preservation law, in relation to fees for the registration of snowmobiles and fees collected for the snowmobile trail and maintenance fund (Part MM); to amend the navigation law, in relation to equipment to be carried on vessels (Part NN); to amend the general municipal law, in relation to purchase contracts for New York State grown, harvested, or produced food and food products (Part OO); to amend the environmental conservation law, in relation to enacting the "waste reduction and recycling infrastructure act"; and to amend the state finance law, in relation to creating the waste reduction, reuse, and recycling fund (Part PP); to amend the environmental conservation law, in relation to environmental restoration projects; and to repeal certain provisions of law relating thereto (Part QQ); to amend the environmental conservation law and chapter 55 of the laws of 2021 amending the environmental conservation law relating to establishing a

deer hunting pilot program, in relation to making the youth deer hunting program permanent (Part RR); to amend the environmental conservation law, in relation to pesticide registration timetables and fees and to amend chapter 67 of the laws of 1992, amending the environmental conservation law relating to pesticide product registration timetables and fees, in relation to the effectiveness thereof (Part SS); to amend the county law, in relation to enacting the "Suffolk County water quality restoration act", authorizing the county of Suffolk to establish a water quality restoration fund, and authorizing the county of Suffolk to form a county-wide sewer and wastewater management district; and to amend the local finance law, in relation to the period of probable usefulness of septic systems funded by programs established by the county of Suffolk (Part TT); to amend the local finance law, in relation to providing a period of probable usefulness for lead service line replacement programs as a capital asset (Part UU); to authorize utility and cable television assessments that provide funds to the department of health from cable television assessment revenues and to the department of agriculture and markets, department of environmental conservation, department of state, and the office of parks, recreation and historic preservation from utility assessment revenues (Part VV); to amend the energy law and the executive law, in relation to zero on-site greenhouse gas emissions building codes for new construction, phasing out heating and hot water equipment in existing buildings, and establishing building energy grades (Part WW); to amend the public authorities law and the public service law, in relation to advancing renewable energy development; establishing the renewable energy access and community help program; and providing funding to help prepare workers for employment in the renewable energy field (Part XX); to amend part LL of chapter 58 of the laws of 2019 amending the public authorities law relating to the provision of renewable power and energy by the Power Authority of the State of New York, in relation to extending the effectiveness thereof (Part YY); in relation to authorizing the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY program, as well as climate change related expenses of the department of environmental conservation from an assessment on gas and electric corporations (Part ZZ); and to amend the environmental conservation law, the public authorities law and the state finance law, in relation to the creation of the New York cap and invest program and climate action fund (Part AAA)

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

Section 1. This act enacts into law major components of legislation necessary to implement the state transportation, economic development and environmental conservation budget for the 2023-2024 state fiscal year. Each component is wholly contained within a Part identified as Parts A through AAA. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in

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

PART A

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

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

(b) Any image or images captured by photo devices shall be inadmissible in any disciplinary proceeding convened by the applicable mass transit agency or any subsidiary thereof and any proceeding initiated by the department involving licensure privileges of bus operators. Any mobile bus photo device mounted on a bus shall be directed outwardly from such bus to capture images of vehicles operated in violation of bus operation-related traffic regulations, and images produced by such device shall not be used for any other purpose in the absence of a court order requiring such images to be produced.

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

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

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

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

(ii) as required by court order;

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

(iv) as otherwise required by law.

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

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

(d) Warning notices of violation shall be issued during the first sixty days that photo devices pursuant to this section are active and in operation.

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

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

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

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

3. "bus operation-related traffic regulations" shall mean the following restrictions set forth in chapter four of title thirty-four of the rules of the city of New York: 4-08(c)(3), violation of posted no standing rules prohibited-bus stop; 4-08(e)(9), general no stopping zones-bicycle lanes; 4-08(f)(1), general no standing zones-double parking; and 4-08(f)(4), general no standing zones-bus lanes.

4. "lessor" means any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee or bailee under a rental agreement, lease or otherwise, wherein the said lessee or bailee has the exclusive use of said vehicle for any period of time.

5. "lessee" means any person, corporation, firm, partnership, agency, association or organization that rents, bails, leases or contracts for the use of one or more vehicles and has the exclusive use thereof for any period of time.

6. "manual on uniform traffic control devices" or "MUTCD" means the manual and specifications for a uniform system of traffic control devices maintained by the commissioner of transportation pursuant to section sixteen hundred eighty of this chapter.

(g) A certificate, sworn to or affirmed by a technician employed by the city of New York in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a photo device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to this section.

(h) An owner liable for a violation under this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties promulgated by the parking violations bureau of the city of New York; provided, however, that the monetary penalty for violating a bus operation-related traffic regulation pursuant to this section shall not exceed fifty dollars for a first offense, one hundred dollars for a second offense within a twelve-month period, one hundred fifty dollars for a third offense within a twelve-month period, two hundred dollars for a fourth offense within a twelve-month period, and two hundred fifty

dollars for each subsequent offense within a twelve-month period; and provided, further, that an owner shall be liable for an additional penalty not to exceed twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

(i) An imposition of liability pursuant to this section shall not be deemed a conviction of an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

(j) 1. A notice of liability pursuant to this section shall be sent by first class mail to each person alleged to be liable as an owner for a violation under this section. Personal delivery to the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained in such record of mailing.

2. A notice of liability pursuant to this section shall contain the name and address of the person alleged to be liable as an owner for a violation, the registration number of the vehicle involved in such violation, the location where such violation took place including the street address or cross streets, one or more images identifying the violation, the date and time of such violation, the identification number of the photo device which recorded the violation or other document locator number, and whether the device was stationary or mobile. If the photo device was mobile, an identity of the vehicle containing such photo device shall be included in the notice.

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

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

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

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

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

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

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

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

(n) If the owner liable for a violation under this section was not the operator of the vehicle at the time of such violation, such owner may maintain an action for indemnification against the operator of the vehicle at the time of such violation.

(o) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of a bus operation-related traffic regulation.

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

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

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

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

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

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

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

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

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

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

10. a detailed report on the bus speeds, reliability, and ridership before and after implementation of the demonstration program for each bus route, including current statistics.

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

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

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

§ 3. Subdivision 1 of section 235 of the vehicle and traffic law, as separately added by chapters 421, 460, and 773 of the laws of 2021, and paragraph (h) as relettered by chapter 258 of the laws of 2022, is amended to read as follows:

1. Notwithstanding any inconsistent provision of any general, special or local law or administrative code to the contrary, in any city which heretofore or hereafter is authorized to establish an administrative tribunal: (a) to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations, or (b) to adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter, or (c) to adjudicate the liability of owners for violations of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter, or (d) to adjudicate the liability of owners for violations of bus lane restrictions as defined by article twenty-four of this chapter imposed pursuant to a bus rapid transit program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus lane restrictions through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter, or (e) to adjudicate the liability of owners for violations of toll collection regulations imposed by certain public authorities pursuant to the law authorizing such public authorities to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with toll collection regulations of such public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, or (f) to adjudicate the liability of owners for violations of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo

violation monitoring systems, in accordance with article twenty-nine of this chapter, or (g) to adjudicate the liability of owners for violations of section three hundred eighty-five of this chapter and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight violations imposed pursuant to a weigh in motion demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such gross vehicle weight and/or axle weight restrictions through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter, or (h) to adjudicate the liability of owners for violations of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter, such tribunal and the rules and regulations pertaining thereto shall be constituted in substantial conformance with the following sections**, or (i) to adjudicate the liability of owners for any other violation of a bus operation-related traffic restriction regulation, in accordance with article twenty-four of this chapter**.

§ 4. This act shall take effect immediately; provided that section one of this act shall expire and be deemed repealed five years after it shall have become a law.

PART B

Section 1. The vehicle and traffic law is amended by adding a new section 1180-f to read as follows:

**§ 1180-f. Owner liability for failure of operator to comply with certain posted maximum speed limits. (a) 1. Notwithstanding any other provision of law, in accordance with the provisions of this subdivision, the Triborough bridge and tunnel authority is hereby authorized to establish a demonstration program pursuant to which the city of New York shall impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with posted maximum speed limits in TBTA bridge and tunnel zones as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article. The Triborough bridge and tunnel authority may install photo speed violation monitoring systems as appropriate, provided, however, in selecting where to install and operate a photo speed violation monitoring system, the Triborough bridge and tunnel authority shall consider criteria including, but not limited to, the speed data, crash history, and the roadway geometry applicable to such bridges and tunnels. The Triborough bridge and tunnel authority shall prioritize the placement of photo speed violation monitoring systems in bridges and tunnels based upon speed data or the crash history of a bridge and tunnel. A photo speed violation monitoring system shall not be installed or operated on a controlled-access highway exit ramp or within three hundred feet along a highway that continues from the end of a controlled-access highway exit ramp.**

**2. No photo speed violation monitoring system shall be used in a bridge or tunnel unless (i) on the day it is to be used it has successfully passed a self-test of its functions; and (ii) it has undergone an annual calibration check performed pursuant to paragraph four of this subdivision. The Triborough bridge and tunnel authority shall install**

signs bearing the words "photo enforced" below speed limit signs giving written notice to approaching motor vehicle operators that a photo speed violation monitoring system is in use, in conformance with standards established in the MUTCD.

3. Operators of photo speed violation monitoring systems shall have completed training in the procedures for setting up, testing, and operating such systems. Each such operator shall complete and sign a daily set-up log for each such system that he or she operates that (i) states the date and time when, and the location where, the system was set up that day, and (ii) states that such operator successfully performed, and the system passed, the self-tests of such system before producing a recorded image that day. The city of New York shall retain each such daily log until the later of the date on which the photo speed violation monitoring system to which it applies has been permanently removed from use or the final resolution of all cases involving notices of liability issued based on photographs, microphotographs, video or other recorded images produced by such system.

4. Each photo speed violation monitoring system shall undergo an annual calibration check performed by an independent calibration laboratory which shall issue a signed certificate of calibration. The city of New York shall keep each such annual certificate of calibration on file until the final resolution of all cases involving a notice of liability issued during such year which were based on photographs, microphotographs, videotape or other recorded images produced by such photo speed violation monitoring system.

5. (i) Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs, microphotographs, videotape or other recorded images produced by such photo speed violation monitoring systems shall not include images that identify the driver, the passengers, or the contents of the vehicle. Provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because such a photograph, microphotograph, videotape or other recorded image allows for the identification of the driver, the passengers, or the contents of vehicles where the city of New York shows that it made reasonable efforts to comply with the provisions of this paragraph in such case.

(ii) Photographs, microphotographs, videotape or any other recorded image from a photo speed violation monitoring system shall be for the exclusive use of the city of New York for the purpose of the adjudication of liability imposed pursuant to this section and of the owner receiving a notice of liability pursuant to this section, and shall be destroyed by the city of New York upon the final resolution of the notice of liability to which such photographs, microphotographs, videotape or other recorded images relate, or one year following the date of issuance of such notice of liability, whichever is later. Notwithstanding the provisions of any other law, rule or regulation to the contrary, photographs, microphotographs, videotape or any other recorded image from a photo speed violation monitoring system shall not be open to the public, nor subject to civil or criminal process or discovery, nor used by any court or administrative or adjudicatory body in any action or proceeding therein except that which is necessary for the adjudication of a notice of liability issued pursuant to this section, and no public entity or employee, officer or agent thereof shall disclose such information, except that such photographs, microphotographs, videotape or any other recorded images from such systems:

(A) shall be available for inspection and copying and use by the motor vehicle owner and operator for so long as such photographs, microphotographs, videotape or other recorded images are required to be maintained or are maintained by such public entity, employee, officer or agent; and

(B) (1) shall be furnished when described in a search warrant issued by a court authorized to issue such a search warrant pursuant to article six hundred ninety of the criminal procedure law or a federal court authorized to issue such a search warrant under federal law, where such search warrant states that there is reasonable cause to believe such information constitutes evidence of, or tends to demonstrate that, a misdemeanor or felony offense was committed in this state or another state, or that a particular person participated in the commission of a misdemeanor or felony offense in this state or another state, provided, however, that if such offense was against the laws of another state, the court shall only issue a warrant if the conduct comprising such offense would, if occurring in this state, constitute a misdemeanor or felony against the laws of this state; and

(2) shall be furnished in response to a subpoena duces tecum signed by a judge of competent jurisdiction and issued pursuant to article six hundred ten of the criminal procedure law or a judge or magistrate of a federal court authorized to issue such a subpoena duces tecum under federal law, where the judge finds and the subpoena states that there is reasonable cause to believe such information is relevant and material to the prosecution, or the defense, or the investigation by an authorized law enforcement official, of the alleged commission of a misdemeanor or felony in this state or another state, provided, however, that if such offense was against the laws of another state, such judge or magistrate shall only issue such subpoena if the conduct comprising such offense would, if occurring in this state, constitute a misdemeanor or felony in this state; and

(3) may, if lawfully obtained pursuant to this clause and clause (A) of this subparagraph and otherwise admissible, be used in such criminal action or proceeding.

(b) If the Triborough bridge and tunnel authority establishes a demonstration program pursuant to subdivision (a) of this section, the owner of a vehicle shall be liable for a penalty imposed pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, within a TBTA bridge and tunnel zone in violation of subdivision (b), (g) or paragraph one of subdivision (d) of section eleven hundred eighty of this article, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such TBTA bridge and tunnel zone, and such violation is evidenced by information obtained from a photo speed violation monitoring system; provided however that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of the underlying violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article.

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

1. "manual on uniform traffic control devices" or "MUTCD" shall mean the manual and specifications for a uniform system of traffic control devices maintained by the commissioner of transportation pursuant to section sixteen hundred eighty of this chapter;

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

3. "photo speed violation monitoring system" shall mean a vehicle sensor installed to work in conjunction with a speed measuring device which automatically produces two or more photographs, two or more micro-photographs, a videotape or other recorded images of each vehicle at the time it is used or operated in a school speed zone in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article in accordance with the provisions of this section; and

4. "TBTA bridge and tunnel zones" shall mean those bridges and tunnels maintained and operated by the Triborough bridge and tunnel authority, and any approach, entrance, or exit thereto.

(d) A certificate, sworn to or affirmed by a technician employed by the Triborough bridge and tunnel authority, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a photo speed violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall include at least two date and time stamped images of the rear of the motor vehicle that include the same stationary object near the motor vehicle and shall be available for inspection reasonably in advance of and at any proceeding to adjudicate the liability for such violation pursuant to this section.

(e) An owner liable for a violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to a demonstration program established pursuant to this section shall be liable for monetary penalties not to exceed fifty dollars for a first violation, seventy-five dollars for a second violation both of which were committed within a period of eighteen months, and one hundred dollars for a third or subsequent violation all of which were committed within a period of eighteen months; provided, however, that an additional penalty not in excess of twenty-five dollars for each violation may be imposed for the failure to respond to a notice of liability within the prescribed time period.

(f) An imposition of liability under the demonstration program established pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

(g) 1. A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section, within fourteen business days if such owner is a resident of this state and within forty-five business days if such owner is a non-resident. Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein.

2. A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation, the identification number of the camera which recorded the violation or other document locator number, at least two date and time stamped images of the rear of the motor vehicle that include the same stationary object near the motor vehicle, and the certificate charging the liability.

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

4. The notice of liability shall be prepared and mailed by the Triborough bridge and tunnel authority, or by any other entity authorized by the Triborough bridge and tunnel authority to prepare and mail such notice of liability.

(h) Adjudication of the liability imposed upon owners of this section shall be by a traffic violations bureau established pursuant to section three hundred seventy of the general municipal law where the violation occurred or, if there be none, by the court having jurisdiction over traffic infractions where the violation occurred, except that if a city has established an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations such city may, by local law, authorize such adjudication by such tribunal.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle or the number plate or plates of such vehicle was reported to the police department as having been stolen, it shall be a valid defense to an allegation of liability for a violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section that the vehicle or the number plate or plates of such vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision, it shall be sufficient that a certified copy of the police report on the stolen vehicle or number plate or plates of such vehicle be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.

(j) 1. Where the adjudication of liability imposed upon owners pursuant to this section is by a traffic violations bureau or a court having jurisdiction, an owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section, provided that he or she sends to the traffic violations bureau or court having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty-seven days after receiving notice from the bureau or court of the date and time of such violation, together with the other information contained in the original notice of liability. Failure to send such information within such thirty-seven day time period shall render the owner liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for the violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (i) In a city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations

bureau, an owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article, provided that:

(A) prior to the violation, the lessor has filed with the bureau in accordance with the provisions of section two hundred thirty-nine of this chapter; and

(B) within thirty-seven days after receiving notice from the bureau of the date and time of a liability, together with the other information contained in the original notice of liability, the lessor submits to the bureau the correct name and address of the lessee of the vehicle identified in the notice of liability at the time of such violation, together with such other additional information contained in the rental, lease or other contract document, as may be reasonably required by the bureau pursuant to regulations that may be promulgated for such purpose.

(ii) Failure to comply with clause (B) of subparagraph (i) of this paragraph shall render the owner liable for the penalty prescribed in this section.

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

(k) 1. If the owner liable for a violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

2. Notwithstanding any other provision of this section, no owner of a vehicle shall be subject to a monetary fine imposed pursuant to this section if the operator of such vehicle was operating such vehicle without the consent of the owner at the time such operator operated such vehicle in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article. For purposes of this subdivision there shall be a presumption that the operator of such vehicle was operating such vehicle with the consent of the owner at the time such operator operated such vehicle in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article.

(l) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article.

(m) If the Triborough bridge and tunnel authority adopts a demonstration program pursuant to subdivision (a) of this section, the Triborough bridge and tunnel authority shall conduct a study and submit a report on or before May first, two thousand twenty-six and a report on or before May first, two thousand twenty-eight on the results of the use of photo devices to the governor, the temporary president of the senate and the speaker of the assembly. The Triborough bridge and tunnel authority shall also make such reports available on their public-facing websites, provided that they may provide aggregate data from paragraph one of this subdivision if the Triborough bridge and tunnel authority finds that publishing specific location data would jeopardize public safety. Such report shall include:

1. the locations where and dates when photo speed violation monitoring systems were used;

2. the aggregate number, type and severity of crashes, fatalities, injuries and property damage reported within TBTA bridge and tunnel zones, to the extent the information is maintained by the Triborough bridge and tunnel authority;

3. the aggregate number, type and severity of crashes, fatalities, injuries and property damage reported within TBTA bridge and tunnel zones where photo speed violation monitoring systems were used, to the extent the information is maintained by the Triborough bridge and tunnel authority;

4. the number of violations recorded within TBTA bridge and tunnel zones, in the aggregate on a daily, weekly and monthly basis to the extent the information is maintained by the Triborough bridge and tunnel authority;

5. the number of violations recorded within each TBTA bridge and tunnel zone where a photo speed violation monitoring system is used, in the aggregate on a daily, weekly and monthly basis;

6. to the extent the information is maintained by the Triborough bridge and tunnel authority, the number of violations recorded within all TBTA bridge and tunnel zones that were:

(i) more than ten but not more than twenty miles per hour over the posted speed limit;

(ii) more than twenty but not more than thirty miles per hour over the posted speed limit;

(iii) more than thirty but not more than forty miles per hour over the posted speed limit; and

(iv) more than forty miles per hour over the posted speed limit;

7. the number of violations recorded within each highway construction or maintenance work area where a photo speed violation monitoring system is used that were:

(i) more than ten but not more than twenty miles per hour over the posted speed limit;

(ii) more than twenty but not more than thirty miles per hour over the posted speed limit;

(iii) more than thirty but not more than forty miles per hour over the posted speed limit; and

(iv) more than forty miles per hour over the posted speed limit;

8. the total number of notices of liability issued for violations recorded by such systems;

9. the number of fines and total amount of fines paid after the first notice of liability issued for violations recorded by such systems, to the extent the information is maintained by the Triborough bridge and tunnel authority;

10. the number of violations adjudicated and the results of such adjudications including breakdowns of dispositions made for violations recorded by such systems, to the extent the information is maintained by the Triborough bridge and tunnel authority;

11. the total amount of revenue realized by the Triborough bridge and tunnel authority in connection with the program;

12. the expenses incurred by the Triborough bridge and tunnel authority and the city of New York in connection with the program;

13. an itemized list of expenditures made by the Triborough bridge and tunnel authority on work zone safety projects undertaken in accordance with this section; and

14. the quality of the adjudication process and its results, to the extent the information is maintained by the Triborough bridge and tunnel authority.

(n) It shall be a defense to any prosecution for a violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section that such photo speed violation monitoring system was malfunctioning at the time of the alleged violation.

§ 2. Section 1803 of the vehicle and traffic law is amended by adding a new subdivision 13 to read as follows:

13. Except as otherwise provided in paragraph e of subdivision one of this section, where the Triborough bridge and tunnel authority has established a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-f of this chapter, any fine or penalty collected by a court, judge, magistrate or other officer for an imposition of liability which occurs pursuant to such program shall be paid to the state comptroller within the first ten days of the month following collection. Every such payment shall be accompanied by a statement in such form and detail as the comptroller shall provide. The comptroller shall pay such fine or penalty imposed for such liability to the Triborough bridge and tunnel authority.

§ 3. For the purpose of informing and educating owners of motor vehicles in this state, an agency or authority authorized to issue notices of liability pursuant to the provisions of this act shall, during the first thirty-day period in which the photo speed violation monitoring systems are in operation pursuant to the provisions of this act, issue a written warning in lieu of a notice of liability to all owners of motor vehicles who would be held liable for failure of operators thereof to comply with subdivision (b), (d), (f) or (g) of section eleven hundred eighty of the vehicle and traffic law in accordance with section eleven hundred eighty-e of the vehicle and traffic law.

§ 4. This act shall take effect one year after it shall have become a law; provided, however, that sections one and two of this act shall expire and be deemed repealed 5 years after such effective date when upon such date the provisions of such sections shall be deemed repealed. 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 C

Section 1. Section 3 of part PP of chapter 54 of the laws of 2016, amending the public authorities law relating to the New York transit authority and the metropolitan transportation authority, as amended by section 1 of part J of chapter 58 of the laws of 2022, is amended to read as follows:

§ 3. This act shall take effect immediately[~~; provided that the amendments to subdivision 1 of section 110-r of the general municipal law made by section two of this act shall expire and be deemed repealed April 1, 2023, and provided further that such repeal shall not affect the validity or duration of any contract entered into before that date pursuant to paragraph f of such subdivision~~].

§ 2. Subdivisions 1, 2, 3, 4 and 6 of section 1209 of the public authorities law are REPEALED and subdivisions 5, 7, 8, 9, 10, 11, 12, 13, 14 and 15 are renumbered subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10.

§ 3. Subdivision 1 of section 1265-a of the public authorities law, as amended by section 1-a of subpart C of part ZZZ of chapter 59 of the laws of 2019, is amended to read as follows:

1. The provisions of this section shall [~~only~~] apply to procurements by the authority [~~commenced during the period from April first, nineteen hundred eighty-seven until December thirty-first, nineteen hundred ninety-one, and during the period from December sixteenth, nineteen hundred ninety-three until June thirtieth, two thousand twenty-three; provided, however, that the provisions of this section shall not apply to (i) the award of any contract of the authority if the bid documents for such contract so provide and such bid documents are issued within sixty days of the effective date of this section or within sixty days of December sixteenth, nineteen hundred ninety-three, or (ii) for a period of one hundred eighty days after the effective date of this section or for a period of one hundred eighty days after December sixteenth, nineteen hundred ninety-three, the award of any contract for which an invitation to bid, solicitation, request for proposal, or any similar document has been issued by the authority prior to the effective date of this section or during the period from January first, nineteen hundred ninety-two until December sixteenth, nineteen hundred ninety-three~~], **including those made on behalf of its subsidiaries and affiliates**.

§ 4. Section 15 of part OO of chapter 54 of the laws of 2016, amending the public authorities law relating to procurements by the New York City transit authority and the metropolitan transportation authority, as amended by section 1 of part YY of chapter 55 of the laws of 2021, is amended to read as follows:

§ 15. This act shall take effect immediately[~~, and shall expire and be deemed repealed April 1, 2024~~]**; provided, however, sections three, nine, and twelve of this chapter shall expire and be deemed repealed April 1, 2024**.

§ 5. Subdivision 1 of section 1207-a of the public authorities law, as added by chapter 655 of the laws of 1962, is amended to read as follows:

1. Notwithstanding the provisions of sections twelve hundred through twelve hundred twenty-one, inclusive, of this title or of any other provisions of law to the contrary, but subject to the provisions of section twelve hundred seven-j of this title, the authority shall have power to purchase no more than seven hundred twenty-four cars for the rapid transit lines under the jurisdiction of the authority and to finance the purchase price thereof by the issuance of bonds and notes of the authority in accordance with the provisions of section twelve hundred seven-b of this title. Any purchase contract for the purchase of such cars shall be made by the authority [~~only upon public letting founded on sealed bids~~] in accordance with the requirements of [~~subdivision two of~~] section twelve hundred nine of this title.

§ 6. This act shall take effect immediately.

PART D

Section 1. Section 1205 of the public authorities law is amended by adding a new subdivision 9 to read as follows:

**9. (a) Notwithstanding any provision of law, regulation, or agreement to the contrary in effect as of the effective date of this subdivision, beginning on July first, two thousand twenty-three, the city of New York shall fund one hundred percent of the net paratransit operating expenses of the metropolitan transportation authority, provided that such**

contribution shall not exceed the maximum paratransit funding contribution for the applicable year.

(i) Net paratransit operating expenses shall consist of the total operating expenses of the paratransit program minus the six percent of the urban tax dedicated to paratransit services as of the date of this act and minus any money collected as passenger fares from paratransit operations.

(ii) The maximum paratransit funding contribution shall be six hundred two million dollars for two thousand twenty-four and shall increase by ten percent each year through two thousand twenty-eight. During the five-year period beginning two thousand twenty-nine and during each subsequent five-year period, the maximum paratransit funding contribution for the first year shall be one hundred ten percent of the actual amount of the paratransit funding contribution for the immediately preceding year, and shall increase by ten percent each year for the subsequent four years.

(b) Notwithstanding any provision of law, regulation, or agreement to the contrary in effect as of the effective date of this subdivision, beginning on July first, two thousand twenty-three, the city of New York shall fund one hundred percent of the metropolitan transportation authority's net fare revenue differential resulting from reduced student fare programs for students in grades kindergarten through twelve for travel within the city. Net fare revenue differential shall consist of the total operating expenses of the schoolfare program minus any contribution from the state of New York. The city shall also fund one hundred percent of the metropolitan transportation authority's total administrative expenses for such programs.

(c) Notwithstanding any provision of law, regulation, or agreement to the contrary in effect as of the effective date of this subdivision, beginning on July first, two thousand twenty-three, the city of New York shall fund annually, in the manner provided by paragraph (f) of this subdivision, an amount equal to forty-seven percent of the funds appropriated by the state for the purpose of funding the foregone revenues of the metropolitan transportation authority resulting from employers exempted from payment of the metropolitan commuter transportation mobility tax of section eight hundred one of the tax law, by section eight hundred of the tax law.

(d) The city of New York shall pay to the metropolitan transportation authority the funding amounts specified in paragraph (a) of this subdivision on a monthly basis in the amounts calculated by the metropolitan transportation authority. There shall be an annual reconciliation process to adjust for any overpayment or underpayment. The city shall provide certification of such payments to the state comptroller and the New York state director of the budget no later than seven days after making each payment. The city certification shall specify the date upon which such payment was made, and the amounts paid pursuant to paragraph (a) of this subdivision.

(e) The city of New York shall pay to the metropolitan transportation authority the funding amounts specified in paragraph (b) of this subdivision on a monthly basis in the amounts calculated by the metropolitan transportation authority. There shall be an annual reconciliation process to adjust for any overpayment or underpayment. The city shall provide certification of such payments to the state comptroller and the New York state director of the budget no later than seven days after making each payment. The city certification shall spec-

ify the date upon which such payment was made, and the amounts paid pursuant to paragraph (b) of this subdivision.

(f) The city of New York shall pay to the metropolitan transportation authority the funding amounts specified in paragraph (c) of this subdivision on a monthly basis in the amounts calculated by the metropolitan transportation authority. There shall be an annual reconciliation process to adjust for any overpayment or underpayment. The city shall provide certification of such payments to the state comptroller and the New York state director of the budget no later than seven days after making each payment. The city certification shall specify the date upon which such payment was made, and the amounts paid pursuant to paragraph (c) of this subdivision.

§ 2. Section 92-jj of the state finance law, as added by section 8 of part UUU of chapter 58 of the laws of 2020, is amended to read as follows:

§ 92-jj. Metropolitan transportation authority paratransit assistance fund. 1. There is hereby established in the custody of the comptroller a special fund to be known as the metropolitan transportation authority paratransit assistance fund.

2. Such fund shall consist of any monies directed thereto pursuant to the provisions of [~~section seven of the part of the chapter of the laws of two thousand twenty which added~~] subdivision four of this section.

3. All monies deposited into the fund pursuant to [~~the part of the chapter of the laws of two thousand twenty which added~~] subdivision four of this section shall be paid to the metropolitan transportation authority by the comptroller, without appropriation, for use in the same manner as the payments required by [~~section six of such part~~] paragraph (d) of subdivision nine of section twelve hundred five of the public authorities law, as soon as practicable but not more than five days from the date the comptroller determines that the full amount of the unpaid balance of any payment required by [~~section seven of such part~~] subdivision four of this section has been deposited into the fund.

4. (a) Notwithstanding any provision of law to the contrary, in the event the city of New York fails to certify to the state comptroller and the New York state director of the budget that the city has paid in full any payment for net paratransit operating expenses of the metropolitan transportation authority as required by paragraph (d) of subdivision nine of section twelve hundred five of the public authorities law, the New York state director of the budget shall direct the state comptroller to transfer, collect, or deposit funds in accordance with paragraph (b) of this subdivision in an amount equal to the unpaid balance of any such payment required by paragraph (d) of subdivision nine of section twelve hundred five of the public authorities law, and any such deposits shall be counted against the city's funding obligation for net paratransit operating expenses of the metropolitan transportation authority pursuant to paragraph (a) of subdivision nine of section twelve hundred five of the public authorities law. Such direction shall be pursuant to a written plan or plans filed with the state comptroller, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee.

(b) Notwithstanding any provision of law to the contrary and as set forth in a plan or plans submitted by the New York state director of the budget pursuant to paragraph (a) of this subdivision, the state comptroller is hereby directed and authorized to: (i) transfer funds authorized by any undisbursed general fund aid to localities appropriations or state special revenue fund aid to localities appropriations, excluding

debt service, fiduciary, and federal fund appropriations, to the city to the metropolitan transportation authority paratransit assistance fund established by this section in accordance with such plan; and/or (ii) collect and deposit into the metropolitan transportation authority paratransit assistance fund established by this section funds from any other revenue source of the city, including the sales and use tax, in accordance with such plan. The state comptroller is hereby authorized and directed to make such transfers, collections and deposits as soon as practicable but not more than three days following the transmittal of such plan to the comptroller in accordance with paragraph (a) of this subdivision.

(c) Notwithstanding any provision of law to the contrary, the state's obligation and/or liability to fund any program included in general fund aid to localities appropriations or state special revenue fund aid to localities appropriations from which funds are transferred pursuant to paragraph (b) of this subdivision shall be reduced in an amount equal to such transfer or transfers.

§ 3. The state finance law is amended by adding a new section 92-kk to read as follows:

§ 92-kk. Metropolitan transportation authority schoolfare assistance fund. 1. There is hereby established in the custody of the comptroller a special fund to be known as the metropolitan transportation authority schoolfare assistance fund.

2. Such fund shall consist of any monies directed thereto pursuant to the provisions of subdivision four of this section.

3. All monies deposited into the fund pursuant to subdivision four of this section shall be paid to the metropolitan transportation authority by the comptroller, without appropriation, for use in the same manner as the payments required by paragraph (e) of subdivision nine of section twelve hundred five of the public authorities law, as soon as practicable but not more than five days from the date the comptroller determines that the full amount of the unpaid balance of any payment required by subdivision four of this section has been deposited into the fund.

4. (a) Notwithstanding any provision of law to the contrary, in the event the city of New York fails to certify to the state comptroller and the New York state director of the budget that the city has paid in full any payment for student fare expenses of the metropolitan transportation authority as required by paragraph (e) of subdivision nine of section twelve hundred five of the public authorities law, the New York state director of the budget shall direct the state comptroller to transfer, collect, or deposit funds in accordance with paragraph (b) of this subdivision in an amount equal to the unpaid balance of any such payment required by paragraph (e) of subdivision nine of section twelve hundred five of the public authorities law, and any such deposits shall be counted against the city's funding obligation for student fare expenses of the metropolitan transportation authority pursuant to paragraph (b) of subdivision nine of section twelve hundred five of the public authorities law. Such direction shall be pursuant to a written plan or plans filed with the state comptroller, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee.

(b) Notwithstanding any provision of law to the contrary and as set forth in a plan or plans submitted by the New York state director of the budget pursuant to paragraph (a) of this subdivision, the state comptroller is hereby directed and authorized to: (i) transfer funds author-

ized by any undisbursed general fund aid to localities appropriations or state special revenue fund aid to localities appropriations, excluding debt service, fiduciary, and federal fund appropriations, to the city to the metropolitan transportation authority schoolfare assistance fund established by this section in accordance with such plan; and/or (ii) collect and deposit into the metropolitan transportation authority schoolfare assistance fund established by this section funds from any other revenue source of the city, including the sales and use tax, in accordance with such plan. The state comptroller is hereby authorized and directed to make such transfers, collections and deposits as soon as practicable but not more than three days following the transmittal of such plan to the comptroller in accordance with paragraph (a) of this subdivision.

(c) Notwithstanding any provision of law to the contrary, the state's obligation and/or liability to fund any program included in general fund aid to localities appropriations or state special revenue fund aid to localities appropriations from which funds are transferred pursuant to paragraph (b) of this subdivision shall be reduced in an amount equal to such transfer or transfers.

§ 4. The state finance law is amended by adding a new section 92-ll to read as follows:

§ 92-ll. Metropolitan transportation authority assistance fund. 1. There is hereby established in the custody of the comptroller a special fund to be known as the metropolitan transportation authority assistance fund.

2. Such fund shall consist of any monies directed thereto pursuant to the provisions of subdivision four of this section.

3. All monies deposited into the fund pursuant to subdivision four of this section shall be paid to the metropolitan transportation authority by the comptroller, without appropriation, for use in the same manner as the payments required by paragraph (f) of subdivision nine of section twelve hundred five of the public authorities law, as soon as practicable but not more than five days from the date the comptroller determines that the full amount of the unpaid balance of any payment required by subdivision four of this section has been deposited into the fund.

4. (a) Notwithstanding any provision of law to the contrary, in the event the city of New York fails to certify to the state comptroller and the New York state director of the budget that the city has paid in full any payment to the metropolitan transportation authority as required by paragraph (f) of subdivision nine of section twelve hundred five of the public authorities law, the New York state director of the budget shall direct the state comptroller to transfer, collect, or deposit funds in accordance with paragraph (b) of this subdivision in an amount equal to the unpaid balance of any such payment required by paragraph (f) of subdivision nine of section twelve hundred five of the public authorities law, and any such deposits shall be counted against the city's funding obligation to the metropolitan transportation authority pursuant to paragraph (c) of subdivision nine of section twelve hundred five of the public authorities law. Such direction shall be pursuant to a written plan or plans filed with the state comptroller, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee.

(b) Notwithstanding any provision of law to the contrary and as set forth in a plan or plans submitted by the New York state director of the budget pursuant to paragraph (a) of this subdivision, the state comptroller is hereby directed and authorized to: (i) transfer funds author-

ized by any undisbursed general fund aid to localities appropriations or state special revenue fund aid to localities appropriations, excluding debt service, fiduciary, and federal fund appropriations, to the city to the metropolitan transportation authority assistance fund established by this section in accordance with such plan; and/or (ii) collect and deposit into the metropolitan transportation authority assistance fund established by this section funds from any other revenue source of the city, including the sales and use tax, in accordance with such plan. The state comptroller is hereby authorized and directed to make such transfers, collections and deposits as soon as practicable but not more than three days following the transmittal of such plan to the comptroller in accordance with paragraph (a) of this subdivision.

(c) Notwithstanding any provision of law to the contrary, the state's obligation and/or liability to fund any program included in general fund aid to localities appropriations or state special revenue fund aid to localities appropriations from which funds are transferred pursuant to paragraph (b) of this subdivision shall be reduced in an amount equal to such transfer or transfers.

§ 5. Section 9 of part UUU of chapter 58 of the laws of 2020, amending the state finance law relating to providing funding for the Metropolitan Transportation Authority 2020-2024 capital program and paratransit operating expenses, is amended to read as follows:

§ 9. This act shall take effect immediately; provided that sections five through seven of this act shall expire and be deemed repealed June 30, [~~2024~~] 2023; and provided further that such repeal shall not affect or otherwise reduce amounts owed to the metropolitan transportation authority paratransit assistance fund to meet the city's share of the net paratransit operating expenses of the MTA for services provided prior to June 30, [~~2024~~] 2023.

§ 6. This act shall take effect July 1, 2023.

PART E

Section 1. Subparagraph (B) of paragraph 2 of subsection (a) of section 2504 of the insurance law is amended to read as follows:

(B) the city of New York, a public corporation or public authority, in connection with the construction of electrical generating and transmission facilities or construction, reconstruction, extensions [~~and~~] or additions of light rail or heavy rail rapid transit [~~and~~], commuter railroads, bus facilities, bridges, tunnels, and facilities related to or ancillary to any of the foregoing. For the purposes of this section, "bus" is defined in section one hundred four of the vehicle and traffic law; "facilities related to or ancillary to" light rail or heavy rail rapid transit, commuter railroads, bus facilities, bridges, and tunnels shall mean any capital construction funded by the metropolitan transportation authority's capital program, as defined by section twelve hundred sixty-nine-b of the public authorities law.

§ 2. This act shall take effect immediately.

PART F

Section 1. Subdivision 5-a of section 401 of the vehicle and traffic law is amended by adding a new paragraph d to read as follows:

d. It shall be unlawful for any person to register, reregister, renew, replace or transfer the registration, change the name, address or other information of the registered owner, or change the registration classi-

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

§ 2. Paragraph (b) of subdivision 1 of section 402 of the vehicle and traffic law, as amended by chapter 451 of the laws of 2021, is amended and a new paragraph (c) is added to read as follows:

(b) (i) Number plates shall be kept clean and in a condition so as to be easily readable and shall not be covered by glass or any plastic material.

(ii) Number plates shall not be knowingly covered or coated with any artificial or synthetic material or substance that conceals or obscures such number plates or that distorts a recorded or photographic image of such number plates.

(iii) The view of such number plates shall not be obstructed by any part of the vehicle or by anything carried thereon[~~, except for a receiver-transmitter issued by a publicly owned tolling facility in connection with electronic toll collection when such receiver-transmitter is affixed to the exterior of a vehicle in accordance with mounting instructions provided by the tolling facility~~].

(c) Notwithstanding any other provision of this subdivision, it shall be unlawful for any person to operate, drive or park a motor vehicle on a toll highway, bridge and/or tunnel facility or enter or remain in the tolled central business district described in section seventeen hundred four of this chapter, under the jurisdiction of the tolling authority, if such number plate is covered by glass or any plastic material, or covered or coated with any artificial or synthetic material or substance that conceals or obscures such number plates or that distorts a recorded or photographic image of such number plates. The view of such number plates shall not be obstructed by any part of the vehicle or by anything carried thereon, except for a receiver-transmitter issued by a publicly owned tolling authority in connection with electronic toll collection when such receiver-transmitter is affixed to the exterior of a vehicle

in accordance with mounting instructions provided by the tolling authority. For purposes of this paragraph, "tolling authority" shall mean every public authority which operates a toll highway, bridge and/or tunnel or a central business district tolling program, as well as the port authority of New York and New Jersey, a bi-state agency created by compact set forth in chapter one hundred fifty-four of the laws of nineteen hundred twenty-one, as amended.

§ 3. Subdivision 8 of section 402 of the vehicle and traffic law, as amended by chapter 451 of the laws of 2021, is amended to read as follows:

8. A violation of this section shall be punishable by a fine of not less than twenty-five nor more than two hundred dollars, except that: (a) a violation of subparagraph (ii) or subparagraph (iii) of paragraph (b) of subdivision one of this section shall be punishable by a fine of not less than fifty nor more than three hundred dollars; and (b) a violation of paragraph (c) of subdivision one of this section shall be punishable by a fine of not less than one hundred nor more than five hundred dollars. A police officer as defined in section one hundred thirty-two of this chapter acting pursuant to this section shall be authorized to seize and confiscate any covering affixed over the number plates which obscures the ability to easily read such number plates, except that in the event of such seizure and confiscation a violation of paragraph (b) or (c) of subdivision one of this section shall be punishable by a fine of not less than two hundred fifty dollars and the owner of the vehicle to whom such number plates were issued shall have one week from the date such violation is issued to remove, if not done by a police officer pursuant to this section, any artificial or synthetic material or substance that conceals or obscures such number plates or to purchase new number plates.

§ 4. Section 510 of the vehicle and traffic law is amended by adding a new subdivision 4-h to read as follows:

4-h. Suspension of registration for failure to comply with removing any artificial or synthetic material or substance that conceals or obscures number plates or the purchase of new number plates. Upon the receipt of a notification from a court or an administrative tribunal that an owner of a motor vehicle failed to comply with subdivision eight of section four hundred two of this chapter, the commissioner or his or her agent shall suspend the registration of the vehicle involved in the violation and such suspension shall remain in effect until such time as the commissioner is advised that the owner of such vehicle has satisfied the requirements of such subdivision.

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

PART G

Section 1. Section 45 of chapter 929 of the laws of 1986 amending the tax law and other laws relating to the metropolitan transportation authority, as amended by chapter 120 of the laws of 2021, is amended to read as follows:

§ 45. This act shall take effect immediately; except that: (a) paragraph (d) of subdivision 3 of section 1263 of the public authorities law, as added by section twenty-six of this act, shall be deemed to have been in full force and effect on and after August 5, 1986; (b) sections

thirty-three and thirty-four of this act shall not apply to a certified or recognized public employee organization which represents any public employees described in subdivision 16 of section 1204 of the public authorities law and such sections shall expire on July 1, [~~2023~~] **2025** and nothing contained within these sections shall be construed to divest the public employment relations board or any court of competent jurisdiction of the full power or authority to enforce any order made by the board or such court prior to the effective date of this act; (c) the provisions of section thirty-five of this act shall expire on March 31, 1987; and (d) provided, however, the commissioner of taxation and finance shall have the power to enforce the provisions of sections two through nine of this act beyond December 31, 1990 to enable such commissioner to collect any liabilities incurred prior to January 1, 1991.

§ 2. This act shall take effect immediately.

PART H

Section 1. Subdivision 11 of section 120.05 of the penal law, as amended by chapter 233 of the laws of 2022, is amended to read as follows:

11. With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner, terminal cleaner, station customer assistant**, traffic checker**; person whose official duties include the sale or collection of tickets, passes, vouchers, or other revenue payment media for use on a train or bus or the collection or handling of revenues therefrom; a person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of buses, a transit signal system, elevated or underground subway tracks, transit station structure, including fare equipment, escalators, elevators and other equipment necessary to passenger service, commuter rail tracks or stations, train yard, revenue train in passenger service, or a train or bus station or terminal; or a supervisor of such personnel, employed by any transit or commuter rail agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer, traffic enforcement agent, **motor vehicle license examiner, motor vehicle representative, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor carrier investigator as defined in section one hundred twenty-four of the vehicle and traffic law, motor vehicle inspector as defined in section one hundred twenty-four-a of the vehicle and traffic law,** prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, sanitation enforcement agent, New York city sanitation worker, public health sanitarian, New York city public health sanitarian, registered nurse, licensed practical nurse, emergency medical service paramedic, or emergency medical service technician, he or she causes physical injury to such train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner, terminal cleaner, station customer assistant**, traffic checker**; person whose official duties include the sale or collection of tickets, passes, vouchers or other revenue payment media for use on a train or bus or the collection or handling of revenues therefrom; a person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of buses, a transit signal system, elevated or

underground subway tracks, transit station structure, including fare equipment, escalators, elevators and other equipment necessary to passenger service, commuter rail tracks or stations, train yard, revenue train in passenger service, or a train or bus station or terminal; or a supervisor of such personnel, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement agent, **motor vehicle license examiner, motor vehicle representative, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor carrier investigator as defined in section one hundred twenty-four of the vehicle and traffic law, motor vehicle inspector as defined in section one hundred twenty-four-a of the vehicle and traffic law,** prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, or emergency medical service technician, while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus, cleaning of a train or bus station or terminal, assisting customers, **checking traffic,** the sale or collection of tickets, passes, vouchers, or other revenue media for use on a train or bus, or maintenance or cleaning of a train, a bus, or bus station or terminal, signal system, elevated or underground subway tracks, transit station structure, including fare equipment, escalators, elevators and other equipment necessary to passenger service, commuter rail tracks or stations, train yard or revenue train in passenger service, or such city marshal, school crossing guard, traffic enforcement officer, traffic enforcement agent, **motor vehicle license examiner, motor vehicle representative, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor carrier investigator as defined in section one hundred twenty-four of the vehicle and traffic law, motor vehicle inspector as defined in section one hundred twenty-four-a of the vehicle and traffic law,** prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, or emergency medical service technician is performing an assigned duty; or

§ 2. The vehicle and traffic law is amended by adding three new sections 118-a, 124 and 124-a to read as follows:

**§ 118-a. Highway worker. Any person employed by or on behalf of the state, a county, city, town, village, a public authority, local authority, public utility company, or an agent or contractor of any such entity, or a flagperson as defined in section one hundred fifteen-b of this article, who has been assigned to perform work on a highway, public highway, roadway, access highway, or qualifying highway, or within the state highway right of way, as defined in section fifty-two of the highway law. Such work may include, but shall not be limited to: construction, reconstruction, maintenance, improvement, flagging, utility installation, or the operation of equipment.**

**§ 124. Motor carrier investigator. Any person employed by the department of transportation who has been assigned to perform investigations of any motor carriers regulated by the commissioner of transportation.**

**§ 124-a. Motor vehicle inspector. Any person employed by the department of transportation who has been assigned to perform inspections of any motor vehicles regulated by the commissioner of transportation.**

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

PART I

Section 1. Paragraph (k-2) of subdivision 2 of section 65.10 of the penal law, as added by section 1 of part VV of chapter 56 of the laws of 2020, is amended to read as follows:

(k-2) (i) Refrain, upon sentencing for a crime involving unlawful sexual conduct **or assault** committed against **either** a metropolitan transportation authority **system** passenger[~~,~~] **or** customer, or **an** employee [~~**or a crime involving assault against a metropolitan transportation authority employee,**~~] **of the metropolitan transportation authority system or any contractor then performing work for any entity of the system, if the offense was** committed in or [~~**on**~~] **adjacent to** any facility or conveyance of the [~~**metropolitan transportation authority or a subsidiary thereof or the New York city transit authority or a subsidiary thereof**~~] **authority's transportation system**, from using or entering any of [~~**such**~~] **the** authority's subways, trains, buses**,** or other conveyances or facilities **as** specified by the court for a period of up to three years, or a specified period of such probation or conditional discharge, whichever is less. For purposes of this section, a crime involving assault shall mean an offense described in article one hundred twenty of this chapter which has as an element the causing of physical injury or serious physical injury to another as well as the attempt thereof. **If the sentence imposed by the court includes a period of incarceration followed by a period of probation or conditional discharge, then the court may impose conditions under this paragraph to be operative only during the period of probation or conditional discharge. Orders under this paragraph may extend to any part of the metropolitan transportation authority system in the court's discretion, including parts of the system outside the county where the sentencing judge sits.**

(ii) The court may, in its discretion, suspend, modify or cancel a condition imposed under this paragraph in the interest of justice at any time. If the person depends on the authority's subways, trains, buses, or other conveyances or facilities for trips of necessity, including, but not limited to, travel to or from medical or legal appointments, school or training classes or places of employment, obtaining food, clothing or necessary household items, or rendering care to family members, the court may modify such condition to allow for a trip or trips as in its discretion are necessary.

(iii) A person at liberty and subject to a condition under this paragraph who applies, within thirty days after the date such condition becomes effective, for a refund of any prepaid fare amounts rendered unusable in whole or in part by such condition including, but not limited to, a monthly pass, shall be issued a refund of the amounts so prepaid.

**(iv) Any order issued pursuant to this section, whether imposing a ban or modifying one, shall be served on the metropolitan transportation authority as directed by the court.**

§ 2. This act shall take effect immediately.

PART J

Section 1. Section 3 of part FF of chapter 55 of the laws of 2017, relating to motor vehicles equipped with autonomous vehicle technology,

as amended by section 1 of part GG of chapter 58 of the laws of 2021, is amended to read as follows:

§ 3. This act shall take effect April 1, 2017; provided, however, that section one of this act shall expire and be deemed repealed April 1, [~~2023~~] **2024**.

§ 2. This act shall take effect immediately.

PART K

Section 1. Paragraphs 26 and 27 of subdivision (a) of section 1642 of the vehicle and traffic law, paragraph 26 as added and paragraph 27 as amended by chapter 248 of the laws of 2014, are amended to read as follows:

26. (a) With respect to highways (which term for the purposes of this paragraph shall include private roads open to public motor vehicle traffic) in such city, other than state highways maintained by the state on which the department of transportation shall have established higher or lower speed limits than the statutory fifty-five miles per hour speed limit as provided in section sixteen hundred twenty of this title, or on which the department of transportation shall have designated that such city shall not establish any maximum speed limit as provided in section sixteen hundred twenty-four of this title, subject to the limitations imposed by section sixteen hundred eighty-four of this title, establishment of maximum speed limits at which vehicles may proceed within such city or within designated areas of such city higher or lower than the fifty-five miles per hour maximum statutory limit. No such speed limit applicable throughout such city or within designated areas of such city shall be established at less than [~~twenty-five~~] **twenty** miles per hour, except that school speed limits may be established at no less than [~~fifteen~~] **ten** miles per hour [~~pursuant to~~] **notwithstanding** the provisions of section sixteen hundred forty-three of this article.

(b) A city shall not lower **or raise** a speed limit by more than five miles per hour pursuant to this paragraph unless such city provides written notice and an opportunity to comment to the community board or community boards established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which the lower **or higher** speed limit shall apply. Such notice may be provided by electronic mail and shall be provided sixty days prior to the establishment of such lower **or higher** speed limit.

27. (a) Establishment of maximum speed limits below [~~twenty-five~~] **twenty** miles per hour at which motor vehicles may proceed on or along designated highways within such city for the explicit purpose of implementing traffic calming measures as such term is defined herein; provided, however, that no speed limit shall be set below [~~fifteen~~] **ten** miles per hour nor shall such speed limit be established where the traffic calming measure to be implemented consists solely of a traffic control sign. Establishment of such a speed limit shall, where applicable, be in compliance with the provisions of sections sixteen hundred twenty-four and sixteen hundred eighty-four of this [~~chapter~~] **title**. Nothing contained herein shall be deemed to alter or affect the establishment of school speed limits pursuant to the provisions of section sixteen hundred forty-three of this article**, provided that the school speed limit set forth in paragraph twenty-six of this subdivision shall apply in any city to which this section is applicable**. For the purposes of this paragraph, "traffic calming measures" shall mean any physical engineering measure or measures that reduce the negative effects of

motor vehicle use, alter driver behavior and improve conditions for non-motorized street users such as pedestrians and bicyclists.

(b) Any city establishing maximum speed limits below [~~twenty-five~~] twenty miles per hour pursuant to clause (i) of this subparagraph shall submit a report to the governor, the temporary president of the senate and the speaker of the assembly on or before March first, two thousand fifteen and biannually thereafter on the results of using traffic calming measures and speed limits lower than [~~twenty-five~~] twenty miles per hour as authorized by this paragraph. This report shall also be made available to the public by such city on its website. Such report shall include, but not be limited to the following:

(i) a description of the designated highways where traffic calming measures and a lower speed limit were established [~~and~~];

(ii) a description of the specific traffic calming measures used and the maximum speed limit established; and

(iii) a comparison of the aggregate type, number, and severity of accidents reported on streets on which street calming measures and lower speed limits were implemented in the year preceding the implementation of such measures and policies and the year following the implementation of such measures and policies, to the extent this information is maintained by any agency of the state or the city.

§ 2. This act shall take effect immediately.

## PART L

Section 1. Subparagraph 3 of paragraph (c) of subdivision 2 of section 1193 of the vehicle and traffic law, as amended by chapter 732 of the laws of 2006, is amended to read as follows:

(3) In no event shall a new license be issued where a person has been twice convicted of a violation of [~~subdivision~~] any combination of, subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article [~~or of driving while intoxicated or of driving while ability is impaired by the use of a drug or of driving while ability is impaired by the combined influence of drugs or of alcohol and any drug or drugs~~], or of sections 120.03, 120.04, 120.04-a, 125.12, 125.13, or 125.14 of the penal law, where physical injury, as defined in section 10.00 of the penal law, has resulted from such offense in each instance.

§ 2. This act shall take effect immediately.

## PART M

Section 1. Subdivisions 3 and 3-a of section 205 of the vehicle and traffic law, subdivision 3 as amended by section 3 of part G of chapter 59 of the laws of 2008, and subdivision 3-a as added by section 1 of part F of chapter 58 of the laws of 2012, are amended to read as follows:

3. Each such county clerk shall retain from fees collected for any motor vehicle related service described in subdivision one of this section processed by such county clerk an amount based on a percentage of gross receipts collected. For purposes of this section, the term "gross receipts" shall include all fines, fees and penalties collected pursuant to this chapter by a county clerk acting as agent of the commissioner, but shall not include any state or local sales or compensating use taxes imposed under or pursuant to the authority of articles twenty-eight and twenty-nine of the tax law and collected by such clerk

on behalf of the commissioner of taxation and finance. The retention percentage shall be [~~12.7~~] 10.75 percent [~~and shall take effect April first, nineteen hundred ninety-nine; provided, however, the retention percentage shall be thirty percent of the thirty dollar fee established in paragraph (e) of subdivision two of section four hundred ninety-one and paragraph f-one of subdivision two of section five hundred three of this chapter~~].

3-a. In addition to the fees retained pursuant to subdivision three of this section, each county clerk acting as the agent of the commissioner pursuant to subdivision one of this section shall retain [~~four percent~~] a percentage of "enhanced internet and electronic partner revenue" collected by the commissioner. For the purposes of this subdivision, "enhanced internet and electronic partner revenue" shall mean the amount of gross receipts attributable to all transactions conducted on the internet by residents of such county and by designated partners of the department on behalf of such residents for the current calendar year [~~that exceeds the amount of such revenue collected by the commissioner during calendar year two thousand eleven~~]. The commissioner shall certify the amounts to be retained by each county clerk pursuant to this subdivision. [~~Provided, however, that if the aggregate amount of fees retained by county clerks pursuant to this subdivision in calendar years two thousand twelve and two thousand thirteen combined exceeds eighty-eight million five hundred thousand dollars, then the percentage of fees to be retained thereafter shall be reduced to a percentage that, if applied to the fees collected during calendar years two thousand twelve and two thousand thirteen combined, would have resulted in an aggregate retention of eighty-eight million five hundred thousand dollars or 2.5 percent of enhanced internet and electronic partner revenue, whichever is higher. If the aggregate amount of fees retained by county clerks pursuant to this subdivision in calendar years two thousand twelve and two thousand thirteen combined is less than eighty-eight million five hundred thousand dollars, then the percentage of fees to be retained thereafter shall be increased to a percentage that, if applied to the fees collected during calendar years two thousand twelve and two thousand thirteen combined, would have resulted in an aggregate retention of eighty-eight million five hundred thousand dollars, or six percent of enhanced internet and electronic partner revenue, whichever is less. On and after April first, two thousand sixteen, the percent of enhanced internet and electronic partner revenue to be retained by county clerks shall be the average of the annual percentages that were in effect between April first, two thousand twelve and March thirty-first, two thousand sixteen.~~] The retention percentage shall be 10.75 percent.

§ 2. This act shall take effect January 1, 2024.

## PART N

Section 1. Subdivision 2 of section 237 of the vehicle and traffic law, as amended by chapter 458 of the laws of 2010, is amended to read as follows:

2. To provide for penalties other than imprisonment for (a) parking violations in accordance with a schedule of monetary fines and penalties, provided however, that monetary penalties shall not exceed fifty dollars for each parking violation other than (i) in a city with a population of one million or more, violations committed in spaces where stopping or standing is prohibited for which monetary penalties shall not exceed one hundred dollars and, (ii) handicapped parking violations

for which monetary penalties shall not exceed one hundred fifty dollars; and (b) abandoned vehicle violations, except in a city with a population of one million or more, provided however, that monetary penalties shall not be less than two hundred fifty dollars nor more than one thousand dollars for each abandoned vehicle violation; and (c) a city with a population of one million or more may impose a monetary penalty of up to [~~two~~] four hundred [~~fifty~~] dollars for a first offense and up to five hundred twenty-five dollars for subsequent offenses within a six month period for tractor-trailer combinations, tractors, truck trailers and semi-trailers parked overnight on streets in residential neighborhoods;

§ 2. Subdivision 2 of section 238 of the vehicle and traffic law, as amended by chapter 224 of the laws of 1995, is amended to read as follows:

2. A notice of violation shall be served personally upon the operator of a motor vehicle who is present at the time of service, and his name, together with the plate designation and the plate type as shown by the registration plates of said vehicle and the expiration date, provided that the vehicle identification number may be inserted in such notice in place of or in addition to the plate designation and plate type; the make or model, and, provided that a body type is indicated on the registration sticker of said vehicle, the body type of said vehicle; a description of the charged violation, including but not limited to a reference to the applicable traffic rule or provision of this chapter; information as to the days and hours the applicable rule or provision of this chapter is in effect, unless always in effect pursuant to rule or this chapter and where appropriate the word ALL when the days and/or hours in effect are everyday and/or twenty-four hours a day; the meter number for a meter violation, where appropriate; and the date, time and particular place of occurrence of the charged violation, shall be inserted therein. A mere listing of a meter number in cases of charged meter violations shall not be deemed to constitute a sufficient description of a particular place of occurrence for purposes of this subdivision. The notice of violation shall be served upon the owner of the motor vehicle if the operator is not present, by affixing such notice to said vehicle in a conspicuous place. Whenever such notice is so affixed, in lieu of inserting the name of the person charged with the violation in the space provided for the identification of said person, the words "owner of the vehicle bearing license" may be inserted to be followed by the plate designation and plate type as shown by the registration plates of said vehicle together with the expiration date, provided that the vehicle identification number may be inserted in such notice in place of or in addition to the plate designation and plate type; the make or model, and, provided that a body type is indicated on the registration sticker of said vehicle, the body type of said vehicle; a description of the charged violation, including but not limited to a reference to the applicable traffic rule or provision of this chapter; information as to the days and hours the applicable rule or provision of this chapter is in effect unless always in effect pursuant to rule or this chapter and where appropriate the word ALL when the days and/or hours in effect are every day and/or twenty-four hours a day; the meter number for a meter violation where appropriate; and the date, time and particular place of occurrence of the charged violation. Service of the notice of violation, or a duplicate thereof by affixation as herein provided shall have the same force and effect and shall be subject to the same penalties for disregard thereof as though the same was

personally served with the name of the person charged with the violation inserted therein.

§ 3. Paragraph (a) of subdivision 2-a of section 238 of the vehicle and traffic law, as added by chapter 224 of the laws of 1995, is amended to read as follows:

(a) Notwithstanding any inconsistent provision of subdivision two of this section, where the plate type or the expiration date are not shown on either the registration plates or sticker of a vehicle or where the registration sticker is covered, faded, defaced or mutilated so that it is unreadable, **or cannot be located on such vehicle,** the plate type or the expiration date may be omitted from the notice of violation; provided, however, [~~such~~] **that the** condition **of such plates or sticker** must be so described and inserted on the notice of violation.

§ 4. Subparagraph (ii) of paragraph (c) of subdivision 2-a of section 238 of the vehicle and traffic law, as added by chapter 409 of the laws of 2001, is amended to read as follows:

(ii) Notice shall be served on the owner by mail to the last known registered address **within six years of the dismissal or** within two years of the time that the enforcing authority discovers, or could with reasonable diligence have discovered, that the dismissal was procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or his or her agent, employee, or representative. Such notice shall fix a time when and place where a hearing shall be held before a hearing examiner to determine whether or not dismissal of a charged parking violation shall be set aside. Such notice shall set forth the basis for setting aside the dismissal and advise the owner that failure to appear at the date and time indicated in such notice shall be deemed an admission of liability and shall result in the setting aside of the dismissal and entry of a determination on the charged parking violation. Such notice shall also contain a warning that civil penalties may be imposed for the violation pursuant to this paragraph and that a default judgment may be entered thereon.

§ 5. Section 242 of the vehicle and traffic law is amended by adding a new subdivision 3-a to read as follows:

**3-a. Notwithstanding any provision of this section to the contrary, an appeal shall be conducted only when an appellant has either:**

**(a) posted a bond in the amount of the determination appealed from; or**

**(b) paid to the parking violations bureau the following penalties and surcharges, as applicable:**

**(i) any penalty imposed pursuant to a notice of liability issued pursuant to a program authorized by section three hundred eighty-five-a, eleven hundred eleven-a, eleven hundred eleven-c, or eleven hundred eighty-b of this chapter, other than any additional penalty imposed for failure to respond to a notice of liability within the prescribed time period; and**

**(ii) any surcharge levied pursuant to a notice of violation issued in accordance with sections eighteen hundred nine-a and eighteen hundred nine-b of this chapter.**

§ 6. Subdivision 6 of section 242 of the vehicle and traffic law, as added by chapter 515 of the laws of 2004, is amended to read as follows:

6. When charges have been overturned by [~~a court or~~] any [~~other~~] administrative body or officer, the party in whose favor the appeal is decided shall be entitled to have returned an amount equal to any fine or penalty imposed and collected from the parking violations bureau within thirty days of the entry of the judgement; provided, however,

that such [~~court,~~] administrative body or officer shall have the authority to lessen from such amount any debt owed by such party and shall apply this amount to any outstanding fines and penalties owed by the same individual. If payment is not made within thirty days, a penalty shall accrue at the same rate as that imposed for failure to make timely payment of a fine and shall be paid by the parking violations bureau.

§ 7. This act shall take effect immediately, provided that section four of this act shall apply with respect to any determination made on or after the first day of the first month succeeding the sixtieth day after this act shall have become a law.

PART O

Section 1. Paragraph b of subdivision 9 of section 140 of the transportation law, as amended by chapter 9 of the laws of 2020, is amended to read as follows:

b. (i) Whenever [~~an altered motor vehicle commonly referred to as a "stretch limousine"~~] a passenger carrying motor vehicle subject to the jurisdiction of the commissioner in accordance with this section and section eighty of this chapter has failed an inspection and been placed out-of-service, the commissioner may direct a police officer or his or her agent to immediately secure possession of the number plates of such vehicle and return the same to the commissioner of motor vehicles. The commissioner shall notify the commissioner of motor vehicles to that effect, and the commissioner of motor vehicles shall thereupon suspend the registration of such vehicle until such time as the commissioner gives notice that the out-of-service defect has been satisfactorily adjusted. Provided, however, that the commissioner shall give notice and an opportunity to be heard within not more than thirty days of the suspension. Failure of the holder or of any person possessing such plates to deliver to the commissioner or his or her agent who requests the same pursuant to this paragraph shall be a misdemeanor. The commissioner of motor vehicles shall have the authority to deny a registration or renewal application to any other person for the same vehicle where it has been determined that such registrant's intent has been to evade the purposes of this paragraph and where the commissioner of motor vehicles has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this paragraph. The procedure on any such suspension shall be the same as in the case of a suspension under the vehicle and traffic law. Operation of such motor vehicle while under suspension as provided in this subdivision shall constitute a class A misdemeanor.

(ii) (a) Upon the seizure of number plates pursuant to subparagraph (i) of this paragraph, if the out-of-service defect is of a type where pursuant to the commissioner's regulations no inspection certificate will be issued until the defect is repaired and a re-inspection is conducted, or is related to its horn, and the commissioner determines that allowing the [~~altered~~] motor vehicle to leave the inspection area would be contrary to public safety, the commissioner may: (A) remove or arrange for the removal of, or may direct any police officer to remove or arrange for the removal of, the [~~altered~~] motor vehicle to a non-public garage or other place of safety where it shall remain impounded, subject to the provisions of this section; or (B) immobilize or arrange for the immobilization of the [~~altered~~] motor vehicle on premises owned or under the control of the owner of such [~~altered~~] motor vehicle, subject to the provisions of this section. The [~~altered~~] motor vehicle

shall be entered into the New York statewide police information network as an impounded or immobilized vehicle and the commissioner shall promptly notify the owner that the [~~altered~~] motor vehicle has been impounded or immobilized and the reason or reasons for such impoundment or immobilization, and give such owner an opportunity to be heard within not more than thirty days of the suspension imposed pursuant to subparagraph (i) of this paragraph.

(b) A motor vehicle so impounded or immobilized shall be in the custody of the commissioner and shall not be released unless the commissioner is satisfied that repairs have been scheduled or been made to satisfactorily adjust such vehicle's out-of-service defect or defects and such vehicle has been re-inspected.

(c) The commissioner shall provide written notice to the owner or operator of the service repair shop or impoundment lot informing them that such impounded vehicle shall not be released without the written approval of the commissioner. Release of such impounded vehicle without approval by the commissioner shall be punishable by a fine of up to ten thousand dollars[~~;~~].

§ 2. This act shall take effect immediately.

## PART P

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

4. Removal of a vehicle. Operation of a motor vehicle in a manner consistent with subdivision (e) of section twelve hundred of this chapter shall not be deemed a violation of this section.

§ 2. Section 1200 of the vehicle and traffic law is amended by adding a new subdivision (e) to read as follows:

(e) When a vehicle is involved in an incident involving no personal injury or death, and the operator of such vehicle knows or has cause to know that such incident resulted in damage to the real or personal property of another, the operator of such vehicle, and the operator of any other vehicle involved, shall immediately move or cause to be removed such vehicle or vehicles from the travel lane to a location off the highway that remains in the immediate vicinity of the incident, provided that the vehicle is operable, that the operator may lawfully move the vehicle in accordance with all laws including those prohibiting impaired driving, and that the movement of such vehicle can be done safely. Vehicle operation in accordance with the provisions of this subdivision shall not be construed to imply that no injury has occurred, nor shall the driver be considered liable or at fault regarding the cause of the incident solely by moving or causing the removal of the vehicle. Moving a vehicle consistent with this subdivision shall not relieve an investigating police officer from the obligation to file a report that is otherwise required. Nothing in this subdivision shall be construed to authorize otherwise unqualified persons to clear or remove hazardous materials from the highway or to move vehicles which are transporting hazardous materials in a manner inconsistent with applicable law.

§ 3. This act shall take effect immediately.

## PART Q

Section 1. Paragraph 1 of subsection (a) of section 801 of the tax law, as amended by section 1 of part N of chapter 59 of the laws of 2012, is amended to read as follows:

(1) For employers who engage in business within the MCTD, the tax is imposed at a rate of (A) eleven hundredths (.11) percent of the payroll expense for employers with payroll expense no greater than three hundred seventy-five thousand dollars in any calendar quarter, (B) twenty-three hundredths (.23) percent of the payroll expense for employers with payroll expense greater than three hundred seventy-five thousand dollars and no greater than four hundred thirty-seven thousand five hundred dollars in any calendar quarter, and (C) [~~thirty-four~~] **fifty** hundredths [~~(.34)~~] **(.50)** percent of the payroll expense for employers with payroll expense in excess of four hundred thirty-seven thousand five hundred dollars in any calendar quarter. If the employer is a professional employer organization, as defined in section nine hundred sixteen of the labor law, the employer's tax shall be calculated by determining the payroll expense attributable to each client who has entered into a professional employer agreement with such organization and the payroll expense attributable to such organization itself, multiplying each of those payroll expense amounts by the applicable rate set forth in this paragraph and adding those products together.

§ 2. Paragraph 2 of subsection (a) of section 801 of the tax law, as amended by section 1 of part N of chapter 59 of the laws of 2012, is amended to read as follows:

(2) For individuals, the tax is imposed at a rate of [~~thirty-four~~] **forty-two** hundredths [~~(.34)~~] **(.42)** percent of the net earnings from self-employment of individuals that are attributable to the MCTD if such earnings attributable to the MCTD exceed fifty thousand dollars for the tax year.

§ 3. Paragraph 2 of subsection (a) of section 801 of the tax law, as amended by section two of this act, is amended to read as follows:

(2) For individuals, the tax is imposed at a rate of [~~forty-two~~] **fifty** hundredths [~~(.42)~~] **(.50)** percent of the net earnings from self-employment of individuals that are attributable to the MCTD if such earnings attributable to the MCTD exceed fifty thousand dollars for the tax year.

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

(a) (i) section one of this act shall apply to tax quarters beginning on or after July 1, 2023;

(ii) section two of this act shall apply to taxable years beginning on or after January 1, 2023 and before January 1, 2024; and

(iii) section three of this act shall apply to taxable years beginning on or after January 1, 2024; and

(b) section two of this act shall expire and be deemed repealed January 1, 2024, when upon such date the provisions of section three shall take effect.

## PART R

Section 1. Subdivision 1 of section 1352 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

1. **(a)** The commission shall pay into an account, to be known as the commercial gaming revenue fund as established pursuant to section ninety-seven-nnnn of the state finance law, under the joint custody of the comptroller and the commissioner of taxation and finance, all taxes and fees imposed by this article **paid by a gaming facility licensed under title two of this article**; any interest and penalties imposed by the commission relating to those taxes; the appropriate percentage of the value of expired gaming related obligations; all penalties levied and

collected by the commission; and the appropriate funds, cash or prizes forfeited from gambling activity.

(b) For any gaming facility licensed under title two-A of this article, the commission shall pay, without appropriation, into the metropolitan transportation authority finance fund established under section one thousand two hundred seventy-h of the public authorities law the following:

(i) for any gaming facility not located within the city of New York, eighty percent of the taxes and licensing fees imposed by this article, and any interest and penalties imposed by the commission relating to those taxes.

(ii) for any gaming facility located within the city of New York, one hundred percent of the taxes and licensing fees imposed by this article, and any interest and penalties imposed by the commission relating to those taxes.

(iii) (1) notwithstanding subparagraph (i) of this paragraph, if a gaming facility licensed under title two-A of this article was previously authorized to operate video lottery gaming pursuant to section one thousand six hundred seventeen-a of the tax law, an amount equal to the amount determined in clause two of this subparagraph shall be deposited into the state lottery fund. Any remaining funds shall be transferred in accordance with this subdivision.

(2) The amount to be deducted shall be equal to the greater of (A) the revenue received from the facility for education aid deposits into the state lottery fund for the twelve months immediately preceding the date on which such facility began operations as a commercial casino pursuant to title two-A of this article, or (B) the revenue received from the facility for education aid deposits into the state lottery fund for state fiscal year two thousand twenty-two.

(c) For any gaming facility licensed under title two-A of this article, the commission shall pay into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law the following:

(i) for any gaming facility not located within the city of New York, ten percent of the taxes and licensing fees imposed by this article, and any interest and penalties imposed by the commission relating to those taxes. Such funds shall be allocated in accordance with the provisions of paragraph b of subdivision three of section ninety-seven-nnnn of the state finance law.

(ii) for any gaming facility not located within the city of New York, ten percent of the taxes and licensing fees imposed by this article, and any interest and penalties imposed by the commission relating to those taxes among counties within the region, as defined by section one thousand three hundred ten of this article, hosting said facility for the purpose of real property tax relief and for education assistance. Such distribution shall be made among the counties on a per capita basis, subtracting the population of host municipality and county. Such funds shall be allocated in accordance with the provisions of paragraph c of subdivision three of section ninety-seven-nnnn of the state finance law.

§ 2. Subdivision 2 of section 97-nnnn of the state finance law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

2. Such account shall consist of all revenues [~~from all taxes and fees imposed by article thirteen of the racing, pari-mutuel wagering and breeding law; any interest and penalties imposed by the New York state~~] received from the gaming commission [~~relating to those taxes; the percentage of the value of expired gaming related obligations; and all~~

~~penalties levied and collected by the commission. Additionally, the state gaming commission shall pay into the account any appropriate funds, cash or prizes forfeited from gambling activity~~] pursuant to paragraphs (a) and (c) of subdivision one of section thirteen hundred fifty-two of the racing, pari-mutuel wagering and breeding law.

§ 3. Subdivision 2 of section 1270-h of the public authorities law, as amended by section 13 of part UU of chapter 59 of the laws of 2018, is amended to read as follows:

2. The comptroller shall deposit into the metropolitan transportation authority finance fund (a) monthly, pursuant to appropriation, the moneys deposited in the mobility tax trust account of the metropolitan transportation authority financial assistance fund pursuant to any provision of law directing or permitting the deposit of moneys in such fund, [~~and~~] (b) without appropriation, the revenue including taxes, interest and penalties collected in accordance with article twenty-three of the tax law, and (c) without appropriation, the revenue including taxes and licensing fees collected in accordance with the relevant provisions of paragraph (b) of subdivision one of section thirteen hundred fifty-two of the racing, pari-mutuel wagering and breeding law.

§ 4. This act shall take effect immediately and shall expire and be deemed repealed 10 years after such date.

PART S

Section 1. Section 9-y of the banking law, as added by chapter 398 of the laws of 2021, is amended to read as follows:

§ 9-y. [~~Banking institutions to pay checks drawn therein in order of presentation~~] Order of payment of checks and other debits, insufficient funds charges and return deposit item charges. 1. Order of paying checks. (a) Notwithstanding any law, rule or regulation to the contrary, every banking [~~institution~~] organization that provides checking services to consumer [~~checking~~] accounts shall either pay checks in the order wherein they are received or pay checks from smallest to largest dollar amount for each business day's transactions.

[~~2.~~] (b) If a check is dishonored for insufficient funds and thereafter smaller checks which could be paid are received, the smaller checks shall be honored within amounts on deposit in the subject account.

[~~3.~~] (c) The banking [~~institution~~] organization shall disclose to consumers in writing the order in which checks are drawn. The written disclosure shall be provided to the consumer at the time the account is opened and prior to any change in such policy.

(d) The superintendent shall promulgate rules and regulations necessary for the implementation of this section.

[~~4.~~] 2. Regulation of other consumer account transactions and associated fees. (a) The superintendent shall have the power to prescribe by regulation:

i. the manner in which banking organizations process debit and credit transactions, other than those specified in subdivision one of this section, for consumer accounts maintained at such organization;

ii. the charges that may be imposed in connection with a check drawn or other written order upon, or electronic transfer sought to be effectuated against, insufficient funds or uncollected balances in a consumer account, whether or not the banking organization pays such check, written order, or electronic transfer;

iii. the charges that may be imposed in connection with a check or other written order received by a banking organization for deposit or

collection drawn against a consumer account and subsequently dishonored and returned for any reason by the drawee;

iv. disclosures provided to consumers regarding the processing of transactions in a consumer account and the associated fees; and

v. alerts, notices, and other disclosures relating to the imposition or possible imposition of a charge as provided in subparagraphs ii and iii of this paragraph.

(b) In prescribing regulations regarding the manner in which banking organizations process debit or credit transactions, or the charges that may be imposed pursuant to subparagraphs ii or iii of paragraph (a) of this subdivision, the superintendent shall consider, at a minimum, the following factors:

i. the cost incurred by the banking organization, in providing any services associated with such charges;

ii. the competitive position of the banking organization; and

iii. the maintenance of a safe and sound banking organization that protects the public interest.

3. Definition. As used in this section, "consumer [~~checking~~] accounts" means accounts at banking organizations established by natural persons primarily for personal, family or household purposes.

§ 2. This act shall take effect immediately.

PART T

Section 1. Subdivision 7 of section 339-n of the real property law is REPEALED.

§ 2. Subdivisions 8 and 9 of section 339-n of the real property law are renumbered subdivisions 7 and 8.

§ 3. Subdivision 2 of section 339-s of the real property law, as added by chapter 346 of the laws of 1997, is amended to read as follows:

2. [~~Each such declaration, and any amendment or amendments thereof shall be filed with the department of state~~] (a) The board of managers for each condominium subject to this article, shall file with the secretary of state a certificate of designation, in writing, signed, designating the secretary of state as agent of the board of managers upon whom process against it may be served, providing the post office address within or without this state to which the secretary of state shall mail a copy of process against it served upon the secretary of state by personal delivery, and may include an email address to which the secretary of state shall email a notice of the fact that process against the board of managers has been served electronically upon the secretary of state; provided, however, that a designation filed with the secretary of state pursuant to section four hundred two of the business corporation law or section four hundred two of the not-for-profit corporation law shall also serve as such designation. A certificate of designation shall be accompanied by a fee of sixty dollars.

(b) Any board of managers may, from time to time, change the post office address to which the secretary of state is directed to mail copies of process against the board of managers served on the secretary of state by personal delivery, and/or specify, change or delete the email address to which the secretary of state shall email a notice of the fact that process against the board of managers has been served electronically upon the secretary of state, by filing a signed certificate of amendment of the certificate of designation with the department of state. Such certificate shall be accompanied by a fee of sixty dollars.

(c) Service of process on the secretary of state as agent of a board of managers shall be made in the manner provided by subparagraph (i) or (ii) of this paragraph:

(i) Personally delivering to and leaving with the secretary of state by personally delivering to and leaving with the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such board of managers shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such board of managers, at the post office address on file in the department of state specified for such purpose.

(ii) Electronically submitting a copy of the process to the department of state together with the statutory fee, which fee shall be a taxable disbursement, through an electronic system operated by the department of state, provided the board of managers has an email address on file in the department of state to which the secretary of state shall email a notice of the fact that process against the board of managers has been served electronically upon the secretary of state. Service of process on such board of managers shall be complete when the secretary of state has reviewed and accepted service of such process. The secretary of state shall promptly send notice of the fact that process has been served electronically on the secretary of state to such board of managers at the email address on file in the department of state, specified for such purpose and shall make a copy of the process available to such board of managers.

(d) As used in this article, "process" shall mean judicial process and all orders, demands, notices or other papers required or permitted by law to be personally served on a board of managers, for the purpose of acquiring jurisdiction of such board of managers in any action or proceeding, civil or criminal, whether judicial, administrative, arbitrative or otherwise, in this state or in the federal courts sitting in or for this state.

(e) Nothing in this subdivision shall affect the right to serve process in any other manner permitted by law.

(f) The department of state shall keep a record of each process served under this subdivision, including the date of service. It shall, upon request, made within ten years of such service, issue a certificate under its seal certifying as to the receipt of process by an authorized person, the date and place of such service and the receipt of the statutory fee. Process served on the secretary of state under this section shall be destroyed by him or her after a period of ten years from such service.

(g) A designation of the secretary of state as agent of a board of managers upon whom process against the board of managers may be served, the post office address to which the secretary of state shall mail a copy of any process served upon him or her by personal delivery, and the email address, if any, to which the secretary of state shall email a notice of the fact that process against the board of managers has been electronically served upon the secretary of state, included in a declaration, or amendment thereof, and filed with the department of state under this subdivision, shall continue until a certificate of designation is filed with the secretary of state under this subdivision.

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

PART U

Section 1. Section 4 of chapter 495 of the laws of 2004, amending the insurance law and the public health law relating to the New York state health insurance continuation assistance demonstration project, as amended by section 4 of part T of chapter 58 of the laws of 2022, is amended to read as follows:

§ 4. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that this act shall remain in effect until July 1, [~~2023~~] 2024 when upon such date the provisions of this act shall expire and be deemed repealed; provided, further, that a displaced worker shall be eligible for continuation assistance retroactive to July 1, 2004.

§ 2. This act shall take effect immediately.

PART V

Section 1. The general business law is amended by adding a new article 42 to read as follows:

ARTICLE 42
NATURAL ORGANIC REDUCTION FACILITIES

Section 1100. Definitions.
1101. Authorized entities.
1102. Powers of the department of state.
1103. Rules and regulations.
1104. Natural organic reduction facility operation.
1105. Fees.
1106. Revocation and suspension of authorization to operate; fines.
1107. Hearing on charges; decision.
1108. Judicial review.
1109. Criminal penalties.
1110. Official acts used as evidence.
1111. Separability clause.

§ 1100. Definitions. As used in this article:

1. "Authorizing agent" means the person in control of whether the human remains are naturally organically reduced pursuant to section forty-two hundred one of the public health law.

2. "Cemetery corporation" has the same meaning as paragraph (a) of section fifteen hundred two of the not-for-profit corporation law.

3. "Funeral firm" has the same meaning as subdivision (j) of section thirty-four hundred of the public health law.

4. "Registered resident" has the same meaning as subdivision (k) of section thirty-four hundred of the public health law.

5. "Natural organic reduction" means the contained, accelerated conversion of human remains to soil.

6. "Natural organic reduction authorization" means a form signed by the authorizing agent and containing such information as required by the department of state.

7. "Natural organic reduction facility" means a structure, room, or other space in a building or real property where natural organic reduction of a human body occurs.

8. "Natural organic reduction permit" means the burial and removal permit required pursuant to section forty-one hundred forty-five of the public health law that is annotated for disposition of the remains of a deceased human being by natural organic reduction.

9. "Person" means an individual, corporation, company, partnership, funeral firm or not-for-profit corporation.

§ 1101. Authorized entities. 1. No person other than a cemetery corporation, operating pursuant to the approval of the cemetery board under article fifteen of the not-for-profit corporation law, shall engage in the operation of a natural organic reduction facility or hold themselves out as able to do so unless they are authorized in accordance with this article. Any person other than a cemetery corporation intending to operate a natural organic reduction facility shall submit an application to the department of state, in a form and manner authorized by the department of state. Such application shall include:

(a) The name and address of the applicant: if any individual, the name under which the individual intends to conduct business; if a partnership, the name and business address of each member thereof, and the name under which business is to be conducted; if a corporation, the name of the corporation and the name and business address of each stockholder of the corporation holding stock interests of more than ten percent;

(b) A certified survey of the site and location within the county it will be situated;

(c) A business plan for the operation of the natural organic reduction facility to include, but not be limited to, number of expected natural organic reductions per year, number of natural organic reduction units, manufacture, capital costs, financing, anticipated number of employees, types of services provided, pricing thereof;

(d) A description of the impact of the proposed natural organic reduction facility on other natural organic reduction facilities, if any, within the county or impact on the surrounding community;

(e) Plans, designs, and costs of any structures to be erected or retrofitted for the natural organic reduction facility use; and

(f) A description of any approval or permits required by state or local law. No natural organic reduction facility shall be approved until such other approvals or permits have been obtained.

2. Within thirty-five days following receipt of the information required by subdivision one of this section, the department of state may request any additional information or documentation and technical assistance deemed necessary to review such information. Such information shall not be deemed complete until the requested additional information has been received. If no such request is made, the submission shall be deemed complete on the thirty-fifth day after its receipt by the department of state.

3. The department of state shall approve or deny the proposed natural organic reduction facility within ninety days of the completed submission.

4. The department of state shall provide written notice of its determination to the person. If a negative determination is made, such notice shall state the reasons therefor. Notice shall be made by registered or certified mail addressed to the person at the address listed in the application.

5. Any person who has had their application denied by the department of state may appeal such determination pursuant to section eleven hundred seven of this article.

§ 1102. Powers of the department of state. The department of state shall periodically inspect all natural organic reduction facilities operated in accordance with this article. In addition to the powers and duties elsewhere prescribed in this article the department of state shall have power to:

1. Appoint an adequate number of assistants, inspectors and other employees as may be necessary to carry out the provisions of this article, to prescribe their duties, and to fix their compensation within the amount appropriated therefor;

2. Investigate natural organic reduction facilities under this article;

3. Conduct physical inspections of all grounds and buildings of any natural organic reduction facility;

4. Conduct a financial audit of all business records, authorizations, documents, funds, accounts and contracts of any natural organic reduction facility;

5. Issue subpoenas for persons or records deemed appropriate to an investigation or any other action taken pursuant to this article;

6. Provide information and records to the department of health concerning any funeral firm that has violated the provisions of this article or rules and regulations implemented in this article, as may be required by the department of health to carry out its responsibilities under the public health law or any rules or regulations implemented thereunder; and

7. Require information and records from the department of health concerning any funeral firm operating or intending to operate a natural organic reduction facility.

§ 1103. Rules and regulations. The department of state shall have the power to adopt such rules and regulations not inconsistent with the provisions of this article, in consultation with the departments of health and environmental conservation, as may be necessary with respect to applications to operate, the investigation of natural organic reduction facilities, the form and content of natural organic reduction authorizations, the operation of natural organic reduction facilities, the safety standards for naturally organically reduced remains, consumer protections and disclosures, and the other matters incidental or appropriate for the proper administration and enforcement of the provisions of this article, and to amend or repeal any such rules or regulations.

§ 1104. Natural organic reduction facility operation. Natural organic reduction facility operators shall have the following duties and obligations:

1. (a) A natural organic reduction facility shall be maintained in a clean, orderly, and sanitary manner, with adequate ventilation and shall have a temporary storage area available to store the remains of deceased human beings pending disposition by natural organic reduction, the interior of which shall not be accessible to the general public.

(b) Entrances and windows of the facility shall be maintained at all times to secure privacy, including, but not limited to: (i) doors shall be tightly closed and rigid; (ii) windows shall be covered; and (iii) entrances shall be locked and secured when not actively attended by authorized facility personnel.

2. (a) The natural organic reduction process shall be conducted in privacy. No person except authorized persons shall be admitted into the reduction area, holding facility, or the temporary storage facility while the remains of deceased human beings are being naturally organically reduced. Authorized persons, on admittance, shall comply with all

rules of the natural organic reduction facility and not infringe upon the privacy of the remains of deceased human beings.

(b) The following are authorized persons: (i) employees and officers of the natural organic reduction facility; (ii) licensed, registered funeral directors, registered residents, and enrolled students of mortuary science; (iii) officers and trustees of cemetery corporations; (iv) authorized employees or their authorized agents of cemetery corporations; (v) public officers acting in the discharge of their duties; (vi) authorized instructors of funeral directing or natural organic reduction; (vii) licensed physicians or nurses; and (viii) members of the immediate family of the deceased and their authorized agents and designated representatives.

(c) Every natural organic reduction facility shall use its best efforts to commence natural organic reduction within twenty-four hours of accepting delivery of such remains. Good cause, such as the need to confirm the identity of the deceased human being, must be demonstrated if natural organic reduction of remains commences more than forty-eight hours after delivery is accepted.

3. (a) No natural organic reduction facility shall naturally organically reduce the remains of any deceased human being without the accompanying natural organic reduction permit, required pursuant to section forty-one hundred forty-five of the public health law which permit shall constitute presumptive evidence of the identity of said remains. In addition, all natural organic reduction facilities situated outside the city of New York, must comply with paragraph (b) of subdivision two of section forty-one hundred forty-five of the public health law pertaining to the receipt of the deceased human being. From the time of such delivery to the natural organic reduction facility, until the time the natural organic reduction facility distributes the remains as directed, the facility shall be responsible for the remains of the deceased human being. Further, a natural organic reduction authorization form shall accompany the permit required in section forty-one hundred forty-five of the public health law. This form, provided or approved by the facility, shall be signed by the authorized agent attesting to the permission for the natural organic reduction of the deceased, and disclosing to the natural organic reduction facility that such body does not contain a battery, battery pack, power cell, radioactive implant, or radiological device, if any, and that these materials were removed prior to the natural organic reduction process.

(b) Upon good cause being shown rebutting the presumption of the identity of such remains, the natural organic reduction shall not commence until reasonable confirmation of the identity of the deceased human being is made. This proof may be in the form of, but not limited to, a signed affidavit from a licensed physician, a member of the family of the deceased human being, the authorizing agent or a court order from the state supreme court within the county of the natural organic reduction facility. Such proof shall be provided by the authorizing agent.

(c) The facility shall have a written plan to assure that the identification established by the natural organic reduction permit accompanies the remains of the deceased human being through the natural organic reduction process and until the identity of the deceased is accurately and legibly inscribed on the container in which the remains are placed.

4. (a) The remains of a deceased human being shall be delivered to the natural organic reduction facility in a container or in external wrappings sufficient to contain the remains and also designed to fully

decompose in the natural reduction process. Such container or external wrappings holding the remains of the deceased human being shall not be opened after delivery to the natural organic reduction facility unless there exists good cause to confirm the identity of the deceased, or to assure that no material is enclosed which might cause injury to employees or damage to natural organic reduction facility property, or upon reasonable demand by members of the immediate family or the authorizing agent.

(b) In such instances in which the container or wrappings are opened after delivery to the natural organic reduction facility, such action shall only be conducted by the licensed funeral director or registered resident delivering the remains of the deceased human being and a record shall be made, which shall include the reason for such action, the signature of the person authorizing the opening thereof, and the names of the person opening the container or wrappings and the witness thereto, which shall be retained in the permanent file of the natural organic reduction facility.

The opening of the container or wrapping shall be conducted in the presence of the witness and shall comply with all rules and regulations intended to protect the health and safety of natural organic reduction facility personnel.

5. In those instances in which the remains of deceased human beings are to be delivered to a natural organic reduction facility in a casket or other container that is not to be naturally organically reduced with the deceased, timely disclosure thereof must be made by the person making the funeral arrangements to the natural organic reduction facility that prior to natural organic reduction the remains of the deceased human being shall be transferred to a container or external wrappings sufficient to contain the remains and also designed to fully decompose in the natural reduction process. Such signed acknowledgement of the authorizing person, that the timely disclosure has been made, shall be retained by the natural organic reduction facility in its permanent records.

6. (a) The remains of a deceased human being shall not be removed from the casket, container, or external wrappings in which it is delivered to the natural organic reduction facility unless explicit, signed authorization is provided by the person making funeral arrangements or by a public officer discharging a statutory duty, which signed authorization shall be retained by the natural organic reduction facility in its permanent records.

(b) When the remains of a deceased human being are to be transferred to a container, the transfer shall be conducted in privacy with dignity and respect and by a licensed funeral director or registered resident. The transferring operation shall comply with all rules and regulations intended to protect the health and safety of facility personnel.

7. The natural organic reduction of remains of more than one deceased human being in a reduction container at any one time is unlawful, except upon the explicit, signed authorization provided by the persons making funeral arrangements and the signed approval of the natural organic reduction facility, which shall be retained by the natural organic reduction facility in its permanent records.

8. (a) Upon the completion of the natural organic reduction of the remains of a deceased human being, the interior of the natural organic reduction container shall be thoroughly swept or otherwise cleaned so as to render the natural organic reduction container reasonably free of all matter. The contents thereof shall be placed into an individual contain-

er and not commingled with other remains. The natural organic reduction permit shall be attached to the individual container preparatory to final processing. A magnet and sieve, or other appropriate method of separation, may be used to divide the remains from unrecognizable, incidental or foreign material.

(b) The incidental and foreign material of the natural organic reduction process shall be disposed of in a safe manner in compliance with all sanitary rules and regulations as by-products.

(c) The remains shall be pulverized until no single fragment is recognizable as skeletal tissue.

(d) The pulverized remains shall be transferred to a container or to multiple containers, if so requested in writing by the authorizing agent. Such container or containers shall have inside dimensions of suitable size to contain the remains of the person who was naturally organically reduced.

(e) The prescribed container or containers shall be accurately and legibly labeled with the identification of the human being whose remains are contained therein, in a manner acceptable to the department of state.

9. The authorizing agent shall be responsible for the final disposition of the remains. Remains resulting from the natural organic reduction process are not recoverable once scattered or interred. Remains shall be disposed of by scattering or spreading them in a designated scattering garden or area in a cemetery, or by prior authorization by the cemetery corporation, by interment in a grave, crypt, or niche. Upon completion of the natural organic reduction process, the natural organic reduction facility shall notify the authorizing agent and funeral firm making such arrangements that the natural organic reduction process has been completed and that the remains are prepared to be disposed of in accordance with this paragraph. Upon receipt of the remains, the individual receiving them may transport them in any manner in the state without a permit, and may dispose of them in accordance with this section. After disposition, the natural organic reduction facility shall be discharged from any legal obligation or liability to deliver the remains to the authorizing agent or any other person enumerated under paragraph (a) of subdivision 2 of section forty-two hundred one of the public health law concerning the remains. If, after a period of one hundred twenty days from the date of the natural organic reduction, the authorizing agent has not arranged for the final disposition of the remains or claimed the remains, the natural organic reduction facility may dispose of the remains in any manner permitted by this section. The natural organic reduction facility, however, shall keep a permanent record identifying the site of final disposition. The authorizing agent shall be responsible for reimbursing the natural organic reduction facility for all reasonable expenses incurred in disposing of the remains. Except with the express written permission of the authorizing agent, no person shall place remains of more than one person in the same temporary container or urn.

10. Any employee of a natural organic reduction facility whose function is to conduct the daily operations of the natural organic reduction process shall be certified by an organization approved by the department of state. Proof of such certification shall be posted in the natural organic reduction facility and available for inspection at any time. Any new employees of a natural organic reduction facility required to be certified under this section and retained prior to the effective date of this paragraph shall be certified within one year of such effective

date. Renewal of such certification shall be completed every five years from the date of certification.

§ 1105. Fees. Fees payable to the department of state under this article are to defray the costs of examination and administration under this article. Each natural organic reduction facility, not later than March thirtieth in each calendar year, shall pay the sum of three dollars for each natural organic reduction performed in the preceding calendar year.

§ 1106. Revocation and suspension of authorization to operate; fines.

1. The authorization to operate a natural organic reduction facility may be suspended or revoked, and a fine not exceeding ten thousand dollars per each instance may be imposed, by the department of state for the following reasons:

(a) Fraud or bribery in the operation of the natural organic reduction facility;

(b) The making of any false statement as to a material matter in any registration, statement or certificate required by or pursuant to this article;

(c) Incompetency in the operation of the natural organic reduction facility;

(d) Failure to properly identify and track remains throughout the natural organic reduction process;

(e) Violation of any provision of this article or any rule or regulation adopted hereunder; and

(f) Conviction of a crime involving fraud, theft, perjury, bribery, mishandling of human remains, or violations of article forty-two of the public health law.

2. Whenever the authorization to operate a natural organic reduction facility is revoked such authorization shall not be reinstated or reissued until after the expiration of a period of five years from the date of such revocation.

§ 1107. Hearing on charges; decision. 1. No authorization to operate a natural organic reduction facility shall be suspended or revoked nor shall any fine or reprimand imposed, nor any certification of a natural organic reduction operator be suspended or revoked, until after a hearing held before an officer or employee of the department of state designated for such purpose, upon notice to the natural organic reduction facility of at least ten days. The notice shall be served either personally or by certified mail at the address of the natural organic reduction facility or natural organic reduction facility operator and shall state the date and place of hearing and set forth the charges against the natural organic reduction facility or operator. The natural organic reduction facility or operator shall have the opportunity to be heard in their defense either in person or by counsel and may produce witnesses to testify on their behalf. A stenographic record of the hearing shall be taken and preserved. Within ten days after a hearing the natural organic reduction facility shall receive a stenographic record of the hearing upon payment of fifty percent of the cost of preparation of such record. The hearing may be adjourned upon a showing of good cause at least five days before the hearing, in writing, to a hearing officer. The person conducting the hearing shall make a written report of their findings and the recommendation to the department of state. The department of state shall review such findings and the recommendation and, after due deliberation, shall issue an order accepting, modifying, or rejecting such recommendation and dismissing the charges or suspending or revoking the authorization to operate a natural organic reduction facility or imposing a fine, or both, upon the natural organic reduction

facility or suspend or revoke the certification of the natural organic reduction operator.

2. Any person who has had their application to operate a natural organic reduction facility rejected shall be entitled to a hearing before an officer or employee of the department of state designated for such purpose, upon notice to such person of at least ten days. Notice shall be served either personally or by certified mail to the address contained in the application and shall state the time and place of hearing and set forth the ground or grounds constituting rejection of such application. The applicant shall have the opportunity to be heard in their defense either in person or by counsel and may produce witnesses and testify on their own behalf. A stenographic record of the hearing shall be taken and preserved. Within ten days after a hearing the natural organic reduction facility shall receive a stenographic record of the hearing upon payment of fifty percent of the cost of preparation of such record. The hearing may be adjourned upon a showing of good cause at least five days before the hearing, in writing, to a hearing officer. The person conducting the hearing shall make a written report of their findings and a recommendation to the department of state for decision. The department of state shall review such findings and recommendation and, after due deliberation, shall issue an order accepting, modifying or rejecting such recommendation and either grant an authorization or reject the application.

3. For the purposes of this article, the secretary of state or any officer or employee of the department of state designated by the secretary of state may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records and documents deemed pertinent to the subject of investigation.

4. Strict rules of evidence do not apply to hearings held pursuant to this article.

§ 1108. Judicial review. The action of the department of state in suspending or revoking an authorization to operate a natural organic reduction facility, or imposing a fine or reprimand on a natural organic reduction facility or suspending or revoking the certification of a natural organic reduction operator may be reviewed by a proceeding brought under and pursuant to article seventy-eight of the civil practice law and rules.

§ 1109. Criminal penalties. 1. Any person shall for the first offense of paragraph (a), (b), (c), or (d) of this subdivision, be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars or by imprisonment for a term of not more than one year, or by both such fine and imprisonment. The following offenses shall constitute a first offense:

(a) any person not authorized pursuant to this article or article fifteen of the not-for-profit corporation law who engages in the business of operating a natural organic reduction facility or holds themselves out to the public as being able to do so;

(b) any person who shall violate any of the provisions of this article;

(c) any person who, having their approval to engage in the business of operating a natural organic reduction facility suspended or revoked, continues to do so; or

(d) any person who directly or indirectly employs, permits or authorizes an unapproved person to operate a natural organic reduction facility.

**2. If the conviction is for an offense committed after the first conviction of such person under this article, such person shall be guilty of a class E felony. Each violation of this article shall be deemed a separate offense.**

**§ 1110. Official acts used as evidence. The official acts of the department of state shall be prima facie evidence of the facts therein and shall be entitled to be received in evidence in all actions at law or other legal proceedings in any court or before any board, body or officer.**

**§ 1111. Separability clause. If any part or provision of this article or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this article or the application thereof to other persons or circumstances and the legislature hereby declares that it would have enacted this article or the remainder thereof had the invalidity of such provision or application thereof been apparent.**

§ 2. Section 1503 of the not-for-profit corporation law is amended by adding a new paragraph (c) as follows:

**(c) This article shall not apply to natural organic reduction facilities operated by a person pursuant to article forty-two of the general business law.**

§ 3. Subparagraph 4 of paragraph (c) of section 1504 of the not-for-profit corporation law, as added by chapter 557 of the laws of 1985, is amended to read as follows:

(4) To impose a civil penalty upon a cemetery corporation not exceeding [~~one~~] **ten** thousand dollars, after conducting an adjudicatory hearing pursuant to the provisions of the state administrative procedure act, for a violation of or a failure to comply with any provisions contained in this article or any regulation, directive or order of the board, and without the need to maintain a civil action pursuant to [~~subdivision~~] **subparagraph** five of this paragraph.

§ 4. Paragraph (c) of section 1504 of the not-for-profit corporation law is amended by adding a new subparagraph 6 to read as follows:

**(6) To suspend or revoke the approval for a cemetery corporation to operate a natural organic reduction facility, or suspend or revoke the certification of a natural organic reduction facility operator, after conducting an adjudicatory hearing pursuant to the provisions of the state administrative procedure act, for a violation of or a failure to comply with any provisions contained in this article or any regulation, directive or order of the board, and without the need to maintain a civil action pursuant to subparagraph five of this paragraph.**

§ 5. Paragraph (b) of section 1518 of the not-for-profit corporation law, as added by chapter 817 of the laws of 2022, is amended by adding a new subparagraph 3 to read as follows:

**(3) Every natural organic reduction facility shall use its best efforts to commence natural organic reduction within twenty-four hours of accepting delivery of such remains. Good cause, such as the need to confirm the identity of the deceased human being, must be demonstrated if natural organic reduction of remains commences more than forty-eight hours after delivery is accepted.**

§ 6. Subdivision (i) of section 1518 of the not-for-profit corporation law, as added by chapter 817 of the laws of 2022, is amended to read as follows:

(i) Disposition of remains. The authorizing agent shall be responsible for the final disposition of the remains. Disposition of remains resulting from the natural organic reduction process are not recoverable once scattered or interred. Remains shall be disposed of by scattering them in a designated scattering garden or area in a cemetery, or by prior authorization by the cemetery corporation, by placing them in a grave, crypt, or niche[~~, or retrieval of the remains pursuant to prior authorization by the authorizing agent or a person specifically designated by the authorizing agent~~]. Upon completion of the natural organic reduction process, the cemetery corporation shall notify the authorizing agent and funeral firm making such arrangements that the natural organic reduction process has been completed and that the remains are prepared to be disposed of in accordance with this paragraph**. Upon receipt of the remains, the individual receiving them may transport them in any manner in the state without a permit, and may dispose of them in accordance with this section**. After disposition, the cemetery corporation shall be discharged from any legal obligation or liability **to deliver the remains to the authorizing agent or any other person enumerated under paragraph (a) of subdivision two of section forty-two hundred one of the public health law** concerning the remains. If, after a period of one hundred twenty days from the date of the natural organic reduction, the authorizing agent has not instructed the cemetery corporation to arrange for the final disposition of the remains or claimed the remains, the cemetery corporation may dispose of the remains in any manner permitted by this section. The cemetery corporation, however, shall keep a permanent record identifying the site of final disposition. The authorizing agent shall be responsible for reimbursing the cemetery corporation for all reasonable expenses incurred in disposing of the remains. Upon disposing of the remains, the cemetery corporation shall be discharged from any legal obligation or liability **to deliver the remains to the authorizing agent or any other person enumerated under paragraph (a) of subdivision two of section forty-two hundred one of the public health law** concerning the remains. Except with the express written permission of the authorizing agent, no person shall place remains of more than one person in the same temporary container or urn.

§ 7. Subdivisions (d) and (e) of section 3400 of the public health law are amended and two new subdivisions (m) and (n) are added to read as follows:

(d) "Funeral directing" means the care and disposal of the body of a deceased person and/or the preserving, disinfecting and preparing by embalming or otherwise, the body of a deceased person for funeral services, transportation, burial**, natural organic reduction,** or cremation; and/or funeral directing or embalming as presently known whether under these titles or designations or otherwise.

(e) "Undertaking" means the care, disposal, transportation, burial**, natural organic reduction,** or cremation by any means other than embalming of the body of a deceased person.

**(m) "Natural organic reduction" has the same meaning as subdivision five of section eleven hundred of the general business law.**

**(n) "Natural organic reduction facility" has the same meaning as subdivision seven of section eleven hundred of the general business law.**

§ 8. Section 3421 of the public health law is amended by adding a new subdivision 5 to read as follows:

**5. No licensed funeral director shall have the authority to practice natural organic reduction without authorization from the department of state pursuant to article forty-two of the general business law.**

§ 9. Paragraph (a) of subdivision 1 of section 3443 of the public health law is amended to read as follows:

(a) shown or displayed upon or in any funeral establishment **or natural organic reduction facility operated by a funeral firm**; or

§ 10. Paragraphs (a), (c), (d), (e), (f), (o) and (p) of subdivision 1 of section 3450 of the public health law, as amended by chapter 534 of the laws of 1983, paragraph (o) as amended and paragraph (p) as added by chapter 529 of the laws of 1993 are amended and two new paragraphs (q) and (r) are added to read as follows:

(a) has violated any of the provisions of this article, the sanitary code, the rules and regulations of the commissioner or of any statute, code, rule or regulation relating to the practice of funeral directing, embalming, or vital statistics**, including article forty-two of the general business law**;

(c) has practiced fraud, deceit or misrepresentation in securing or procuring a license or admission to practice funeral directing, undertaking, or embalming**, or an authorization to operate a natural organic reduction facility**;

(d) is incompetent to engage in the business or practice of funeral directing, undertaking, or embalming**, including the operation of a natural organic reduction facility,** except that this provision shall not apply to an officer, director or stockholder of, or other person interested in, a corporation owning a funeral firm unless he shall be the licensed and registered manager thereof;

(e) has practiced fraud, deceit, or misrepresentation in his business or practice or in the business of such funeral firm**, including in the operation of a natural organic reduction facility**;

(f) has committed acts of misconduct in the conduct of the business or practice of funeral directing, undertaking, or embalming or in the business of such funeral firm**, including in the operation of a natural organic reduction facility**;

(o) has impersonated another licensee or another funeral firm of a like or different name; [~~or~~]

(p) has failed to comply with requirements set forth in section four hundred fifty-three of the general business law, relating to moneys paid in connection with agreements for funeral merchandise in advance of need to be kept on deposit pending use or repayment except, that revocation and suspension shall apply only in the case where a funeral director or funeral firm has committed repeated violations of these provisions or has committed a violation of the provisions of section four hundred fifty-three of the general business law relating to failure to deposit or hold moneys on deposit; failure to return such moneys and interest thereon upon demand or upon the termination, cessation of operation or discontinuance of any funeral firm, or a successor in interest; or failure to comply with the requirements of paragraph (b) of subdivision five of section four hundred fifty-three of the general business law regarding compliance by transferors who receive such moneys[~~.~~]**; or**

**(q) has failed, in the operation of a natural organic reduction facility, to properly identify and track remains throughout the natural organic reduction process; or**

**(r) has failed to comply with requirements set forth in section eleven hundred six of the general business law.**

§ 11. Subdivision 1 of section 4202 of the public health law, as added by chapter 903 of the laws of 1981, is amended to read as follows:

1. Every body delivered to a cemetery for cremation **or natural organic reduction or to a natural organic reduction facility** shall be accompa-

nied by a statement from a physician, coroner, or medical examiner certifying that such body does not contain a battery [~~or~~], power cell, radiological implant or radiological device and is not infected with ebola, tuberculosis or transmissible spongiform encephalopathies. The person in charge of a cemetery or natural organic reduction facility may refuse to cremate or naturally organically reduce a body unless accompanied by such statement.

§ 12. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the amendments to section 1503 of the not-for-profit corporation law made by section two of this act and section 1518 of the not-for-profit corporation law made by sections five and six of this act shall take effect on the same date and in the same manner as chapter 817 of the laws of 2022, takes effect.

PART W

Section 1. The section heading and subsections (d), (g) and (m) of section 3411 of the insurance law are amended to read as follows:

Automobile physical damage insurance covering private passenger automobiles; standard provisions; [~~required~~] inspections; duties of insurers and insureds.

(d) A newly issued policy shall not provide coverage for automobile physical damage perils prior to an inspection of the automobile by the insurer, unless the insurer has waived the right to such inspection pursuant to a statement of operation filed with the superintendent. In its statement of operation, an insurer may waive the right to inspect some or all automobiles. Every statement of operation shall take effect upon its filing with the superintendent and may cover some or all automobiles.

(g) If an automobile subject to the provisions of this section is acquired by the insured as a replacement for or an addition to an automobile insured for physical damage coverage, and the insured requests physical damage coverage for the replacement or additional automobile, such coverage for physical damage shall not be effective before such inspection is made, unless the insurer has waived the right to such an inspection pursuant to a statement of operation filed with the superintendent. If, at the time of the request for such coverage, the automobile is unavailable for inspection because of conditions of purchase or other circumstances and is thereafter made available for inspection, the insurer shall promptly inspect the automobile, and physical damage coverage shall not become effective before the inspection has been made.

(m) (1) The superintendent, in regulations implementing the provisions of this section, shall also require that insurers take appropriate action to ensure that there is wide public dissemination of the provisions of this section relating to the rights and obligations of insureds and insurers.

(2) The inspections provided for in this section may be dispensed with or deferred by an insurer under circumstances specified in their statement of operation filed with the superintendent or in regulations of the superintendent. Such circumstances may include but are not limited to, the insuring of a new automobile, the insuring of an automobile whose inspection would constitute a serious hardship to the insurer, the insured or an applicant for insurance, and the insuring of an automobile for a limited specified period of time.

(3) Inspections made pursuant to this section shall be made at locations and times reasonably convenient to the insured. The results of any inspection may be considered in determining the value of the automobile.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall expire and be deemed repealed October 1, 2027. 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 X

Section 1. Subdivision 3 of section 103-a of the public officers law, as added by section 2 of part WW of chapter 56 of the laws of 2022, is amended to read as follows:

3. The in person participation requirements of paragraph (c) of subdivision two of this section shall not apply **to (a) public bodies organized for the express purpose of performing a governmental function related to issues specific to individuals with disabilities, or (b)** during a state disaster emergency declared by the governor pursuant to section twenty-eight of the executive law **if the public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the public body to hold an in person meeting**, or **(c) during** a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to section twenty-four of the executive law, if the public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the public body to hold an in person meeting**, provided that for meetings conducted pursuant to paragraph (a), (b), or (c) of this subdivision, the public shall have the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.**

§ 2. This act shall take effect immediately; provided, however, that the amendments to subdivision 3 of section 103-a of the public officers law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART Y

Section 1. Subdivision 11 of section 400 of the general business law, as added by chapter 80 of the laws of 2015, is amended to read as follows:

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

§ 2. Paragraph f of subdivision 1 of section 406 of the general business law is REPEALED.

§ 3. Paragraph b of subdivision 2 of section 406 of the general business law, as amended by chapter 341 of the laws of 1998, is amended to read as follows:

b. Each such application shall also be accompanied by satisfactory evidence of having taken and passed the appropriate examination or examinations offered by the secretary pursuant to this article for the

license sought and **either: (i)** evidence of the successful completion of an approved course of study in nail specialty, waxing, natural hair styling, esthetics or cosmetology in a school duly licensed pursuant to the education law**; (ii) in the case of a nail specialty trainee, satisfactory evidence to the secretary that such trainee has either been actively engaged in a traineeship for a period of one year and has completed a course of study set forth by the secretary or has been actively engaged in a traineeship for a period of two years; or (iii) in the case of a cosmetology trainee, satisfactory evidence to the secretary that such trainee has been actively engaged in a traineeship for a period of two years**.

§ 4. Subdivisions 2 and 3 of section 408-a of the general business law, as added by chapter 80 of the laws of 2015, are amended to read as follows:

2. A certificate of registration as a trainee shall be for a period of [~~one year~~] **four years**, renewable for [~~a second year~~] **an additional period of four years**, and may be renewed for additional terms within the discretion of the secretary.

3. Each certificate of registration issued as provided in this section shall be posted in a conspicuous place in the appearance enhancement business in which the trainee is actually engaged [~~in the practice of nail specialty~~] as a trainee.

§ 5. Subdivision 1 of section 437 of the general business law, as amended by chapter 243 of the laws of 1999, is amended to read as follows:

1. Each applicant for a certificate of registration as an apprentice shall make an application which shall include the physician's certificate required by paragraph (c) [~~and the certificate of completion required by paragraph (e-1) of subdivision one~~] of section four hundred thirty-four, two recent photographs, and which certificate shall contain such other information required by such section and in such form as the secretary of state may prescribe.

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

## PART Z

Section 1. Paragraph (b) of subdivision 1 of section 7 of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, as amended by chapter 166 of the laws of 2021, is amended to read as follows:

(b) The agency shall not issue hospital and nursing home project bonds and hospital and nursing home project notes in an aggregate principal amount exceeding [~~seventeen~~] **eighteen** billion [~~four~~] **two** hundred million dollars, excluding hospital and nursing home project bonds and hospital and nursing home project notes issued to refund outstanding hospital and nursing home projects bonds and hospital and nursing home project notes; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than [~~seventeen~~] **eighteen** billion [~~four~~] **two** hundred million dollars only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt

service of the bonds, notes or other obligations so to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the agency including estimated accrued interest from the sale thereof. The agency shall not issue hospital and nursing home project bonds at any time secured by the hospital and nursing home capital reserve fund if upon issuance, the amount in the hospital and nursing home capital reserve fund will be less than the hospital and nursing home capital reserve fund requirement, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the hospital and nursing home capital reserve fund requirement.

§ 2. This act shall take effect immediately.

PART AA

Section 1. Paragraph (b) of subdivision 2 of section 1676 of the public authorities law is amended by adding a new undesignated paragraph to read as follows:

**Any municipal corporation, subdivision, department or agency thereof, fire district, special district, local agency, industrial development agency, or local development corporation, receiving loans or grants awarded pursuant to: (i) the downtown revitalization program designed and executed by the department of state and the division of housing and community renewal for transformative housing, economic development, transportation, and community projects, for the planning, design, construction, reconstruction, improvement, renovation, development, expansion, furnishing, and equipping of such transformative housing, economic development, transportation and community projects for which the recipient received such loans or grants; and (ii) the NY Forward grant program designed and executed by the department of state related to economic development, transportation and community projects, for the planning, design, construction, reconstruction, improvement, renovation, development, expansion, furnishing, and equipping of such economic development, transportation and community projects for which the recipient was awarded such grant.**

§ 2. Subdivision 1 of section 1680 of the public authorities law is amended by adding a new undesignated paragraph to read as follows:

**Any municipal corporation, subdivision, department or agency thereof, fire district, special district, local agency, industrial development agency, or local development corporation, receiving loans or grants awarded pursuant to: (i) the downtown revitalization program designed and executed by the department of state and the division of housing and community renewal for transformative housing, economic development, transportation, and community projects, for the planning, design, construction, reconstruction, improvement, renovation, development,**

expansion, furnishing, and equipping of such transformative housing, economic development, transportation and community projects for which the recipient received such loans or grants; and (ii) the NY Forward grant program designed and executed by the department of state related to economic development, transportation and community projects, for the planning, design, construction, reconstruction, improvement, renovation, development, expansion, furnishing, and equipping of such economic development, transportation and community projects for which the recipient was awarded such grant.

§ 3. This act shall take effect immediately.

PART BB

Section 1. Section 2 of chapter 97 of the laws of 2019 amending the public authorities law, is amended to read as follows:

§ 2. This act shall take effect immediately and shall expire July 1, [~~2023~~] 2027 when upon such date the provisions of this act shall be deemed repealed.

§ 2. This act shall take effect immediately.

PART CC

Section 1. The article heading of article 21 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

[~~START-UP NY~~] EPIC PROGRAM

§ 2. Section 430 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

§ 430. Short title. This article shall be known and may be cited as the "[~~SUNY Tax-free Areas to Revitalize and Transform UPstate New York~~] Extended Prosperity and Innovation Campus program," or the "[~~START-UP NY~~] EPIC program".

§ 3. Subdivisions 5, 6, 7, 10, 12, 13 and 15 of section 431 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, paragraph (c) of subdivision 6 as amended by section 3 of part S of chapter 59 of the laws of 2014 and subdivision 15 as added by section 1 of part B of chapter 60 of the laws of 2015, are amended to read as follows:

5. "Net new job" means a job created in [~~a tax-free NY area~~] an EPIC zone that satisfies all of the following criteria:

(a) is new to the state;

(b) has not been transferred from employment with another business located in this state, through an acquisition, merger, consolidation or other reorganization of businesses or the acquisition of assets of another business, or except as provided in paragraph (d) of subdivision six of this section has not been transferred from employment with a related person in this state;

(c) is not filled by an individual employed within the state within the immediately preceding sixty months by a related person;

(d) is either a full-time wage-paying job or equivalent to a full-time wage-paying job requiring at least thirty-five hours per week; and

(e) is filled for more than six months.

6. "New business" means a business that satisfies all of the following tests:

(a) the business must not be operating or located within the state at the time it submits its application to participate in the [~~START-UP NY~~] **EPIC** program;

(b) the business must not be moving existing jobs into the [~~tax-free NY area~~] **EPIC zone** from another area in the state;

(c) the business is not substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable within the last five taxable years, under section one hundred eighty-three or one hundred eighty-four, former section one hundred eighty-five or former section one hundred eighty-six of the tax law, article nine-A, thirty-two or thirty-three of the tax law, article twenty-three of the tax law or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty), or the income (or losses) of which is (or was) includable under article twenty-two of the tax law; and

(d) the business must not have caused individuals to transfer from existing employment with a related person located in the state to similar employment with the business, unless such business has received approval for such transfers from the commissioner after demonstrating that the related person has not eliminated those existing positions.

7. "[~~Tax-free NY area~~] **Extended prosperity and innovation campus zone**" **or "EPIC zone"** means the land or vacant space of a university or college that meets the eligibility criteria specified in section four hundred thirty-two of this article and that has been approved as [~~a tax-free NY area~~] **an EPIC zone** pursuant to the provisions in section four hundred thirty-five of this article. It also means a strategic state asset that has been approved by the [~~START-UP NY~~] **EPIC** approval board pursuant to the provisions of subdivision four of section four hundred thirty-five of this article.

10. "[~~START-UP NY~~] **EPIC** approval board" or "board" means a board consisting of three members, one each appointed by the governor, the speaker of the assembly and the temporary president of the senate. Each member of the [~~START-UP NY~~] **EPIC** approval board must have significant expertise and experience in academic based economic development and may not have a personal interest in any project that comes before the board.

12. "Eligible land" means land eligible pursuant to section four hundred thirty-two of this article for approval as [~~a tax-free NY area~~] **an EPIC zone**.

13. "Sponsoring campus, university or college" means a university or college that has received approval to sponsor [~~a tax-free NY area~~] **an EPIC zone** pursuant to section four hundred thirty-five of this article.

15. "[~~START-UP NY~~] **EPIC** airport facility" means vacant land or space owned by the state of New York on the premises of Stewart Airport or Republic Airport.

§ 4. Subparagraph (iii) of paragraph (a), paragraph (b) and subparagraph (ii) of paragraph (c) of subdivision 1, subparagraph (iii) of paragraph (a), paragraph (b) and the opening paragraph of paragraph (c) of subdivision 2 and subdivision 3 of section 432 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, are amended to read as follows:

(iii) for a state university campus or community college, a total of two hundred thousand square feet of vacant land or vacant building space that, except as provided under paragraph (b) of this subdivision, is located within one mile of a campus of the state university campus or community college; [~~provided that this subparagraph shall not apply to a~~

~~state university campus or community college located in Nassau county, Suffolk county or Westchester county;~~] and

(b) A state university campus or community college which qualifies under subparagraph (iii) of paragraph (a) of this subdivision may apply to the commissioner for a determination that identified vacant land or identified vacant space in a building that is located more than one mile from its campus, [~~and is not located in Nassau county, Suffolk county, Westchester county or New York city,~~] is eligible land for purposes of this program. The commissioner shall give consideration to factors including rural, suburban and urban geographic considerations and may qualify the identified land or space in a building as eligible land if the commissioner, in consultation with the chancellor or his or her designee, determines that the state university campus or community college has shown that the use of the land or space will be consistent with the requirements of this program and the plan submitted by the state university campus or community college pursuant to section four hundred thirty-five of this article. In addition, two hundred thousand square feet of vacant land or vacant building space affiliated with or in partnership with Maritime College shall be eligible under this paragraph. The aggregate amount of qualified land or space under this paragraph and subparagraph (iii) of paragraph (a) of this subdivision may not exceed two hundred thousand square feet for a state university campus or community college.

(ii) a community college[~~, except that for a community college whose main campus is in New York city, paragraphs (a) and (b) of this subdivision shall not apply to property of such community college in Nassau county, Suffolk county, Westchester county or New York city~~].

(iii) any vacant land or vacant space in a building [~~which is not~~] located in [~~Nassau county, Suffolk county, Westchester county or~~] New York [~~city~~] **state**; and

(b) Subject to the limitations in paragraph (c) of this subdivision, three million square feet is the maximum aggregate amount of [~~tax-free NY areas~~] **EPIC zones** of private universities and colleges that may be utilized for this program, which shall be designated in a manner that ensures regional balance and balance among eligible rural, urban and suburban areas in the state. The commissioner shall maintain an accounting of the vacant land and space of private universities and colleges that have been approved as [~~tax-free NY areas~~] **EPIC zones** and shall stop accepting applications for approval of [~~tax-free NY areas~~] **EPIC zones** when that maximum amount has been reached.

Of the maximum aggregate amount in paragraph (b) of this subdivision, an initial amount of seventy-five thousand square feet shall be designated as [~~tax-free NY areas~~] **EPIC zones** in each of the following: Nassau county, Suffolk county, Westchester county and the boroughs of Brooklyn, Bronx, Manhattan, Queens and Staten Island. The board may approve the designation of up to an additional seventy-five thousand square feet for any county or borough that reaches the initial seventy-five thousand square foot limit, provided that such additional seventy-five thousand square feet shall not count against the square footage limitations in paragraph (b) of this subdivision. Vacant land and vacant space in a building on the campus of the following shall be eligible for designation under this paragraph:

3. Prohibition. A state university campus, community college or city university campus is prohibited from relocating or eliminating any academic programs, any administrative programs, offices, housing facilities, dining facilities, athletic facilities, or any other facility,

space or program that actively serves students, faculty or staff in order to create vacant land or space to be utilized for the program authorized by this article. In addition, nothing in this article shall be deemed to waive or impair any rights or benefits of employees of the state university of New York, a community college or the city university of New York that otherwise would be available to them pursuant to the terms of agreements between the certified representatives of such employees and their employers pursuant to article fourteen of the civil service law. No services or work currently performed by public employees of the state university of New York, a community college, or the city university of New York or future work that is similar in scope and nature to the work being currently performed by public employees shall be contracted out or privatized by the state university of New York, a community college or the city university of New York or by an affiliated entity or associated entity of the state university of New York, a community college or the city university of New York. For the purpose of this section, an affiliated entity or associated entity shall not include a business that is participating in the [~~START-UP NY~~] **EPIC** program.

§ 5. Section 433 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013 and subdivision 1 as amended by section 3 of part UUU of chapter 59 of the laws of 2017, is amended to read as follows:

§ 433. Eligibility criteria for businesses. 1. In order to participate in the [~~START-UP NY~~] **EPIC** program, a business must satisfy all of the following criteria.

(a) The mission and activities of the business must align with or further the academic mission of the campus, college or university sponsoring the [~~tax-free NY area~~] **EPIC zone** in which it seeks to locate, and the business's participation in the [~~START-UP NY~~] **EPIC** program must have positive community and economic benefits.

(b) The business must demonstrate that it will, in its first year of operation, create net new jobs. After its first year of operation, the business must maintain net new jobs. In addition, the average number of employees of the business and its related persons in the state during the year must equal or exceed the sum of: (i) the average number of employees of the business and its related persons in the state during the year immediately preceding the year in which the business submits its application to locate in a [~~tax-free NY area~~] **EPIC zone**; and (ii) net new jobs of the business in the [~~tax-free NY area~~] **EPIC zone** during the year. The average number of employees of the business and its related persons in the state shall be determined by adding together the total number of employees of the business and its related persons in the state on March thirty-first, June thirtieth, September thirtieth and December thirty-first and dividing the total by the number of such dates occurring within such year.

(c) Except as provided in paragraphs (f) and (g) of this subdivision, at the time it submits its application for the [~~START-UP NY~~] **EPIC zone** program, the business must be a new business to the state.

(d) The business may be organized as a corporation, a partnership, limited liability company or a sole proprietorship.

(e) Except as provided in paragraphs (f) and (g) of this subdivision, the business must not be engaged in a line of business that is currently or was previously conducted by the business or a related person in the last five years in New York state.

(f) If a business does not satisfy the eligibility standard set forth in paragraph (c) or (e) of this subdivision, because at one point in time it operated in New York state but moved its operations out of New York state on or before June first, two thousand thirteen, the commissioner shall grant that business permission to apply to participate in the [~~START-UP NY~~] **EPIC zone** program if the commissioner determines that the business has demonstrated that it will substantially restore the jobs in New York state that it previously had moved out of state.

(g) If a business seeks to expand its current operations in New York state into [~~a tax-free NY area~~] **an EPIC zone** but the business does not qualify as a new business because it does not satisfy the criteria in paragraph (c) of subdivision six of section four hundred thirty-one of this article or the business does not satisfy the eligibility standard set forth in paragraph (e) of this subdivision, the commissioner shall grant the business permission to apply to participate in the [~~START-UP NY~~] **EPIC** program if the commissioner determines that the business has demonstrated that it will create net new jobs in the [~~tax-free NY area~~] **EPIC zone** and that it or any related person has not eliminated any jobs in the state in connection with this expansion.

2. The following types of businesses are prohibited from participating in the [~~START-UP NY~~] **EPIC** program.

(a) retail and wholesale businesses;

(b) restaurants;

(c) real estate brokers;

(d) law firms;

(e) medical or dental practices;

(f) real estate management companies;

(g) hospitality;

(h) finance and financial services;

(i) businesses providing personal services;

(j) businesses providing business administrative or support services, unless such business has received permission from the commissioner to apply to participate in the [~~START-UP NY~~] **EPIC** program upon demonstration that the business would create no fewer than one hundred net new jobs in the [~~tax-free NY area~~] **EPIC zone**;

(k) accounting firms;

(l) businesses providing utilities; and

(m) businesses engaged in the generation or distribution of electricity, the distribution of natural gas, or the production of steam associated with the generation of electricity.

[~~2-a. Additional eligibility requirements in Nassau county, Suffolk county, Westchester county and New York city. In order to be eligible to participate in the START-UP NY program in Nassau county, Suffolk county, Westchester county or New York city, a business must be:~~

~~(a) in the formative stage of development; or~~

~~(b) engaged in the design, development, and introduction of new biotechnology, information technology, remanufacturing, advanced materials, processing, engineering or electronic technology products and/or innovative manufacturing processes, and meet such other requirements for a high-tech business as the commissioner shall develop.~~]

3. A business must be in compliance with all worker protection and environmental laws and regulations. In addition, a business may not owe past due federal or state taxes or local property taxes.

4. Any business that has successfully completed residency in a New York state incubator pursuant to section sixteen-v of section one of chapter one hundred seventy-four of the laws of nineteen hundred sixty-

eight constituting the urban development corporation act, subject to approval of the commissioner, may apply to participate in the [~~START-UP NY~~] **EPIC** program provided that such business locates in [~~a tax-free NY area~~] **an EPIC zone**, notwithstanding the fact that the business may not constitute a new business.

§ 6. Section 434 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

§ 434. Tax benefits. 1. A business that is accepted into the [~~START-UP NY~~] **EPIC** program and locates in [~~a tax-free NY area~~] **an EPIC zone** or the owner of a business that is accepted into the [~~START-UP NY~~] **EPIC** program and locates in [~~a tax-free NY area~~] **an EPIC zone** is eligible for the tax benefits specified in section thirty-nine of the tax law. Subject to the limitations of subdivision two of this section, employees of such business satisfying the eligibility requirements specified in section thirty-nine of the tax law shall be eligible for the personal income tax benefits described in such section in a manner to be determined by the department of taxation and finance.

2. The aggregate number of net new jobs approved for personal income tax benefits under this article shall not exceed ten thousand jobs per year during the period in which applications are accepted pursuant to section four hundred thirty-six of this article. The commissioner shall allocate to each business accepted to locate in [~~a tax-free NY area~~] **an EPIC zone** a maximum number of net new jobs that shall be eligible for the personal income tax benefits described in subdivision (e) of section thirty-nine of the tax law based on the schedule of job creation included in the application of such business. At such time as the total number of net new jobs under such approved applications reaches the applicable allowable total of aggregate net new jobs for tax benefits for the year in which the application is accepted, the commissioner shall stop granting eligibility for personal income tax benefits for net new jobs until the next year. Any business not granted such personal income tax benefits for net new jobs for such reason shall be granted such benefits in the next year prior to the consideration of new applicants. In addition, if the total number of net new jobs approved for tax benefits in any given year is less than the maximum allowed under this subdivision, the difference shall be carried over to the next year. A business may amend its schedule of job creation in the same manner that it applied for participation in the [~~START-UP NY~~] **EPIC** program, and any increase in eligibility for personal income tax benefits on behalf of additional net new jobs shall be subject to the limitations of this subdivision. If the business accepted to locate in [~~a tax-free NY area~~] **an EPIC zone** creates more net new jobs than for which it is allocated personal income tax benefits, the personal income tax benefits it is allocated shall be provided to those individuals employed in those net new jobs based on the employees' dates of hiring.

§ 7. Section 435 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013 and subdivision 4 as amended by section 2 of part B of chapter 60 of the laws of 2015, is amended to read as follows:

§ 435. Approval of [~~tax-free NY areas~~] **EPIC zones**. 1. The president or chief executive officer of any state university campus, community college or city university campus seeking to sponsor [~~a tax-free NY area~~] **an EPIC zone** and have some of its eligible land specified under subdivision one of section four hundred thirty-two of this article be designated as [~~a tax-free NY area must~~] **an EPIC zone shall** submit a plan

to the commissioner that specifies the land or space the campus or college wants to include, describes the type of business or businesses that may locate on that land or in that space, explains how those types of businesses align with or further the academic mission of the campus or college and how participation by those types of businesses in the [~~START-UP NY~~] EPIC program would have positive community and economic benefits, and describes the process the campus or college will follow to select participating businesses. At least thirty days prior to submitting such plan, the campus or college must provide the municipality or municipalities in which the proposed [~~tax-free NY area~~] EPIC zone is located, local economic development entities, the applicable campus or college faculty senate, union representatives and the campus student government with a copy of the plan. In addition, if the plan of the campus or college includes land or space located outside of the campus boundaries, the campus or college must consult with the municipality or municipalities in which such land or space is located prior to including such space or land in its proposed [~~tax-free NY area~~] EPIC zone and shall give preference to underutilized properties. Before approving or rejecting the plan submitted by a state university campus, community college or city university campus, the commissioner shall consult with the chancellor of the applicable university system or his or her designee.

2. The president or chief executive officer of any private college or university or of any state university campus, community college or city university campus seeking to sponsor [~~a tax-free NY area~~] an EPIC zone and have some of its eligible land specified under subdivision two of section four hundred thirty-two of this article be designated as [~~a tax-free NY area must~~] an EPIC zone shall submit a plan to the commissioner that specifies the land or space the college or university wants to include, describes the type of business or businesses that may locate on that land or in that space, explains how those types of businesses align with or further the academic mission of the college or university and how participation by those types of businesses in the [~~START-UP NY~~] EPIC program would have positive community and economic benefits, and describes the process the campus or college will follow to select participating businesses. In addition, if the plan of the campus or college includes land or space located outside of the campus boundaries, the campus or college must consult with the municipality or municipalities in which such land or space is located prior to including such space or land in its proposed [~~tax-free NY area~~] EPIC zone and shall notify local economic development entities. The commissioner shall forward the plan submitted under this subdivision to the [~~START-UP NY~~] EPIC approval board. In evaluating such plans, the board shall examine the merits of each proposal, including but not limited to, compliance with the provisions of this article, reasonableness of the economic and fiscal assumptions contained in the application and in any supporting documentation and potential of the proposed project to create new jobs, and, except for proposals for designation of eligible land under paragraph (c) of subdivision two of section four hundred thirty-two of this article, shall prioritize for acceptance and inclusion into the [~~START-UP NY~~] EPIC program plans for [~~tax-free NY areas~~] EPIC zones in counties that contain a city with a population of one hundred thousand or more without a university center as defined in subdivision seven of section three hundred fifty of the education law on the effective date of this article. No preference shall be given based on the time of submission of the plan, provided that any submission deadlines established by the

board are met. In addition, the board shall give preference to private colleges or universities that include underutilized properties within their proposed [~~tax-free NY areas~~] **EPIC zones**. The board by a majority vote shall approve or reject each plan forwarded to it by the commissioner.

3. A campus, university or college may amend its approved plan, provided that the campus, university or college may not violate the terms of any lease with a business located in the approved [~~tax-free NY area~~] **EPIC zone**. In addition, if a business located in [~~a tax-free NY area~~] **an EPIC zone** does not have a lease with a campus, university or college, and such business is terminated from the [~~START-UP NY~~] **EPIC** program pursuant to paragraph (b) of subdivision four of section four hundred thirty-six of this article, and subsequently does not relocate outside of the [~~tax-free NY area~~] **EPIC zone**, a campus, university or college may amend its approved plan to allocate an amount of vacant land or space equal to the amount of space occupied by the business that is terminated. The amendment must be approved pursuant to the procedures and requirements set forth in subdivision one or two of this section, whichever is applicable.

4. The [~~START-UP NY~~] **EPIC** approval board, by majority vote, shall designate correctional facilities described in subdivision fourteen of section four hundred thirty-one of this article, [~~START-UP NY~~] **EPIC** airport facilities described in subdivision fifteen of section four hundred thirty-one of this article and up to twenty strategic state assets as [~~tax-free NY areas~~] **EPIC zones**. Each shall be affiliated with a state university campus, city university campus, community college, or private college or university and such designation shall require the support of the affiliated campus, college or university. Each strategic state asset and [~~START-UP NY~~] **EPIC** airport facility, other than a correctional facility, may not exceed a maximum of two hundred thousand square feet of vacant land or vacant building space designated as [~~a tax-free NY area~~] **an EPIC zone**. Designation of strategic state assets, correctional facilities described in subdivision fourteen of section four hundred thirty-one of this article, and [~~START-UP NY~~] **EPIC** airport facilities described in subdivision fifteen of section four hundred thirty-one of this article as [~~tax-free NY areas~~] **EPIC zones** shall not count against any square footage limitations in section four hundred thirty-two of this article.

5. The commissioner shall promulgate regulations to effectuate the purposes of this section, including, but not limited to, establishing the process for the plan submissions and approvals of [~~tax-free NY areas~~] **EPIC zones** and the eligibility criteria that will be applied in evaluating those plans.

§ 8. Section 436 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013 and subdivision 1 as amended by section 1 of part KKK of chapter 58 of the laws of 2020, is amended to read as follows:

§ 436. Businesses locating in [~~tax-free NY areas~~] **EPIC zones**. 1. A campus, university or college that has sponsored [~~a tax-free NY area~~] **an EPIC zone** (including any strategic state asset affiliated with the campus, university or college) shall solicit and accept applications from businesses to locate in such area that are consistent with the plan of such campus, university or college or strategic state asset that has been approved pursuant to section four hundred thirty-five of this article. Any business that wants to locate in [~~a tax-free NY area must~~] **an EPIC zone shall** submit an application to the campus, university or

college which is sponsoring the [~~tax-free NY area~~] **EPIC zone** by December thirty-first, two thousand [~~twenty-five~~] **thirty**. Prior to such date, the commissioner shall prepare an evaluation on the effectiveness of the [~~START-UP NY~~] **EPIC** program and deliver it to the governor and the legislature to determine continued eligibility for application submissions.

2. (a) The sponsoring campus, university or college shall provide the application and all supporting documentation of any business it decides to accept into its [~~tax-free NY area~~] **EPIC zone** to the commissioner for review. Such application shall be in a form prescribed by the commissioner and shall contain all information the commissioner determines is necessary to properly evaluate the business's application, including, but not limited to, the name, address, and employer identification number of the business; a description of the land or space the business will use, the terms of the lease agreement, if applicable, between the sponsoring campus, university or college and the business, and whether or not the land or space being used by the business is being transferred or sublet to the business from some other business. The application must include a certification by the business that it meets the eligibility criteria specified in section four hundred thirty-three of this article and will align with or further the academic mission of the sponsoring campus, college or university, and that the business's participation in the [~~START-UP NY~~] **EPIC** program will have positive community and economic benefits. The application must also describe whether or not the business competes with other businesses in the same community but outside the [~~tax-free NY area~~] **EPIC zone**. In addition, the application must include a description of how the business plans to recruit employees from the local workforce.

(b) The commissioner shall review such application and documentation within sixty days and may reject such application upon a determination that the business does not meet the eligibility criteria in section four hundred thirty-three of this article, has submitted an incomplete application, has failed to comply with subdivision three of this section, or has failed to demonstrate that the business's participation in the [~~START-UP NY~~] **EPIC** program will have positive community and economic benefits, which shall be evaluated based on factors including but not limited to whether or not the business competes with other businesses in the same community but outside the [~~tax-free NY area~~] **EPIC zone** as prohibited by section four hundred forty of this article. If the commissioner rejects such application, it shall provide notice of such rejection to the sponsoring campus, university or college and business. If the commissioner does not reject such application within sixty days, such business is accepted to locate in such [~~tax-free NY area~~] **EPIC zone**, and the application of such business shall constitute a contract between such business and the sponsoring campus, university or college. The sponsoring campus, university or college must provide accepted businesses with documentation of their acceptances in such form as prescribed by the commissioner of taxation and finance which will be used to demonstrate such business's eligibility for the tax benefits specified in section thirty-nine of the tax law.

(c) If a state university campus proposes to enter into a lease with a business for eligible land in [~~a tax-free NY area~~] **an EPIC zone** with a term greater than forty years, including any options to renew, or for eligible land in [~~a tax-free NY area~~] **an EPIC zone** of one million or more square feet, the state university campus, at the same time as the application is provided to the commissioner, also must submit the lease for review to the [~~START-UP NY~~] **EPIC** approval board. If the board does

not disapprove of the lease terms within thirty days, the lease is deemed approved. If the board disapproves the lease terms, the state university campus must submit modified lease terms to the commissioner for review. The commissioner's sixty day review period is suspended while the board is reviewing the lease and during the time it takes for the state university campus to modify the lease terms.

(d) Except as otherwise provided in this article, proprietary information or supporting documentation submitted by a business to a sponsoring campus, university or college shall only be utilized for the purpose of evaluating such business's application or compliance with the provisions of this article and shall not be otherwise disclosed. Any person who willfully discloses such information to a third party for any other purpose whatsoever shall be guilty of a misdemeanor.

3. The business submitting the application, as part of the application, must:

(a) agree to allow the department of taxation and finance to share its tax information with the department and the sponsoring campus, university or college;

(b) agree to allow the department of labor to share its tax and employer information with the department and the sponsoring campus, university or college;

(c) allow the department and its agents and the sponsoring campus, university or college access to any and all books and records the department or sponsoring campus, university or college may require to monitor compliance;

(d) include performance benchmarks, including the number of net new jobs that must be created, the schedule for creating those jobs, and details on job titles and expected salaries. The application must specify the consequences for failure to meet such benchmarks, as determined by the business and the sponsoring campus, university or college: (i) suspension of such business's participation in the [~~START-UP NY~~] **EPIC** program for one or more tax years as specified in such application; (ii) termination of such business's participation in the [~~START-UP NY~~] **EPIC** program; and/or (iii) proportional recovery of tax benefits awarded under the [~~START-UP NY~~] **EPIC** program as specified in section thirty-nine of the tax law;

(e) provide the following information to the department and sponsoring campus, university or college upon request:

(i) the prior three years of federal and state income or franchise tax returns, unemployment insurance quarterly returns, real property tax bills and audited financial statements;

(ii) the employer identification or social security numbers for all related persons to the business, including those of any members of a limited liability company or partners in a partnership;

(f) provide a clear and detailed presentation of all related persons to the business to assure the department that jobs are not being shifted within the state; and

(g) certify, under penalty of perjury, that it is in substantial compliance with all environmental, worker protection, and local, state, and federal tax laws, and that it satisfies all the eligibility requirements to participate in the [~~START-UP NY~~] **EPIC** program.

4. (a) At the conclusion of the lease term of a lease by the sponsoring campus, university or college to a business of land or space in [~~a tax-free NY area~~] **an EPIC zone** owned by the sponsoring campus, university or college, the leased land or space and any improvements thereon

shall revert to the sponsoring campus, university or college, unless the lease is renewed.

(b) If, at any time, the sponsoring campus, university or college or the commissioner determines that a business no longer satisfies any of the eligibility criteria specified in section four hundred thirty-three of this article, the sponsoring campus, university or college shall recommend to the commissioner that the commissioner terminate or the commissioner on his or her own initiative shall immediately terminate such business's participation in the [~~START-UP NY~~] **EPIC zone** program. Such business shall be notified of such termination by a method which allows for verification of receipt of such termination notice. A copy of such termination notice shall be sent to the commissioner of taxation and finance. Upon such termination, such business shall not be eligible for the tax benefits specified in section thirty-nine of the tax law for that or any future taxable year, calendar quarter or sales tax quarter, although employees of such business may continue to claim the tax benefit for their wages during the remainder of that taxable year. Further, such lease or contract between the sponsoring campus, university or college and such business shall be rescinded, effective on the thirtieth day after the commissioner mailed such termination notice to such business and the land or space and any improvements thereon shall revert to the sponsoring campus, university or college.

5. The commissioner shall promulgate regulations to effectuate the purposes of this section, including, but not limited to, establishing the process for the evaluation and possible rejection of applications, the eligibility criteria that will be applied in evaluating those applications, and the process for terminations from the [~~START-UP NY~~] **EPIC** program and administrative appeals of such terminations.

§ 9. The economic development law is amended by adding a new section 436-a to read as follows:

**§ 436-a. Commissioner authority to act in lieu of EPIC approval board. With respect to its duties under this article, if the EPIC approval board's membership is not complete, the department shall notify the legislature of the need for appointments to such board and the legislature shall have thirty calendar days to make such appointments. If after thirty calendar days such appointments have not been made, and the board is not fully constituted nor able to undertake its duties under this article, any and all items requiring board approval can be decided upon by the commissioner and such decisions shall be binding as if having been rendered by the EPIC approval board.**

§ 10. Section 437 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

§ 437. MWBE and prevailing wage requirements. 1. For prevailing wage and minority and women-owned business enterprises requirements applicable to [~~tax-free NY areas~~] **EPIC zones** on state university campuses, city university campuses and community colleges, see section three hundred sixty-one of the education law.

2. Any contract to which a business on a strategic state asset in [~~a tax-free NY area~~] **an EPIC zone** is a party, and any contract entered into by a third party acting in place of, on behalf of and for the benefit of the business pursuant to any lease, permit or other agreement between such third party and the business, for the construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement, of a project, shall be subject to all of the provisions of article eight of the labor law, including the enforcement of prevail-

ing wage requirements by the fiscal officer as defined in paragraph e of subdivision five of section two hundred twenty of the labor law to the same extent as a contract of the state, and shall be deemed a public work for purposes of such article.

3. Any individual, public corporation or authority, private corporation, limited liability company or partnership or other entity entering into a contract, subcontract, lease, grant, bond, covenant or other agreement for a project undertaken on a strategic state asset in [~~a tax-free NY area~~] **an EPIC zone** shall be deemed a state agency as that term is defined in article fifteen-A of the executive law and such contracts shall be deemed state contracts within the meaning of that term as set forth in such article.

4. A business on a strategic state asset in [~~a tax-free NY area~~] **an EPIC zone** may require a contractor awarded a contract, subcontract, lease, grant, bond, covenant or other agreement for a project to enter into a project labor agreement pursuant to section two hundred twenty-two of the labor law during and for the work involved with such project when such requirement is part of the business's request for proposals for the project and when the business determines that the record supporting the decision to enter into such an agreement establishes that the interests underlying the competitive bidding laws are best met by requiring a project labor agreement including: obtaining the best work at the lowest possible price; preventing favoritism, fraud and corruption; the impact of delay; the possibility of cost savings; and any local history of labor unrest.

5. For the purposes of this section "project" shall mean capital improvement work on a strategic state asset to be subject to any lease, transfer or conveyance, other than conveyance of title. Such capital improvement work shall include the design, construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration or improvement of a strategic state asset.

§ 11. Section 439 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

§ 439. Conflict of interest guidelines. 1. Each campus, university or college participating in the [~~START-UP NY~~] **EPIC** program shall adopt a conflict of interest policy. Such conflict of interest policy shall provide, as it relates to the [~~START-UP NY~~] **EPIC** program: (a) as a general principle, that service as an official of the campus, university or college shall not be used as a means for private benefit or inurement for the official, a relative thereof, or any entity in which the official, or relative thereof, has a business interest; (b) no official who is a vendor or employee of a vendor of goods or services to the campus, university or college, or who has a business interest in such vendor, or whose relative has a business interest in such vendor, shall vote on, or participate in the administration by the campus, university or college, as the case may be, of any transaction with such vendor; and (c) upon becoming aware of an actual or potential conflict of interest, an official shall advise the president or chief executive officer of the campus, university or college, as the case may be, of his or her or a relative's business interest in any such existing or proposed vendor with the campus, university or college. Each campus, university or college shall maintain a written record of all disclosures of actual or potential conflicts of interest made pursuant to paragraph (c) of this subdivision, and shall report such disclosures, on a calendar year basis, by January thirty-first of each year, to the auditor for such

campus, university or college. The auditor shall forward such reports to the commissioner, who shall make public such reports.

2. For purposes of such conflict of interest policies: (a) an official of a campus, university or college has a "business interest" in an entity if the individual: (i) owns or controls ten percent or more of the stock of the entity (or one percent in the case of an entity the stock of which is regularly traded on an established securities exchange); or (ii) serves as an officer, director or partner of the entity; (b) a "relative" of an official of a campus, university or college shall mean any person living in the same household as the individual and any person who is a direct descendant of that individual's grandparents or the spouse of such descendant; and (c) an "official" of a campus, university or college shall mean an employee at the level of dean and above as well as any other employee with decision-making authority over the [~~START-UP NY~~] **EPIC** program.

§ 12. Section 440 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

§ 440. Prohibition of anti-competitive behavior. A sponsoring campus, university or college shall not accept any application to locate in [~~a tax-free NY area~~] **an EPIC zone** under subdivision one of section four hundred thirty-six of this article from a business that would compete with other businesses in the same community but outside the [~~tax-free NY area~~] **EPIC zone**, and the commissioner shall reject any application under subdivision two of section four hundred thirty-six of this article upon determining that the business would compete with other businesses in the same community but outside the [~~tax-free NY area~~] **EPIC zone**. The commissioner shall issue and promulgate such rules and regulations as are necessary to implement this section.

§ 13. Section 215-d of the education law, as added by section 1 of part Z of chapter 56 of the laws of 2014, is amended to read as follows:

§ 215-d. State university of New York report on economic development activities. The chancellor of the state university of New York shall report to the governor and to the legislature, on or before January first, two thousand fifteen, on economic development activities undertaken by the state university of New York. Such report shall include, but not be limited to, expenditures of capital funds for economic development activities received from the empire state development corporation, SUNY 2020 challenge grant projects, capital expenditures from other sources, and activities for the purpose of securing [~~START-UP NY~~] **EPIC** approval.

§ 14. Paragraphs a, s and z of subdivision 2 of section 355 of the education law, paragraph a as amended by section 18, paragraph s as amended by section 19 and paragraph z as added by section 20, of part A of chapter 68 of the laws of 2013, are amended to read as follows:

a. To take, hold and administer on behalf of the state university or any institution therein, real and personal property or any interest therein and the income thereof either absolutely or in trust for any educational or other purpose within the jurisdiction and corporate purposes of the state university. The trustees may acquire property for such purposes by purchase, appropriation or lease and by the acceptance of gifts, grants, bequests and devises, and, within appropriations made therefor, may equip and furnish buildings and otherwise improve property owned, used or occupied by the state university or any institution therein. The trustees may acquire property by the acceptance of conditional gifts, grants, devises or bequests, the provisions of section eleven of

the state finance law notwithstanding. Where real property is to be acquired by purchase or appropriation, such acquisition shall be in accordance with the provisions of section three hundred seven of this chapter except that the powers and duties in said section mentioned to be performed by the commissioner shall be performed by the state university trustees. The provisions of section three of the public lands law notwithstanding, the trustees may provide for the lease of state-owned real property under the jurisdiction of the state university that is part of [~~a tax-free NY area~~] an EPIC zone approved pursuant to article twenty-one of the economic development law, in such manner and upon such terms as the trustees shall determine, provided such lease is consistent with the approved plan for such [~~tax-free NY area~~] EPIC zone.

s. To lease or make available to the state university construction fund, the dormitory authority or other public benefit corporation, the New York state teachers' retirement system, the New York state employees' retirement system, or a business that intends to locate in [~~a tax-free NY area~~] an EPIC zone approved pursuant to article twenty-one of the economic development law, a portion of the grounds or real property occupied by a state-operated institution or statutory or contract college for the construction, acquisition, reconstruction, rehabilitation or improvement of academic buildings, dormitories or other facilities thereon pursuant to article eight-A of this chapter and for the purpose of facilitating such construction, acquisition, reconstruction, rehabilitation or improvement, to enter into leases and agreements for the use of any such academic building, dormitory or other facility in accordance with the provisions of section three hundred seventy-eight of this [~~chapter~~] title; provided, however, that nothing herein contained shall affect the provisions of any lease or agreement heretofore executed by the state university with the dormitory authority. The state university trustees may also enter into agreements with the state university construction fund, the dormitory authority or other public benefit corporation, the New York state teachers' retirement system, the New York state employees' retirement system or any business that intends to locate in [~~a tax-free NY area~~] an EPIC zone approved pursuant to article twenty-one of the economic development law, to furnish heat from a central heating plant to any academic building, dormitory or other facility erected by them or with moneys supplied by them. Any such academic building, dormitory or other facility shall not be subject to taxation for any purpose.

z. In connection with business/university partnerships in support of the corporate purposes of the state university, to participate in joint and cooperative arrangements with businesses that have located in [~~a tax-free NY area~~] an EPIC zone approved pursuant to article twenty-one of the economic development law provided such arrangements are consistent with the approved plan for such [~~tax-free NY area~~] EPIC zone.

§ 15. The section heading and the opening paragraph of subdivision 1 of section 361 of the education law, as added by section 21 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

[~~START-UP NY~~] EPIC program leases. Any lease or contract between a state university campus, city university campus or community college as defined in section four hundred thirty-one of the economic development law and a business for the use of vacant land or vacant space owned or leased by such state university campus, community college or city university campus in [~~a tax-free NY area~~] an EPIC zone approved pursuant to article twenty-one of the economic development law shall provide:

§ 16. Subdivision 2 of section 420-a of the real property tax law, as amended by section 17 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

2. If any portion of such real property is not so used exclusively to carry out thereupon one or more of such purposes but is leased or otherwise used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be exempt; provided, however, that such real property shall be fully exempt from taxation although it or a portion thereof is used (a) for purposes which are exempt pursuant to this section or sections four hundred twenty-b, four hundred twenty-two, four hundred twenty-four, four hundred twenty-six, four hundred twenty-eight, four hundred thirty or four hundred fifty of this chapter by another corporation which owns real property exempt from taxation pursuant to such sections or whose real property if it owned any would be exempt from taxation pursuant to such sections, (b) for purposes which are exempt pursuant to section four hundred six or section four hundred eight of this chapter by a corporation which owns real property exempt from taxation pursuant to such section or if it owned any would be exempt from taxation pursuant to such section, (c) for purposes which are exempt pursuant to section four hundred sixteen of this chapter by an organization which owns real property exempt from taxation pursuant to such section or whose real property if it owned any would be exempt from taxation pursuant to such section, (d) for purposes relating to civil defense pursuant to the New York state defense emergency act, including but not limited to activities in preparation for anticipated attack, during attack, or following attack or false warning thereof, or in connection with drill or test ordered or directed by civil defense authorities, or (e) for purposes of [~~a tax-free NY area~~] **an EPIC zone** that has been approved pursuant to article twenty-one of the economic development law, subject to the conditions that the real property must have been owned by the corporation or association organized exclusively for educational purposes and exempt pursuant to this section on June first, two thousand thirteen, and that the exemption shall apply only to the portion of such real property that is used for purposes of the [~~START-UP NY~~] **EPIC** program; and provided further that such real property shall be exempt from taxation only so long as it or a portion thereof, as the case may be, is devoted to such exempt purposes and so long as any moneys paid for such use do not exceed the amount of the carrying, maintenance and depreciation charges of the property or portion thereof, as the case may be.

§ 17. Section 39 of the tax law, as added by section 2 of part A of chapter 68 of the laws of 2013, subdivision (c-1) as added by section 1 and paragraph 6 of subdivision (k) as amended by section 2-a of part T, and paragraph 4 of subdivision (k) as amended by section 53 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

§ 39. Tax benefits for businesses located in [~~tax-free NY areas~~] **EPIC zones** and employees of such businesses. (a) (1) Any business or owner of a business in the case of a business taxed as a sole proprietorship, partnership or New York S corporation, that is located in [~~a tax-free NY area~~] **an EPIC zone** approved pursuant to article twenty-one of the economic development law is eligible for the tax benefits described in this section. Unless otherwise specified, such business or owner of such business shall be eligible for these tax benefits for a period of ten consecutive taxable years, commencing with the taxable year during which it locates in the [~~tax-free NY area~~] **EPIC zone**.

(2) In order to be eligible for these tax benefits during any taxable year, calendar quarter or sales tax quarter, such business must be approved to participate in the [~~START-UP NY~~] EPIC program, must operate at the approved location in the [~~tax-free NY area~~] EPIC zone, and must satisfy the eligibility criteria specified in paragraph (b) of subdivision one of section four hundred thirty-three of the economic development law.

(b) [~~Tax-free NY area~~] EPIC zone elimination credit. Such business or the owner of such business shall be eligible for the [~~tax-free NY area~~] EPIC zone tax elimination credit described in section forty of this article.

(c-1) Excise tax on telecommunication services. Such business or owner of a business shall be eligible for a credit of the excise tax on telecommunication services imposed by section one hundred eighty-six-e of this chapter that is passed through to such business, pursuant to the provisions referenced in subdivision (k) of this section.

(d) Metropolitan commuter transportation district mobility tax. If the [~~tax-free NY area~~] EPIC zone at which such business is located is within the metropolitan commuter transportation district (MCTD), and such business is an employer engaged in business within the MCTD, the payroll expense of such business at such location within the [~~tax-free NY area~~] EPIC zone shall be exempt from the metropolitan commuter transportation district mobility tax imposed under article twenty-three of this chapter for forty consecutive calendar quarters, commencing with the calendar quarter during which the employer locates in the [~~tax-free NY area~~] EPIC zone within the MCTD. If the [~~tax-free NY area~~] EPIC zone at which such business is located is within the MCTD and the owner of such business is an individual who has net earnings from self-employment at such location, such net earnings shall be exempt from the metropolitan commuter transportation district mobility tax imposed under article twenty-three of this chapter for ten consecutive taxable years commencing with the taxable year during which the business locates in the [~~tax-free NY area~~] EPIC zone.

(e) To the extent specified, the wages of an individual who is an employee of such business located within [~~a tax-free NY area~~] EPIC zone received from such business for employment in such [~~tax-free NY area~~] an EPIC zone shall be eligible for the benefits as provided in article twenty-two of this chapter, the New York city personal income tax as provided in article thirty of this chapter, the Yonkers city income tax as provided in article thirty-A of this chapter, and the Yonkers earnings tax on non-residents during the ten taxable year period for such business specified in subdivision (a) of this section, provided the requirements of this subdivision are satisfied.

(i) The individual when employed by such business must be engaged in work performed exclusively at the location within the [~~tax-free NY area~~] EPIC zone during the taxable year.

(ii) The individual when employed by such business must be engaged in work at the location of such business within the [~~tax-free NY area~~] EPIC zone for at least one-half of the taxable year.

(iii) Such business must be in compliance with the requirements set forth in subdivision (a) of this section.

(iv) The individual must be employed by such business in a net new job created by such business in the [~~tax-free NY area~~] EPIC zone.

(f) Sales and use tax. Such business shall be eligible for a credit or refund for sales and use taxes imposed on the retail sale of tangible personal property or services under subdivisions (a), (b), and (c) of

section eleven hundred five and section eleven hundred ten of this chapter and similar taxes imposed pursuant to the authority of article twenty-nine of this chapter. The credit or refund shall be allowed for one hundred twenty consecutive months beginning with the month during which such business locates in the [~~tax-free NY area~~] **EPIC zone**.

(g) Real estate transfer taxes. Any lease of property to such business shall be exempt from any state or local real estate transfer tax or real property transfer tax.

(h) (A) Notwithstanding any provision of this chapter to the contrary, the commissioner, to the extent practicable, may disclose publicly the names and addresses of the businesses receiving any of the tax benefits specified in this section. In addition, the commissioner may disclose publicly the amounts of such benefits allowed to each such business, and whether or not a business created or maintained net new jobs during the taxable year. With regard to the income tax exemption specified in subdivision (e) of this section, the commissioner may publicly disclose the aggregate amounts of such tax exemption allowed to employees. In addition, the commissioner may publicly disclose the number of net new jobs such business reports on its tax return or report or any other information necessary for the commissioner of economic development or the campus, college or university sponsoring the [~~tax-free NY area~~] **EPIC zone** approved pursuant to article twenty-one of the economic development law to monitor and enforce compliance with the law, rules and regulations governing the [~~START-UP NY~~] **EPIC** program.

(B) Notwithstanding any provision of this chapter to the contrary, the commissioner, in determining whether a business or any of its owners is entitled to the tax benefits described in this section, may utilize and if necessary, disclose to the commissioner of economic development, information derived from the tax returns of such business or related persons of such business and wage reporting information relating to any employees of such business or its related persons.

(i) Such business shall not be allowed to claim any other tax credit allowed under this chapter with respect to its activities or employees in such [~~tax-free NY area~~] **EPIC zone**.

(j) If the application of a business for participation in the [~~START-UP NY~~] **EPIC** program specifies that failure to meet the performance benchmarks specified in such application shall result in proportional recovery of tax benefits awarded under the [~~START-UP NY~~] **EPIC** program, the business shall be required to reduce the total amount of tax benefits described in this section that the business or its owners claimed or received during the taxable year by the percentage reduction in net new jobs promised by the performance benchmarks, and if the tax benefits are reduced to an amount less than zero, those negative amounts shall be added back as tax. The amount required to be added back shall be reported on such business's corporate franchise tax report if such business is taxed as a corporation or on the corporate franchise tax reports or personal income tax returns of the owners of such business if such business is taxed as a sole proprietorship, partnership or New York S corporation.

(k) Cross-references. For application of the tax benefits provided for in this section, see the following provisions of this chapter:

(1) Section 40.

(4) Article 9-A: section 210-B, subdivision 41 and subdivision 44.

(5) Article 22: section 606, subsection (i), paragraph (1), subparagraph (B), clause (xxxvi).

(6) Article 22: section 606, subsection (ww) and subsection (yy).

(7) Article 22: section 612, subsection (c), paragraph (40).
(8) Article 23: section 803.
(9) Article 28: section 1119, subdivision (d).
(10) Article 31: section 1405, subdivision (b), paragraph 11.

§ 18. The section heading and the opening paragraph of section 39-a of the tax law, as added by section 3 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

Penalties for fraud in the [~~START-UP NY~~] **EPIC** program. If the commissioner of economic development on his or her own initiative or on the recommendation of a sponsoring campus, university or college finally determines that any such business participating in the [~~START-UP NY~~]**EPIC** program authorized under article twenty-one of the economic development law has acted fraudulently in connection with its participation in such program, such business:

§ 19. Section 40 of the tax law, as added by section 4 of part A of chapter 68 of the laws of 2013, paragraph 1 of subdivision (c) as amended by section 34, clause (ii) of subparagraph (B) of paragraph 2 of subdivision (d) as amended by section 35, subparagraph (C) of paragraph 2 of subdivision (d) as amended by section 36, subparagraph (B) of paragraph 3 of subdivision (d) as amended by section 37 and paragraph 1 of subdivision (e) as amended by section 38 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

§ 40. The [~~tax-free NY area~~] **EPIC zone** tax elimination credit. (a) Allowance of credit. A taxpayer that is a business or owner of a business in the case of a business taxed as a sole proprietorship, partnership or New York S corporation, that is located in [~~a tax-free NY area~~] **an EPIC zone** approved pursuant to article twenty-one of the economic development law and is subject to tax under article nine-A, or twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (e) of this section, to be computed as hereinafter provided.

(b) Amount of credit. The amount of the credit shall be the product of: (1) the [~~tax-free area~~] **EPIC zone** allocation factor; and (2) the tax factor.

(c) [~~Tax-free area~~] **EPIC zone** allocation factor. The [~~tax-free area~~] **EPIC zone** allocation factor shall be the percentage representing the business's economic presence in the [~~tax-free NY area~~] **EPIC zone** in which the business was approved to locate pursuant to article twenty-one of the economic development law. This percentage shall be computed by:

(1) ascertaining the percentage that the average value of the business's real and tangible personal property, whether owned or rented to it, in the [~~tax-free NY area~~] **EPIC zone** in which the business was located during the period covered by the taxpayer's report or return bears to the average value of the business's real and tangible personal property, whether owned or rented to it, within the state during such period; provided that the term "value of the business's real and tangible personal property" shall have the same meaning as such term has in paragraph (a) of subdivision two of section two hundred nine-B of this chapter; and

(2) ascertaining the percentage that the total wages, salaries and other personal service compensation, similarly computed, during such period of employees, except general executive officers, employed at the business's location in the [~~tax-free NY area~~] **EPIC zone**, bears to the total wages, salaries and other personal service compensation, similarly computed, during such period, of all the business's employees within the state, except general executive officers; and

(3) adding together the percentages so determined and dividing the result by two.

For purposes of article twenty-two of this chapter, references in this subdivision to property, wages, salaries and other personal service compensation shall be deemed to be references to such items connected with the conduct of a business.

(d) Tax factor. (1) General. The tax factor shall be, in the case of article nine-A of this chapter, the largest of the amounts of tax determined for the taxable year under paragraphs (a) through (d) of subdivision one of section two hundred ten of such article after the deduction of any other credits allowable under such article. The tax factor shall be, in the case of article twenty-two of this chapter, the tax determined for the taxable year under subsections (a) through (d) of section six hundred one of such article after the deduction of any other credits allowable under such article.

(2) Sole proprietors, partners and S corporation shareholders. (A) Where the taxpayer is a sole proprietor of a business located in [~~a tax-free NY area~~] **an EPIC zone**, the taxpayer's tax factor shall be that portion of the amount determined in paragraph one of this subdivision that is attributable to the income of the business at its location in the [~~tax-free NY area~~] **EPIC zone**. Such attribution shall be made in accordance with the ratio of the taxpayer's income from such business allocated within the state, entering into New York adjusted gross income, to the taxpayer's New York adjusted gross income, or in accordance with such other methods as the commissioner may prescribe as providing an apportionment that reasonably reflects the portion of the taxpayer's tax attributable to the income of such business. In no event may the ratio so determined exceed 1.0. The income from such business allocated within the state shall be determined as if the sole proprietor was a non-resident.

(B)(i) Where the taxpayer is a member of a partnership that is a business located in [~~a tax-free NY area~~] **an EPIC zone**, the taxpayer's tax factor shall be that portion of the amount determined in paragraph one of this subdivision that is attributable to the income of the partnership. Such attribution shall be made in accordance with the ratio of the partner's income from the partnership allocated within the state to the partner's entire income, or in accordance with such other methods as the commissioner may prescribe as providing an apportionment that reasonably reflects the portion of the partner's tax attributable to the income of the partnership. In no event may the ratio so determined exceed 1.0. The income from the partnership allocated within the state shall be determined as if any of the partners was a non-resident.

(ii) For purposes of article nine-A of this chapter, the term "partner's income from the partnership" means partnership items of income, gain, loss and deduction, and New York modifications thereto, entering into business income and the term "partner's entire income" means business income, allocated within the state. For purposes of article twenty-two of this chapter, the term "partner's income from the partnership" means partnership items of income, gain, loss and deduction, and New York modifications thereto, entering into New York adjusted gross income, and the term "partner's entire income" means New York adjusted gross income.

(C) (i) Where the taxpayer is a shareholder of a New York S corporation that is a business located in [~~a tax-free NY area~~] **an EPIC zone**, the shareholder's tax factor shall be that portion of the amount determined in paragraph one of this subdivision that is attributable to the

income of the S corporation. Such attribution shall be made in accordance with the ratio of the shareholder's income from the S corporation allocated within the state, entering into New York adjusted gross income, to the shareholder's New York adjusted gross income, or in accordance with such other methods as the commissioner may prescribe as providing an apportionment that reasonably reflects the portion of the shareholder's tax attributable to the income of such business. The income of the S corporation allocated within the state shall be determined by multiplying the income of the S corporation by a business allocation factor that shall be determined in clause (ii) of this subparagraph. In no event may the ratio so determined exceed 1.0.

(ii) The business allocation factor for purposes of this subparagraph shall be computed by adding together the property factor specified in subclause (I) of this clause, the wage factor specified in subclause (II) of this clause and the apportionment factor determined under section two hundred ten-A of this chapter and dividing by three.

(I) The property factor shall be determined by ascertaining the percentage that the average value of the business's real and tangible personal property, whether owned or rented to it, within the state during the period covered by the taxpayer's report or return bears to the average value of the business's real and tangible personal property, whether owned or rented to it, within and without the state during such period; provided that the term "value of the business's real and tangible personal property" shall have the same meaning as such term has in paragraph (a) of subdivision two of section two hundred nine-B of this chapter.

(II) The wage factor shall be determined by ascertaining the percentage that the total wages, salaries and other personal service compensation, similarly computed, during such period of employees, except general executive officers, employed at the business's location or locations within the state, bears to the total wages, salaries and other personal service compensation, similarly computed, during such period, of all the business's employees within and without the state, except general executive officers.

(3) Combined returns or reports. (A) Where the taxpayer is a business located in [~~a tax-free NY area~~] **an EPIC zone** and is required or permitted to make a return or report on a combined basis under article nine-A of this chapter, the taxpayer's tax factor shall be the amount determined in paragraph one of this subdivision that is attributable to the income of such business. Such attribution shall be made in accordance with the ratio of the business's income allocated within the state to the combined group's income, or in accordance with such other methods as the commissioner may prescribe as providing an apportionment that reasonably reflects the portion of the combined group's tax attributable to the income of such business. In no event may the ratio so determined exceed 1.0.

(B) The term "income of the business located in [~~a tax-free NY area~~] **an EPIC zone**" means business income calculated as if the taxpayer was filing separately and the term "combined group's income" means business income as shown on the combined report, allocated within the state.

(4) If a business is generating or receiving income from a line of business or intangible property that was previously conducted, created or developed by the business or a related person, as that term is defined in section four hundred thirty-one of the economic development law, the tax factor specified in this subdivision shall be adjusted to disregard such income.

(e) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) Article 9-A: section 210-B, subdivision 41.

(2) Article 22: section 606, subsection (i), paragraph (1), subparagraph (B), clause (xxxvi).

(3) Article 22: section 606, subsection (ww).

§ 20. Clauses (xxxvi) and (xxxviii) of subparagraph (B) of paragraph 1 of subsection (i) and subsections (ww) and (yy) of section 606 of the tax law, clauses (xxxvi) and (xxxviii) of subparagraph (B) of paragraph 1 of subsection (i) as amended by section 68 of part A of chapter 59 of the laws of 2014, subsection (ww) as added by section 9 of part A of chapter 68 of the laws of 2013, and subsection (yy) as amended by section 9 of part I of chapter 59 of the laws of 2015, are amended to read as follows:

| | |
|---|---|
| (xxxvi) [~~Tax-free NY area~~] **EPIC zone** tax elimination credit | Amount of credit under subdivision forty-one of section two hundred ten-B |
| (xxxviii) [~~Tax-free NY area~~] **EPIC zone** excise tax on telecommunications services credit under subsection (yy) | Amount of credit under subdivision forty-four of section two hundred ten-B |

(ww) [~~Tax-free NY area~~] **EPIC zone** tax elimination credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided under section forty of this chapter, against the tax imposed by this article.

(2) Application of credit. If the amount of the credit allowed under this subsection for any taxable year exceeds the taxpayer's tax for such year, the excess will be treated as an overpayment to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest will be paid thereon.

(yy) The [~~tax-free NY area~~] **EPIC zone** excise tax on telecommunication services credit. A taxpayer that is a business or owner of a business that is located in [~~a tax-free NY area~~] **an EPIC zone** approved pursuant to article twenty-one of the economic development law shall be allowed a credit equal to the excise tax on telecommunication services imposed by section one hundred eighty-six-e of this chapter and passed through to such business during the taxable year to the extent not otherwise deducted in computing New York adjusted gross income. This credit may be claimed only where any tax imposed by such section one hundred eighty-six-e has been separately stated on a bill from the provider of telecommunication services and paid by such taxpayer with respect to such services rendered within [~~a tax-free NY area~~] **an EPIC zone** during the taxable year. If the amount of the credit allowed under this subsection for any taxable year exceeds the taxpayer's tax for such year, the excess will be treated as an overpayment to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest will be paid thereon.

§ 21. Paragraph 39-a of subsection (b) and paragraph 40 of subsection (c) of section 612 of the tax law, paragraph 39-a of subsection (b) as

added by section 5-a of part T of chapter 59 of the laws of 2014 and paragraph 40 of subsection (c) as added by section 10 of part A of chapter 68 of the laws of 2013, are amended to read as follows:

(39-a) The amount of any federal deduction for the excise tax on telecommunication services to the extent such taxes are used as the basis of the calculation of [~~tax-free NY area~~] **EPIC zone** excise tax on telecommunication services credit allowed under subsection (yy) of section six hundred six of this article.

(40) Any wages received by an individual as an employee of a business located within [~~a tax-free NY area~~] **an EPIC zone** during the first five years of such business's ten year taxable period specified in subdivision (a) of section thirty-nine of this chapter, to the extent included in federal adjusted gross income and allowed under section thirty-nine of this chapter. During the second five years of such business's ten year taxable period, the first two hundred thousand dollars of such wages in the case of a taxpayer filing as a single individual, the first two hundred fifty thousand dollars of such wages in the case of a taxpayer filing as a head of household, and three hundred thousand dollars of such wages in the case of a taxpayer filing a joint return, to the extent included in federal adjusted gross income and allowed under section thirty-nine of this chapter.

§ 22. Subparagraph 20-a of paragraph (b) of subdivision 9 of section 208 of the tax law, as amended by section 4 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(20-a) The amount of any federal deduction for the excise tax on telecommunication services to the extent such taxes are used as the basis of the calculation of the [~~tax-free NY area~~] **EPIC zone** excise tax on telecommunication services credit allowed under subdivision forty-four of section two hundred ten-B of this article.

§ 23. Subdivision (b) of section 803 of the tax law, as added by section 11 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

(b) If [~~a tax-free NY area~~] **an EPIC zone** approved pursuant to the provisions of article twenty-one of the economic development law is located within the MCTD, the payroll expense in such [~~tax-free NY area~~] **EPIC zone** of any employer that is located in such area and accepted into the [~~START-UP NY~~] **EPIC** program shall be exempt from the tax imposed under this article. In addition, the net earnings from self-employment of an individual from a business in such [~~tax-free NY area~~] **EPIC zone** that is accepted into the [~~START-UP NY~~] **EPIC** program shall be exempt from the tax imposed under this article.

§ 24. Subdivisions 41 and 44 of section 210-B of the tax law, subdivision 41 as amended by section 40, and subdivision 44 as amended by section 41 of part T of chapter 59 of the laws of 2015, are amended to read as follows:

41. The [~~tax-free NY area~~] **EPIC zone** tax elimination credit. A taxpayer shall be allowed a credit to be computed as provided in section forty of this chapter, against the tax imposed by this article. Unless the taxpayer has [~~a tax-free NY area~~] **an EPIC zone** allocation factor of one hundred percent, the credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of the credit allowable under this subdivision for any taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit not deductible in such taxable year

shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

44. The [~~tax-free NY area~~] **EPIC zone** excise tax on telecommunication services credit. A taxpayer that is a business or owner of a business that is located in [~~a tax-free NY area~~] **an EPIC zone** approved pursuant to article twenty-one of the economic development law shall be allowed a credit equal to the excise tax on telecommunication services imposed by section one hundred eighty-six-e of this chapter and passed through to such business during the taxable year to the extent not otherwise deducted in computing entire net income under this article. However, except as otherwise provided for in this subdivision, if the amount of the credit allowable under this subdivision for any taxable year reduces the tax to the amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this chapter or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit not deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. This credit may be claimed only where any tax imposed by such section one hundred eighty-six-e has been separately stated on a bill from the provider of telecommunication services and paid by such business with respect to such services rendered within [~~a tax-free NY area~~] **an EPIC zone** during the taxable year. Unless the taxpayer has [~~a tax-free NY area~~] **an EPIC zone** allocation factor of one hundred percent, the credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

§ 25. Paragraphs 1 and 2 of subdivision (d) of section 1119 of the tax law, as amended by section 12 of part A of chapter 68 of the laws of 2013, are amended to read as follows:

(1) Subject to the conditions and limitations provided for in this section, a refund or credit will be allowed for taxes imposed on the retail sale of tangible personal property described in subdivision (a) of section eleven hundred five of this article, and on every sale of services described in subdivisions (b) and (c) of such section, and consideration given or contracted to be given for, or for the use of, such tangible personal property or services, where such tangible personal property or services are sold to a qualified empire zone enterprise or to a qualified entity that is also a tenant in or part of a New York state innovation hot spot as provided in section thirty-eight of this chapter or to a business located in [~~a tax-free NY area~~] **an EPIC zone** approved pursuant to article twenty-one of the economic development law, provided that (A) such tangible personal property or tangible personal property upon which such a service has been performed or such service (other than a service described in subdivision (b) of section eleven hundred five of this article) is directly and predominantly, or such a service described in clause (A) or (D) of paragraph one of such subdivision (b) of section eleven hundred five of this article is directly and exclusively, used or consumed by (i) such qualified empire zone enterprise in an area designated as an empire zone pursuant to article eighteen-B of the general municipal law with respect to which

such enterprise is certified pursuant to such article eighteen-B, or (ii) such qualified entity at its location in or as part of a New York state innovation hot spot, or (iii) such business at its location in such [~~tax-free NY area~~] **EPIC zone**, or (B) such a service described in clause (B) or (C) of paragraph one of subdivision (b) of section eleven hundred five of this article is delivered and billed to (i) such enterprise at an address in such empire zone or (ii) such qualified entity at its location in or as part of the New York state innovation hot spot, or (iii) such business at its location in such [~~tax-free NY area~~] **EPIC zone**, or (C) the enterprise's place of primary use of the service described in paragraph two of such subdivision (b) of section eleven hundred five is at an address in such empire zone or at its location in or as part of a New York state innovation hot spot, or at its location in such [~~tax-free NY area~~] **EPIC zone**; provided, further, that, in order for a motor vehicle, as defined in subdivision (c) of section eleven hundred seventeen of this article, or tangible personal property related to such a motor vehicle to be found to be used predominantly in such a zone, at least fifty percent of such motor vehicle's use shall be exclusively within such zone or at least fifty percent of such motor vehicle's use shall be in activities originating or terminating in such zone, or both; and either or both such usages shall be computed either on the basis of mileage or hours of use, at the discretion of such enterprise. For purposes of this subdivision, tangible personal property related to such a motor vehicle shall include a battery, diesel motor fuel, an engine, engine components, motor fuel, a muffler, tires and similar tangible personal property used in or on such a motor vehicle.

(2) Subject to the conditions and limitations provided for in this section, a refund or credit will be allowed for taxes imposed on the retail sale of, and consideration given or contracted to be given for, or for the use of, tangible personal property sold to a contractor, subcontractor or repairman for use in (A) erecting a structure or building of a qualified empire zone enterprise or a business located in [~~a tax-free NY area~~] **an EPIC zone** approved pursuant to article twenty-one of the economic development law, (B) adding to, altering or improving real property, property or land of such an enterprise or such business, or (C) maintaining, servicing or repairing real property, property or land of such an enterprise or of such business, as the terms real property, property or land are defined in the real property tax law; provided, however, no credit or refund will be allowed under this paragraph unless such tangible personal property is to become an integral component part of such structure, building, real property, property or land located in an area designated as an empire zone pursuant to article eighteen-B of the general municipal law in, and with respect to which such enterprise is certified pursuant to such article eighteen-B, or in an area approved as [~~a tax-free NY area~~] **an EPIC zone** pursuant to article twenty-one of the economic development law where such business is located.

§ 26. Subsection (d) of section 1340 of the tax law, as added by section 16 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

(d) Any wages received by an individual as an employee of a business located in [~~a tax-free NY area~~] **an EPIC zone** within the city during the first five years of such business's ten year taxable period specified in subdivision (a) of section thirty-nine of this chapter and earned at such location shall be exempt from the tax authorized to be imposed by this article to the extent included in federal adjusted gross income and

allowed under section thirty-nine of this chapter. During the second five years of such business's ten year taxable period, the first two hundred thousand dollars of such wages in the case of a taxpayer filing as a single individual, the first two hundred fifty thousand dollars of such wages in the case of a taxpayer filing as a head of household, and three hundred thousand dollars of such wages in the case of a taxpayer filing a joint return, to the extent included in federal adjusted gross income and allowed under section thirty-nine of this chapter.

§ 27. Paragraph 11 of subdivision (b) of section 1405 of the tax law, as added by section 13 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

11. Conveyances of real property located in [~~tax-free NY areas~~] **EPIC zones** approved pursuant to article twenty-one of the economic development law to businesses located in such areas that are participating in the [~~START-UP NY~~] **EPIC** program pursuant to such article twenty-one.

§ 28. Paragraph (c) of subdivision 2 of section 770 of the labor law, as added by section 1 of subpart R of part XX of chapter 55 of the laws of 2020, is amended to read as follows:

(c) The term "tax credit" means any of the following tax credits allowed under the tax law: recovery tax credit, [~~tax-free New York area~~] **EPIC zone** tax elimination credit, minimum wage reimbursement credit, empire state jobs retention program credit, economic transformation and facility redevelopment program tax credit, excelsior jobs program credit, employee training incentive program tax credit, empire state apprenticeship program tax credit, and employment incentive tax credit.

§ 29. Paragraph 36 of subdivision (c) of section 11-1712 of the administrative code of the city of New York, as added by section 15 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

(36) Any wages received by an individual as an employee of a business located within [~~a tax-free NY area~~] **an EPIC zone** during the first five years of such business's ten year taxable period specified in subdivision (a) of section thirty-nine of the tax law to the extent included in federal adjusted gross income and allowed under section thirty-nine of the tax law. During the second five years of such business's ten year taxable period, the first two hundred thousand dollars of such wages in the case of a taxpayer filing as a single individual, the first two hundred fifty thousand dollars of such wages in the case of a taxpayer filing as a head of household, and three hundred thousand dollars of such wages in the case of a taxpayer filing a joint return, to the extent included in federal adjusted gross income and allowed under section thirty-nine of the tax law.

§ 30. This act shall take effect on the thirtieth day after it shall have become a law; provided, however, that the amendments to paragraph a of subdivision 2 of section 355 of the education law made by section fourteen of this act shall not affect the expiration and reversion of such paragraph and shall be deemed to expire therewith.

## PART DD

Section 1. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 52-a to read as follows:

**§ 52-a. Small business innovation research and small business technology transfer grant program. 1. The corporation, in consultation with the division for small business, shall establish a matching grant program to provide contingent matching fund commitments and funds to small busi-**

nesses who have been awarded phase one or phase two grants under the federal small business innovation research program or the federal small business technology transfer program. Such grants shall be awarded based on a company's potential for commercialization and job growth. Companies applying to the federal programs named herein shall have an opportunity to apply to the corporation for a commitment letter that may be included in their application to the small business innovation research program or the small business technology transfer program, demonstrating contingent state support, and therefore increasing their likelihood of receiving federal funding. State matching grants shall be provided to small businesses that are selected for award through these federal programs. As used in this section, "small business" shall have the same meaning as provided for in section one hundred thirty-one of the economic development law.

2. Such funds awarded pursuant to this section shall be used to expedite commercialization, including but not necessarily limited to patents and marketing studies in sales efforts. A small business may apply for multiple matching fund grants, but shall only receive one award through this program each calendar year.

3. The corporation, in consultation with the division for small business, shall establish the form and manner in which applications for grant awards shall be submitted and shall establish guidelines for the grant program. The corporation shall review each application for compliance with the eligibility criteria and other requirements set forth in the program guidelines established by the corporation. The corporation may approve or reject each application or may return an application for modifications, if necessary.

4. The corporation, beginning on June first, two thousand twenty-four, and annually thereafter, provided program funds remain, shall submit a report to the governor, the temporary president of the senate, and the speaker of the assembly. Such annual report shall include, but need not be limited to: the number of applicants by stage; the number of applicants approved to receive grants; the total amount of grants awarded and the average amount of such grants awarded; and such other information as the department of economic development determines necessary and appropriate. Such report shall be included on the department of economic development's website and any other publicly accessible state databases that list economic development programs, as determined by the corporation.

§ 2. This act shall take effect immediately.

## PART EE

Section 1. Paragraph (a) of subdivision 1 of section 1977-a of the public authorities law, as amended by chapter 241 of the laws of 1995, is amended to read as follows:

(a) For the purpose of financing project costs for the project for the Battery Park project area other than the financing of loans, advances and mortgage loans to housing companies organized to provide housing within the Battery Park project area, the authority may issue bonds and notes in an aggregate principal amount at any one time outstanding not exceeding [~~three~~] five hundred million dollars, excluding bonds and notes issued to refund outstanding bonds and notes.

§ 2. Paragraph (f) of subdivision 1 of section 1977-a of the public authorities law, as added by chapter 628 of the laws of 2019, is amended to read as follows:

(f) Additional authorizations. For the purpose of financing capital costs in connection with a program of infrastructure construction, improvements and other capital expenditures for the project area, the authority may, in addition to the authorizations contained elsewhere in this title, borrow money by issuing bonds and notes in an aggregate principal amount not exceeding **one billion** five hundred million dollars, plus a principal amount of bonds or notes issued (i) to fund any related debt service reserve fund, (ii) to provide capitalized interest, and (iii) to provide for fees and other charges and expenses including any underwriters' discounts, related to the issuance of such bonds or notes, all as determined by the authority, excluding bonds and notes issued to refund outstanding bonds and notes issued pursuant to this section.

§ 3. This act shall take effect immediately.

## PART FF

Section 1. Section 217 of the state finance law, as amended by section 1 of part H of chapter 60 of the laws of 2011, is amended to read as follows:

§ 217. Linked loans. Linked loans shall be made by lenders pursuant to the program only to eligible businesses in connection with eligible projects. A linked loan shall be limited to a maximum amount of [~~two~~] **six** million dollars. An eligible business may receive more than one linked loan. During the life of the linked loan program, the total amount of money that a business can borrow from the linked program is [~~two~~] **six** million dollars. The credit decision for making a linked loan shall be made solely by the lender. Notwithstanding the length of the term of a linked loan, the linked deposit relating to the linked loan shall be for a period of not more than four years.

§ 2. The act shall take effect immediately.

## PART GG

Section 1. Section 2 of chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, as amended by section 1 of part Y of chapter 58 of the laws of 2022, is amended to read as follows:

§ 2. This act shall take effect immediately provided, however, that section one of this act shall expire on July 1, [~~2023~~] **2028**, at which time the provisions of subdivision 26 of section 5 of the New York state urban development corporation act shall be deemed repealed; provided, however, that neither the expiration nor the repeal of such subdivision as provided for herein shall be deemed to affect or impair in any manner any loan made pursuant to the authority of such subdivision prior to such expiration and repeal.

§ 2. This act shall take effect immediately.

## PART HH

Section 1. The opening paragraph of paragraph (a) and paragraph (b) of subdivision 2-a of section 314 of the executive law, as amended by chapter 96 of the laws of 2019, is amended to read as follows:

The director shall establish a procedure [~~enabling~~] **requiring** the office to accept New York municipal corporation certification verification for minority and women-owned business enterprise applicants in lieu

of requiring the applicant to complete the state certification process. [~~The~~] **In order to implement such procedure, the office and all New York municipal corporations that have a municipal minority and women-owned business enterprise program shall enter into a memorandum of understanding regarding such acceptance of certification verification and the** director shall promulgate rules and regulations to set forth criteria for the acceptance of municipal corporation certification. [~~All eligible municipal corporation certifications shall require business enterprises seeking certification to meet the following standards:~~] **Notwithstanding the foregoing, an applicant certified pursuant to this section must meet the definition of a minority-owned business enterprise or women-owned business enterprise set forth in section three hundred ten of this article.**

(b) [~~The director shall work with all~~] **All New York** municipal corporations that have a municipal minority and women-owned business enterprise program [~~to~~] **shall** develop [~~standards~~] **rules and regulations in order** to accept state certification [~~to meet the municipal corporation minority and women-owned business enterprise certification standards~~].

§ 2. Clauses (i), (ii), (iii), (iv), (v), (vi) and (vii) of paragraph (a) of subdivision 2-a of section 314 of the executive law are REPEALED.

§ 3. Subdivision 6 of section 163 of the state finance law, as separately amended by section 28 of part PP of chapter 56 and chapter 572 of the laws of 2022, is amended to read as follows:

6. Discretionary buying thresholds. Pursuant to guidelines established by the state procurement council: the commissioner may purchase services and commodities for the office of general services or its customer agencies serviced by the office of general services business services center in an amount not exceeding eighty-five thousand dollars without a formal competitive process; state agencies may purchase services and commodities in an amount not exceeding fifty thousand dollars without a formal competitive process; and state agencies may purchase commodities or services from small business concerns [~~or those certified pursuant to article fifteen-A of the executive law and article three of the veterans' services law~~], or commodities or technology that are recycled or remanufactured in an amount not exceeding five hundred thousand dollars without a formal competitive process **and state agencies may purchase commodities or services from those certified pursuant to article fifteen-A of the executive law and article three of the veterans' services law in an amount not exceeding one million five hundred thousand dollars without a formal competitive process** and for commodities that are food, including milk and milk products, or animal or plant fiber products, grown, produced, harvested, or processed in New York state or textile products manufactured from animal or plant fiber grown or produced predominantly in New York state in an amount not to exceed two hundred thousand dollars, without a formal competitive process.

§ 4. Paragraph 1 of subdivision i of section 311 of the New York city charter, as amended by chapter 569 of the laws of 2022, is amended to read as follows:

1. agencies may make procurements of goods, services and construction for amounts not exceeding one million **five hundred thousand** dollars from businesses certified as minority or women-owned business enterprises pursuant to section thirteen hundred four of the charter without a formal competitive process.

§ 5. This act shall take effect immediately; provided however that sections one and two of this act shall take effect on the three hundred sixty-fifth day after it shall have become a law; provided, further,

that if section 28 of part PP of chapter 56 of the laws of 2022 shall not have taken effect on or before such date then section three of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2022 takes effect; provided, further, that the amendments to subdivision 2-a of section 314 of the executive law made by sections one and two of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided, further, that the amendments to section 163 of the state finance law made by section three of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART II

Section 1. Subdivision (a) of section 2 of chapter 749 of the laws of 2019, constituting the New York city public works investment act, is relettered (a-1) and a new subdivision (a) is added to read as follows:

**(a) "Alternative project delivery contract" shall mean any project delivery method authorized by this act, including construction manager build, construction manager at risk, and design-build, pursuant to which one or more contracts for the provision of design or construction management and construction services are awarded pursuant to an open and competitive method of procurement.**

§ 2. Paragraph 14 of subdivision (b) of section 2 of chapter 749 of the laws of 2019, constituting the New York city public works investment act, is amended to read as follows:

(14) A quantitative factor to be used in evaluation of bids or offers for awarding of contracts for bidders or offerers that are certified as minority- or women-owned business enterprises pursuant to article 15-A of the executive law, and certified pursuant to local law as minority- or women-owned business enterprises**, or for bidders or offerers that are joint ventures that include at least one such certified firm**. Where an agency identifies a quantitative factor pursuant to this paragraph, the agency must specify that businesses certified as minority- or women-owned business enterprises pursuant to article 15-A of the executive law as well as those certified as minority- or women-owned business enterprises or pursuant to section 1304 of the New York city charter**, or joint ventures including at least one such certified firm,** are eligible to qualify for such factor. Nothing in this paragraph shall be construed as a requirement that such businesses be concurrently certified as minority- or women-owned business enterprises under both article 15-A of the executive law and section 1304 of the New York city charter to qualify for such quantitative factors. In addition, where the New York city school construction authority acts as the authorized entity, businesses certified as minority- or women-owned business enterprises pursuant to section 1743 of the public authorities law shall be eligible to qualify for such factor.

§ 3. Section 2 of chapter 749 of the laws of 2019, constituting the New York city public works investment act, is amended by adding two new subdivisions (b-1) and (b-2) to read as follows:

**(b-1) "Construction manager at risk" shall mean a project delivery method whereby a construction manager:**

**(1) serves as part of a team in conjunction with the owner in the design phase of the project;**

**(2) during the construction phase, acts as general contractor for agreed upon compensation as set forth in the construction manager at risk agreement; and**

(3) assumes the risk of construction costs exceeding an amount specified in the construction manager at risk agreement.

(b-2) "Construction manager build" shall mean a project delivery method whereby a construction manager:

(1) serves as part of a team in conjunction with the owner in the design phase of the project;

(2) under the oversight of the owner, acts as the single source of responsibility to bid, select and hold construction contracts on behalf of the owner during the construction phase; and

(3) manages the construction project on behalf of the owner.

§ 4. Sections 3, 4, 5 and 6 of chapter 749 of the laws of 2019, constituting the New York city public works investment act, are amended to read as follows:

§ 3. Any contract for a public work undertaken pursuant to a project labor agreement in accordance with section 222 of the labor law may be [~~a design-build~~] an alternative project delivery contract in accordance with this act.

§ 4. Notwithstanding any general, special or local law, rule or regulation to the contrary, including but not limited to section 7210 of the education law, article 5-A of the general municipal law, article 8 of the public housing law, sections 1734 and 1735 of the public authorities law and section 8 of the New York city health and hospitals corporation act, and in conformity with the requirements of this act, for any public work that has an estimated cost of not less than 10 million dollars and is undertaken pursuant to a project labor agreement in accordance with section 222 of the labor law, an authorized entity charged with awarding a contract for public work may use [~~the~~] an alternative project delivery [~~method referred to as design-build contracts~~] contract. Provided, however, that any authorized entity charged with awarding a contract for public work in connection with property within the jurisdiction of the New York city department of parks and recreation or the New York city housing authority is authorized to use [~~the~~] an alternative project delivery [~~method referred to as design-build contracts~~] contract for any such public work that has an estimated cost of not less than one million two hundred thousand dollars if such public work is otherwise in conformity with the requirements of this act. Provided further that any authorized entity may use [~~the~~] an alternative project delivery [~~method referred to as design-build contracts~~] contract for any public work that has an estimated cost of not less than one million two hundred thousand dollars if such public work is otherwise in conformity with the requirements of this act and primarily consists of: pedestrian ramps and similar infrastructure to improve access to sidewalks in the city of New York for people with disabilities; renovation and construction of cultural institutions located on publicly owned real property and of public libraries in the city of New York; an energy efficiency, clean energy generation, or energy storage project; or security infrastructure, including bollards, planters and other physical structures, designed to protect life and property from acts of terror or mass violence.

(a) A contractor selected by such an authorized entity to enter into [~~a design-build~~] an alternative project delivery contract [~~shall~~] may be selected [~~through a two-step method,~~] as follows:

(1) Step one. Generation of a list of responding entities that have demonstrated the general capability to perform the [~~design-build~~] alternative project delivery contract. Such list shall consist of a specified number of responding entities, as determined by an authorized entity,

and shall be generated based upon the authorized entity's review of responses to a publicly advertised request for qualifications. The authorized entity's request for qualifications shall include a general description of the public work, the maximum number of responding entities to be included on the list, the selection criteria to be used and the relative weight of each criteria in generating the list. Such selection criteria shall include the qualifications and experience of the [~~design and construction~~] **entity or** team **of entities**, organization, demonstrated responsibility, ability of the **entity or** team **of entities** or of a member or members of the **entity or** team **of entities** to comply with applicable requirements, including the provisions of articles 145, 147 and 148 of the education law, past record of compliance with the labor law, and such other qualifications the authorized entity deems appropriate, which may include but are not limited to project understanding, financial capability and record of past performance. The authorized entity shall evaluate and rate all responding entities to the request for qualifications. Based upon such ratings, the authorized entity shall list the responding entities that shall receive a request for proposals in accordance with paragraph [~~two~~] **2** of this subdivision. To the extent consistent with applicable federal law, the authorized entity shall consider, when awarding any contract pursuant to this section, the participation of (i) responding entities that are certified as minority- or women-owned business enterprises pursuant to article 15-A of the executive law, or certified pursuant to local law as minority- or women-owned business enterprises, or, where the New York city school construction authority acts as the authorized entity, certified pursuant to section 1743 of the public authorities law; and (ii) small business concerns identified pursuant to subdivision (b) of section 139-g of the state finance law. **Notwithstanding any other provision of this paragraph, if an authorized entity determines in writing that it is in the best interest of the authorized entity to solicit proposals without generating a list pursuant to the process set forth in this paragraph, the authorized entity may instead release a public solicitation pursuant to the procedure set forth in paragraph 2 of this subdivision.** In addition, nothing in this section shall be deemed to supersede any pre-qualification guidelines or requirements otherwise authorized by law for an authorized entity.

(2) Step two. [~~Selection~~] **The second step shall be the selection** of the proposal which is the best value to the authorized entity**, provided that is a list has not been generated pursuant to paragraph 1 of this subdivision, the authorized entity shall not be required to consider cost or price criteria in selecting the proposal**. The authorized entity shall issue a request for proposals to the responding entities**, which shall be the** listed **entities** pursuant to paragraph [~~one~~] **1** of this subdivision **if such a list has been generated pursuant to such paragraph**. If such a responding entity consists of a team of separate entities, the entities that comprise such a team must remain unchanged from the responding entity as listed pursuant to paragraph [~~one~~] **1** of this subdivision**, as applicable,** unless otherwise approved by the authorized entity. The request for proposals shall set forth the public work's scope of work, and other requirements, as determined by the authorized entity, which may include separate goals for work under the contract to be performed by businesses certified as minority- or women-owned business enterprises pursuant to article 15-A of the executive law or section 1743 of the public authorities law, or certified pursuant to local law as minority- or women-owned business enterprises. The request

for proposals shall also specify the criteria to be used to evaluate the responses and the relative weight of each of such criteria. Such criteria shall include [~~the proposal's cost,~~] the quality of the proposal's solution, the qualifications and experience of the proposer, **if a list has been generated pursuant to paragraph 1 of this subdivision, the proposal's cost, which may include factors that may be considered individually or in the aggregate, such as the proposed cost of design phase work, the proposed cost of construction phase work, or cost factors relating to construction phase work, as applicable,** and other factors deemed pertinent by the authorized entity, which may include, but shall not be limited to, the proposal's manner and schedule of project implementation, the proposer's ability to complete the work in a timely and satisfactory manner, maintenance costs of the completed public work, maintenance of traffic approach, and community impact. **The authorized entity may engage in negotiations or other discussions with all qualified proposers that have expressed interest, provided that the authorized entity maintains a written record of the conduct of negotiations or discussions and the basis for every determination to continue or suspend negotiations, and further provided that if the authorized entity determines for a particular contract or for a particular type of contract that it is in the authorized entity's best interest to negotiate or enter into discussions with fewer proposers, it may make such a determination in writing. If the authorized entity enters into such negotiations, the authorized entity shall allow all proposers to revise their proposals upon conclusion of negotiations, and the authorized entity shall evaluate the proposers' revised proposals using the criteria included in the request for proposals.** Any contract awarded pursuant to this act shall be awarded to a responsive and responsible proposer, which, in consideration of these and other specified criteria deemed pertinent, offers the best value, as determined by the authorized entity**, omitting the consideration of cost or price criteria where authorized by this subdivision**. The request for proposals shall include a statement that proposers shall designate in writing those portions of the proposal that contain trade secrets or other proprietary information that are to remain confidential[~~:~~]**, so** that the material designated as confidential shall be readily separable from the proposal. Nothing in this subdivision shall be construed to prohibit the authorized entity from negotiating final contract terms and conditions including cost. All proposals submitted shall be scored according to the criteria listed in the request for proposals and such final scores shall be published on the authorized entity's website after registration of such contract or the date upon which such contract may be implemented, if registration requirements do not apply.

(b) An authorized entity awarding [~~a design-build~~] **an alternative project delivery** contract to a contractor [~~offering the best value~~] **in accordance with this act** may but shall not be required to use the following types of contracts:

(1) A cost-plus not to exceed guaranteed maximum price form of contract in which the authorized entity shall be entitled to monitor and audit all costs. In establishing the schedule and process for determining a guaranteed maximum price, the contract between the authorized entity and the contractor shall[~~: (i) Describe~~] **include terms specifying the price for the design phase of the work,** the scope of the work and **any applicable cost factors relating to construction phase work that were included in the contractor's proposal. A fair and reasonable guaranteed maximum price for the construction phase of the work, or portions**

of the construction phase of the work, may be agreed to as one or more amendments to such contract based on developments in the design of the project that occur after such contract is executed. Each guaranteed maximum price amendment shall:

(i) Describe the scope of the portion of the construction phase work subject to the amendment, the cost of performing such work, and the maximum costs of any contingencies related to such work,

(ii) Include a detailed line item cost breakdown,

(iii) Include a list of all drawings, specifications and other information on which the guaranteed maximum price is based,

(iv) Include the dates of substantial and final completion on which the guaranteed maximum price is based, as applicable, and

(v) Include a schedule of unit prices[~~; or~~].

The authorized entity shall maintain a written record of each guaranteed maximum price amendment, which shall include a summary of the negotiation process and a description of the relevant developments in the design of the project, independent cost estimates prepared by or on behalf of the authorized entity, as required pursuant to a policy established by the authorized entity, the contractor's actual cost schedules and unit prices, and any other factors that the authorized entity considered. If the authorized entity and the contractor cannot agree upon a guaranteed maximum price for one or more portions of construction phase work, the authorized entity may direct the contractor to assign all or a portion of the duties and rights under such alternative project delivery contract to another responsive and responsible proposer pursuant to paragraph 2 of subdivision (a) of this section that offered the best value of the remaining proposers and that will agree to accept such an assignment. This paragraph shall not be deemed to prohibit the use of any contract terms or procedures pursuant to any other provision of law, including but not limited to provisions included in this act;

(2) A lump sum contract in which the contractor agrees to accept a set dollar amount for a contract which comprises a single bid without providing a cost breakdown for all costs such as for equipment, labor, materials, as well as such contractor's profit for completing all items of work comprising the public work[~~.~~];

(3) Incentive payments identified in the text of the contract for performance objectives; or

(4) a combination of elements of the contract types listed herein.

§ 5. [~~Any contract~~] All alternative project delivery contracts entered into pursuant to this act shall include a clause requiring that any professional services regulated by articles 145, 147 and 148 of the education law shall be performed and stamped and sealed, where appropriate, by a professional licensed in accordance with the appropriate article.

§ 6. Construction with respect to each contract entered into by an authorized entity pursuant to this act shall be deemed a "public work" to be performed in accordance with the provisions of article 8 of the labor law, as well as subject to sections 200, 240, 241 and 242 of such law and enforcement of prevailing wage requirements pursuant to applicable law or, for projects or public works receiving federal aid, applicable federal requirements for prevailing wage. Any contract entered into pursuant to this act shall include a clause requiring the selected [~~design builder~~] entity or team of entities to obligate every tier of contractor working on the public work to comply with the project labor agreement referenced in section three of this act, and shall include

project labor agreement compliance monitoring and enforcement provisions consistent with the applicable project labor agreement.

§ 5. Subdivisions (c) and (d) of section 9 of chapter 749 of the laws of 2019, constituting the New York city public works investment act, are amended to read as follows:

(c) Employees of authorized entities using [~~design-build~~] **alternative project delivery** contracts serving in positions in newly created titles shall be assigned to the appropriate bargaining unit. Nothing contained in this act shall be construed to affect (1) the existing rights of employees of such entities pursuant to an existing collective bargaining agreement, (2) the existing representational relationships among employee organizations representing employees of such entities, or (3) the bargaining relationships between such entities and such employee organizations.

(d) Without limiting contractors' obligations under [~~design-build~~] **alternative project delivery** contracts to issue their own initial certifications of substantial completion and final completion, public employees of authorized entities shall review and determine whether the work performed by contractors is acceptable and has been performed in accordance with the applicable [~~design-build~~] **alternative project delivery** contracts, and if such public employees so determine, such public employees shall accept contractors' substantial or final completion of the public works as applicable. Performance by authorized entities of any review described in this subdivision shall not be construed to modify or limit contractors' obligations to perform the work in strict accordance with the applicable [~~design-build~~] **alternative project delivery** contracts or the contractors' or any subcontractors' obligations or liabilities under any law.

§ 6. Sections 10, 13 and 14 of chapter 749 of the laws of 2019, constituting the New York city public works investment act, section 14 as amended by section 4 of part AA of chapter 58 of the laws of 2022, are amended to read as follows:

§ 10. The submission of a proposal or responses or the execution of a [~~design-build~~] **alternative project delivery** contract pursuant to this act shall not be construed to be a violation of section 6512 of the education law.

§ 13. A report shall be submitted no later than June 30, 2020 and annually thereafter, to the governor, the temporary president of the senate and the speaker of the assembly by the city of New York on behalf of its agencies, the New York city housing authority, the New York city school construction authority, and the New York city health and hospitals corporation containing information regarding each [~~design-build~~] **alternative project delivery** contract procured pursuant to this act. Such report shall include a description of each such [~~design-build~~] **alternative project delivery** contract, information regarding the procurement process for each such [~~design-build~~] **alternative project delivery** contract including the list of responding entities that demonstrated the general capability to perform the [~~design-build~~] **alternative project delivery** contract pursuant to paragraph [~~(1)~~] **1** of subdivision (a) of section four of this act, **if applicable,** the total cost of each [~~design-build~~] **alternative project delivery** contract, an explanation of the estimated savings resulting from the [~~design-build~~] **alternative project delivery** method, and the participation rate of and total dollar value of monies paid to minority- and women-owned business enterprises under such [~~design-build~~] **alternative project delivery** contract.

§ 14. This act shall take effect immediately and shall expire and be deemed repealed eight years after such date, provided that, public works with requests for qualifications **or requests for proposals** issued prior to such repeal shall be permitted to continue under this act notwithstanding such repeal.

§ 7. This act shall take effect immediately, provided that this act shall not apply to any public work for which a request for proposals was issued prior to the date on which this act takes effect; and provided further, that the amendments to the New York city public works investment act made by sections one, two, three, four, five and six of this act shall not affect the repeal of such chapter and shall be deemed repealed therewith.

## PART JJ

Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, as amended by section 1 of part Z of chapter 58 of the laws of 2022, is amended to read as follows:

3. The provisions of this section shall expire, notwithstanding any inconsistent provision of subdivision 4 of section 469 of chapter 309 of the laws of 1996 or of any other law, on July 1, [~~2023~~] **2028**.

§ 2. This act shall take effect immediately.

## PART KK

Section 1. Subparagraphs (A) and (B) of paragraph 2 of subdivision (a) of section 2504 of the insurance law are amended, and a new subparagraph (C) is added to read as follows:

(A) a public corporation or public authority created pursuant to agreement or compact with another state, [~~or~~]

(B) [~~the city of New York,~~] a public corporation or public authority, in connection with the construction of electrical generating and transmission facilities or construction, extensions and additions of light rail or heavy rail rapid transit and commuter railroads[~~.~~]**, or**

**(C) the city of New York, the city school district of the city of New York, the New York city industrial development agency, the New York city health and hospitals corporation, or the New York city housing authority.**

§ 2. This act shall take effect immediately.

## PART LL

Section 1. Section 2 of part BB of chapter 58 of the laws of 2012 amending the public authorities law, relating to authorizing the dormitory authority to enter into certain design and construction management agreements, as amended by section 1 of part II of chapter 58 of the laws of 2021, is amended to read as follows:

§ 2. This act shall take effect immediately and shall expire and be deemed repealed April 1, [~~2023~~] **2028**.

§ 2. The dormitory authority of the state of New York shall provide a report providing information regarding any project undertaken pursuant to a design and construction management agreement, as authorized by part BB of chapter 58 of the laws of 2012, between the dormitory authority of the state of New York and the department of environmental conservation and/or the office of parks, recreation and historic preservation to the

governor, the temporary president of the senate and speaker of the assembly. Such report shall include but not be limited to a description of each such project, the project identification number of each such project, if applicable, the projected date of completion, the status of the project, the total cost or projected cost of each such project, and the location, including the names of any county, town, village or city, where each such project is located or proposed. In addition, such a report shall be provided to the aforementioned parties by the first day of March of each year that the authority to enter into such agreements pursuant to part BB of chapter 58 of the laws of 2012 is in effect.

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

## PART MM

Section 1. Subdivision 4-a of section 2222 of the vehicle and traffic law, as amended by chapter 609 of the laws of 2005, is amended to read as follows:

4-a. Additional fee. In addition to the other fees provided for in paragraphs (a), (b) and (c) of subdivision four of this section the commissioner shall, upon application in such cases for the registration of a snowmobile or the renewal thereof, collect the annual [~~ninety~~] **one hundred twenty-five** dollar fee for residents and [~~ninety~~] **one hundred twenty-five** dollar fee for nonresidents [~~and~~] **or** a [~~thirty-five~~] **fifty-five** dollar fee for residents and [~~thirty-five~~] **fifty-five** dollar fee for nonresidents who provide proof, at the time of registration, that such individual is a member of an organized New York state snowmobile club that is a member of the New York state snowmobile association or is a member of an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York state snowmobile association which are imposed by section 21.07 of the parks, recreation and historic preservation law. In the event that an individual seeking snowmobile club membership is unable, for any reason, to secure such club membership, he or she may contact the New York state snowmobile association, who shall secure such membership for such person. This fee shall also be collected from dealers at the time of original registration and at the time of each renewal. The commissioner shall effectuate regulations regarding what is required as proof of membership in an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York state snowmobile association for the purposes of this subdivision.

§ 2. Section 21.07 of the parks, recreation and historic preservation law, as amended by chapter 609 of the laws of 2005, is amended to read as follows:

§ 21.07 Fee for snowmobile trail development and maintenance. 1. A fee of [~~ninety~~] **one hundred twenty-five** dollars is hereby imposed upon the resident, and [~~ninety~~] **one hundred twenty-five** dollars upon the nonresident, owner of a snowmobile for the snowmobile trail development and maintenance fund to be paid to the commissioner of motor vehicles upon the registration thereof in addition to the registration fee required by the vehicle and traffic law, the payment of which fee hereby imposed shall be a condition precedent to such individual resident, individual nonresident or dealer registration.

2. Notwithstanding the fee as established in subdivision one of this section, an individual resident or nonresident registering a snowmobile who provides proof at the time of registration, that such individual is

a member of an organized New York state snowmobile club that is a member of the New York state snowmobile association or is a member of an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York state snowmobile association, shall pay [~~thirty-five~~] fifty-five dollars for each snowmobile for the snowmobile trail development and maintenance fund in addition to the registration required by the vehicle and traffic law. In the event that an individual seeking snowmobile club membership is unable, for any reason, to secure such club membership, he or she may contact the New York state snowmobile association, who shall secure such membership for such person.

§ 3. Subdivision 3 of section 27.17 of the parks, recreation and historic preservation law, as amended by section 2 of part G of chapter 82 of the laws of 2002, is amended to read as follows:

3. Every county or, where applicable, any city, town or village within such county, shall be eligible for a grant for the development and maintenance of a system of snowmobile trails and a program with relation thereto within its boundaries. Such grants shall be made by the commissioner and may constitute up to one hundred percent of the cost of such program including expenditures incurred for signs and markers of snowmobile trails. Any county or, where applicable, any city, town or village within such county, applying for such grant shall submit to the commissioner [~~by September first of each year an estimate of such expenditures for the current fiscal year, in such form and containing such~~] information as the commissioner may require. No city, town or village may apply for such grant where the county within which it is contained has submitted an application for the same fiscal year. For the purpose of this section, "fiscal year" shall mean the period from April first through March thirty-first. The commissioner shall review all such applications and shall determine the amount of state aid to be allocated to each county or, where applicable, any city, town or village within such county in accordance with the provisions of subdivision five of this section. Of the amount the commissioner determines each county or, where applicable, any city, town or village within such county is eligible to receive, seventy percent shall be made available for distribution by November first and thirty percent for distribution upon demonstration of completion, submitted by June first, of the program.

§ 4. This act shall take effect immediately.

## PART NN

Section 1. Subdivision 2 of section 40 of the navigation law, as amended by chapter 208 of the laws of 2002, is amended to read as follows:

2. Whistle. Every [~~mechanically propelled~~] vessel and every rowboat, canoe and kayak shall be provided with an efficient whistle. The word "whistle" shall mean any sound producing mechanical appliance, except sirens, capable of producing a blast of two seconds or more in duration and of such strength as to be heard plainly for a distance of at least one-half mile in still weather. A siren whistle may only be attached to a vessel operated by a police department, fire department or public utility company, and used only on emergency calls. On vessels less than thirty-nine feet in length, a mouth whistle capable of producing a blast of two seconds or more in duration, which can be heard for at least one-half a mile, may be used.

§ 2. Subdivision 6 of section 40 of the navigation law, as amended by chapter 186 of the laws of 1962, is amended to read as follows:

6. Fire extinguishers required. (a) Every mechanically propelled vessel as classified and defined by subdivision one of section forty-three of this article, except outboard motor boats less than twenty-six feet in length, of open construction, shall carry United States coast guard approved fire extinguishers in accordance with the following:

Class A motor boats shall carry one [~~B-1~~] 5-B fire extinguisher.

Class 1 motor boats shall carry one [~~B-1~~] 5-B fire extinguisher.

Class 2 motor boats shall carry two [~~B-1~~] 5-B fire extinguishers.

Class 3 motor boats shall carry three [~~B-1~~] 5-B fire extinguishers.

Class 4 motor boats shall carry fire extinguishers and other fire fighting equipment as required by the federal navigation law and rules and regulations made by the United States coast guard for uninspected vessels.

(b) One class [~~B-2~~] 20-B fire extinguisher may be substituted for two class [~~B-1~~] 5-B fire extinguishers.

(c) When the engine compartment of the motor boat is equipped with a fixed fire extinguishing system of a United States coast guard approved type, one less class [~~B-1~~] 5-B fire extinguisher is required.

(d) No fire extinguishers of the toxic vaporizing liquid type, including those containing carbon tetrachloride and chlorobromomethane extinguishing agents shall be approved by the commissioner.

**(e) Disposable fire extinguishers are considered expired twelve years after their date of manufacture. Expired or previously used fire extinguishers do not meet the requirements of paragraph (a) of this subdivision.**

§ 3. Section 40 of the navigation law is amended by adding a new subdivision 13 to read as follows:

**13. The operator of a vessel under twenty-six feet in length equipped with an engine cut-off switch shall use the engine cut-off switch when the vessel is operating on plane or above displacement speed. The use of an engine cut-off switch shall not be required when the operator is in a fully enclosed cabin.**

§ 4. This act shall take effect on January 1, 2024.

PART OO

Section 1. Subdivision 9 of section 103 of the general municipal law, as amended by chapter 90 of the laws of 2017, subparagraph (ii) of paragraph (a) as amended by section 1 of part JJ of chapter 58 of the laws of 2020, is amended to read as follows:

9. (a) Notwithstanding the foregoing provisions of this section to the contrary, a board of education, on behalf of its school district, or a board of cooperative educational services, may separately purchase eggs, livestock, fish, dairy products (excluding milk), juice, grains, and species of fresh fruit and vegetables directly from New York State producers or growers, or associations of producers and growers[~~, provided that:~~

~~(a) (i) such association of producers or growers is comprised of ten or fewer owners of farms who also operate such farms and who have combined to fill the order of a school district or board of cooperative educational services as herein authorized, provided however, that a school district or board of cooperative educational services may apply to the commissioner of education for permission to purchase from an association of more than ten owners of such farms when no other producers or growers have offered to sell to such school or board of cooperative educational services; or~~

~~(ii) such association of producers or growers is comprised of owners of farms who also operate such farms and have combined to fill the order of a school district or board of cooperative educational services, and where such order is for one hundred thousand dollars or less as herein authorized, provided however, that a school district or board of cooperative educational services may apply to the commissioner of education for permission to purchase orders of more than one hundred thousand dollars from an association of owners of such farms when no other producers or growers have offered to sell to such school;~~

~~(b) the amount that may be expended by a school district in any fiscal year for such purchases shall not exceed an amount equal to twenty cents multiplied by the total number of days in the school year multiplied by the total enrollment of such school district;~~

~~(b-1) the amount that may be expended by a board of cooperative educational services in any fiscal year for such purchases shall not exceed an amount equal to twenty cents multiplied by the total number of days in the school year multiplied by the number of students receiving services by such board of cooperative educational services at facilities operated by a board of cooperative educational services;~~

~~(c) all~~] .

**(b) All** such purchases shall be administered pursuant to regulations promulgated by the commissioner of education. Such regulations shall: be developed in consultation with the commissioner of agriculture and markets to accommodate and promote the provisions of the farm-to-school program established pursuant to subdivision five-b of section sixteen of the agriculture and markets law and subdivision thirty-one of section three hundred five of the education law as added by chapter two of the laws of two thousand two; ensure that the prices paid by a district or board of cooperative educational services for any items so purchased do not exceed the prices of comparable local farm products that are available to districts through their usual purchases of such items; ensure that all producers and growers who desire to sell to school districts or boards of cooperative educational services can readily access information in accordance with the farm-to-school law; include provisions for situations when more than one producer or grower seeks to sell the same product to a district or board of cooperative educational services to ensure that all such producers or growers have an equitable opportunity to do so in a manner similar to the usual purchasing practices of such districts or boards of cooperative educational services; [~~develop guidelines for approval of purchases of items from associations of more than ten growers and producers;~~] and, to the maximum extent practicable, minimize additional paperwork, recordkeeping and other similar requirements on both growers and producers and school districts.

§ 2. Subdivision 10 of section 103 of the general municipal law, as added by chapter 848 of the laws of 1983, is amended to read as follows:

10. Notwithstanding the foregoing provisions of this section to the contrary, a board of education may, on behalf of its school district, separately purchase milk **produced in New York State**, directly from licensed milk processors [~~employing less than forty people~~] pursuant to the provisions of this subdivision. [~~The amount that may be expended by a school district in any fiscal year pursuant to this section shall not exceed an amount equal to twenty-five cents multiplied by the total number of days in the school year multiplied by the total enrollment of such school district.~~] All purchases made pursuant to this subdivision shall be administered pursuant to regulations promulgated by the commissioner of education. The regulations promulgated by the commissioner of

education shall ensure that the prices paid by a school district for items purchased pursuant to this subdivision do not exceed the market value of such items and that all licensed processors who desire to sell to a school district pursuant to this subdivision have equal opportunities to do so.

§ 3. Section 103 of the general municipal law is amended by adding a new subdivision 10-a to read as follows:

**10-a. Notwithstanding the foregoing provisions of this section or any other provision of the law to the contrary, any officer, board or agency of a political subdivision or of any district therein, board of education, on behalf of a school district, or board of cooperative educational services may purchase food, including milk and milk products and food products, grown, produced, or harvested, in New York State in an amount not exceeding two hundred fifty thousand dollars without a formal competitive process.**

§ 4. Section 103 of the general municipal law is amended by adding a new subdivision 10-b to read as follows:

**10-b. Each board or agency of a political subdivision or any district therein, board of education, on behalf of a school district, or board of cooperative educational services shall report to the office of general services and department of agriculture and markets on an annual basis the total dollar value procured of food, including milk and milk products and food products, grown, produced, or harvested in New York no later than March thirty-first for the previous calendar year.**

§ 5. This act shall take effect immediately.

PART PP

Section 1. This act shall be known and may be cited as the "waste reduction and recycling infrastructure act".

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

§ 3. Article 27 of the environmental conservation law is amended by adding a new title 34 to read as follows:

**TITLE 34**

**WASTE REDUCTION AND RECYCLING INFRASTRUCTURE ACT**

**Section 27-3401. Definitions.**
**27-3403. Needs assessment and establishment of a packaging and paper products program.**
**27-3405. Advisory committee.**
**27-3407. Post-consumer recycled content, recovery, recycling, and source reduction rates.**
**27-3409. Producer responsibility program plan.**
**27-3411. Reporting requirements and audits.**
**27-3413. Antitrust protections.**
**27-3415. Penalties.**
**27-3417. State preemption.**
**27-3419. Authority to promulgate rules and regulations.**
**27-3421. Severability.**

**§ 27-3401. Definitions.**

When used in this title:

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

2. "Compostability" means the capability to undergo aerobic biological decomposition in a controlled composting system as demonstrated by meeting ASTMD6400 or ASTMD6868, or any successor standards and will produce a marketable product.

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

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

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

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

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

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

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

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

(iv) ordinarily disposed of after for a single or short-term use.

(b) Paper products means:

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

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

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

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

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

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

(iii) newspapers, magazines, and periodicals;

(iv) beverage containers subject to title ten of this article;

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

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

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

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

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

(x) a material, or a category of material, intended to be used for long-term storage or protection of a durable product that can be expected to be usable for that purpose for a period of at least five years as defined by the department pursuant to regulations; and

(xi) reusable packaging still functioning for its intended purpose.

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

8. "Post-consumer recycled content" means the content of a product made from materials that have served their intended end use as consumer items and that have been separated or diverted from the waste stream for the purposes of collection and recycling as a secondary material feedstock. Such materials may also include returns of material from the distribution chain. Post-consumer recycled content does not include waste material generated by a manufacturer during or after the completion of a manufacturing process.

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

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

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

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

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

(i) in the most recent calendar year, have gross sales of less than one million dollars in the state;

(ii) in the most recent calendar year, generate less than one ton of packaging and paper products supplied to New York state consumers per year;

(iii) operate as a single point of retail sale;

(iv) a person or company who produces, harvests, and packages a raw agricultural commodity on the site where the agricultural commodity was grown or raised;

(v) are a municipality, local government planning unit, state government, or federal government; or

(vi) a registered 501(c)(3) charitable organization or 501(c)(4) social welfare organization.

(c) If more than one person is a producer of a brand of packaging or paper product, any such person may assume responsibility for obligations

of a producer of that brand under this title. If none of those persons assume responsibility for the obligations of a producer under this title, any and all such persons jointly and severally may be considered the responsible producer of that brand for purposes of this title.

10. "Producer responsibility organization" means a not-for-profit organization designated by a group of producers to act as an agent on behalf of each participating producer to develop and implement a producer responsibility program. To the extent applicable, a producer responsibility organization shall have a governing board that represents the diversity of producers and the covered materials and product types, and such board shall include non-voting members representing a diversity of material trade associations.

11. "Readily-recyclable" means a type of packaging or paper product included in the minimum recyclables list established pursuant to section 27-3403 of this title.

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

13. "Recycling" means to separate, dismantle or process the materials, components or commodities contained in discarded packaging and paper products for the purpose of preparing the materials, components, or commodities for use or reuse in new products or components. "Recycling" does not include: (a) energy recovery or energy generation by any means, including but not limited to, combustion, incineration, pyrolysis, gasification, solvolysis, waste to fuel or any chemical conversion process; or (b) landfill disposal of discarded component materials.

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

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

16. "Reusable" means designed with the intent to be repeatedly refilled or reused for the same or similar purpose for which it was created for; compliant with any statutory or regulatory requirements for toxic substances; and safe for washing and sanitizing according to applicable state food safety laws.

17. "Source reduction" means any action which causes the elimination of or a net reduction in the generation of solid waste and includes, but is not limited to, reducing the use of nonrecyclable materials, replacing disposable materials and products with reusable or refillable materials and products, reducing packaging, and increasing the efficiency of the use of materials. Source reduction does not include replacing a recyclable or compostable material with a nonrecyclable or noncompostable material or a material that is less likely to be recycled or composted.

18. "Unit" means each discrete component of a package or container.

§ 27-3403. Needs assessment and establishment of a packaging and paper products program.

1. The department shall, subject to available appropriations, prepare or cause to be prepared one or more statewide needs assessments designed to determine the necessary steps and investment needed to achieve the requirements of this title. An initial needs assessment shall be completed by the department, their contractors, or an independent third party, prior to the approval of any producer responsibility program plan.

2. The needs assessment shall be updated every five years or as necessary, to reevaluate the program and identify any relevant service needs in the state that are not being met by the program. The department or the third-party contractor shall consult with the producer responsibility organization and local jurisdictions when developing such updated needs assessments.

3. By January first, two thousand twenty-four, each producer of packaging and paper products as defined in section 27-3401 of this title shall submit a registration form with the department or their contractors. The registration form, as developed by the department, shall include the following information:

(a) the producer's name, electronic and physical address, and telephone number;

(b) the name and title of an officer, director, or other individual designated as the producer's contact for purposes of this title;

(c) a list identifying the producer's packaging and paper product brands;

(d) estimated sales data; and

(e) other information as determined by the department.

4. Each producer registration form, shall be accompanied by an initial producer registration fee as follows:

(a) five hundred dollars for producers with gross sales of less than five million dollars in the state in the most recent calendar year;

(b) one thousand dollars for producers with gross sales of greater than five million dollars but less than twenty million dollars in the state in the most recent calendar year;

(c) ten thousand dollars for producers with gross sales of greater than twenty million dollars and less than fifty million dollars in the most recent calendar year; and

(d) twenty-five thousand dollars for producers with gross sales of greater than fifty million dollars in the most recent calendar year.

5. Each producer implementing an individual extended producer responsibility program or producer responsibility organization that files a plan with the department shall submit a registration form and plan implementation registration and administrative fee on behalf of all producers participating in the program. If a producer is not participating in a producer responsibility organization program, they must file a registration form and pay a plan implementation and administrative fee independently. The department shall promulgate an individual producer and producer responsibility plan implementation and administrative fee schedule for costs associated with the implementation, administration, and enforcement of this title. The department shall periodically evaluate the amount of the plan implementation and administrative fees and make a determination if the fees should be adjusted based on actual department costs to administer the program.

6. All fees collected pursuant to this title shall be deposited into the waste reduction, reuse, and recycling fund established pursuant to section ninety-two-kk of the state finance law.

7. By June first, two thousand twenty-four, an advisory committee shall be established and begin performing its obligations pursuant to section 27-3405 of this title.

8. (a) By January first, two thousand twenty-six, each producer implementing an individual extended producer responsibility program or any producer responsibility organization, shall submit a producer responsibility program plan to the department for approval and begin program implementation within six months of plan approval.

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

9. Beginning January first, two thousand twenty-seven, no producer shall sell, offer for sale, or distribute packaging or paper products for use in New York unless the producer, or its designated producer responsibility organization, has a producer responsibility program plan approved by the department. Producers may satisfy participation obligations individually or jointly with other producers through a producer responsibility organization.

10. To address program performance, producers shall be required to evaluate how they are meeting the minimum source reduction, minimum post-consumer recycled content rate, minimum recovery rate, and minimum recycling rate for packaging and paper material types as established in this title.

11. (a) A producer implementing an individual extended producer responsibility program or a producer responsibility organization shall adopt a minimum recyclables list, which lists the minimum types of recyclable paper products and packaging based on available collection and processing infrastructure and recycling markets for covered materials and products, as identified in the needs assessment and subsequent reports. Such a list shall be approved by the department prior to its adoption. The producer implementing an individual extended producer responsibility program or producer responsibility organization shall evaluate the list on an annual basis, and update it as necessary in consultation with the advisory committee and as approved by the department, in response to collection and processing improvements and changes in recycling end markets. If there are multiple lists, the department shall compile the lists and shall publish a compiled list to the public. Such lists may vary by geographic region depending on regional markets and regional collection and processing infrastructure as determined by the department.

(b) All municipalities or private entities shall provide for the collection and recovery of all identified materials and products contained on the minimum recyclables list in a manner that allows for the marketability of the collected recyclables, based on geographic regions, as applicable, in order to be eligible for reimbursement; provided, however, nothing shall penalize a municipality or private recycling service for recovering and recycling materials that are generated in the municipality or geographic region that are not included on the list of minimum types of recyclable covered materials or products so long as it can be demonstrated that such materials have a market as determined by the department in consultation with the producer imple-

menting an individual extended producer responsibility program or producer responsibility organization. Reimbursement shall cover collection, recovery, and processing of all covered materials and products so long as the program includes at least the minimum recyclables list.

(c) The department may grant a waiver of the requirements in paragraph (b) of this subdivision upon a written showing by the municipality or private entity that compliance with such requirement is not practicable for a specific identified product or material. The waiver granted by the department shall not exceed twelve months.

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

§ 27-3405. Advisory committee.

1. The commissioner shall appoint members to the advisory committee, which shall be comprised of an odd number of members, such members shall include:

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

(b) a municipal recycling program;

(c) two representatives from environmental organizations;

(d) an environmental justice community or organization;

(e) a statewide waste recycling and disposal association;

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

(g) a recycling collection provider;

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

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

(j) a representative of an agriculture organization;

(k) a representative from the composting industry;

(l) a consumer advocate; and

(m) a public health specialist.

Nonvoting members shall include a representative from each of the following: the retail sector; the grocery sector; and a producer of packaging products, a producer of paper products, and a producer responsibility organization established under this title.

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

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

4. Each producer responsibility plan prepared by a producer implementing an individual extended producer or producer responsibility organization pursuant to this title shall be submitted to the advisory committee for its review and comments on whether the plan meets the criteria and objectives of this title.

5. The advisory committee shall review the submitted annual reports and make such recommendations to the department and the producer responsibility organization for improving the plan within sixty days of submission.

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

7. Members of the advisory committee shall be reimbursed for any necessary travel expenses, related to participating on the advisory committee, by the producer implementing an individual extended producer responsibility program or producer responsibility organization. Members of the advisory committee shall receive no salary from a producer implementing an individual extended producer responsibility program or producer responsibility organization. The costs for secretarial support to the advisory committee shall be paid for by the producer implementing an individual extended producer responsibility program or producer responsibility organization.

§ 27-3407. Post-consumer recycled content, recovery, recycling, and source reduction rates.

1. Within five years of the effective date of this title, a producer of packaging products shall meet the following minimum post-consumer recycled content rates, as applicable, for the material types stated below:

(a) All glass packaging sold or offered for sale in the state by a producer shall contain, on average, at least thirty-five percent post-consumer recycled content. Every three years thereafter, the amount of post-consumer recycled content shall increase by five percent, until reaching fifty percent.

(b) All metal packaging sold or offered for sale in the state by a producer shall contain, on average, at least fifty percent post-consumer recycled content. Every three years thereafter, the amount of post-consumer recycled content shall increase by ten percent, until reaching ninety percent.

(c) All rigid plastic packaging sold or offered for sale in the state by a producer shall contain, on average, at least twenty percent post-consumer recycled content. Every three years thereafter, the amount of post-consumer recycled content shall increase by ten percent, until reaching fifty percent.

(d) All non-rigid plastic packaging sold or offered for sale in the state by a producer shall contain, on average, at least ten percent post-consumer recycled content. Every three years thereafter, the amount of post-consumer recycled content shall increase by five percent, until reaching forty percent.

(e) All corrugated cardboard packaging sold or offered for sale in the state by a producer shall contain, on average, at least fifty percent post-consumer recycled content. Every three years thereafter, the amount of post-consumer recycled content shall increase by five percent, until reaching seventy-five percent.

(f) All paper packaging, other than corrugated cardboard packaging, sold or offered for sale in the state by a producer shall contain, on average, at least thirty percent post-consumer recycled content. Every three years thereafter, the amount of post-consumer recycled content shall increase by ten percent, until reaching seventy percent.

2. Within five years of the effective date of this title, paper products sold or offered for sale in the state by a producer shall contain, on average, at least thirty percent post-consumer recycled content. Every three years thereafter, the amount of post-consumer recycled content shall increase by ten percent, until reaching seventy percent.

3. Any food-grade packaging or paper products are exempt from the post-consumer recycled content requirements of this section for a period of at least ten years from the effective date of this title.

4. A producer shall achieve compliance with the post-consumer recycled content requirements of this section based on the average amount of post-consumer recycled content, by weight, contained in its packaging and paper products, by material type. A producer shall calculate the average amount of post-consumer recycled content contained in its packaging and paper products using data specific to packaging and products sold or offered for sale in the state, or if such data is unavailable, a producer may use national data. The calculation of averages shall be based on a producer's entire product offering of packaging and paper products, separated by material type.

5. A producer or producer responsibility program on behalf of its producers, shall submit to the department at the time of annual reporting, a certification, in writing, that the packaging and paper products, as applicable, sold or offered for sale in the state, comply with the post-consumer recycled content requirements or have been granted a waiver from the requirements of this section.

6. The department may require that a producer implementing an individual extended producer responsibility program or producer responsibility organization, submit a third-party verification of a compliance certification made pursuant to this section.

7. Within five years of the effective date of this title, a producer implementing an individual extended producer responsibility program or producer responsibility organization shall meet a minimum recovery rate of thirty-five percent, and a minimum recycling rate of twenty-five percent. Every five years thereafter, the recovery rate shall increase by ten percent until reaching eighty-five percent, and the recycling rate shall increase by ten percent until reaching seventy-five percent.

8. Within ten years of the effective date of this title, a producer or producer responsibility organization shall ensure that by weight or by unit, packaging products meet a source reduction rate of fifteen percent. Source reduction can be achieved by eliminating single-use packaging, including secondary or tertiary packaging, transitioning from single use to reusable or refillable packaging, or by reducing the amount of source material used in a package, provided however the producer may not change from a material or format that is readily-recyclable to a material or format that is not readily-recyclable. The calculation of source reduction may be based on a producer's entire product offering of packaging and paper products, separated into product sublines, or through an aggregate form of a producer responsibility organization.

9. The department may review and adjust the minimum source reduction, recycling, and recovery rates established in this title by regulation if the department finds and determines the rates are infeasible. In making a determination of infeasibility, the department shall consider, at a minimum:

(a) the findings of the needs assessment;

(b) information gathered from the producer and producer responsibility organization annual reports; and

(c) any other factors deemed appropriate by the department.

10. The department may review and adjust any of the post-consumer recycled content rates established in this section by regulation. In making an adjustment pursuant to this subdivision, the department shall consider, at a minimum:

(a) changes in market conditions, including supply and demand for post-consumer recycled materials, both domestically and globally;

(b) the availability of recycled materials suitable to meet the minimum post-consumer recycled content requirements:

(c) post-consumer recycled content requirements, including the availability of high-quality recycled materials, and food-grade recycled materials;

(d) the capacity of recycling or processing infrastructure;

(e) utilization rates of the materials;

(f) the progress made by producers in meeting the post-consumer recycled targets by material type; and

(g) any other factors deemed appropriate as determined by the department, in regulation.

11. Any adjustment to the minimum rates, shall only be for such conditions and for a duration as established by the department in regulation.

12. A producer or producer responsibility organization may submit a request to the department for a waiver from the post-consumer recycled content requirements established pursuant to this section.

(a) The department may grant a waiver only if a producer or producer responsibility organization demonstrates, and the department finds, that such producer or producers cannot meet the post-consumer recycled content requirements of this section because:

(i) it is not technologically or economically feasible to achieve the post-consumer recycled content requirements;

(ii) there is inadequate availability of recycled material or a substantial disruption in the supply of recycled material; or

(iii) the producer cannot achieve the post consumer recycled content requirements and remain in compliance with applicable rules and regulations adopted by the United States Food and Drug Administration, or any other state or federal law, rule, or regulation.

(b) The waiver request shall also include, at a minimum:

(i) proposed post-consumer recycled content rates the producer or producer responsibility organization deems are achievable, with sufficient justification for the determination of such rates;

(ii) supporting documentation from a federal or state agency or certified third party expert, as appropriate, demonstrating that the producer or producers cannot comply with the post-consumer recycled content requirements of this section for one of the reasons set forth in this section; and

(iii) any other information required by the department as determined in regulation.

13. The department shall post on its website, on an annual basis, any determination to grant a waiver from the post-consumer recycled content requirements.

§ 27-3409. Producer responsibility program plan.

1. By January first, two thousand twenty-six, any producer implementing an individual extended producer responsibility program or any producer responsibility organization, shall submit to the department a producer responsibility program plan, detailing its proposed collection and recycling program for packaging and paper products.

2. The approved producer responsibility program plan shall be valid for five years and shall be reviewed and updated every five years following the implementation date of the original plan. The department shall have the discretion to require the plan to be reviewed or revised prior to the five-year period if the department has cause to believe the minimum post-consumer recycled content rates, minimum recovery rates,

minimum recycling rates, as established in this title, or other obligations of the plan as set forth in this section are not being met or followed by the producer or producer responsibility organization, or if there has been a change in circumstances that warrants revision of the plan.

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

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

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

(c) Consultation. A description of how the producer implementing an individual extended producer responsibility program or a producer responsibility organization consulted with the advisory committee, stakeholders, and the public in the development of the plan, and to what extent the producers or the producer responsibility organization specifically incorporated their input into the plan. Producers or producer responsibility organizations shall also provide the advisory committee sixty days to review and comment upon the draft plan prior to its submission to the department. Producers implementing an individual extended producer responsibility program or producer responsibility organizations shall assess comments received and provide a summary and analysis of the issues raised by the advisory committee, a statement of the reasons why any significant changes were not incorporated into the plan, and a description of the changes that were made to the plan as a result of those comments.

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

(e) Funding mechanism. A description of the proposed funding mechanism that is necessary to meet the requirements of this title and is sufficient to cover the cost of plan development and revisions, program operation, municipal and private entity reimbursement, administration of the producer responsibility organization, actual department costs to administer and enforce this title, eligible advisory committee expenses, and maintaining a financial reserve sufficient to operate the program in a fiscally prudent and responsible manner. The following objective funding and reimbursement details shall be provided in the producer responsibility plan:

(i) Proposed program charges paid by producers shall be set on a material-specific cost of the recycling program. Charges shall vary based on, at a minimum:

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

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

(C) the commodity value of packaging and paper products.

(ii) A producer responsibility organization shall also structure program charges paid by producers to provide financial incentives that reward waste and source reduction, reward recycling compatibility innovations and practices, and reward producers of packaging and paper products that can be easily recycled, reused or refilled, or composted. The producer responsibility organization shall create a mechanism to

allow producers to receive a credit for achieving source reduction beyond what producers of similar covered material are achieving. The revenue for that credit shall be paid for by charging producers not achieving source reduction for similar products a fee as financial penalty. The program charges shall also disincentivize designs or practices that increase the costs of recycling packaging and paper products. The following shall be considered in setting the program charges:

(A) whether the percentage of post-consumer recycled content exceeds minimum post-consumer recycled content rates and that the content does not disrupt the potential for future recycling;

(B) whether the packaging or paper product exceeds the minimum source reduction rate;

(C) whether the packaging or paper product is compostable;

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

(E) whether the packaging and paper product is nonfood contact packaging that is specifically designed to be reusable or refillable and has a high reuse or refill rate, as determined by the department in regulations, and if so, such product shall be excluded from any fees; and

(F) other factors as determined by the department, including, but not limited to, recommendations from the advisory committee which promote favorable environmental outcomes such as lower life-cycle contributions of packaging to paper products to greenhouse gas emissions.

(iii) In addition to the regular funding mechanism, the producer responsibility organization may include a special assessment charge on specific categories of packaging and paper products if the nature of the packaging and paper product imposes unusual costs in recycling collection or processing in municipal recycling facilities.

(f) Determination of reasonable costs. A producer implementing an individual extended producer responsibility program or producer responsibility organization is responsible for calculating and dispersing funding to municipalities and private entities (such as solid waste collection, transportation, sorting, and processing companies, and other participating service providers) operating under the producer or producer responsibility organization's program plan for reasonable costs incurred by the municipality or private entity. A schedule of such reasonable costs, determined in consultation with the advisory committee, shall be included in the program plan.

(i) To calculate reasonable costs, the producer implementing an individual extended producer responsibility program or producer responsibility organization shall, at a minimum, take the following factors into consideration:

(A) population density of the particular jurisdiction to be serviced;

(B) the amount received from the sale of source separated materials; and

(C) transportation costs to processing facilities, processing costs for each recyclable material, cost of managing non-recyclable material, disposal of processing residuals, and marketing costs of material.

(ii) To facilitate the producer implementing an individual extended producer responsibility program or producer responsibility organization's determination of reasonable costs, participating municipalities and private entities must submit documentation related to their specific costs and the value of materials to the producer implementing an indi-

vidual extended producer responsibility program or producer responsibility organization.

(iii) The municipality or private entity may not pass on to its residents or customers the costs for which it has been reimbursed by the producer or producer responsibility organization.

(iv) Any funds directly collected pursuant to this title shall not be used to carry out lobbying activities, bring a lawsuit against the state, defend litigation involving claims of a producer or producer responsibility organization's failure to comply with the requirements of this chapter, or for payment of penalties for violations of this chapter.

(g) Municipal and private entity reimbursement. A description of the process for municipalities or private entities (such as solid waste collection, transportation, sorting, and processing companies, and other participating service providers) operating recycling programs under the producer or producer responsibility organization's program plan, to recoup reasonable costs from the producer implementing an individual extended producer responsibility program or producer responsibility organization. If a municipality does not provide collection for recyclables or does not elect to participate in a producer or producer responsibility organization program, and upon notice to the producer responsibility organization and the department of lack of participation, the producer or producer responsibility organization shall be responsible for contracting with a private entity to ensure the convenience standards under this title are met.

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

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

(A) be designed to achieve the management goals of packaging and paper products extended producer responsibility under this title, including the prevention of contamination of recovered products that would reduce the product's market value or limit the ability to use the material to create new products;

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

(C) consult with municipalities and other stakeholders, coordinate with and assist local municipal programs, municipal contracted programs, solid waste collection companies, and other entities providing services, and develop and provide outreach and education to the diverse populations in the state, including utilizing a variety of outreach and education tools and ensuring materials are accessible to all persons and are provided in multiple languages.

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

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

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

(B) the location and availability of recycling collection;

(C) how to prevent and minimize litter of packaging and paper products;

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

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

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

(iv) A producer implementing an individual extended producer responsibility program or the producer responsibility organization shall regularly evaluate the effectiveness of its outreach campaign in terms of program awareness and participation. The plan shall include a description of the evaluation approaches.

(v) A producer implementing an individual extended producer responsibility program or producer responsibility organization shall undertake outreach, education, and communications that assist in attaining or exceeding the minimum source reduction rates, minimum post-consumer recycled content, minimum recovery rates, and minimum recycling rates.

(i) Existing infrastructure. How the producer implementing an individual extended producer responsibility program or the producer responsibility organization will work with existing waste haulers, recyclables handling and recovery facilities, recyclers, municipalities, and any other related entities that prepare recovered materials for end markets to:

(i) operate or expand current collection programs that utilize existing service providers and infrastructure;

(ii) reduce contamination of recyclables collected and delivered to processing facilities with annual reporting on contamination levels in materials received by and processed by recyclables handling and recovery facilities or similar establishments;

(iii) invest in new or upgraded infrastructure to improve the recycling of recovered packaging and paper products; and

(iv) invest in market development for packaging and paper products to improve source reduction, refill rates, or recycling compatibility.

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

(i) A producer implementing an individual extended producer responsibility program or producer responsibility organization shall provide for a free, equitable and convenient system for consumers to recycle the packaging and paper products identified under the producer or producer responsibility organization's program plan, that is, at minimum:

(A) as convenient as waste collection;

(B) includes all entities participating in the recycling collection schema in the particular jurisdiction; and

(C) consistent with relevant state and local laws or as deemed appropriate by the department.

(ii) A producer implementing an individual extended producer responsibility program or producer responsibility organization may rely on a range of means to collect various categories of packaging and paper products including, but not limited to, curbside collection, facility

drop-off, and events, so long as packaging and paper products collection options include recycling collection services if:

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

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

(C) The provider of the recycling collection service agrees to the producer implementing an individual extended producer responsibility program's or producer responsibility organization's reimbursement process for reasonable costs.

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

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

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

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

(n) Packaging and paper products reduction. A description of how a producer responsibility organization will work with producers to reduce packaging and paper products through product design, systems for reusable packaging informed by the needs assessment, and product and package innovations and how the producer responsibility organization will work with producers to help reduce a producer's total amount of non-reusable packaging.

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

(p) Coordination. A process to coordinate with other producers and producer responsibility organization programs, if applicable.

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

4. (a) No later than ninety days after the submission of the producer responsibility plan, the department shall determine whether to approve the plan as submitted; approve the plan with conditions; or deny the plan.

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

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

(ii) whether the producer has undertaken satisfactory consultation with the advisory committee and has provided an opportunity for advisory

committee input in the development of the plan prior to submission of the plan;

(iii) whether the plan adequately provides for:

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

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

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

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

(E) effective consumer outreach and education.

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

(v) whether the plan creates a convenient system for consumers to recycle packaging and paper products that meet or exceed the convenience criteria set forth in this title.

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

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

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

5. The producer implementing an individual extended producer responsibility program or producer responsibility organization shall notify the department of any modification to the program. If the department determines that the producer responsibility plan has been substantially modified, the producer implementing an individual extended producer responsibility program or producer responsibility organization, after consultation with the advisory committee, shall submit a proposed plan amendment describing the changes to the department within ninety days of

the determination. Within ninety days of receipt of a proposed amended plan, the department shall determine whether the amended plan complies with this title. The department shall send a letter notifying the producer implementing an individual extended producer responsibility program or producer responsibility organization of: (a) approval; or (b) disapproval, including the reasons for rejecting the plan. The producer implementing an individual extended producer responsibility program or producer responsibility organization shall provide the department's letter of disapproval to the advisory committee. The producer implementing an individual extended producer responsibility program or producer responsibility organization shall submit a revised plan within sixty days after receipt of the letter of disapproval.

6. The producer implementing an individual extended producer responsibility program or producer responsibility organization shall reimburse the department annually at the time of annual reporting for the actual costs to administer and enforce this title, which shall be deposited to the credit of the waste reduction, reuse, and recycling fund established pursuant to section ninety-two-kk of the state finance law.

§ 27-3411. Reporting requirements and audits.

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

2. Such annual report shall include:

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

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

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

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

(e) the total cost of implementing the program;

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

(g) a detailed accounting of how the program compensated municipalities, solid waste collection, transportation, sorting, and reprocessing companies, and other entities, for their recycling efforts and other related services;

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

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

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

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

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

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

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

(o) any other information as specified by the department in regulation.

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

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

§ 27-3413. Antitrust protections.

A producer implementing an individual extended producer responsibility program or producer responsibility organization that organizes the collection, transportation, and processing of packaging and paper products, in accordance with a producer responsibility program plan approved under this title, shall not be liable for any claim of a violation of antitrust, restraint of trade, or unfair trade practice

arising from conduct undertaken in accordance with the program pursuant to this title; provided, however, this section shall not apply to any agreement establishing or affecting the price of packaging or a paper product, or the output or production of any agreement restricting the geographic area or customers to which packaging or a paper product will be sold.

§ 27-3415. Penalties.

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

2. (a) Any producer or producer responsibility organization who violates any provision of or fails to perform any duty imposed pursuant to this title or any rule or regulation promulgated pursuant thereto, or any final determination or order of the commissioner made pursuant to this article or article seventy-one of this chapter shall be liable for a civil penalty not to exceed ten thousand dollars for each violation and an additional penalty of not more than three thousand dollars for each day during which such violation continues.

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

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

4. The department and the attorney general are hereby authorized to enforce the provisions of this title and all monies collected shall be deposited to the credit of the waste reduction, reuse, and recycling fund as established pursuant to section ninety-two-kk of the state finance law.

§ 27-3417. State preemption.

Jurisdiction in all matters pertaining to costs and funding mechanisms of producer responsibility organizations relating to the recovery of packaging and paper products by this title, is vested exclusively in the state, provided however that nothing in this section shall (i) relieve a municipality from complying with the requirements under existing law or prohibit a municipality from enforcing such existing law, (ii) preclude a municipality or solid waste collection company from determining what additional materials shall be required to be source separated for reuse or recycling in a municipality, or (iii) preclude a municipality or solid waste collection company from coordinating the collection of packaging and paper products for recycling or reuse.

§ 27-3419. Authority to promulgate rules and regulations.

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

including but not limited to plan implementation, registration and administrative fee schedules, waivers, and adjustments of rates.

§ 27-3421. Severability.

The provisions of this title shall be severable and if any phrase, clause, sentence, or provision of this title or the applicability thereof to any person or circumstance shall be held invalid, the remainder of this title and the application thereof shall not be affected thereby.

§ 4. The state finance law is amended by adding a new section 92-kk to read as follows:

§ 92-kk. Waste reduction, reuse, and recycling fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of the department of taxation and finance, a special fund to be known as the "waste reduction, reuse, and recycling fund".

2. The waste reduction, reuse, and recycling fund shall consist of all revenue collected from initial producer registration fees and plan implementation registration and administrative fees pursuant to title thirty-four of article twenty-seven of the environmental conservation law and any cost recoveries or other revenues collected pursuant to title thirty-four of article twenty-seven of the environmental conservation law, and any other monies deposited into the fund pursuant to law.

3. Moneys of the fund, subject to appropriation, shall be used for execution of the program pursuant to title thirty-four of article twenty-seven of the environmental conservation law, and expended for the purposes as set forth in title thirty-four of article twenty-seven of the environmental conservation law and may be made available for grants for planning and implementation related to waste reduction, reuse, and recycling based on funding availability and needs determined by the department of environmental conservation.

§ 5. This act shall take effect January 1, 2024.

PART QQ

Section 1. Section 56-0501 of the environmental conservation law is amended by adding a new subdivision 3 to read as follows:

3. Beginning in state fiscal year two thousand twenty-three--two thousand twenty-four, environmental restoration projects may be funded within available appropriations.

§ 2. Subdivision 1 of section 56-0502 of the environmental conservation law is REPEALED.

§ 3. Subdivisions 1-a and 5 of section 56-0502 of the environmental conservation law, subdivision 1-a as added and subdivision 5 as amended by section 2 of part D of chapter 577 of the laws of 2004, are amended and a new subdivision 1 is added to read as follows:

1. "Contaminant" shall mean hazardous waste as defined in section 27-1301 of this chapter, petroleum as defined in section one hundred seventy-two of the navigation law, and emerging contaminants as defined in section eleven hundred twelve of the public health law.

1-a. "Contamination" or "contaminated" shall [~~have the same meaning as provided in section 27-1405 of this chapter~~] mean the presence of a contaminant in any environmental media, including soil, surface water, groundwater, air, or indoor air.

5. "Municipality", for purposes of this title, shall have the same meaning as provided in subdivision fifteen of section 56-0101 of this article, except that such term shall not refer to a municipality that [~~generated, transported, or disposed of, arranged for, or that caused the generation, transportation, or disposal of contamination located at~~

~~real property proposed to be investigated or to be remediated under an environmental restoration project. For purposes of this title, the term municipality includes a municipality acting in partnership with a community based organization~~], through deliberate action or inaction, intentionally or recklessly caused or contributed to contamination, outside of its performance of governmental functions, which threatens public health or the environment, at real property to be investigated or remediated under an environmental restoration project.

§ 4. Paragraph (c) of subdivision 2 of section 56-0503 of the environmental conservation law, as amended by section 38 of part BB of chapter 56 of the laws of 2015, is amended to read as follows:

(c) A provision that the municipality shall assist in identifying a responsible party by searching local records, including property tax rolls, or document reviews, and if, in accordance with the required departmental approval of any settlement with a responsible party, any responsible party payments become available to the municipality, before, during or after the completion of an environmental restoration project, which were not included when the state share was calculated pursuant to this section, [~~the state assistance share shall be recalculated, and~~] the value of such settlement shall be used by the municipality to fund its municipal share, and the state assistance share shall not be recalculated, to the extent that the total of all such settlement amounts is equal to or less than the municipal share. To the extent the total of all such settlement amounts exceeds the municipal share, the municipality shall pay such exceedance to the state, for deposit into the environmental restoration project account of the hazardous waste remedial fund established under section ninety-seven-b of the state finance law[~~, the difference between the original state assistance payment and the recalculated state share. Recalculation of the state share shall be done each time a payment from a responsible party is received by the municipality~~];

§ 5. Paragraphs (a), (d), and (e) of subdivision 1 of section 56-0505 of the environmental conservation law, as amended by section 5 of part D of chapter 1 of the laws of 2003, are amended and two new paragraphs (f) and (g) are added to read as follows:

(a) the benefit to the environment and public health realized by the expeditious remediation of the property proposed to be subject to such project;

(d) real property in a designated brownfield opportunity area pursuant to section nine hundred seventy-r of the general municipal law or real property in a disadvantaged community pursuant to subdivision five of section 75-0101 of this chapter; [~~and~~]

(e) the opportunity for other funding sources to be available for the investigation or remediation of such property, including, but not limited to, enforcement actions against responsible parties (other than the municipality to which state assistance was provided under this title; or a successor in title, lender, or lessee who was not otherwise a responsible party prior to such municipality taking title to the property), state assistance payments pursuant to title thirteen of article twenty-seven of this chapter, and the existence of private parties willing to remediate such property using private funding sources. Highest priority shall be granted to projects for which other such funding sources are not available[~~.~~], excluding state or federal funds for the investigation or remediation project received or to be received by the municipality;

(f) for drinking water contamination sites as defined in section 27-1201 of this chapter, any requirements made by the commissioner of

health pursuant to section 27-1205 of this chapter, for a municipally owned public water system to take action to reduce exposure to an emerging contaminant or contaminants; and

(g) any such other criteria deemed appropriate by the department.

§ 6. Subdivision 2 of section 56-0505 of the environmental conservation law is REPEALED.

§ 7. Subdivisions 3, 4, and 5 of section 56-0505 of the environmental conservation law are renumbered subdivisions 2, 3, and 4 and subdivision 2, as amended by section 5 of part D of chapter 1 of the laws of 2003 and as renumbered by this section, is amended to read as follows:

2. The remediation objective of an environmental restoration remediation project shall meet the same standard for protection of public health and the environment that applies to remedial actions undertaken pursuant to [~~section~~] sections 27-1313 and 27-1205 of this chapter.

§ 8. Subdivision 3 of section 56-0509 of the environmental conservation law, as amended by section 4 of part D of chapter 577 of the laws of 2004, is amended to read as follows:

3. The state shall indemnify and save harmless any municipality[~~,~~] that completes an environmental restoration remediation project in compliance with the terms and conditions of a state assistance contract or written agreement pursuant to subdivision three of section 56-0503 of this title providing such assistance and any successor in title, lessee, or lender [~~identified in paragraph (a) of subdivision one of this section in the amount of any judgment or settlement, obtained against such municipality, successor in title, lessee, or lender in any court for any common law cause of action arising out of the presence of any contamination in or on property at anytime before the effective date of a contract entered into pursuant to this title~~] for judgments or settlements obtained against such municipality, successor in title, lessee, or lender in any court for any common law cause of action arising out of municipal actions related to the implementation of the environmental restoration remediation project. Such municipality, successor in title, lessee, or lender shall be entitled to representation by the attorney general, unless the attorney general determines, or a court of competent jurisdiction determines, that such representation would constitute a conflict of interest, in which case the attorney general shall certify to the comptroller that such party is entitled to private counsel of its choice, and reasonable attorneys' fees and expenses shall be reimbursed by the state. Any settlement of such an action shall be subject to the approval of the attorney general as to form and amount, and this subdivision shall not apply to any settlement of any such action which has not received such approval.

§ 9. Notwithstanding subdivisions a, b, and c of section 32 of chapter 413 of the laws of 1996, a memorandum of understanding shall not be required to make available twenty million dollars ($20,000,000) from the Clean Water/Clean Air Bond Act of 1996 for state assistance payments to municipalities for environmental remediation in accordance with title 5 of article 56 of the environmental conservation law.

§ 10. This act shall take effect immediately.

## PART RR

Section 1. The section heading of section 11-0935 of the environmental conservation law, as added by section 1 of part ZZ of chapter 55 of the laws of 2021, is amended to read as follows:

Deer hunting [~~pilot~~] program.

§ 2. Section 2 of part ZZ of chapter 55 of the laws of 2021 amending the environmental conservation law relating to establishing a deer hunting pilot program is amended to read as follows:

§ 2. This act shall take effect June 1, 2021 [~~and shall expire and be deemed repealed December 31, 2023~~].

§ 3. This act shall take effect immediately.

PART SS

Section 1. Section 33-0705 of the environmental conservation law, as amended by section 1 of item NN of subpart B of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

§ 33-0705. Fee for registration.

The applicant for registration shall pay a fee as follows:

a. [~~On or before July 1, 2023, six~~] **Six** hundred dollars for each pesticide proposed to be registered, provided that the applicant has submitted to the department proof in the form of a federal income tax return for the previous year showing gross annual sales, for federal income tax purposes, of three million five hundred thousand dollars or less; **and**

b. [~~On or before July 1, 2023, for~~] **For** all others, six hundred twenty dollars for each pesticide proposed to be registered[~~;~~

~~c. After July 1, 2023, fifty dollars for each pesticide proposed to be registered~~].

§ 2. Section 9 of chapter 67 of the laws of 1992, amending the environmental conservation law relating to pesticide product registration timetables and fees, as amended by section 2 of item NN of subpart B of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

§ 9. This act shall take effect April 1, 1992 provided, however, that section three of this act shall take effect July 1, 1993 [~~and shall expire and be deemed repealed on July 1, 2023~~].

§ 3. This act shall take effect July 1, 2023.

PART TT

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

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

The Suffolk county subwatersheds wastewater plan ("SWP"), certified by the department of environmental conservation as a Nine Elements Watershed (9E) plan, has documented the devastating effects of high

levels of nitrogen pollution, not only on the drinking water quality, but also on coastal ecosystems, dissolved oxygen, water clarity, eelgrass, wetlands, shellfish, coastal resilience and in triggering harmful algal blooms. The SWP, is a long-term plan to address the need for wastewater treatment infrastructure throughout the county comprehensively over a period of fifty years. The SWP delineates the source and concentration of nitrogen loading in one hundred ninety-one subwatersheds throughout the county, and establishes nitrogen reduction goals for each watershed.

For many areas of the county, installing or connecting sewers is not a practical or cost-effective method of treating wastewater. For that reason, the SWP prescribes a hybrid approach that relies on sewering where feasible, and the replacement of cesspools and septic systems with innovative/alternative onsite wastewater treatment systems. The consolidation of any or all of the twenty-seven county sewer districts, as well as unsewered areas of the county, into a county-wide wastewater management district would allow for the implementation of a much needed integrated long-term wastewater solution for the county through comprehensive planning and management to improve water quality and support new housing production.

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

This act shall provide Suffolk county with the authority to create a county-wide wastewater management district through the consolidation of existing county special districts with currently unsewered areas of the county and the authority to consolidate existing town districts and village sewer systems. A county-wide wastewater management district will provide an integrated and efficient approach to managing wastewater services across the county; allow the county to enhance and expand its incentive program to property owners to upgrade their wastewater treatment systems without risk of adverse personal income tax consequences; to manage, monitor and enforce nitrogen reduction programs throughout the county; to complete additional sewer extension projects; improve the economic wellbeing of communities; make progress on barriers to housing development; and provide an opportunity to consolidate and streamline the county's existing sewer district system and normalize the inequitable rate structure that has long existed.

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

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

**(b) In addition to the powers provided in section two hundred fifty of this article, the district shall have the power, as determined by the county legislature, to: (i) consolidate all of the original sewer districts within the county as well as unsewered areas of the county,**

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

2. Boundaries. The boundaries of the district upon formation shall include the boundaries of all county special districts consolidated into the district and all unsewered areas of the county. The ultimate purpose of the district shall be to consolidate and extend the district boundaries to coincide with the territorial boundaries of the county of Suffolk.

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

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

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

6. Hearing and resolution to establish. (a) The county legislature shall meet at the time, date and location specified in such notice and hear all persons interested in the subject matter thereof concerning the same. If the county legislature determines that it is in the public interest to establish the district as specified in such notice, it shall further determine by resolution: (i) whether all property and property owners within the proposed district are benefited thereby; and (ii) whether all of the property and property owners benefited are included within the limits of the proposed district, the county legislature may adopt a resolution, subject to a mandatory referendum, establishing the district.

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

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

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

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

equal force and applicability to special assessments, ad valorem levies and sewer rents authorized pursuant to this section.

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

11. Water quality restoration fund. (a) Notwithstanding any provision of law to the contrary, monies shall be deposited in a special fund by the county of Suffolk, to be designated as the water quality restoration fund, to be created by said county therefor, separate and apart from any other funds and accounts of the county. In no event shall monies deposited in the fund be transferred to any other account. Deposits into the fund may include revenues of Suffolk county from whatever source. The fund shall be able to receive any state grants or funding and also be authorized to accept gifts of funds. Interest accrued by monies deposited into the fund shall be credited to the fund. The procedural requirements of this subdivision shall only apply to projects that intend to use monies from the water quality restoration fund and nothing contained in this section shall be construed to prevent the financing in whole or in part, pursuant to the local finance law, of any project authorized pursuant to this section. Monies from the fund may be utilized to repay any indebtedness or obligations incurred pursuant to the local finance law consistent with effectuating the purposes of this section. Monies in said fund may be appropriated from or expended in any fiscal year to implement the powers set forth in this section and to repay any indebtedness or obligations incurred pursuant to the local finance law for the purposes authorized pursuant to this section.

(b) (i) For purposes of this section: "water quality improvement project" shall mean the planning, design, construction, acquisition, enlargement, extension, or alteration of a wastewater treatment facility, including individual hookups, or an individual septic system, including an alternative wastewater treatment facility or an individual septic system with active treatment, to treat, neutralize, stabilize, eliminate or partially eliminate sewage or reduce pollutants, including permanent or pilot demonstration wastewater treatment projects, or equipment or furnishings thereof. Such projects shall have as their purpose the remediation of existing water quality to meet specific water quality standards consistent with the SWP. Projects consistent with or listed in the SWP that are part of a plan adopted by a local government resulting in a net nitrogen reduction shall be eligible for consideration by the district board of trustees, established in accordance with subdivision six of this section.

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

(c) (i) Within the local law establishing the water quality restoration fund, the county shall establish a district board of trustees of seventeen members to prepare, review and approve the SWP implementation plan for submission to the county executive and county legislature and shall specify the powers and duties of the district board of trustees, including the procedures for appointment of a chairperson. Such

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

(ii) The powers and duties of the district board of trustees shall oversee the annual audit pursuant to paragraph (e) of this subdivision, making prudent recommendations for resource allocations for county-approved alternative wastewater treatment technologies not contemplated in the Suffolk county subwatersheds wastewater plan and long-term progress monitoring of the implementation of the Suffolk county subwatersheds wastewater plan regarding achievements of nitrogen load reductions and ecological endpoints.

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

(e) Annual audit. The county shall annually commission an independent audit of the fund. The audit shall be conducted by an independent certified public accountant or an independent public accountant. Said audit shall be performed by a certified public accountant or an independent public accountant other than the one that performs the general audit of the county's finances. Such audit shall be an examination of the fund and shall determine whether the fund has been administered consistent with the provisions of this section and all other applicable provisions of state law. Said audit shall be initiated within sixty days of the close of the fiscal year of the county and shall be completed within one

hundred twenty days of the close of the fiscal year. A copy of the audit shall be submitted annually to the state comptroller and the county comptroller. A copy of the audit shall be made available to the public within thirty days of its completion. A notice of the completion of the audit shall be published in the official newspaper of the county and shall also be posted on the internet website for the county. The cost of the audit may be a charge to the fund.

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

§ 4. Paragraph a of section 11.00 of the local finance law is amended by adding a new subdivision 109 to read as follows:

109. Septic systems. The acquisition, construction, or reconstruction of or addition to septic systems funded by programs established by the county of Suffolk, twenty-five years.

§ 5. This act shall take effect immediately.

PART UU

Section 1. Paragraph (a) of section 11.00 of the local finance law is amended by adding a new subdivision 109 to read as follows:

109. Lead service line replacement programs established by a municipality, school district or district corporation, including, but not limited to programs that inventory, design and replace publicly owned and privately owned lead service lines within an established water system, thirty years. As used in this subdivision, "lead service line" means a service line made in whole or in part of lead, which connects a water main to a building inlet. A lead service line may be owned by the water system, a property owner, or both. A lead gooseneck, pigtail, or connector shall be eligible for replacement regardless of the service line material to which a lead gooseneck, pigtail, or connector is attached. Gooseneck, pigtail, or connector means a short section of piping, typically not exceeding two feet, which can be bent and used for connections between rigid service piping. A galvanized iron or steel service line is considered a lead service line if it ever was or is currently downstream of any lead service line or service line of unknown material.

§ 2. This act shall take effect immediately.

PART VV

Section 1. Expenditures of moneys appropriated to the department of agriculture and markets from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the department of agriculture and markets' participation in general ratemaking proceedings pursuant to section 65 of the public

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

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

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

§ 4. Expenditures of moneys appropriated to the department of environmental conservation from the special revenue funds-other/state operations, environmental conservation special revenue fund-301, utility environmental regulation account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the department of environmental conservation's participation in state energy policy proceedings, or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, annually, the commissioner of the department of

environmental conservation shall submit an accounting of such expenses, including, but not limited to, expenses in the prior state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

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

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

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

## PART WW

Section 1. Subdivision 2 of section 3-101 of the energy law, as amended by chapter 374 of the laws of 2022, is amended to read as follows:

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

§ 2. Subdivision 3 of section 11-103 of the energy law, as amended by chapter 374 of the laws of 2022, is amended to read as follows:

3. Notwithstanding any other provision of law, the state fire prevention and building code council in accordance with the mandate under this article shall have exclusive authority among state agencies to promulgate a construction code incorporating energy conservation features and clean energy features applicable to the construction of any building, including but not limited to greenhouse gas reduction. Any other code, rule or regulation heretofore promulgated or enacted by any other state agency, incorporating specific energy conservation and clean energy requirements applicable to the construction of any building, shall be superseded by the code promulgated pursuant to this section. Notwithstanding the foregoing[~~,~~]**:**

**(a) consistent with state energy policy as described in subdivisions two and three of section 3-101 of this chapter, if any provision of the code or any provision of the uniform code is, or may be, inconsistent with or in conflict with any regulations promulgated pursuant to the New York climate leadership and community protection act set forth within chapter one hundred six of the laws of two thousand nineteen, product performance standards adopted pursuant to article sixteen of this chap-**

ter, any regulation promulgated by the department of environmental conservation pursuant to the environmental conservation law, or any other law or regulation intended to further the state's clean energy and climate agenda, and if such provision is designed to achieve a greater amount of greenhouse gas or co-pollutant emissions reductions than the inconsistent or conflicting provision of the code or uniform code, the state fire prevention and building code council shall amend the code or uniform code in a manner that would eliminate the inconsistency or conflict, subject to any exemptions allowed by law and provided that such amendment is consistent with the purposes and intent of this article or article eighteen of the executive law, as applicable, with accepted engineering practices, and with nationally recognized and published standards that protect building occupant safety and reduce fire risks; and

(b) nothing in this section shall be deemed to expand the powers of the council to include matters that are exclusively within the statutory jurisdiction of the public service commission, the department of environmental conservation, the office of renewable energy siting or another state entity.

§ 3. Subdivision 6 of section 11-104 of the energy law, as added by chapter 374 of the laws of 2022, is amended and two new subdivisions 7 and 8 are added to read as follows:

6. To the fullest extent feasible, the standards for construction of buildings in the code shall be designed to help achieve the state's clean energy and climate agenda, including but not limited to greenhouse gas reduction, set forth within chapter one hundred six of the laws of two thousand nineteen, also known as the New York state climate leadership and community protection act, and as further identified by the New York state climate action council established pursuant to section 75-0103 of the environmental conservation law. Consistent with the foregoing:

(a) the code shall prohibit the installation of fossil-fuel equipment and building systems, in any new one-family residential building of any height or new multi-family residential building not more than three stories in height on or after December thirty-first, two thousand twenty-five, and the code shall prohibit the installation of fossil-fuel equipment and building systems, in any new multi-family residential building more than three stories in height or new commercial building on or after December thirty-first, two thousand twenty-eight; and

(b) notwithstanding the provisions of paragraph (b) of subdivision one of section 11-103 of this article and subject to such exemptions as may be set forth in regulations promulgated pursuant to article sixteen of this chapter, the code shall prohibit the installation of fossil-fuel heating equipment and building systems at any time on or after January first, two thousand thirty in any one-family residential building of any height or multi-family residential building not more than three stories in height existing on or after such date, and the code shall prohibit the installation of fossil-fuel heating equipment and building systems at any time on or after January first, two thousand thirty-five in any multi-family residential building more than three stories in height or commercial building existing on or after that date.

7. (a) The provisions set forth in paragraphs (a) and (b) of subdivision six of this section shall not be construed as prohibiting the continued use and maintenance of fossil-fuel equipment and building systems, including as related to cooking equipment, installed prior to the effective date of the applicable prohibition. In addition, the

provisions set forth in paragraphs (a) and (b) of subdivision six of this section shall include such exemptions as the state fire prevention and building code council deems appropriate for the purposes of allowing the installation and use of fossil-fuel equipment and building systems where such are installed and used:

(i) for generation of emergency back-up power;

(ii) in a manufactured home as defined in subdivision seven of section six hundred one of the executive law; or

(iii) in a building or part of a building that is used as a manufacturing facility, commercial food establishment, laboratory, laundromat, hospital, other medical facility, critical infrastructure such as backup power for wastewater treatment facilities, or crematorium.

(b) Where the code includes an allowed exemption pursuant to subparagraph (i) or (iii) of paragraph (a) of this subdivision, such exemption shall include provisions that, to the fullest extent feasible, limit the use of fossil-fuel equipment and buildings systems to the system and area of the building for which a prohibition on fossil-fuel equipment and building systems is infeasible; require the area or service within a new building where fossil-fuel equipment and building systems are installed be electrification ready; and minimize emissions from the fossil-fuel equipment and building systems that are allowed to be used, provided that the provisions set forth in this paragraph do not adversely affect health, safety, security, or fire protection, and financial considerations shall not be sufficient basis to determine physical or technical infeasibility.

(c) Exemptions included in the code pursuant to this subdivision shall be periodically reviewed by the state fire prevention and building code council to assure that they continue to effectuate the purposes of subdivision six of this section to the fullest extent feasible. The state fire prevention and building code council may from time to time amend such exemptions as necessary.

8. For the purposes of this section:

(a) "Fossil-fuel" means fuel used for combustion, in the form of any of the following: natural gas derived from naturally occurring geologic deposits of principally methane; petroleum; coal; or any form of solid, liquid or gaseous fuel sourced from any of the foregoing materials.

(b) "Fossil-fuel equipment and building systems" shall mean (i) equipment, as such term is defined in section 11-102 of this article, that uses fossil-fuel; or (ii) systems embedded in a building that will be used for or to support the supply, distribution, or delivery of fossil-fuel for any purpose, other than for use by motor vehicles.

(c) "Fossil-fuel heating equipment and building systems" shall mean (i) equipment, as such term is defined in section 11-102 of this article, that uses fossil-fuel for space heating or hot water supply; or (ii) systems embedded in a building that will be used for or to support the supply, distribution, or delivery of fossil-fuel for space heating or hot water supply. Fossil-fuel heating equipment and building systems shall not include equipment and building systems related to cooking.

(d) "Electrification ready" means the new building or portion thereof where fossil-fuel equipment and building systems are allowed to be used which contains electrical systems and designs that provide sufficient capacity for a future replacement of such fossil-fuel equipment and building systems with electric-powered equipment, including but not limited to sufficient space, drainage, electrical conductors or raceways, bus bar capacity, and overcurrent protective devices for such electric-powered equipment.

§ 4. Section 16-109 of the energy law, as added by chapter 374 of the laws of 2022, is amended to read as follows:

§ 16-109. Conflicts with other laws. [~~Nothing in this~~] **This** article [~~or in~~] **and** any regulation adopted pursuant to this article shall [~~limit, impair, or supersede~~] **be subject to** the provisions of subdivision one of section three hundred eighty-three of the executive law [~~or~~] **and** the provisions of subdivision three of section 11-103 of this chapter.

§ 5. Section 371 of the executive law, as added by chapter 707 of the laws of 1981, is amended to read as follows:

§ 371. Statement of legislative findings and purposes. 1. The legislature hereby finds and declares that:

a. The present level of loss of life, injury to persons, and damage to property as a result of fire demonstrates that the people of the state have yet to receive the basic level of protection to which they are entitled in connection with the construction and maintenance of buildings;

b. There does not exist for all areas of the state a single, adequate, enforceable code establishing minimum standards for fire protection and construction, maintenance and use of materials in buildings. Instead, there exists a multiplicity of codes and requirements for various types of buildings administered at various levels of state and local government. There are, in addition, extensive areas of the state in which no code at all is in effect for the general benefit of the people of the state;

c. The present system of enforcement of fire protection and building construction codes is characterized by a lack of adequately trained personnel, as well as inconsistent qualifications for personnel who administer and enforce those codes;

d. Whether because of the absence of applicable codes, inadequate code provisions or inadequate enforcement of codes, the threat to the public health and safety posed by fire remains a real and present danger for the people of the state; [~~and~~]

e. **The fire protection and building construction code requirements shall align with regulations promulgated pursuant to the New York climate leadership and protection act set forth within chapter one hundred six of the laws of two thousand nineteen so as to support the reduction of greenhouse gas emissions as set forth in section eight of such act; and**

**f.** The multiplicity of fire protection and building construction code requirements poses an additional problem for the people of the state since it increases the cost of doing business in the state by perpetuating multiple requirements, jurisdictional overlaps and business uncertainties, and, in some instances, by artificially inducing high construction costs.

2. The legislature declares that it shall be the public policy of the state of New York to:

a. Immediately provide for a minimum level of protection from the hazards of fire in every part of the state;

b. Provide for the promulgation of a uniform code addressing building construction and fire prevention in order to provide a basic minimum level of protection to all people of the state from hazards of fire and inadequate building construction. In providing for such a uniform code, it is declared to be the policy of the state of New York to:

(1) reconcile the myriad existing and potentially conflicting regulations which apply to different types of buildings and occupancies;

(2) recognize that fire prevention and fire prevention codes are closely related to the adequacy of building construction codes, that the greatest portion of a building code's requirements are fire safety oriented, and that fire prevention and building construction concerns should be the subject of a single code;

(3) **recognize that the decarbonization of new and existing buildings is closely related to the state's clean energy and climate agenda as described in the New York climate leadership and community protection act set forth in chapter one hundred six of the laws of two thousand nineteen, and that the uniform code shall enable the state's clean energy objectives to the maximum extent practicable;**

**(4)** place public and private buildings on an equal plane with respect to fire prevention and adequacy of building construction;

[~~(4)~~] **(5)** require new and existing buildings alike to keep pace with advances in technology concerning fire prevention and building construction, including, where appropriate, that provisions apply on a retroactive basis; and

[~~(5)~~] **(6)** provide protection to both residential and non-residential buildings;

c. Insure that the uniform code be in full force and effect in every area of the state;

d. Encourage local governments to exercise their full powers to administer and enforce the uniform code; and

e. Provide for a uniform, statewide approach to the training and qualification of personnel engaged in the administration and enforcement of the uniform code.

§ 6. Subdivision 2 of section 375 of the executive law, as amended by chapter 309 of the laws of 1996, is amended to read as follows:

2. To study the operation of the uniform fire prevention and building code, the state energy conservation construction code established by article eleven of the energy law, local regulations and other laws relating to the construction of buildings and the protection of buildings from fire to ascertain their effects upon the cost of building construction and the effectiveness of their provisions for health, safety and security, particularly as such provisions relate to the protection of life and property from the dangers of fire**, and the effectiveness of their provisions for the reduction of greenhouse gas emissions and co-pollutants in furtherance of the state's clean energy and climate agenda pursuant to the New York climate leadership and community protection act set forth within chapter one hundred six of the laws of two thousand nineteen**.

§ 7. Subdivision 19 of section 378 of the executive law, as renumbered by chapter 47 of the laws of 2022, is renumbered subdivision 20 and a new subdivision 19 is added to read as follows:

**19. a. The uniform code shall prohibit the installation of fossil-fuel equipment and building systems, in any new one-family residential building of any height or new multi-family residential building not more than three stories in height on or after December thirty-first, two thousand twenty-five, and the uniform code shall prohibit the installation of fossil-fuel equipment and building systems, in any new multi-family residential building more than three stories in height or new commercial building on or after December thirty-first, two thousand twenty-eight.**

**b. Notwithstanding the provisions of section nineteen of chapter seven hundred seven of the laws of nineteen hundred eighty-one and subject to such exemptions as may be set forth in regulations promulgated pursuant to article sixteen of the energy law, the uniform code shall prohibit**

the installation of fossil-fuel heating equipment and building systems at any time on or after January first, two thousand thirty in any one-family residential building of any height or multi-family residential building not more than three stories in height existing on or after that date, and the uniform code shall prohibit the installation of fossil-fuel heating equipment and building systems at any time on or after January first, two thousand thirty-five in any multi-family residential building more than three stories in height or commercial building existing on or after that date.

c. The provisions set forth in paragraphs a and b of this subdivision shall not be construed as prohibiting the continued use and maintenance of fossil-fuel equipment and building systems, including as related to cooking equipment, installed prior to the effective date of the applicable prohibition. In addition, the provisions set forth in paragraphs a and b of this subdivision shall include such exemptions as the state fire prevention and building code council deems appropriate for the purposes of allowing the installation and use of fossil-fuel equipment and building systems where such systems are installed and used:

(i) for generation of emergency back-up power;

(ii) in a manufactured home as defined in subdivision seven of section six hundred one of the executive law; or

(iii) in a building or part of a building that is used as a manufacturing facility, commercial food establishment, laboratory, laundromat, hospital, other medical facility, critical infrastructure such as backup power for wastewater treatment facilities, or crematorium.

d. Where the uniform code includes an allowed exemption pursuant to subparagraph (i) or (iii) of paragraph c of this subdivision, such exemption shall include provisions that, to the fullest extent feasible, limit the use of fossil-fuel equipment and building systems to the system and area of the building for which a prohibition on fossil-fuel equipment and building systems is infeasible; require the area or service within a new building where fossil-fuel equipment and building systems are installed be electrification ready; and minimize emissions from the fossil-fuel equipment and building systems that are allowed to be used, provided that such provisions do not adversely affect health, safety, security, or fire protection, and financial considerations shall not be sufficient basis to determine physical or technical infeasibility.

e. Exemptions included in the uniform code pursuant to this subdivision shall be periodically reviewed by the code council to assure that they continue to effectuate the purposes of paragraph e of subdivision one and subparagraph three of paragraph b of subdivision two of section three hundred seventy-one of this article to the fullest extent feasible. The code council may from time to time amend such exemptions as necessary.

f. For the purposes of this subdivision:

(i) "Fossil-fuel" means fuel used for combustion, in the form of any of the following: natural gas derived from naturally occurring geologic deposits of principally methane; petroleum; coal; or any form of solid, liquid or gaseous fuel sourced from any of the foregoing materials.

(ii) "Fossil-fuel equipment and building systems" shall mean (i) equipment, as such term is defined in section 11-102 of the energy law, that uses fossil-fuel; or (ii) systems embedded in a building that will be used for or to support the supply, distribution, or delivery of fossil-fuel for any purpose, other than for use by motor vehicles.

(iii) "Fossil-fuel heating equipment and building systems" shall mean (i) equipment, as such term is defined in section 11-102 of the energy law, that uses fossil-fuel; or (ii) systems embedded in a building that will be used for or to support the supply, distribution, or delivery of fossil-fuel for space heating or hot water supply. Fossil-fuel heating equipment and building systems shall not include equipment and building systems related to cooking.

(iv) "Electrification ready" means the new building or portion thereof where fossil-fuel equipment and building systems are allowed to be used which contains electrical systems and designs that provide sufficient capacity for a future replacement of such fossil-fuel equipment and building systems with electric-powered equipment, including but not limited to sufficient space, drainage, electrical conductors or raceways, bus bar capacity, and overcurrent protective devices for such electric-powered equipment.

g. In cities with a population of one million or more, such cities' local code provisions shall be at least as stringent as the provisions set forth by this subdivision.

§ 8. Subdivisions 1 and 2 of section 379 of the executive law, subdivision 1 as amended by chapter 348 of the laws of 2017 and subdivision 2 as added by chapter 707 of the laws of 1981, are amended to read as follows:

1. Except in the case of factory manufactured homes, intended for use as one or two family dwelling units or multiple dwellings of not more than two stories in height, the legislative body of any local government may duly enact or adopt local laws or ordinances imposing higher or more restrictive standards for construction within the jurisdiction of such local government than are applicable generally to such local government in the uniform code. Within thirty days of such enactment or adoption, the chief executive officer, or if there be none, the chairman of the legislative body of such local government, shall so notify the council, and shall petition the council for a determination of whether such local laws or ordinances are more stringent than the standards for construction applicable generally to such local government in the uniform code. Such local laws or ordinances shall take full force and effect upon an affirmative [~~determination~~] finding and approval by the council as provided [~~herein~~] in subdivision two of this section.

2. If the council finds that such standards are higher or more restrictive and a. standards are reasonably necessary because of special conditions prevailing within the local government and that such standards conform with accepted engineering and fire prevention practices and the purposes of this article, or b. are reasonably necessary to further the state's clean energy and climate agenda, including but not limited to greenhouse gas emissions reduction and other objectives of the New York climate leadership and protection act set forth within chapter one hundred six of the laws of two thousand nineteen, and that such standards conform with accepted engineering and fire prevention practices and the purposes of this article, the council shall [~~adopt~~] approve such standards, in whole or part. The council shall have the power to limit the term or duration of such standards, impose conditions in connection with the adoption thereof, and to terminate such standards at such times, and in such manner as the council may deem necessary, desirable or proper.

§ 9. Paragraphs h and i of subdivision 1 of section 381 of the executive law, as added by chapter 560 of the laws of 2010, are amended and a new paragraph j is added to read as follows:

h. minimum basic training and in-service training requirements for personnel charged with administration and enforcement of the state energy conservation construction code; [~~and~~]

i. standards and procedures for measuring the rate of compliance with the state energy conservation construction code, and provisions requiring that such rate of compliance be measured on an annual basis[~~.~~]; and

j. authorizing the issuance of a permit for construction based on existing provisions of the uniform code where a substantially complete set of construction drawings have been submitted prior to the effective date of any amendment to the uniform code.

§ 10. Subdivision 1 of section 383 of the executive law is amended by adding a new paragraph d to read as follows:

d. This article shall be subject to the provisions of subdivision three of section 11-103 of the energy law.

§ 11. The article heading of article 16 of the energy law, as amended by chapter 374 of the laws of 2022, is amended to read as follows:

APPLIANCE AND EQUIPMENT

[~~EFFICIENCY~~] PERFORMANCE STANDARDS

§ 12. Subdivision 18 of section 16-102 of the energy law, as amended by chapter 374 of the laws of 2022, is amended to read as follows:

18. "[~~Efficiency~~] Performance standard" means a standard that defines performance metrics and/or defines prescriptive design requirements associated with the regulated category of product in order to: (a) reduce energy consumption[~~.~~]; (b) reduce water consumption[~~, and~~]; (c) reduce greenhouse gas emissions associated with energy consumption [~~and/or~~]; or (d) increase demand flexibility. A performance standard may be designed to promote one of the foregoing objectives, and multiple performance standards for a regulated category of product may be used to promote multiple objectives.

§ 13. Subdivision 1 of section 16-104 of the energy law, as amended by chapter 374 of the laws of 2022, is amended to read as follows:

1. The provisions of this article apply to the establishment of, testing for compliance with, certification of compliance with, and enforcement of [~~efficiency~~] performance standards for the following new products which are sold, or offered for sale, leased or offered for lease, rented or offered for rent or installed or offered to install in New York state unless preempting federal appliance standards are in effect: (a) automatic commercial ice cube machines; (b) ceiling fan light kits; (c) commercial pre-rinse spray valves; (d) commercial refrigerators, freezers and refrigerator-freezers; (e) consumer audio and video products; (f) illuminated exit signs; (g) incandescent reflector lamps; (h) very large commercial packaged air-conditioning and heating equipment; (i) metal halide lamp fixtures; (j) pedestrian traffic signal modules; (k) power supplies; (l) torchiere lighting fixtures; (m) unit heaters; (n) vehicular traffic signal modules; (o) portable light fixtures; (p) bottle-type water dispensers; (q) commercial hot food holding cabinets; (r) portable electric spas; (s) replacement dedicated-purpose pool pump motors; (t) air compressors; (u) air purifiers; (v) commercial dishwashers; (w) commercial fryers; (x) commercial steam cookers; (y) computers and computer monitors; (z) general service lamps; (aa) federally exempt fluorescent lamps; (bb) portable air conditioners; (cc) residential ventilating fans; (dd) telephones; (ee) faucets; (ff) showerheads; (gg) urinals; (hh) water closets; (ii) sprinkler bodies; (jj) uninterruptable power supplies; (kk) light emitting diode lamps; (ll) electric vehicle supply equipment; (mm) commercial battery charger systems; (nn) commercial ovens; (oo) commercial clothes dryers; (pp)

commercial and industrial fans and blowers; (qq) imaging equipment; (rr) landscape irrigation controllers; (ss) outdoor lighting; (tt) plug-in luminous signs; (uu) small network equipment; (vv) tub spout diverters; (ww) commercial hot food holding cabinets; (xx) gas fireplaces; (yy) products for which efficiency **or other performance** standards shall have been established pursuant to paragraph (b) or (c) of subdivision one of section 16-106 of this article; and (zz) products that had been subject to any federal efficiency standard referred to in section 16-105 of this article that have been continued in this state pursuant to such section.

§ 14. Subdivision 4 of section 16-104 of the energy law, as added by chapter 374 of the laws of 2022, is amended to read as follows:

4. The adoption of [~~efficiency~~] **performance** standards for any water-related appliances, equipment or fixtures shall be subject to approval by the commissioner of environmental conservation. Any such standard which would conflict with the provisions of section 15-0314 of the environmental conservation law shall not take effect until and unless waived by the commissioner of environmental conservation.

§ 15. Subdivision 5 of section 16-104 of the energy law, as added by chapter 374 of the laws of 2022, is amended to read as follows:

5. In adopting the flexible demand appliance **performance** standards, the New York state energy research and development authority shall consider the National Institute of Standards and Technology reliability and cybersecurity protocols, relevant New York cybersecurity laws, regulations, and advisories, or other cybersecurity protocols that are equally or more protective, and shall adopt, at a minimum, the North American Electric Reliability Corporation's Critical Infrastructure Protection standards.

§ 16. Section 16-106 of the energy law, as amended by chapter 374 of the laws of 2022, is amended to read as follows:

§ 16-106. Powers and duties of the president and the secretary. 1. The president in consultation with the secretary shall have and be entitled to exercise the following powers and duties:

(a) To adopt regulations establishing [~~efficiency~~] **performance** standards for the products listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article, including but not limited to, establishing [~~efficiency~~] **performance** standards for power supplies in the active mode and no-load mode or other such products while in the active mode and in the standby-passive-mode;

(b) To adopt regulations establishing [~~efficiency~~] **performance** standards for products not specifically listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article, provided that the president determines that establishing such [~~efficiency~~] **performance** standards would serve to promote energy reduction, water conservation, greenhouse gas reduction, [~~and/or~~] **or** increased demand flexibility associated with the regulated product categories in this state. To the maximum extent feasible the president shall coordinate any such adoption with similar efforts by other states. Any regulation adopted pursuant to this paragraph may include provisions establishing procedures for testing the [~~efficiency~~] **performance** of the covered products and provisions establishing procedures for manufacturers of such product to certify that such products meet the [~~efficiency~~] **performance** standards, if the president determines that such manufacturer's certifications should be required;

(c) To review [~~efficiency~~] **performance** standards as adopted from time to time by other states for products not listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article, and

to adopt regulations establishing [~~efficiency~~] **performance** standards similar to those adopted by any other state for such products, provided that the president determines that establishing such [~~efficiency~~] **performance** standards would serve to promote energy reduction, water conservation, greenhouse gas reduction, [~~and/or~~] **or** increased demand flexibility associated with the regulated product categories in this state. Any regulation adopted pursuant to this paragraph may include provisions establishing procedures for testing the [~~efficiency~~] **performance** of the covered products and provisions establishing procedures for manufacturers of such product to certify that such products meet the [~~efficiency~~] **performance** standards, if the president determines that such manufacturer's certifications should be required;

(d) To adopt regulations to achieve the purposes of this article. Such regulations shall ensure that compliance therewith will not result in a net increase in co-pollutant emissions or otherwise disproportionately burden disadvantaged communities as identified by the climate justice working group established under section 75-0111 of the environmental conservation law. In order to increase public participation and improve the efficacy of any [~~efficiency~~] **performance** standards adopted pursuant to [~~subdivision~~] **paragraph** (b) or (c) of this [~~section~~] **subdivision**, the president shall, before publication of a notice of proposed rule making, conduct public meetings to provide meaningful opportunities for public comment from all segments of the population that would be impacted by the standards or regulations, including persons living in disadvantaged communities as identified by the climate justice working group established under section 75-0111 of the environmental conservation law;

(e) To conduct investigations, test, and obtain data with respect to research experiments and demonstrations, and to collect and disseminate information regarding the purposes to be achieved pursuant to this article;

(f) To accept grants or funds for purposes of administration and enforcement of this article. Notwithstanding any other provision of law to the contrary, the president is hereby authorized to accept grants or funds, including funds directed through negotiated settlements or consent orders pursuant to this article. All funds accepted by the president for the purposes of this article shall be deposited in the [~~efficiency~~] **performance** standards administration account established by the New York state energy research and development authority and maintained in a segregated account [~~in the custody of the commissioner of taxation and finance~~]**, established in accordance with section one thousand eight hundred fifty-nine of the public authorities law**. All expenditures from the [~~efficiency~~] **performance** standards administration account pursuant to this article shall be made by the New York state energy research and development authority to carry out studies, investigations, research, expenses to provide for expert witness, consultant, enforcement, administrative and legal fees, including disbursements to the department of state to support enforcement activities authorized by the secretary pursuant to this section, and other related expenses pursuant to this article. All deposits made to the [~~efficiency~~] **performance** standards administration account made by the New York state energy research and development authority, all funds maintained in the [~~efficiency~~] **performance** standards administration account, and disbursements therefrom, made pursuant to this article shall be subject to an annual independent audit as part of such authority's audited financial statements, and such authority shall prepare an annual report summarizing [~~efficiency~~] **performance** standards administration account balance and activities for

each fiscal year ending March thirty-first. In addition to submitting such report as provided in section one thousand eight hundred sixty-seven of the public authorities law, the authority shall provide such report to the secretary no later than ninety days after commencement of such fiscal year;

(g) To consult with the appropriate federal agencies, including, but not limited to, the federal department of energy and other potentially affected parties in carrying out the provisions of this article; and

(h) To conduct investigations, in consultation with the secretary, to determine if products covered by standards adopted pursuant to this article comply with such standards; to conduct tests to determine if products covered by standards adopted pursuant to this article comply with such standards; to prepare written reports of the results of such investigations and tests; to provide such reports to the secretary; in consultation with the secretary, to negotiate settlement agreements with any person that violates the provisions of subdivision two of section 16-104 of this article, or fails to perform any duty imposed by this article, or violates or fails to comply with any rule, regulation, determination, or order adopted, made, or issued by the president or the secretary pursuant to this article, pursuant to which such person shall agree to cease such violation and to pay such civil penalty as may be specified in such agreement, the terms of which will be incorporated into a consent order signed by such person, the president, and the secretary; to consult with the secretary in connection with determinations made by the secretary pursuant to paragraph (b) of subdivision five of this section; and to cooperate with the secretary in enforcement proceedings conducted by the secretary pursuant to this article.

1-a. Notwithstanding any other provision of this article, no [~~efficiency~~] **performance** standard adopted pursuant to paragraph (a) of subdivision one of this section shall become effective less than one hundred eighty days after publication of the notice of adoption of such standard in the state register; no [~~efficiency~~] **performance** standard adopted pursuant to paragraph (b) or (c) of subdivision one of this section shall become effective less than one year after publication of the notice of adoption of such [~~efficiency~~] **performance** standard in the state register; no amendment of any [~~efficiency~~] **performance** standard adopted pursuant to this article or of any efficiency standard continued in this state pursuant to section 16-105 of this article shall become effective less than one hundred eighty days after publication of the notice of adoption of such amendment in the state register; and no new or amended [~~efficiency~~] **performance** standard adopted pursuant to this article shall go into effect if federal government [~~efficiency~~] **performance** standards regarding such product preempt state standards unless preemption has been waived pursuant to federal law.

2. (a) On or before January first, two thousand twenty-three, the president, in consultation with the secretary, shall adopt regulations in accordance with the provisions of this article establishing:

(i) **performance standards for energy** efficiency [~~standards~~] for new products of the types referred to in paragraphs (a) through (f), paragraphs (h) through (y), paragraphs (aa) through (jj) and paragraphs (mm) through (xx) of subdivision one of section 16-104 of this article;

(ii) procedures for testing the efficiency of the new products of the types referred to in paragraphs (a) through (f) and paragraphs (h) through (xx) of subdivision one of section 16-104 of this article;

(iii) procedures for manufacturers to certify that new products of the types referred to in paragraphs (a) through (f) and paragraphs (h)

through (xx) of subdivision one of section 16-104 of this article meet the **performance standards for energy** efficiency [~~standards~~] to be adopted pursuant to this article, if the president determines that such manufacturer's certifications should be required; and

(iv) such further matters as are necessary to insure the proper implementation and enforcement of the provisions of this article.

(b) With respect to the types of products referred to in paragraph (g), (z) or (kk) of subdivision one of section 16-104 of this article (incandescent reflector lamps, general service lamps, and light emitting diode lamps), the president shall conduct a study by December thirty-first, two thousand twenty-three to determine whether [~~an~~] **a performance standard for energy** efficiency [~~standard~~] for such products should be established, taking into account factors including the potential impact on electricity usage, product availability and consumer and environmental benefits. If the president determines based on this study that such a standard would reduce energy use and would not be preempted by the federal law, the president shall adopt regulations in accordance with the provisions of this article establishing efficiency standards for such products.

3. Subsequent to adopting regulations pursuant to subdivisions one and two of this section, the president, in consultation with the secretary, may amend such regulations, including increasing the stringency of the [~~efficiency~~] **performance** standards.

4. By March fifteenth of two thousand twenty-one, the secretary and the president shall produce a report to the governor, the speaker of the assembly, the temporary president of the senate, the chair of the assembly committee on energy and the chair of the senate committee on energy and telecommunications on the status of regulations establishing **performance standards for energy** efficiency [~~standards~~] pursuant to this article, which shall indicate for each product enumerated in subdivision one of section 16-104 of this article the status of the implementation of [~~efficiency~~] **performance** standards. The report shall also set forth the estimated potential annual reductions in energy use and potential utility bill savings resulting from adopted **performance standards for energy** efficiency [~~standards~~] for the years two thousand twenty-five and two thousand thirty-five and the potential cumulative reductions in energy use through the year two thousand thirty-five. Such report shall be updated in the same manner by March fifteenth, two thousand twenty-six and two thousand thirty and copies of such updates shall be posted by March fifteenth, two thousand twenty-seven and March fifteenth, two thousand thirty on the websites of the authority and the department of state. **Each such updated report shall also include the potential annual and cumulative results achieved pursuant to the performance metrics established for product performance standards promulgated pursuant to subdivision eighteen of section 16-102 of this article and section 16-104 of this article.**

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

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

**ance** standards; and to request the president's cooperation in connection with enforcement proceedings conducted by the secretary pursuant to this article;

(ii) To order the immediate cessation of any distribution, sale or offer for sale, lease or offer to lease, rent or offer to rent, import, or offer to import, or installation or offer of installation of any product listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article, or of any product for which [~~efficiency~~] **performance** standards shall have been established pursuant to paragraph (b) or (c) of subdivision one of this section, or any product that is subject to a federal efficiency standard that shall have been continued in this state pursuant to section 16-105 of this article, if the secretary, in consultation with the president, determines that such product does not meet the applicable [~~efficiency~~] **performance** standard or if such product does not satisfy the testing procedures or manufacturer's certification procedures adopted pursuant to the regulations authorized by this article;

(iii) To accept grants or funds for purposes of administration and enforcement of this article;

(iv) To impose, after notice and an opportunity to be heard, civil penalties and/or injunctive relief for any violation of this article or any regulation adopted pursuant to this article. Any penalties collected by the secretary under this section shall be placed in the account established under section ninety-seven-www of the state finance law, relating to the consumer protection account; and

(v) To adopt such rules and regulations as the secretary may deem necessary or appropriate for the purpose of carrying out the powers and duties granted to the secretary by this article.

(b) The secretary may exercise the powers and authority granted to the secretary by this subdivision, or by any other provision of this article, through the consumer protection division established by the secretary pursuant to section ninety-four-a of the executive law or through such other divisions, officers, or employees of the department of state as the secretary may designate from time to time.

§ 17. Subdivision 2 of section 16-107 of the energy law, as added by chapter 374 of the laws of 2022, is amended to read as follows:

2. Any person that sells or offers for sale, leases or offers for lease, rents or offers for rent, or installs or offers to install, manufactures or tests in New York state any new product of a type listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article, or any new product for which [~~efficiency~~] **performance** standards shall have been established pursuant to paragraph (b) or (c) of subdivision one of section 16-106 of this article, or any product that is subject to federal efficiency standards that shall have been continued in this state pursuant to section 16-105 of this article, shall be obliged, on the request of the secretary or his or her designee, or the request of the president or his or her designee, to supply the secretary and/or the president with such information and documentation as may be required concerning such person's business, business practices, or business methods, or proposed business practices or methods. The obligations contained in this subdivision shall not apply to any person that sells or offers for sale, leases or offers for lease, rents or offers for rent, or installs or offers to install only products described in subdivision three of section 16-104 of this article. The power to make information and document requests is in addition to and not in limitation of the power to issue subpoenas.

§ 18. Subdivision 1 of section 16-108 of the energy law, as amended by chapter 374 of the laws of 2022, is amended to read as follows:

1. Any person who issues:

(a) a certification that a product listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article complies with the [~~efficiency~~] performance standards for such product established by or pursuant to this article;

(b) a certification that a product not listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article complies with [~~efficiency~~] performance standards for such product established pursuant to paragraph (b) or (c) of subdivision one of section 16-104 of this article; or

(c) a certification that a product that is subject to federal efficiency standards that shall have been continued in this state pursuant to section 16-105 of this article complies with such efficiency standards, knowing that such product does not comply with such efficiency standards, shall be liable for a civil penalty of not more than ten thousand dollars for each such product certified and an additional penalty of not more than ten thousand dollars for each day during which such violation continues.

§ 19. Section 17-101 of the energy law is amended by adding twenty new subdivisions 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 to read as follows:

5. "Authority" means the New York state energy research and development authority.

6. "Benchmark" means to input and submit the total energy and water consumed for a building for the previous calendar year and other descriptive information for such building as required by the benchmarking tool. Total energy and water consumption shall not include separately metered uses that are not integral to building operations, such as broadcast antennas, as determined by the president.

7. "Benchmarking tool" means the United States environmental protection agency's ENERGY STAR portfolio manager internet-based reporting interface or any similar tool as determined by the president to be reasonably comparable, and any additional tools specified in regulations adopted by the president.

8. "Benchmarking information" means information generated by the benchmarking tool and descriptive information about the physical building and its ownership, management, and operational characteristics.

9. "Public benchmarking information" means information generated by the benchmarking tool and descriptive information about the physical building and its operational characteristics that is disclosed to the public. The public benchmarking information shall include, but shall not be limited to:

(a) descriptive information, including building address; primary use type; and gross floor area as defined by the benchmarking tool glossary;

(b) output information, including site and source energy use intensity; weather normalized site and source energy use intensity; total annual greenhouse gas emissions; water use per gross square foot; and the Energy Star score, where available;

(c) compliance or noncompliance with this law; and

(d) a comparison of the annual summary statistics across calendar years for all years since annual reporting and disclosure has been required for the covered building.

10. "Benchmarking submission" means a subset of:

(a) information input into the benchmarking tool; and

(b) benchmarking information generated by the benchmarking tool, as determined by the president.

11. "Covered building" means (a) a state building, or (b) as it appears in the records of the department of taxation and finance, which information shall be shared by the department of taxation and finance with the authority for purposes of implementation of this article: (i) a building that exceeds twenty-five thousand gross square feet (four thousand six hundred forty-five square meters), (ii) two or more buildings on the same tax lot that together exceed fifty-thousand gross square feet (nine thousand two hundred ninety square meters), or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed fifty-thousand gross square feet (nine thousand two hundred ninety square meters). "Covered building" shall not include real property, not more than three stories, consisting of a series of attached, detached or semi-detached dwellings, for which ownership and the responsibility for maintenance of the heating, ventilation, and air conditioning (HVAC) systems and hot water heating systems is held by each individual dwelling unit owner, and with no HVAC system or hot water heating system in the series serving more than two dwelling units.

12. "Energy" means electricity, natural gas, steam, hot or chilled water, fuel oil, kerosene, propane, or other fuel product for use in a building, or on-site electricity generation, including renewable and storage technologies for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.

13. "Energy grade" means a scale representing the ratio of the energy performance of an existing building based on the benchmark inputs of a building and calculated within the benchmarking tool, comparing the building to a nationally representative dataset of similar buildings, accounting for regional characteristics in weather and operating conditions specific to the building.

14. "Energy use intensity" means the kBTUs (1,000 british thermal units) used per square foot of gross floor area.

15. "Greenhouse gas" shall have the same meaning as defined in section 75-0101 of the environmental conservation law.

16. "Gross floor area" means the total number of enclosed square feet measured between the exterior surfaces of the fixed walls within any structure used or intended for supporting or sheltering any use or occupancy.

17. "Owner" means:

(a) an individual or entity possessing title to a covered building property, or the lessee, where such lessee is the sole tenant of the covered property and is subject to a triple net lease;

(b) the board of managers in the case of a condominium;

(c) the board of directors in the case of a cooperative apartment corporation;

(d) the entity in physical possession of the building or having beneficial use and occupancy of the building in the case of a covered building with title possessed by a state entity solely for purposes of securing bonds, notes or other obligations issued by such state entity, in which case, the state entity will not also be deemed the owner hereunder. For the purpose of this paragraph, a "state entity" shall mean any state agency, state authority or subsidiary of a state authority; or

(e) an agent authorized to act on behalf of any of the above.

18. "Portfolio manager" means the energy star portfolio manager, the internet-based tool developed and maintained by the United States environmental protection agency to track and assess the relative energy performance of buildings nationwide, or its successor.

19. "President" means the president of the authority.

20. "Qualified benchmarker" means an individual or entity that possesses a benchmarking certification or other credential or credentials approved by the president or the president's designee.

21. "Qualifying financial distress" means:

(a) the covered building is the subject of a qualified tax lien sale or public auction due to property tax arrears;

(b) the covered building is controlled by a court appointed receiver;

(c) a foreclosure action has commenced on the covered building during the calendar year for which benchmarking is required;

(d) title to the covered building was transferred by deed in lieu of foreclosure or by a referee's deed in foreclosure during the calendar year for which benchmarking is required;

(e) the owner of a covered building has commenced a bankruptcy filing; or

(f) other situations as authorized by the president or the president's designee.

22. "Tenant" means a person or entity occupying or holding possession of a building, part of a building or premises pursuant to a rental agreement.

23. "Utility" means an entity that distributes and/or sells energy to a covered building.

24. "State building" means a building that is more than ten thousand gross square feet (nine hundred twenty-nine square meters), as it appears in the records of the department of taxation and finance, which information shall be shared by the department of taxation and finance with the authority for purposes of implementation of this article, that is owned by the state or for which the state regularly pays all of the annual energy bills, provided that two or more buildings on the same tax lot shall be deemed to be one building.

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

§ 17-107. Benchmarking applicability and submission. 1. No later than the first day of May, two thousand twenty-five, and no later than the first day of May of every year thereafter, each owner shall ensure that such owner's covered buildings shall be benchmarked for the previous calendar year and the benchmarking submission shall be provided to the authority as directed by the president.

2. The president or the president's designee may exempt from the benchmarking requirement a municipality with a benchmarking requirement in effect that meets or exceeds the benchmarking rules established by the authority.

3. The president or the president's designee may temporarily exempt from the benchmarking requirement the owner of a covered building that submits documentation establishing, to the satisfaction of the president or the president's designee, any of the following:

(a) the covered building has characteristics that make benchmarking impracticable, including buildings that do not fit any of the building types, definitions or use details listed in the portfolio manager;

(b) the covered building had average physical occupancy of less than fifty percent throughout the calendar year for which benchmarking is required;

(c) the covered building is a new construction and the covered building's certificate of occupancy or temporary certificate of occupancy was issued during the calendar year for which benchmarking is required;

(d) the covered building experienced qualifying financial distress during the year for which benchmarking is required; or

(e) the covered building has been issued a full demolition permit for the prior calendar year, provided that demolition work has commenced, some energy-related systems have been compromised and legal occupancy is no longer possible prior to the first day of May of the year in which the benchmarking report is due.

4. The president or the president's designee may exempt from the benchmarking requirement the owners of all covered buildings located within an exempt municipality that comply with the municipality's benchmarking requirement.

5. The president or the president's designee may exempt from the benchmarking requirement related to water the owner of a covered building in jurisdictions where whole building water use data is not available in increments required by the benchmarking tool or as defined by the president or the president's designee.

6. The president or the president's designee may grant an extension of time if the owner of the covered building demonstrates, to the satisfaction of the president or the president's designee, that despite good faith efforts, the owner could not satisfy the requirements of this article by the imposed deadlines.

7. The president or the president's designee may require that data be validated by a qualified benchmarker or that benchmarking be performed by a qualified benchmarker.

§ 21. The energy law is amended by adding a new section 17-108 to read as follows:

§ 17-108. Benchmarking notification and posting. 1. Between September first and December thirty-first of each year, the authority shall notify owners of their obligation to benchmark pursuant to section 17-107 of this article.

2. By December first of each year, the authority shall post the list of the addresses of covered buildings on the authority's website.

§ 22. The energy law is amended by adding a new section 17-109 to read as follows:

§ 17-109. Disclosure, analysis, and publication of benchmarking information. 1. No later than the thirty-first day of December, two thousand twenty-five and by the fifteenth day of September of each year thereafter, the authority shall publish public benchmarking information regarding all covered buildings for the previous calendar year, except that public benchmarking information regarding a covered building for such building's first year of required compliance shall not be published by the authority, regardless of whether or not the authority received benchmarking information for that building.

2. In addition to the publishing of public benchmarking information required by subdivision one of this section, the authority shall annually publish:

(a) summary statistics and trend analyses regarding energy consumption for covered buildings derived from aggregation of benchmarking information; and

(b) information regarding how each covered building compares with comparable covered buildings in New York state, and how each covered building's performance has changed over time.

3. No later than the thirty-first day of December, two thousand twenty-five, and no later than the fifteenth day of September of each year thereafter, each exempted municipality shall make available to the authority, in a form as required by the authority, any benchmarking information possessed by such municipality.

4. Any analysis or possession of information concerning covered buildings by the authority is subject to rules regarding personal, private or sensitive information as defined by the New York state office of information technology services and article six of the public officers law.

5. The authority may provide an owner or manager of a covered building with benchmarking information related to such covered building that is not public benchmarking information.

6. Nothing in this section should be construed to supersede sections eighty-four through section ninety of the public officers law, except with respect to the authority's publishing of public benchmarking information as required in this section.

§ 23. The energy law is amended by adding a new section 17-110 to read as follows:

§ 17-110. Maintenance of benchmarking records. 1. Owners shall maintain records sufficient to provide for the reporting of public benchmarking information to the authority. Such records shall be preserved for a period of at least three years. At the request of the president such records shall be made available for inspection and audit.

2. At the time legal title of any covered building is transferred, the buyer and seller shall arrange for the seller to provide to the buyer, at or before closing, all information necessary for the buyer to report benchmarking information for the entire year in a timely manner.

§ 24. The energy law is amended by adding a new section 17-111 to read as follows:

§ 17-111. Powers and duties of the president. The president shall have the authority to promulgate regulations establishing rules for the administration and enforcement of the requirements of this article, such as compliance, enforcement, and exemptions for benchmark reporting and data verification requirements and for the following:

1. to establish through regulation the obligation to post and publicly display energy grades;

2. to establish through regulation exemption criteria for qualifying buildings to delay compliance with the benchmarking or energy grades requirements for up to three years if the owner demonstrates, to the satisfaction of the president or their designated representative, financial distress, change of ownership, vacancy, major renovation, pending demolition, or other acceptable circumstances determined by the president;

3. to negotiate settlements and to impose civil infraction penalties, fines, and fees as sanctions for a violation of this section or a regulation issued pursuant to this article. Failure to benchmark energy and water use for the prior calendar year by deadlines set by the president may result in a penalty of five hundred dollars. Continued failure to benchmark may result in additional violations on a quarterly basis and an additional penalty of five hundred dollars per violation. Failure to annually post the energy grade for the building by deadlines set by the president may result in a penalty of one thousand two hundred fifty dollars. Penalties collected shall be deposited into a benchmarking administration account; and

4. to accept grants or funds for purposes of administration and enforcement of this article. Notwithstanding any other provision of law

to the contrary, the president is hereby authorized to accept grants or funds, including funds directed through fines, compliance penalties, or negotiated settlements pursuant to this article, and is authorized to establish the benchmarking administration account to be administered by the New York state energy research and development authority and maintained in a segregated account, established in accordance with section eighteen hundred fifty-nine of the public authorities law. All funds accepted by the president for the purposes of this article shall be deposited in the benchmarking administration account established by the New York state energy research and development authority and maintained in a segregated account, established in accordance with section eighteen hundred fifty-nine of the public authorities law. All expenditures from the benchmarking administration account pursuant to this article shall be made by the New York state energy research and development authority to carry out studies, investigations, research, expenses to provide for expert witness, consultant, enforcement, administrative and legal fees, including disbursements to the department of taxation and finance to support compliance activities authorized by the president pursuant to this section, and other related expenses pursuant to this article. All deposits made to the benchmarking administration account made by the New York state energy research and development authority, all funds maintained in the benchmarking administration account, and disbursements therefrom, made pursuant to this article shall be subject to an annual independent audit as part of such authority's audited financial statements, and such authority shall prepare an annual report summarizing benchmarking administration account balance and activities for each fiscal year ending March thirty-first and provide such report to the secretary no later than ninety days after commencement of such fiscal year.

§ 25. The energy law is amended by adding a new section 17-112 to read as follows:

§ 17-112. Enforcement and administration. 1. It shall be unlawful for any entity or person to fail to comply with the requirements of this article or any rule or regulation promulgated by the authority of this article or to misrepresent any material fact in a document required to be prepared or disclosed pursuant to this article or any rule or regulation promulgated by the authority of this article.

2. Except for minor alterations or alterations reasonably necessary to protect building occupant safety and reduce fire risks or as approved by the president or the president's designee, no county, city, town or village shall issue a permit for the construction of or work related to any commercial, residential, or mixed-use building if the building is not already in compliance with the requirements of this article or any rule or regulation promulgated by the authority pursuant to this article.

3. Any person or entity who violates the provisions of this article, not including sections 17-103 and 17-105 of this article, shall be subject to a civil penalty.

4. The attorney general for the state of New York may commence a civil action in a court of competent jurisdiction for damages, civil penalties, cost recovery, reasonable attorney and expert witness fees, and injunctive or other appropriate relief to enforce compliance with this section or a regulation issued pursuant to this section.

§ 26. This act shall take effect immediately; provided, however, that the amendments to subdivision 4 of section 16-106 of the energy law made by section sixteen of this act shall not affect the repeal of such

subdivision and shall be deemed to repeal therewith; and, provided, however, that section twenty-one of this act shall take effect January 1, 2024.

PART XX

Section 1. Section 1005 of the public authorities law is amended by adding a new subdivision 27-a to read as follows:

27-a. (a) As deemed feasible and advisable by the trustees, the authority is authorized to plan, design, develop, finance, construct, own, operate, maintain and improve, either alone or jointly with other entities, including but not limited to local development corporations formed under section fourteen hundred eleven of the not-for-profit corporation law, renewable energy generating projects in the state, including its territorial waters, and/or on property or in waters under the jurisdiction or regulatory authority of the United States, or any component thereof, and to acquire, lease or otherwise dispose of property interests related to the development or disposition of renewable energy generating projects, as the authority determines is necessary and desirable to: (i) support the state's greenhouse gas emission reduction goals provided for in the climate leadership and community protection act; (ii) provide or maintain an adequate and reliable supply of electric power and energy in the state; (iii) assist local governments in achieving local energy and environmental goals; and (iv) advance other important state energy and social policies. The acquisition, lease or other disposal of property interests related to the development or disposition of renewable energy generating projects authorized by this paragraph may be done through a competitive selection process, a non-competitive selection process, or by negotiation, and the disposal of such interests shall be exempt from the requirements of title five-A of article nine of this chapter. Renewable energy generating projects developed by or for the authority that meet eligibility criteria under state programs administered by the public service commission and the New York state energy research and development authority shall be entitled to receive renewable energy certificates in accordance with such programs.

(b) The authority shall periodically confer with the New York state energy research and development authority, the office of renewable energy siting, and the department of public service, concerning the state's progress on meeting the renewable energy targets established by the climate leadership and community protection act to help inform its exercise of the authority provided for in paragraph (a) of this subdivision. In exercising the authority provided for in paragraph (a) of this subdivision, the authority is encouraged to consider the use of public-private partnerships to the extent the authority determines that such collaborations will provide benefits to the state or mitigate financial risks to the authority.

(c) Notwithstanding section twenty-eight hundred twenty-seven-a of this chapter, the authority shall have the right, either alone or with one or more other entities, to form subsidiary corporations, and form or acquire interests in "special purpose entities" including, but not limited to, business corporations, not-for-profit corporations, limited liability companies, or other special purpose entities or ventures, and transfer interests in subsidiaries and special purpose entities, for the purpose of undertaking the actions authorized by paragraph (a) of this subdivision and facilitating the development of transmission facilities

as authorized by this title. The authority may by resolution direct any of its trustees, officers, or employees to organize subsidiary corporations and special purpose entities pursuant to the business corporation law, not-for-profit corporation law, or limited liability company law. Any such resolution shall prescribe the purposes for which any such entity is to be formed.

(d) Notwithstanding any other law to the contrary, the authority may transfer to and receive from any subsidiary or special purpose entity any consideration, moneys, real or personal or mixed property, contractual and other rights, or any project, deemed appropriate to carry out the purposes of this subdivision. Each subsidiary or special purpose entity formed by the authority shall have all the privileges, immunities and exemptions of the authority to the extent the same are not inconsistent with the statute or statutes pursuant to which such subsidiary or special purpose entity was formed.

(e) The source of any financing and/or loans for any of the actions authorized in this subdivision may include: (i) the proceeds of notes issued pursuant to section one thousand nine-a of this title; (ii) the proceeds of bonds issued pursuant to section one thousand ten of this title; (iii) other funds made available by the authority for such purposes; or (iv) any other funds made available to the authority from non-authority sources.

(f) The authority is authorized to sell renewable power, energy, ancillary services and/or renewable energy credits or attributes associated with any renewable energy generating project authorized by this subdivision and developed after its effective date as follows:

(i) to the New York state energy research and development authority, including for the purpose of supporting the greenhouse gas emission reduction goals in the climate leadership and community protection act as well as other state energy policies, through participation in programs administered by the New York state energy research and development authority or for such other purposes as the authority and the New York state energy research and development authority may agree;

(ii) into markets operated by the federally designated electric bulk system operator for New York state;

(iii) to any load serving entity in the state, including the Long Island power authority (directly, or through its service provider, as appropriate), including but not limited to the purpose of providing bill credits to end-use electricity consumers in disadvantaged communities for renewable energy produced by renewable energy systems as provided for in subdivision twenty-seven-b of this section;

(iv) to manufacturers of green hydrogen and other new technologies that are intended in whole or part to displace fossil fuel use in the state for use at facilities located in the state;

(v) to any public entity or authority customer;

(vi) to community distributed generation providers, energy aggregators and similar entities for the benefit of subscribers to community distributed generation projects, including end-use electricity consumers located in disadvantaged communities; and

(vii) to any CCA community.

(g) For purposes of this subdivision, the following terms shall have the meanings indicated in this paragraph unless the context indicates another meaning or intent:

(i) "Authority customer" means an entity located in the state to which the authority sells or is under contract to sell power or energy under the authority in this title or any other law.

(ii) "CCA community" means one or more municipal corporations located within the state that have provided for the purchase of power, energy, or renewable energy credits or other attributes under a CCA program.

(iii) "CCA program" means a community choice aggregation program approved by the public service commission.

(iv) "Disadvantaged communities" has the meaning ascribed to that term by subdivision five of section 75-0101 of the environmental conservation law.

(v) "Public entity" has the same meaning as in subparagraph five of paragraph (b) of subdivision seventeen of this section.

(vi) "Renewable energy generating project" or "project" means:

(A) facilities that generate power and energy by means of a renewable energy resource;

(B) facilities that store and discharge power and energy; and

(C) transmission and other infrastructure that supports or facilitates the transmission and distribution of electricity from renewable energy generating projects to delivery points within the state of New York.

(vii) "Renewable energy resource" means solar power, wind power, hydroelectric, green hydrogen, and any other generation resource authorized by any renewable energy standard adopted by the state for the purpose of implementing any state clean energy standard.

(h) The authority shall complete and submit a report, on or before January thirty-first, two thousand twenty-five, and annually thereafter, to the governor, the speaker of the assembly, and the temporary president of the senate, and shall post such report on the authority's website such that the report is accessible for public review. Such report shall include, but not be limited to:

(i) a description of the renewable energy projects the authority has planned, designed, developed, financed, or constructed and that it owns, operates, maintains or improves, alone or jointly with other entities, under the authority of this subdivision;

(ii) a description of the acquisition, lease or other disposition of interests in renewable energy generating projects by the authority under this subdivision;

(iii) a listing of all power, energy, ancillary services and related credits and attributes sold or purchased by the authority from such projects;

(iv) a listing of the entities to which the authority has supplied, allocated or sold any power, energy, ancillary services or related credits or attributes from such projects; and

(v) a listing and description of all subsidiaries and special purpose entities that the authority formed, or in which the authority acquired or transferred interests.

§ 2. Section 1005 of the public authorities law is amended by adding a new subdivision 27-b to read as follows:

27-b. (a) Definitions. For purposes of this subdivision, the following terms shall have the following meanings:

(i) "bill credit" means a monthly monetary credit as determined by the public service commission to the utility bill of an end-use electricity consumer located in a disadvantaged community, including a low and moderate income consumer, for renewable energy produced by renewable energy systems developed, constructed, owned, or contracted for by the power authority of the state of New York and injected into a distribution or transmission facility at one or more points in New York state, together with any enhanced incentive payments for a community distributed generation project serving a disadvantaged community provided for

in paragraph (b) of subdivision seven of section sixty-six-p of the public service law, together with any other funding made available by the authority for such purposes;

(ii) "disadvantaged community" means a community defined as a disadvantaged community in accordance with article seventy-five of the environmental conservation law;

(iii) "jurisdictional load serving entity" has the same meaning as defined in paragraph (a) of subdivision one of section sixty-six-p of the public service law;

(iv) "renewable energy" means electrical energy produced by a renewable energy system; and

(v) "renewable energy systems" has the same meaning as defined in paragraph (b) of subdivision one of section sixty-six-p of the public service law.

(b) Notwithstanding any other law to the contrary, the authority is authorized to establish a program, to be known as the "renewable energy access and community help program" or "REACH", that will enable end-use electricity consumers in disadvantaged communities, including such end-use electricity customers who reside in buildings that have on-site net-metered generation or who participate in a community choice aggregation or community distributed generation project, unless they opt out of REACH, to receive bill credits generated by the production of renewable energy by a renewable energy system developed, constructed, owned, or contracted for by the authority. Such bill credits shall be in addition to any other renewable energy program or any other program or benefit that end-use electricity consumers in disadvantaged communities receive. For purposes of this subdivision, a renewable energy system developed, constructed, owned, or contracted for by the authority shall be: (i) sized up to and including five megawatts alternating current and interconnected to the distribution system or transmission system in the service territory of the electric utility that serves the end-use electricity consumers that receive bill credits; or (ii) sized above five megawatts alternating current and interconnected to the transmission system at one or more points anywhere within the state.

(c) For purposes of implementing REACH, the authority is authorized to:

(i) develop, construct, own, and/or operate renewable energy systems and related energy facilities, including energy storage facilities;

(ii) contract for the development, construction and/or operation of renewable energy systems;

(iii) generate and store renewable energy, and inject energy, from renewable energy systems into transmission or distribution systems at one or more points in the state;

(iv) sell, purchase, and otherwise contract regarding renewable energy, renewable energy credits or attributes and other energy products and services generated by renewable energy systems; and

(v) enter into contracts for purposes of implementing REACH, including but not limited to agreements with developers, owners and operators of renewable energy systems, and agreements with jurisdictional load serving entities and the Long Island power authority, or its service provider, to provide for bill credits to end-use electricity consumers in disadvantaged communities for renewable energy produced by renewable energy systems, upon terms and conditions approved by the public service commission pursuant to subdivisions seven and eight of section sixty-six-p of the public service law.

(d) The authority shall complete and submit a report, on or before January thirty-first, two thousand twenty-five, and annually thereafter, to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the assembly, and the minority leader of the senate which shall include, but not be limited to:

(i) contracts entered into by the authority for the development, construction and/or operation of renewable energy systems that are intended in whole or in part to support REACH, and the planned location of such projects;

(ii) renewable energy systems that are being planned and developed or that have been developed by or for the authority that are intended in whole or in part to support REACH, and the location of such projects;

(iii) an estimate of the aggregate amount of bill credits provided to end-use electricity consumers in disadvantaged communities under REACH; and

(iv) an estimate of: (A) the total amount of revenues generated from the sale of renewable capacity, energy, renewable credits or attributes, related ancillary services that are used to fund bill credits; and (B) any other authority funds, as determined to be feasible and advisable by the trustees, the authority has contributed for the purpose of funding bill credits under REACH.

(e) The authority may request from any department, division, office, commission or other agency of the state or state public authority, and the same are authorized to provide, such assistance, services and data as may be required by the authority in carrying out the purposes of this subdivision.

§ 3. Subdivision 1 of section 66-p of the public service law, as added by chapter 106 of the laws of 2019, is amended to read as follows:

1. As used in this section:

(a) "jurisdictional load serving entity" means any entity subject to the jurisdiction of the commission that secures energy to serve the electrical energy requirements of end-use customers in New York state[~~:~~].

(b) "renewable energy systems" means systems that generate electricity or thermal energy through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity.

(c) "bill credit" shall have the same meaning as in subparagraph (i) of paragraph (a) of subdivision twenty-seven-b of section one thousand five of the public authorities law.

(d) "disadvantaged community" means a community defined as a disadvantaged community under article seventy-five of the environmental conservation law.

(e) "renewable energy" means electrical energy produced by a renewable energy system.

§ 4. Section 66-p of the public service law is amended by adding a new subdivision 8 to read as follows:

8. The commission shall, no later than eighteen months after the effective date of this subdivision, commence necessary proceedings to enable the power authority of the state of New York to provide bill credits from renewable energy systems under the renewable energy access and community help program, or "REACH", established pursuant to subdivision twenty-seven-b of section one thousand five of the public authorities law, to end-use electricity consumers in disadvantaged communities

for renewable energy produced by renewable energy systems developed, constructed, owned, or contracted for by the power authority of the state of New York. Such bill credits shall be in addition to any other renewable energy program or any other program or benefit that end-use electricity consumers in disadvantaged communities receive, and any other incentives made available by the power authority of the state of New York. For purposes of this subdivision, a renewable energy system developed, constructed, owned, or contracted for by the authority shall be:

(a) sized up to and including five megawatts alternating current and interconnected to the distribution system or transmission system in the service territory of the electric utility that serves the end-use consumers that receive bill credits; or

(b) sized above five megawatts alternating current and interconnected to the transmission system at one or more points anywhere in New York state. The commission shall, after public notice and comment under the state administrative procedure act, establish such programs implementing REACH which:

(i) provide that jurisdictional load serving entities shall enter into agreements with the power authority of the state of New York to carry out REACH;

(ii) provide that jurisdictional load serving entities shall file tariffs and other solutions determined by the commission to implement REACH at a reasonable cost while ensuring safe and reliable electric service;

(iii) provide that, unless they opt out, end-use electricity consumers in disadvantaged communities, including such end-use electricity customers who have or who reside in buildings that have on-site net-metered generation or who participate in a community choice aggregation or community distributed generation project, shall receive bill credits for renewable energy produced by a renewable energy system developed, constructed, owned, or contracted for by the power authority of the state of New York;

(iv) consider enhanced incentive payments in bill credits to end-use electricity consumers in disadvantaged communities for renewable energy systems including solar and community distributed generation projects as provided for in paragraph (b) of subdivision seven of this section;

(v) to the extent practicable include energy storage in renewable energy systems to deliver clean energy benefits to end-use electricity consumers in disadvantaged communities as provided for in paragraphs (a) and (b) of subdivision seven of this section; and

(vi) address recovery by jurisdictional load serving entities of their prudently incurred costs of administering REACH in electric service delivery rates of the utility in whose service territory end-use electricity consumers in a disadvantaged community participate in REACH.

§ 5. Section 1005 of the public authorities law is amended by adding a new subdivision 27-c to read as follows:

27-c. (a) Within two years of the effective date of this subdivision, the authority shall publish a plan providing for the proposed phase out, by December thirty-first, two thousand thirty-five, of the production of electric energy from its small natural gas power plants should the authority determine that such plants or the electricity production therefrom are not needed for any of following purposes: (i) emergency power service; or (ii) electric system reliability, including but not limited to, operating facilities to maintain power system requirements for facility thermal limits, voltage limits, frequency limits, fault current

duty limits, or dynamic stability limits, in accordance with the system reliability standards of the North American electric reliability corporation, criteria of the northeast power coordinating council, rules of the New York state reliability council, and as applicable, reliability rules of the utility in whose service territory a small natural gas power plant is located. Notwithstanding any other provision of this paragraph, the authority may continue to produce electric energy at any of the small natural gas power plants if existing or proposed replacement generation resources would result in a net increase of emissions of carbon dioxide within or outside New York state.

(b) In determining whether to cease electricity production from any small natural gas power plant, the authority is authorized to confer with the federally designated electric bulk system operator for the state, the New York state energy research and development authority, the department of public service, and the distribution utility in whose service territory such small natural gas power plant operates, in addition to such other stakeholders as the authority determines to be appropriate.

(c) Nothing in this subdivision is intended to, nor shall be construed to, prohibit the authority in its discretion from using, or permitting the use of, including through lease, sale, or, other arrangement, any small natural gas power plant or its site or associated infrastructure in whole or in part for electric system purposes that does not involve the combustion of fossil fuels, including, but not limited to providing system voltage support, energy storage, interconnection of existing or new renewable generation, or the use of the generator step up transformers and substations for transmission or distribution purposes.

(d) For purposes of this subdivision, the term "small natural gas power plant" means each of the seven electric generating power plants owned and operated by the authority located at six sites in Bronx, Brooklyn, Queens and Staten Island and one site in Brentwood, Suffolk county, which each use one or more simple cycle combustion turbine units, totaling eleven units, fueled by natural gas and which typically operate during periods of peak electric system demand.

§ 6. Section 1020-f of the public authorities law, as added by chapter 517 of the laws of 1986, is amended by adding a new subdivision (jj) to read as follows:

(jj) Notwithstanding any provision of law to the contrary, as deemed feasible and advisable by the trustees, to enter into contracts with the power authority of the state of New York for the provision of bill credits generated by the production of renewable energy by a renewable energy system developed, constructed, owned, or contracted for by the power authority of the state of New York under the renewable energy access and community help program established pursuant to subdivision twenty-seven-b of section one thousand five of this article and, unless such end-use electricity consumers opt out, to provide such bill credits to end-use electricity consumers in disadvantaged communities, including such end-use electricity customers who have or who reside in buildings that have on-site net-metered generation or who participate in a community choice aggregation or community distributed generation project.

§ 7. Section 1005 of the public authorities law is amended by adding a new subdivision 27-d to read as follows:

27-d. The authority is authorized, as deemed feasible and advisable by the trustees, to make available an amount up to twenty-five million dollars annually to fund training programs to help prepare workers for employment in the renewable energy field. The authority shall coordi-

nate with the department of labor and the New York state energy and research development authority on initiatives to help prepare workers for employment in the renewable energy field and to maximize the impact of authority resources made available pursuant to this subdivision.

§ 8. Paragraph (a) and subparagraph 1 of paragraph (b) of subdivision 13-b of section 1005 of the public authorities law, added by section 4 of part CC of chapter 60 of the laws of 2011, are amended to read as follows:

(a) Residential consumer electricity cost discount. Notwithstanding any provision of this title or article six of the economic development law to the contrary, the authority is authorized, as deemed feasible and advisable by the trustees, to use revenues from the sale of hydroelectric power, and such other funds of the authority as deemed feasible and advisable by the trustees, to fund monthly payments to be made for the benefit of such classes of electricity consumers as enjoyed the benefits of authority hydroelectric power withdrawn pursuant to subdivision thirteen-a of this section, for the purpose of mitigating price impacts associated with the reallocation of such power in the manner described in this subdivision. Such monthly payments shall commence after such hydroelectric power is withdrawn and shall cease August first, two thousand twenty-three. The total annual amount of monthly payments for each of the three twelve month periods following withdrawal of such [~~hyrdoelectric~~] hydroelectric power shall be one hundred million dollars. The total annual amount of monthly payments for each of the two subsequent twelve month periods shall be seventy million dollars and fifty million dollars, respectively. Thereafter, the total annual amount of monthly payments for each twelve month period through the final period ending August first, two thousand twenty-three shall be thirty million dollars. The total amount of monthly payments shall be apportioned by the authority among the utility corporations that, prior to the effective date of this subdivision, purchased such hydroelectric power for the benefit of their domestic and rural consumers according to the relative amounts of such power purchased by such corporations. The monthly payments shall be credited to the electricity bills of such corporations' domestic and rural consumers in a manner to be determined by the public service commission of the state of New York. The monthly credit provided by any such corporation to any one consumer shall not exceed the total monthly electric utility cost incurred by such consumer.

(1) Beginning with the second twelve month period after such hydroelectric power is withdrawn, up to eight million dollars of the residential consumer electricity cost discount established by paragraph (a) of this subdivision shall be dedicated for monthly payments to agricultural producers who receive electric service at the residential rate, provided that in the final twelve month period ending August first, two thousand twenty-three, the amount dedicated for agricultural producers shall not exceed twenty percent of the amount made available for the overall residential consumer electricity cost discount. The total amount of monthly payments shall be apportioned by the authority among the utility corporations in the same manner as they are apportioned in paragraph (a) of this subdivision. Monthly payments shall be credited to the electricity bills of such corporations' agricultural consumers in a manner to be determined by the public service commission of the state of New York. The combined monthly credit, under this paragraph and paragraph (a) of this subdivision, provided by any such corporation to any one consumer shall not exceed the total monthly electric utility cost incurred by such consumer.

§ 9. Subdivision 13-b of section 1005 of the public authorities law, as added by section 4 of part CC of chapter 60 of the laws of 2011, paragraph (a) and subparagraph 1 of paragraph (b) as amended by section 8 of this act, is amended to read as follows:

13-b. [~~Residential consumer discount programs. (a) Residential consumer electricity cost discount. Notwithstanding any provision of this title or article six of the economic development law to the contrary, the authority is authorized, as deemed feasible and advisable by the trustees, to use revenues from the sale of hydroelectric power, and such other funds of the authority as deemed feasible and advisable by the trustees, to fund monthly payments to be made for the benefit of such classes of electricity consumers as enjoyed the benefits of authority hydroelectric power withdrawn pursuant to subdivision thirteen-a of this section, for the purpose of mitigating price impacts associated with the reallocation of such power in the manner described in this subdivision. Such monthly payments shall commence after such hydroelectric power is withdrawn and shall cease August first, two thousand twenty-three. The total annual amount of monthly payments for each of the three twelve month periods following withdrawal of such hydroelectric power shall be one hundred million dollars. The total annual amount of monthly payments for each of the two subsequent twelve month periods shall be seventy million dollars and fifty million dollars, respectively. Thereafter, the total annual amount of monthly payments for each twelve month period through the final period ending August first, two thousand twenty-three shall be thirty million dollars. The total amount of monthly payments shall be apportioned by the authority among the utility corporations that, prior to the effective date of this subdivision, purchased such hydroelectric power for the benefit of their domestic and rural consumers according to the relative amounts of such power purchased by such corporations. The monthly payments shall be credited to the electricity bills of such corporations' domestic and rural consumers in a manner to be determined by the public service commission of the state of New York. The monthly credit provided by any such corporation to any one consumer shall not exceed the total monthly electric utility cost incurred by such consumer.~~

~~(b)~~] Agricultural consumer electricity cost discount. (1) [~~Beginning with the second twelve month period after such hydroelectric power is withdrawn, up to eight million dollars of the residential consumer electricity cost discount established by paragraph (a) of this subdivision shall be dedicated for monthly payments to agricultural producers who receive electric service at the residential rate, provided that in the final twelve month period ending August first, two thousand twenty-three, the amount dedicated for agricultural producers shall not exceed twenty percent of the amount made available for the overall residential consumer electricity cost discount. The total amount of monthly payments shall be apportioned by the authority among the utility corporations in the same manner as they are apportioned in paragraph (a) of this subdivision. Monthly payments shall be credited to the electricity bills of such corporations' agricultural consumers in a manner to be determined by the public service commission of the state of New York. The combined monthly credit, under this paragraph and paragraph (a) of this subdivision, provided by any such corporation to any one consumer shall not exceed the total monthly electric utility cost incurred by such consumer.~~] Notwithstanding any provision of this title or article six of the economic development law to the contrary, the authority is authorized, beginning in two thousand twenty-four, as deemed feasible and advisable

by the trustees, to use revenues from the sale of hydroelectric power, and such other funds of the authority as deemed feasible and advisable by the trustees, to fund monthly payments to be made for the benefit of agricultural producers who receive electric service at the residential rate who enjoyed the benefits of authority hydroelectric power withdrawn pursuant to subdivision thirteen-a of this section, and who were previously eligible to receive benefits under the agricultural consumer electricity cost discount created by section four of part CC of chapter sixty of the laws of two thousand eleven, for the purpose of mitigating price impacts associated with the reallocation of such power in the manner described in this subdivision. Such monthly payments shall commence September first, two thousand twenty-four. The total annual amount of monthly payments shall not exceed five million dollars.

(2) The authority shall work cooperatively with the department of public service to evaluate the agricultural consumer electricity cost discount, which shall include an assessment of the benefits to recipients compared to the benefits the recipients received from the authority's hydroelectric power, withdrawn pursuant to subdivision thirteen-a of this section, during the twelve month period ending December thirty-first, two thousand ten, and compared to other agricultural consumers that did not choose to receive the discount.

[~~(c)~~] (b) Energy efficiency program. (1) Beginning with the withdrawal of such hydroelectric power, the authority or the New York state energy research and development authority, shall conduct an energy efficiency program for five years to provide energy efficiency improvements for the purpose of reducing energy consumption for domestic and rural consumers. Such energy efficiency program may be undertaken in cooperation with other energy efficiency programs offered by utility corporations, state agencies and authorities including but not limited to the New York state energy research and development authority; provided however that energy savings attributable to such other energy efficiency programs shall not be included in determining the amount of energy saved pursuant to the program established by this paragraph;

(2) The authority or the New York state energy research and development authority shall annually post on their website a report evaluating the energy efficiency program, including but not limited to, the number of domestic and rural consumers who opted to participate in the program and, if practicable, the estimated savings the domestic and rural consumers received by participating in the energy efficiency program.

§ 10. Subdivision 13-b of section 1005 of the public authorities law is REPEALED.

§ 11. Nothing in this act is intended to limit, impair, or affect the legal authority of the Power Authority of the State of New York under any other provision of law.

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

§ 13. This act shall take effect immediately; provided, however, that section nine of this act shall take effect January 1, 2024; and provided further, however, that section ten of this act shall take effect December 31, 2029.

PART YY

Section 1. Section 4 of part LL of chapter 58 of the laws of 2019 amending the public authorities law relating to the provision of renewable power and energy by the Power Authority of the State of New York is amended to read as follows:

§ 4. This act shall take effect immediately; provided, however, that the provisions of sections two and three of this act shall expire on June 30, [~~2024~~] **2044** when upon such date the provisions of such sections shall be deemed repealed, provided that such repeal shall not affect or impair any act done, any right, permit or authorization accrued or acquired, or any liability incurred, prior to the time such repeal takes effect, and provided further that any project or contract that was awarded by the power authority of the state of New York prior to such repeal shall be permitted to continue under this act notwithstanding such repeal.

§ 2. This act shall take effect immediately.

PART ZZ

Section 1. Expenditures of moneys by the New York state energy research and development authority for services and expenses of the energy research, development and demonstration program, including grants, the energy policy and planning program, and the Fuel NY program shall be subject to the provisions of this section. Notwithstanding the provisions of subdivision 4-a of section 18-a of the public service law, all moneys committed or expended in an amount not to exceed $28,725,000 shall be reimbursed by assessment against gas corporations, as defined in subdivision 11 of section 2 of the public service law and electric corporations as defined in subdivision 13 of section 2 of the public service law, where such gas corporations and electric corporations have gross revenues from intrastate utility operations in excess of $500,000 in the preceding calendar year, and the total amount assessed shall be allocated to each electric corporation and gas corporation in proportion to its intrastate electricity and gas revenues in the calendar year 2021. Such amounts shall be excluded from the general assessment provisions of subdivision 2 of section 18-a of the public service law. The chair of the public service commission shall bill such gas and/or electric corporations for such amounts on or before August 10, 2023 and such amounts shall be paid to the New York state energy research and development authority on or before September 10, 2023. Upon receipt, the New York state energy research and development authority shall deposit such funds in the energy research and development operating fund established pursuant to section 1859 of the public authorities law. The New York state energy research and development authority is authorized and directed to: (1) transfer up to $4 million to the state general fund for climate change related services and expenses of the department of environmental conservation from the funds received; and (2) commencing in 2016, provide to the chair of the public service commission and the director of the budget and the chairs and secretaries of the legislative fiscal committees, on or before August first of each year, an itemized record, certified by the president and chief executive officer of the authority, or his or her designee, detailing any and all expenditures and commitments ascribable to moneys received as a result of this assessment by the chair of the department of public service pursuant to section 18-a of the public service law. This itemized record shall

include an itemized breakdown of the programs being funded by this section and the amount committed to each program. The authority shall not commit for any expenditure, any moneys derived from the assessment provided for in this section, until the chair of such authority shall have submitted, and the director of the budget shall have approved, a comprehensive financial plan encompassing all moneys available to and all anticipated commitments and expenditures by such authority from any source for the operations of such authority. Copies of the approved comprehensive financial plan shall be immediately submitted by the chair to the chairs and secretaries of the legislative fiscal committees. Any such amount not committed by such authority to contracts or contracts to be awarded or otherwise expended by the authority during the fiscal year shall be refunded by such authority on a pro-rata basis to such gas and/or electric corporations, in a manner to be determined by the department of public service, and any refund amounts must be explicitly lined out in the itemized record described above.

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

## PART AAA

Section 1. Legislative findings and declaration. 1. Pursuant to article 75 of the environmental conservation law, as added by the Climate Leadership and Community Protection Act, the department of environmental conservation must promulgate regulations, by January 1, 2024, to ensure achievement of the statewide greenhouse gas emission limits, as defined and established therein. Among other requirements, the regulations promulgated by such department pursuant to section 75-0109 of the environmental conservation law must ensure that the aggregate emissions of greenhouse gases from greenhouse gas emission sources will not exceed the statewide greenhouse gas emissions limits established in section 75-0107 of the environmental conservation law; include legally enforceable emissions limits, performance standards, or measures or other requirements to control emissions from greenhouse gas emission sources; and reflect, in substantial part, the findings of the scoping plan prepared by the Climate Action Council pursuant to section 75-0103 of the environmental conservation law.

2. The scoping plan prepared by the Climate Action Council pursuant to section 75-0103 of the environmental conservation law recommends that the department of environmental conservation and the New York state energy research and development authority adopt an economy-wide cap and invest program to, among other purposes, ensure achievement of the statewide greenhouse gas limits, as defined and established in article 75 of the environmental conservation law.

3. An economy-wide cap and invest program, established through regulation by the department of environmental conservation and the New York state energy research and development authority, would meet the requirements of section 75-0109 of the environmental conservation law.

4. While the establishment of an economy-wide cap and invest program through regulation is the most cost-effective means of achieving the statewide greenhouse gas emission limits, as defined and established in article 75 of the environmental conservation law, the state must ensure that energy costs are affordable for all members of the public.

5. To promote affordability, a portion of the proceeds of the auction or sale of allowances under the economy-wide cap and invest program will be designated to mitigate costs through the creation of a climate action

fund, that will assist in reducing the costs of the program for the people of the state and for industrial small businesses within the state, and which, in combination with other investments made possible by the cap and invest program, help households and industrial small businesses reduce their energy costs by switching to clean energy.

6. In promulgating the regulations, pursuant to section 75-0109 of the environmental conservation law, to establish an economy-wide cap and invest program, the department of environmental conservation in consultation with the New York state energy research and development authority will prioritize affordability in the design of the program, including by considering as part of the rulemaking process the aggregate cost of the program when applying the carbon dioxide equivalent and statewide greenhouse gas emission limit, as those terms are defined in section 75-0101 of the environmental conservation law, and, in addition the aggregate cost of the program if the carbon dioxide equivalent and statewide greenhouse gas limit as defined under internationally accepted best practices or other metrics is applied.

7. To ensure the state maintains its role as a climate leader, the economy-wide cap and invest program will be designed with the capacity to link with other similar programs in other jurisdictions to lower overall costs for the state to achieve the statewide greenhouse gas emission limits, as defined and established in article 75 of the environmental conservation law, and catalyze additional emissions reductions and greater scale in the clean energy economy across multiple jurisdictions.

8. The economy-wide cap and invest program to be established by the department of environmental conservation and the New York state energy research and development authority will be designed to create jobs and preserve the competitiveness of the state's existing businesses, including creating well-paying, family-sustaining jobs and by recognizing energy intensive and trade exposed industries and designing program elements, such as direct allocation of allowances to qualifying greenhouse gas emission sources in such industries, to prevent leakage.

9. The economy-wide cap and invest program to be established by the department of environmental conservation and the New York state energy research and development authority will be designed to invest in and, as appropriate, prioritize disadvantaged communities, including by ensuring investments of the proceeds of allowances benefit disadvantaged communities, as required by section 75-0117 of the environmental conservation law, and by designing other program elements to avoid disproportionate burdens on disadvantaged communities.

10. To invest in a sustainable future, the proceeds of the auction or sale of allowances under the economy-wide cap and invest program will provide funding to support programmatic investments designed to achieve the statewide greenhouse gas emission limit, as defined and established in article 75 of the environmental conservation law, delivering benefits across the state and enhancing livability, cutting transition costs for consumers, and creating a better state.

§ 2. Subdivision 1 of section 75-0101 of the environmental conservation law, as added by chapter 106 of the laws of 2019, is amended and four new subdivisions 16, 17, 18 and 19 are added to read as follows:

1. "Allowance" means an authorization to emit[~~, during a specified year, up to one ton of carbon dioxide equivalent~~] **a fixed amount of carbon dioxide equivalent, as created and issued by the department**.

**16. "Cap and invest program" shall mean the program, as established through regulations adopted by the department and the authority,**

containing market-based declining annual aggregate emissions limits for greenhouse gas sources or categories of greenhouse gas sources, by setting an overall cap or maximum amount of emissions from all regulated sources per compliance period; provided that a certain number of allowances shall be created, issued and made available to persons, companies, organizations or other entities for sale by auction or by direct allocation; and provided further that the total number of allowances made available in a compliance period shall not exceed the cap.

17. "Department" shall mean the department of environmental conservation.

18. "Authority" shall mean the New York state energy research and development authority.

19. "Greenhouse gas emissions reduction account" shall mean a general account to be established by the authority, into which the department shall allocate allowances.

§ 3. Subdivision 2 of section 75-0109 of the environmental conservation law is amended by adding two new paragraphs e and f to read as follows:

e. Notwithstanding any other provision of law, utilize software systems and/or electronic mechanisms to ensure adequate data collection and assess greenhouse gas emission sources compliance with regulations.

f. At the discretion of the department, greenhouse gas emission sources may be required to submit compliance items electronically and maintain and utilize electronic signatures for verification purposes.

§ 4. Subdivision 1 of section 75-0111 of the environmental conservation law is amended by adding a new paragraph d to read as follows:

d. Working group members shall receive no compensation for their services but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

§ 5. Paragraphs a and b of subdivision 2 of section 75-0111 of the environmental conservation law, as added by chapter 106 of the laws of 2019, are amended to read as follows:

a. The [~~council~~] working group shall hold at least six regional public hearings on the draft criteria and the draft list of disadvantaged communities, including three meetings in the upstate region and three meetings in the downstate region, and shall allow at least one hundred twenty days for the submission of public comment.

b. The [~~council~~] working group shall also ensure that there are meaningful opportunities for public comment for all segments of the population that will be impacted by the criteria, including persons living in areas that may be identified as disadvantaged communities under the proposed criteria.

§ 6. The environmental conservation law is amended by adding a new section 75-0121 to read as follows:

§ 75-0121. Allocation of allowances.

1. The department shall transfer all or a portion of allowances, as created and issued by the department pursuant to the cap and invest program, to the greenhouse gas emissions reduction account for auction or sale thereof.

2. Energy-intensive and trade-exposed facilities, as determined by the department, must receive an allocation of allowances for the covered emissions under a cap and invest program at no cost in a manner determined by the department. The department shall adopt a regulation that identifies criteria for both energy intensity and trade exposure for the purpose of identifying energy-intensive and trade-exposed facilities and

identifies the procedure for such facilities to receive no cost allowances.

§ 7. Section 1854 of the public authorities law is amended by adding three new subdivisions 24, 25 and 26 to read as follows:

24. Climate risk-related and energy transition activities. To conduct, foster, assist, evaluate, and support programs and services related to: greenhouse gas emissions or co-pollutant reductions; research, analysis and support of climate mitigation, adaptation, and resilience; other measures as identified in the scoping plan developed pursuant to section 75-0103 of the environmental conservation law, including without limitation those measures identified relative to a just transition or workforce development; or measures identified in the state energy plan developed pursuant to article six of the energy law.

25. To administer, implement, and support the greenhouse gas emissions reduction account as defined in section 75-0101 of the environmental conservation law, in such a manner that allowances allocated to such account by the department of environmental conservation, pursuant to regulations adopted pursuant to section 75-0109 of the environmental conservation law and other existing authority, will be made available for auction or sale pursuant to the cap and invest program, as defined in section 75-0101 of the environmental conservation law. The proceeds from the sale of allowances will be placed into a segregated authority funding account, established pursuant to section eighteen hundred fifty-nine of this title, and shall not be commingled with other authority funds. Except as otherwise set forth in this title, the authority may use such proceeds for activities developed in accordance with the cap and invest program, as defined in section 75-0101 of the environmental conservation law, including but not limited to administrative costs, auction design and support costs, and program design, implementation, evaluation, and support costs associated with such cap and invest program.

26. Within thirty days following receipt of proceeds collected from the auction or sale of allowances allocated by the department of environmental conservation to the authority, pursuant to regulations adopted by the department of environmental conservation in relation to section 75-0109 of the environmental conservation law and other existing authority, the authority shall make the following transfers from such segregated authority funding account:

(a) Not less than thirty percent to the New York climate action fund consumer climate action account established pursuant to section ninety-nine-qq of the state finance law.

(b) Up to three percent to the New York climate action fund industrial small business climate action account established pursuant to section ninety-nine-qq of the state finance law.

(c) An amount to the state general fund to support costs of the department of environmental conservation, and other state agencies and authorities as appropriate, associated with such cap and invest program.

§ 8. The state finance law is amended by adding a new section 99-qq to read as follows:

§ 99-qq. New York climate action fund. 1. There is hereby established in the joint custody of the commissioner of taxation and finance and the state comptroller a special fund to be known as the "New York climate action fund".

2. The comptroller shall establish the following separate and distinct accounts within the New York climate action fund:

(a) consumer climate action account; and

(b) industrial small business climate action account.

3. (a) The New York climate action fund consumer climate action account shall consist of moneys received by the state pursuant to paragraph (a) of subdivision twenty-six of section eighteen hundred fifty-four of the public authorities law, and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law. Moneys of the account shall be expended for the purposes of providing a payment to help reduce potential increased costs of various goods and services that may result from the implementation of the cap and invest program to consumers in the state.

(b) The New York climate action fund industrial small business climate action account shall consist of moneys received by the state pursuant to paragraph (b) of subdivision twenty-six of section eighteen hundred fifty-four of the public authorities law, and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law. Moneys of the account shall be expended for the purposes of providing a payment to help reduce potential increased costs of various goods and services that may result from the implementation of the cap and invest program to industrial small businesses incorporated in the state of New York.

4. Moneys in the New York climate action fund shall be kept separate from and shall not be commingled with any other moneys in the custody of the comptroller or the commissioner of taxation and finance. Provided, however, that any moneys of the fund not required for immediate use may, at the discretion of the comptroller, in consultation with the director of the division of budget, be invested by the comptroller in obligations of the United States or the state. The proceeds of any such investment shall be retained by the fund as assets to be used for purposes of the fund.

§ 9. This act shall take effect immediately.

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

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