

# STATE OF NEW YORK

1981--B

2023-2024 Regular Sessions

## IN SENATE

January 18, 2023

Introduced by Sens. GOUNARDES, HOYLMAN-SIGAL, KRUEGER, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the highway law, in relation to reductions in vehicle miles traveled in highway projects in New York state

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

1 Section 1. Vehicle miles traveled assessment working group. 1. There  
2 is hereby established a vehicle miles traveled assessment working group.  
3 The vehicle miles traveled assessment working group shall meet regularly  
4 and shall study the options and best practices available and make recom-  
5 mendations for implementing vehicle miles traveled assessments in a  
6 manner which aligns with the goal of reducing annual vehicle miles trav-  
7 eled within the state by 20% by 2050 and developing a plan to assess,  
8 monitor, and approve a given project's impact mitigation actions. The  
9 working group shall aid the commissioner of transportation in establish-  
10 ing procedures to assist counties and towns seeking to comply with their  
11 vehicle miles traveled assessment requirements, as outlined in sections  
12 one hundred two and one hundred forty of the highway law.

13 2. The working group shall include a representative from the depart-  
14 ment of transportation, the office of the governor, the department of  
15 environmental conservation, the department of state, the department of  
16 agriculture and markets, the office of general services, the empire  
17 state development corporation, the New York energy research and develop-  
18 ment authority, the port authority of New York and New Jersey, the  
19 metropolitan transportation authority, the New York City department of

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

LBD06183-08-4

1 transportation, the office of the mayor of New York City, and the New  
2 York metropolitan transportation council. The working group shall  
3 include representatives from relevant community organizations and other  
4 necessary parties.

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

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

12 § 10-h. Reductions to vehicle miles traveled in state highway  
13 projects. 1. Legislative finding and declaration. This legislature does  
14 hereby find and declare that the final scoping plan adopted by the New  
15 York state climate action council pursuant to chapter one hundred six of  
16 the laws of two thousand nineteen deems it essential that the legisla-  
17 ture enact legislation which shall significantly reduce annual vehicle  
18 miles traveled in New York State. The legislature further finds and  
19 declares that achieving a reduction in annual vehicle miles traveled by  
20 twenty percent by two thousand fifty in New York State is necessary to  
21 enable achievement of the climate justice and emission reduction  
22 mandates in chapter one hundred six of the laws of two thousand nine-  
23 teen. Furthermore, the legislature finds that highway capacity expan-  
24 sion projects, as defined by subdivision two of this section, result in  
25 induced demand, whereas more vehicles utilize a highway after a high-  
26 way capacity expansion project, and therefore, these projects do not  
27 significantly reduce pollution, congestion, or vehicle miles traveled.

28 2. Definitions. As used in this section, the following terms shall  
29 have the following meanings:

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

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

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

40 3. Vehicle miles traveled assessment. Prior to the approval of any  
41 construction, reconstruction, or maintenance of state highways that  
42 would be considered a highway capacity expansion project, as defined by  
43 paragraph (b) of subdivision two of this section, the commissioner of  
44 transportation shall conduct a vehicle miles traveled impact assessment,  
45 as defined by paragraph (c) of subdivision two of this section, to eval-  
46 uate whether the project aligns with the goal of reducing annual vehicle  
47 miles traveled within the state by twenty percent by two thousand fifty.  
48 If a highway capacity expansion project does not align with the goal of  
49 reducing annual vehicle miles traveled within the state by twenty  
50 percent by two thousand fifty, the project shall be altered to align  
51 with these targets by changing its design or sufficiently offsetting its  
52 net change to vehicle miles traveled with impact mitigation efforts, as  
53 outlined in subdivision four of this section.

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

1 period of time align with the goal of reducing annual vehicle miles  
2 traveled within the state by twenty percent by two thousand fifty.

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

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

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

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

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

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

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

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

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

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

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

1 subdivision two of section ten-h of this chapter. If a highway capacity  
2 expansion project does not result in a reduction of vehicle miles trav-  
3 eled which aligns with the goal of reducing annual vehicle miles trav-  
4 eled within the state by twenty percent by two thousand fifty, the  
5 project shall be altered to align with these targets by changing its  
6 design or sufficiently offsetting its net change to vehicle miles trav-  
7 eled with impact mitigation efforts, as outlined in subdivision four of  
8 section ten-h of this chapter. The county superintendent may request any  
9 resources and technical assistance necessary from the commissioner to  
10 complete the vehicle miles traveled assessment.

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

13 20. Conduct a vehicle miles traveled assessment, as defined by subdi-  
14 vision two of section ten-h of this chapter, prior to the approval of  
15 any construction, reconstruction, or maintenance of town highways that  
16 would be considered a highway capacity expansion project, as defined in  
17 subdivision two of section ten-h of this chapter. If a highway capacity  
18 expansion project does not result in a reduction of vehicle miles trav-  
19 eled which aligns with the goal of reducing annual vehicle miles trav-  
20 eled within the state by twenty percent by two thousand fifty, the  
21 project shall be altered to align with these targets by changing its  
22 design or sufficiently offsetting its net change to vehicle miles trav-  
23 eled with impact mitigation efforts, as outlined in subdivision four of  
24 section ten-h of this chapter. The town superintendent may request any  
25 resources and technical assistance necessary from the commissioner of  
26 transportation to complete the vehicle miles traveled assessment.

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