

STATE OF NEW YORK

7442

2023-2024 Regular Sessions

IN SENATE

May 25, 2023

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the public buildings law, the education law, and the public authorities law, in relation to requiring state operations to use one hundred percent renewable electricity by two thousand thirty (Part A); to amend the general municipal law and the education law, in relation to exempting payment in lieu of taxes revenue from property tax cap calculations (Part B); to amend the executive law, in relation to requiring the office of renewable energy siting to develop a procedure to process any financial security or letter of credit required by the office (Part C); to amend the public authorities law, the tax law and the economic development law, in relation to the recycling of solar photovoltaic panels (Part D); to amend Part JJJ of chapter 58 of the laws of 2020, amending the public service law and other laws relating to accelerating the growth of renewable energy facilities to meet critical state energy policy goals, in relation to directing the New York power authority to propose a minimum of four priority transmission projects to address the areas of highest need on the bulk transmission system (Part E); to amend the environmental conservation law, in relation to the endangered and threatened species mitigation bank fund (Part F); to amend the public service law, in relation to exempting renewable energy systems from certain requirements related to energy facilities (Part G); to ensure the safe and efficient delivery of materials for the timely construction of major renewable energy facilities in furtherance of the goals mandated by the New York state climate leadership and community protection act (Part H); to amend the agriculture and markets law, in relation to defining land used in agricultural production for the purposes of an agricultural property tax exemption (Part I); to amend the environmental conservation law and the public service law, in relation to updating climate law goals for energy storage and renewable generation (Part J); to amend the tax law, in relation to establishing a sales tax exemption for energy storage (Part K); to amend the tax law, in relation to residential

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

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solar tax credits (Part L); and to amend the energy law, in relation to enacting the "solar for all homes and businesses act of 2023" (Part M)

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

1 Section 1. This act shall be known and may be cited as the "omnibus
2 renewable energy progress act".

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

5 1. Chapter 106 of the laws of 2019 enacted the New York state climate
6 leadership and community protection act (the "CLCPA") and chapter 58 of
7 the laws of 2020 enacted the accelerated renewable energy growth and
8 community benefit act ("AREGCBA"), both of which are aimed at fighting
9 climate change and decarbonizing the electricity sector in New York.
10 These two acts, among other things:

11 (a) directed the department of environmental conservation to establish
12 a statewide greenhouse gas emissions limit as a percentage of 1990 emis-
13 sions as follows: (i) 2030: 60% of 1990 emissions; and (ii) 2050: 15% of
14 1990 emissions;

15 (b) directed the public service commission to establish programs to
16 require that a minimum of 70% statewide electric generation be produced
17 by renewable energy systems by 2030, and that by the year 2040 the
18 statewide electrical demand system will generate zero emissions;

19 (c) created the office of renewable energy siting to coordinate the
20 environmental review and permitting of large-scale renewable energy
21 projects;

22 (d) directed the public service commission to initiate a comprehensive
23 study of the state's power grid to identify distribution and trans-
24 mission infrastructure needed to enable the state to meet the CLCPA
25 targets, and based on such study, develop plans that provide for the
26 timely development of local transmission and distribution system
27 upgrades by the state's regulated utilities and the Long Island power
28 authority; and identify bulk transmission investments that should be
29 undertaken, including projects that should be undertaken on an expe-
30 dited basis in cooperation with the power authority of the state of New
31 York; and

32 (e) directed the department of environmental conservation to create an
33 endangered species mitigation bank fund to improve the efficiency of the
34 species protection review and mitigation process for large scale renewa-
35 ble energy facilities.

36 2. In order to achieve the CLCPA targets and the goals of the AREGCBA,
37 the state shall take appropriate action to ensure that:

38 (a) new renewable energy generation projects can be sited in a timely
39 and cost-effective manner that continues to include consideration of
40 local laws concerning zoning, the environment or public health and safe-
41 ty, and continues to avoid or minimize, to the maximum extent practica-
42 ble, adverse environmental impacts; and

43 (b) renewable energy can be efficiently and cost-effectively injected
44 into the state's distribution and transmission system for delivery to
45 regions of the state where it is needed; and

46 (c) renewable energy property tax assessment at the local level is
47 standardized and local government entities have the flexibility to bene-
48 fit from increased tax revenue from renewable energy projects; and

(d) state entities are procuring renewable energy and energy storage to power their own operations to the greatest extent possible; and

(e) local government entities have the ability to utilize a statewide decommissioning mechanism to ensure that renewable energy project owners are financially accountable for the decommissioning of projects in as standardized a system as possible; and

(f) the department of environmental conservation assesses and recommends the best future methods of solar panel disposal at their end-of-life; and

(g) the siting and approval of renewable energy projects will help communities across the state be part of the climate solution while creating good-paying jobs and realizing key economic and social benefits.

3. A public policy purpose would be served and the interests of the people of the state would be advanced by the provisions of this act.

§ 3. This act enacts into law major components of legislation which are necessary to implement the "omnibus renewable energy progress act". Each component is wholly contained within a Part identified as Parts A through M. 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 five of this act sets forth the general effective date of this act.

PART A

Section 1. The public buildings law is amended by adding a new section 147 to read as follows:

§ 147. Reduction of greenhouse gas emission from public buildings. By two thousand thirty and thereafter, subject to available supply, one hundred percent of the electricity used by all state owned public buildings for their own operations, except electricity needed to support the generation of electricity by an entity in accordance with its enabling authority, shall come from a renewable energy system as defined in paragraph (b) of subdivision one of section sixty-six-p of the public service law. In the implementation of this section, the commissioner of general services, in consultation with the New York state energy research and development authority and the public service commission, shall develop a program to ensure compliance with this requirement that would allow state entities to count the portion of electricity purchased from their utility that is renewable; allow the procurement of in-state renewable energy certificates ("RECs") to count towards compliance, including RECs from facilities constructed prior to two thousand fifteen; and allow on-site renewable energy generation to count towards compliance.

§ 2. Subdivision 2 of section 355 of the education law is amended by adding a new paragraph aa to read as follows:

aa. To ensure that by two thousand thirty and thereafter that one hundred percent of the electricity used by all buildings owned by the state university or any institution therein shall come from a renewable energy system as defined in paragraph (b) of subdivision one of section sixty-six-p of the public service law, subject to available supply.

§ 3. Section 1005 of the public authorities law is amended by adding a new subdivision 31 to read as follows:

31. The authority shall by January first, two thousand thirty, only generate renewable energy as provided in section sixty-six-p of the public service law, unless such non-renewable energy generation is needed for grid reliability as verified by the independent system operator.

§ 4. Subdivision (r) of section 1020-f of the public authorities law, as added by chapter 517 of the laws of 1986, is amended to read as follows:

(r) To enter into agreements to purchase power from the power authority of the state of New York, the state, any state agency, any municipality, any private entity, or any other available source at such price or prices as may be negotiated; provided, however, that the authority shall not have the power to enter into any agreement or any negotiation for the purchase of power from the dominion of Canada, or any political subdivision, public authority or private corporation therein; but may enter into an agreement with the power authority of the state of New York for the purchase of such power; provided however, that all power purchased after January first, two thousand thirty shall be generated from renewable energy as provided in section sixty-six-p of the public service law, unless such non-renewable energy generation is needed for grid reliability as verified by the independent system operator.

§ 5. 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) To install one gigawatt of battery storage by two thousand thirty.

§ 6. This act shall take effect immediately.

PART B

Section 1. Subparagraphs (iii) and (vi) of paragraph (c) of subdivision 3 of section 3-c of the general municipal law, as added by section 1 of part A of chapter 97 of the laws of 2011, are amended to read as follows:

(iii) Add any payments in lieu of taxes that were receivable in the prior fiscal year, provided however, it shall not include payments in lieu of taxes that were receivable from renewable energy generation projects as defined in section sixty-six-p of the public service law.

(vi) Subtract any payments in lieu of taxes receivable in the coming fiscal year, provided however, it shall not include payments in lieu of taxes that are receivable from renewable energy generation projects as defined in section sixty-six-p of the public service law.

§ 2. Subparagraphs 3 and 6 of paragraph a of subdivision 3 of section 2023-a of the education law, as added by section 2 of part A of chapter 97 of the laws of 2011, are amended to read as follows:

(3) Add any payments in lieu of taxes that were receivable in the prior school year, provided however, it shall not include payments in lieu of taxes that were receivable from renewable energy generation projects as defined in section sixty-six-p of the public service law.

(6) Subtract any payments in lieu of taxes receivable in the coming fiscal year, provided however, it shall not include payments in lieu of taxes that are receivable from renewable energy generation projects as defined in section sixty-six-p of the public service law.

§ 3. This act shall take effect immediately; provided, however, that section one of this act shall first apply to the levy of taxes by local

1 governments for the fiscal year that begins in 2024; and provided,
2 further, that section two of this act shall first apply to school
3 district budgets and the budget adoption process for the 2024-2025
4 school year.

PART C

6 Section 1. Paragraph (g) of subdivision 3 of section 94-c of the exec-
7 utive law, as added by section 4 of part JJJ of chapter 58 of the laws
8 of 2020, is amended to read as follows:

9 (g) The office shall within one year of the effective date of this
10 section promulgate rules and regulations with respect to all necessary
11 requirements to implement the siting permit program established in this
12 section and promulgate modifications to such rules and regulations as it
13 deems necessary; provided that the office shall promulgate regulations
14 requiring the service of applications on affected municipalities and
15 political subdivisions simultaneously with submission of the application
16 to the office. The office shall develop a procedure to process any
17 financial security or letter of credit that is required by the office.
18 Such procedure shall be available to any municipality that decides to
19 have the office process and maintain any required financial security or
20 letter of credit in their permitting process.

21 § 2. This act shall take effect immediately; provided, however, that
22 the amendments to section 94-c of the executive law, made by section one
23 of this act, shall not affect the repeal of such section and shall be
24 deemed repealed therewith.

PART D

26 Section 1. The public authorities law is amended to by adding a new
27 section 1885 to read as follows:

28 § 1885. Study on recycling and reuse of solar photovoltaic (solar PV)
29 panels. 1. The authority, in consultation with the department of envi-
30 ronmental conservation, empire state development, and the department of
31 transportation shall conduct a study on the recycling and reuse of solar
32 photovoltaic (solar PV) panels throughout New York state.

33 2. Such study shall:

34 (a) review and summarize the current end-of-life solar PV management
35 policies and programs in place in New York;

36 (b) review and summarize the economic and environmental benefits of
37 solar PV panel/module recycling and reuse both in New York state and in
38 other jurisdictions across the United States;

39 (c) review and summarize the barriers to solar PV panel/module recycl-
40 ing and reuse. This shall include regulatory barriers, economic barriers,
41 research, analysis, and development barriers, information avail-
42 ability and information exchange barriers, and access to recycling
43 facilities barriers;

44 (d) review and summarize the best methods for facilitating and accel-
45 erating solar PV panel/module recycling and reuse, including but not
46 limited to, reviewing statutory and regulatory changes, areas of need
47 for research and development, ways in which information exchange can be
48 enhanced, economic incentives, industry-led efforts, and the capacity
49 and recycling abilities for any existing facilities within the state and
50 any out-of-state facilities that have the capacity to engage in panel
51 recycling;

1 (e) review and summarize other state programs and policies related to
2 solar PV recycling and reuse;

3 (f) review and summarize the state, federal, and international regula-
4 tory requirements related to solar PV end-of-life management and associ-
5 ated equipment management, decommissioning, and financial assurances;

6 (g) review and summarize the impacts that any county, town, village,
7 or other local laws have on solar PV recycling, project siting, permit-
8 ting, and construction; and further, how those laws impact the state's
9 ability to meet the goals set forth in the climate leadership and commu-
10 nity protection act;

11 (h) review the preferred solar PV end-of-life photovoltaic
12 module/panel and associated equipment management methods and the associ-
13 ated economic and environmental costs and benefits associated with each
14 management method;

15 (i) report on the expected economically productive life cycle of
16 different types of solar PV panels/modules;

17 (j) report on the volume of solar PV panel/modules deployed within the
18 state and the projected future deployment of solar PV;

19 (k) review the need for financial assurance requirements for solar PV
20 decommissioning and recycling;

21 (l) report on the necessary infrastructure to collect and transport
22 end-of-life solar PV panels/modules for reuse, refurbishment, recycling,
23 or disposal; and

24 (m) review any other area of research related to the recycling and
25 reuse of solar panels the authority deems important and related to this
26 study.

27 3. In addition to the study, the authority shall also compile a list
28 of recommendations which shall include:

29 (a) model initiatives currently in use by the solar industry;

30 (b) based on the outcome of the study, make recommendations for a
31 statewide program, including how such program would operate and what
32 functions such program would perform and accomplish;

33 (c) ways in which to incentivize in-state recycling facilities and
34 operations to expand to include solar PV recycling;

35 (d) ways in which to incentivize out-of-state solar panel recycling
36 companies to locate facilities in New York;

37 (e) recommendations for actions the legislature or executive could
38 take to incentivize solar panel recycling; and

39 (f) anything else the authority deems necessary to create an effective
40 solar panel recycling program in New York.

41 4. The study and recommendations shall be transmitted to the governor,
42 the temporary president of the senate, the speaker of the assembly, the
43 minority leader of the senate, and the minority leader of the assembly
44 within one year of the effective date of this section.

45 § 2. Section 210-B of the tax law is amended by adding a new subdivi-
46 sion 32-a to read as follows:

47 32-a. Empire state solar photovoltaic panel recycling program credit.

48 (a) Allowance of credit. A taxpayer who is eligible for the excelsior
49 jobs program credit pursuant to section thirty-one of this chapter shall
50 be allowed a credit to be computed as provided in such section thirty-
51 one against the tax imposed by this article.

52 (b) Application of credit. The credit allowed under this subdivision
53 for any taxable year shall not reduce the tax due for such year to less
54 than the amount prescribed in paragraph (d) of subdivision one of
55 section two hundred ten of this article. Provided, however, that if the
56 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, fifty percent of the excess shall be treated as an overpayment of tax to be credited or refunded, and no interest shall be paid thereon. The balance of such credit not credited or refunded in such taxable year may be a carryover to the immediately succeeding taxable year and may be deducted from the taxpayer's tax for such year. The excess, if any, of the amount of the credit over the tax for such succeeding year shall be treated as an overpayment of tax to be credited or refunded, no interest shall be paid thereon.

§ 3. Paragraphs (m) and (n) of subdivision 1 of section 353 of the economic development law, as amended by chapter 494 of the laws of 2022, are amended and new paragraph (o) is added to read as follows:

(m) as a participant operating in one of the industries listed in paragraphs (a) through (k) of this subdivision and operating or sponsoring child care services to its employees as defined in section three hundred fifty-two of this article; ~~[ex]~~

(n) as a Green CHIPS project~~[+]~~; or

(o) as a recycler of solar photovoltaic panels under the empire state solar photovoltaic panel recycling program.

§ 4. Any provision of any local law or ordinance, or any rule or regulation promulgated thereto, governing the collection, return or recycling of solar photovoltaic modules or solar photovoltaic panels shall upon the effective date of this act be preempted.

§ 5. This act shall take effect immediately.

PART E

Section 1. Subdivision 5 of section 7 of part JJJ of chapter 58 of the laws of 2020, amending the public service law and other laws relating to accelerating the growth of renewable energy facilities to meet critical state energy policy goals, is amended to read as follows:

5. The legislature finds and determines that timely development of the bulk transmission investments identified in the state bulk transmission investment plan is in the public interest of the people of the state of New York. The legislature further finds and determines that the power authority of the state of New York ("power authority") owns and operates backbone electric transmission assets in New York, has rights-of-way that can support in whole or in part bulk transmission investment projects, and has the financial stability, access to capital, technical expertise and experience to effectuate expeditious development of bulk transmission investments needed to help the state meet the CLCPA targets, and thus it is appropriate for the power authority as deemed feasible and advisable by its trustees, by itself or in collaboration with other parties as it determines to be appropriate, to develop those bulk transmission investments found by the commission to be needed expeditiously to achieve CLCPA targets ("priority transmission projects").

The legislature further finds and determines, following the issuance of the climate scoping plan required by the CLCPA, that it is in the public interest of the people of the state of New York for the power authority to propose a minimum of four such priority transmission projects by December 21, 2023 to address the areas of highest need on the bulk transmission system and further facilitate the development of renewable energy projects in areas where there are limitations on the capacity to interconnect new power generating facilities. Two of these four projects shall address the locations of highest needs for deploying

additional renewable energy projects identified by the New York independent system operator in its most recent twenty year system outlook. Two of the four projects shall propose grid infrastructure upgrades in locations currently underserved by the grid for interconnecting renewable energy projects, where there is otherwise the potential to develop renewable energy projects (to establish "renewable energy zones") as determined by the power authority. The commission shall expeditiously review and approve or reject these four proposals.

The power authority shall, through a public process, solicit interest from potential co-participants in each project it has agreed to develop and assess whether any joint development would provide for significant additional benefits in achieving the CLCPA targets. The power authority may thereafter determine to undertake the development of the project on its own, or undertake the project jointly with one or more other parties on such terms and conditions as the power authority finds to be appropriate and, notwithstanding any other law to the contrary, enter into such agreements and take such other actions the power authority determines to be necessary in order to undertake and complete timely development of the project. The intent of this act is for the power authority to develop priority transmission projects authorized in this subdivision. For priority projects that the authority determines to undertake and that are not substantially within the power authority's existing rights of way, the authority shall, as deemed feasible and advisable by its board of trustees, select private sector participants through a competitive bidding process, provided however that priority transmission projects is not intended to include generation lead lines, or repairs to, replacement of or upgrades to the power authority's own transmission assets.

To foster the continued development of community solar in New York, the commission and the energy research and development authority should determine a threshold for non-affordability for the interconnection costs required by an investor-owned utility. When the required local system upgrade costs for interconnecting a community solar project or a group of community solar projects are above the non-affordability threshold, the power authority shall intervene and implement a mechanism for providing low interest financing for the costs of local system upgrades above the threshold for the developer or developers of such community solar project or projects.

§ 2. This act shall take effect immediately; provided, however, the amendments to section 7 of part JJJ of chapter 58 of the laws of 2020 made by section one of this act shall not affect the repeal of such section and shall expire therewith.

PART F

Section 1. Subdivision 1 of section 11-0535-c of the environmental conservation law, as added by section 12 of part JJJ of chapter 58 of the laws of 2020, is amended to read as follows:

1. The department is hereby authorized to utilize funds in the endangered and threatened species mitigation bank fund, established pursuant to section ninety-nine-hh of the state finance law, as added by section 13 of part JJJ of chapter 58 of the laws of 2020, or in the habitat conservation and access account, established pursuant to section eight-y-three-a of the state finance law, for the purposes of implementing an endangered and threatened species mitigation plan approved by the department.

1 renewable energy systems as defined in section sixty-six-p of this arti-
2 cle.

3 § 3. Section 70 of the public service law is amended by adding a new
4 subdivision 8 to read as follows:

5 8. No provision of this section shall apply to electric corporations
6 where electricity is generated from renewable energy systems as defined
7 in section sixty-six-p of this article.

8 § 4. This act shall take effect immediately.

9 PART H

10 Section 1. Legislative findings and declaration. In 2019, the state
11 enacted the historic New York state climate leadership and community
12 protection act to mitigate the impacts of climate change and reduce
13 greenhouse gas emissions from anthropogenic sources 100% over 1990
14 levels by the year 2050. In 2020, the state enacted the accelerated
15 renewable energy growth and community benefit act, which provided for
16 the expedited siting of major renewable energy facilities and related
17 transmission. The legislature hereby finds and declares that to mean-
18 ingfully and timely achieve the historic goals mandated in the New York
19 state climate leadership and community protection act, and to meet the
20 technology-specific requirements set forth therein, including the
21 installation of wind and solar-powered electric generation, the
22 construction of new and repowered wind turbines and solar arrays is an
23 urgent matter of great importance to New York. The legislature further
24 finds that current rules, regulations, and policies addressing the
25 transport of large loads on the state highways and the thruway present
26 impediments to the efficient transport of construction materials used
27 for these projects, including large loads such as wind turbines, which
28 is inconsistent with the goals of the accelerated renewable energy
29 growth and community benefit act. Because of the unprecedented volume
30 and size of materials planned for transport, the current rules regarding
31 the use of police escorts for the transport of such loads may result in
32 delays, shortages of police officer escorts, and retention of truck
33 traffic, that may hinder construction of major renewable energy facili-
34 ties. Therefore, it is the intent of this act to supersede any such rule
35 or policy, and to allow materials used for the construction of any major
36 renewable energy facility to be transported on state highways and on the
37 thruway safely using either a police escort, or a private security
38 escort.

39 § 2. (a) For the purposes of this act, the term "major renewable ener-
40 gy facility" shall have the same meaning as defined in section 94-c of
41 the executive law.

42 (b) Notwithstanding any other law, rule, regulation, or internal poli-
43 cy of any state department, agency, public authority, or public benefit
44 corporation, vehicles carrying materials intended for the construction
45 of any major renewable energy facility, including oversize and superload
46 transport vehicles, shall be permitted to travel on the thruway and
47 state highways, in compliance with the requirements set forth in subdivi-
48 sion (c) of this section, on any day of the week, including Saturday
49 and Sunday.

50 (c) Notwithstanding any other law, rule, regulation, or internal poli-
51 cy of any state department, agency, public authority, or public benefit
52 corporation, vehicles carrying materials intended for the construction
53 of any major renewable energy facility, including oversize and superload
54 transport vehicles, shall be permitted to travel either with a police

escort, including but not limited to environmental conservation officers, parks police, county sheriff deputies or the national guard, or with a private security certified escort vehicle as that term is defined in 17 NYCRR 154-1.12. The state shall not bear the cost of any private security escort utilized under this section.

(d) Vehicles carrying materials intended for the construction of any major renewable energy facility, including oversize and superload transport vehicles, shall have a certified annual inspection demonstrating compliance with all applicable state and federal safety standards in lieu of a state police level I full inspection, provided the certified inspection is performed within seven calendar days of the trip, the vehicle is not subject to commercial use in the interim, and the operator of such vehicle makes satisfactory inspection paperwork available to the state police, the department of transportation, and the thruway authority upon request.

(e) All state departments, agencies, public authorities, or public benefit corporations shall prioritize the permitting and requests for approval for such travel for the transport of materials intended for use in a major renewable energy facility. The department of transportation, in consultation with the thruway authority and the state police, shall establish through regulation a program for the certification of private security escorts authorized to escort vehicles transporting materials intended for the construction of any major renewable energy facility.

§ 3. This act shall take effect immediately.

PART I

Section 1. Paragraph g of subdivision 4 of section 301 of the agriculture and markets law, as amended by chapter 445 of the laws of 2002, is amended to read as follows:

g. Land under a structure, including, but not limited to, photovoltaic equipment, within or under which crops, livestock or livestock products are produced, provided that the sales of such crops, livestock or livestock products meet the gross sales requirements of paragraph f of this subdivision.

§ 2. This act shall take effect immediately.

PART J

Section 1. Paragraph e of subdivision 13 of section 75-0103 of the environmental conservation law, as added by chapter 106 of the laws of 2019, is amended to read as follows:

e. Measures to achieve [~~six~~] ten gigawatts of distributed solar energy capacity installed in the state by two thousand [~~twenty-five~~] thirty, eighty-five hundred megawatts of grid-scale, wholesale solar energy generating capacity by two thousand thirty, fifty-five hundred megawatts of land-based wind energy generating capacity by two thousand thirty, nine gigawatts of offshore wind capacity installed by two thousand thirty-five, a statewide energy efficiency goal of one hundred eighty-five trillion British thermal units energy reduction from the two thousand twenty-five forecast; and [~~three~~] six gigawatts of statewide energy storage capacity by two thousand thirty.

§ 2. Subdivision 5 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:

5. No later than July first, two thousand twenty-four, the commission shall establish programs to require the procurement by the state's load

serving entities of at least eighty-five hundred megawatts of grid-scale, wholesale solar energy generating capacity by two thousand thirty, fifty-five hundred megawatts of land-based wind energy generating capacity by two thousand thirty, nine gigawatts of offshore wind electricity generation by two thousand thirty-five and ~~[six]~~ ten gigawatts of photovoltaic solar generation by two thousand twenty-five, and to support ~~[three]~~ six gigawatts of statewide energy storage capacity by two thousand thirty.

§ 3. This act shall take effect immediately.

PART K

Section 1. Section 1115 of the tax law is amended by adding two new subdivisions (ll) and (mm) to read as follows:

(ll) The following shall be exempt from tax under this article: (1) Receipts from the retail sale of, and consideration given or contracted to be given for, or for the use of, residential energy storage systems equipment and the costs of installing such systems. For the purposes of this subdivision, "residential energy storage systems equipment" shall mean an arrangement or combination of components installed in a residence that stores electricity for use at a later time to provide heating, cooling, hot water and/or electricity.

(2) Receipts from the sale of electricity by a person primarily engaged in the sale of energy storage system equipment and/or electricity generated by such equipment pursuant to a written agreement under which such electricity is generated by residential energy system storage equipment that is: (A) owned by a person other than the purchaser of such electricity; (B) installed on residential property of the purchaser of such electricity; and (C) used to provide heating, cooling, hot water or electricity.

(mm) The following shall be exempt from tax under this article: (1) Receipts from the retail sale of, and consideration given or contracted to be given for, or for the use of, commercial energy storage systems equipment and the costs of installing such systems. For the purposes of this subdivision, "commercial energy storage systems equipment" shall mean an arrangement or combination of components installed upon non-residential premises that stores electricity for use at a later time to provide heating, cooling, hot water and/or electricity.

(2) Receipts from the sale of electricity by a person primarily engaged in the sale of energy storage system equipment and/or electricity generated by such equipment pursuant to a written agreement under which the electricity is generated by commercial energy system equipment that is: (A) owned by a person other than the purchaser of such electricity; (B) installed on the non-residential premises of the purchaser of such electricity; and (C) used to provide heating, cooling, hot water or electricity to such premises.

§ 2. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as amended by section 5 of part J of chapter 59 of the laws of 2021, is amended to read as follows:

(1) Either, all of the taxes described in article twenty-eight of this chapter, at the same uniform rate, as to which taxes all provisions of the local laws, ordinances or resolutions imposing such taxes shall be identical, except as to rate and except as otherwise provided, with the corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the

1 taxes imposed by such city or county and with such limitations and
2 special provisions as are set forth in this article. The taxes author-
3 ized under this subdivision may not be imposed by a city or county
4 unless the local law, ordinance or resolution imposes such taxes so as
5 to include all portions and all types of receipts, charges or rents,
6 subject to state tax under sections eleven hundred five and eleven
7 hundred ten of this chapter, except as otherwise provided. Notwith-
8 standing the foregoing, a tax imposed by a city or county authorized
9 under this subdivision shall not include the tax imposed on charges for
10 admission to race tracks and simulcast facilities under subdivision (f)
11 of section eleven hundred five of this chapter. (i) Any local law, ordi-
12 nance or resolution enacted by any city of less than one million or by
13 any county or school district, imposing the taxes authorized by this
14 subdivision, shall, notwithstanding any provision of law to the contra-
15 ry, exclude from the operation of such local taxes all sales of tangible
16 personal property for use or consumption directly and predominantly in
17 the production of tangible personal property, gas, electricity, refrig-
18 eration or steam, for sale, by manufacturing, processing, generating,
19 assembly, refining, mining or extracting; and all sales of tangible
20 personal property for use or consumption predominantly either in the
21 production of tangible personal property, for sale, by farming or in a
22 commercial horse boarding operation, or in both; and all sales of fuel
23 sold for use in commercial aircraft and general aviation aircraft; and,
24 unless such city, county or school district elects otherwise, shall omit
25 the provision for credit or refund contained in clause six of subdivi-
26 sion (a) or subdivision (d) of section eleven hundred nineteen of this
27 chapter. (ii) Any local law, ordinance or resolution enacted by any
28 city, county or school district, imposing the taxes authorized by this
29 subdivision, shall omit the residential solar energy systems equipment
30 and electricity exemption provided for in subdivision (ee), the commer-
31 cial solar energy systems equipment and electricity exemption provided
32 for in subdivision (ii), the commercial fuel cell electricity generating
33 systems equipment and electricity generated by such equipment exemption
34 provided for in subdivision (kk), the residential energy storage systems
35 equipment and electricity exemption provided for in subdivision (ll),
36 the commercial energy storage systems equipment and electricity
37 exemption provided for in subdivision (mm) and the clothing and footwear
38 exemption provided for in paragraph thirty of subdivision (a) of section
39 eleven hundred fifteen of this chapter, unless such city, county or
40 school district elects otherwise as to such residential solar energy
41 systems equipment and electricity exemption, such commercial solar ener-
42 gy systems equipment and electricity exemption, commercial fuel cell
43 electricity generating systems equipment and electricity generated by
44 such equipment exemption or such clothing and footwear exemption.

45 § 3. Subdivision (d) of section 1210 of the tax law, as amended by
46 section 4 of part WW of chapter 60 of the laws of 2016, is amended to
47 read as follows:

48 (d) A local law, ordinance or resolution imposing any tax pursuant to
49 this section, increasing or decreasing the rate of such tax, repealing
50 or suspending such tax, exempting from such tax the energy sources and
51 services described in paragraph three of subdivision (a) or of subdivi-
52 sion (b) of this section or changing the rate of tax imposed on such
53 energy sources and services or providing for the credit or refund
54 described in ~~clause~~ paragraph six of subdivision (a) of section eleven
55 hundred nineteen of this chapter, or electing or repealing the exemption
56 for residential solar equipment and electricity in subdivision (ee) of

section eleven hundred fifteen of this article, or the exemption for commercial solar equipment and electricity in subdivision (ii) of section eleven hundred fifteen of this article, or electing or repealing the exemption for commercial fuel cell electricity generating systems equipment and electricity generated by such equipment in subdivision (kk) of section eleven hundred fifteen of this article, or the exemption for residential energy storage equipment or electricity in subdivision (ll) of section eleven hundred fifteen of this article, or the exemption for commercial energy storage equipment and electricity in subdivision (mm) of section eleven hundred fifteen of this article must go into effect only on one of the following dates: March first, June first, September first or December first; provided, that a local law, ordinance or resolution providing for the exemption described in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption or a local law, ordinance or resolution providing for a refund or credit described in subdivision (d) of section eleven hundred nineteen of this chapter or repealing such provision so provided must go into effect only on March first. No such local law, ordinance or resolution shall be effective unless a certified copy of such law, ordinance or resolution is mailed by registered or certified mail to the commissioner at the commissioner's office in Albany at least ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice requirement to a mailing of such certified copy by registered or certified mail within a period of not less than thirty days prior to such effective date if the commissioner deems such action to be consistent with the commissioner's duties under section twelve hundred fifty of this article and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three of this article as to the effective date of a tax and the notice requirement provided for therein are applicable and have not been waived, the restriction and notice requirement in section twelve hundred twenty-three of this article shall also apply.

§ 4. This act shall take effect immediately.

PART L

Section 1. Subsection (g-1) of section 606 of the tax law, as amended by chapter 378 of the laws of 2005, paragraphs 1 and 2 as amended by chapter 375 of the laws of 2012, paragraph 3 as amended, paragraph 5 as added, and paragraphs 6, 7 and 8 as renumbered by chapter 128 of the laws of 2007, is amended to read as follows:

(g-1) Solar energy system equipment credit. (1) General. An individual taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty-five percent of qualified solar energy system equipment expenditures, except as provided in subparagraph (D) of paragraph two of this subsection. This credit shall not exceed three thousand seven hundred fifty dollars for qualified solar energy equipment placed in service before September first, two thousand six, ~~and~~ five thousand dollars for qualified solar energy equipment placed in service on or after September first, two thousand six and before April first, two thousand twenty-three, and ten thousand dollars for qualified solar energy equipment placed in service on or after April first, two thousand twenty-three.

(2) Qualified solar energy system equipment expenditures. (A) The term "qualified solar energy system equipment expenditures" means expenditures for:

(i) the purchase of solar energy system equipment which is installed in connection with residential property which is (I) located in this state and (II) which is used by the taxpayer as his or her principal residence at the time the solar energy system equipment is placed in service;

(ii) the lease of solar energy system equipment under a written agreement that spans at least ten years where such equipment owned by a person other than the taxpayer is installed in connection with residential property which is (I) located in this state and (II) which is used by the taxpayer as his or her principal residence at the time the solar energy system equipment is placed in service; or

(iii) the purchase of power under a written agreement that spans at least ten years whereunder the power purchased is generated by solar energy system equipment owned by a person other than the taxpayer which is installed in connection with residential property which is (I) located in this state and (II) which is used by the taxpayer as his or her principal residence at the time the solar energy system equipment is placed in service.

(B) Such qualified expenditures shall include expenditures for materials, labor costs properly allocable to on-site preparation, assembly and original installation, architectural and engineering services, and designs and plans directly related to the construction or installation of the solar energy system equipment.

(C) Such qualified expenditures for the purchase of solar energy system equipment shall not include interest or other finance charges.

(D) Such qualified expenditures for the lease of solar energy system equipment or the purchase of power under an agreement described in clauses (ii) or (iii) of subparagraph (A) of this paragraph shall include an amount equal to all payments made during the taxable year under such agreement. Provided, however, such credits shall only be allowed for fourteen years after the first taxable year in which such credit is allowed. Provided further, however, the twenty-five percent limitation in paragraph one of this subsection shall only apply to the total aggregate amount of all payments to be made pursuant to an agreement referenced in clauses (ii) or (iii) of subparagraph (A) of this paragraph, and shall not apply to individual payments made during a taxable year under such agreement except to the extent such limitation on an aggregate basis has been reached.

(3) Solar energy system equipment. The term "solar energy system equipment" shall mean an arrangement or combination of components utilizing solar radiation, which, when installed in a residence, produces and stores energy designed to provide heating, cooling, hot water or electricity for use in such residence. Such arrangement or components shall not include equipment connected to solar energy system equipment that is a component of part or parts of a non-solar energy system or which uses any sort of recreational facility or equipment as a storage medium. Solar energy system equipment that generates and stores electricity for use in a residence must conform to applicable requirements set forth in section sixty-six-j of the public service law. Provided, however, where solar energy system equipment is purchased and installed by a condominium management association or a cooperative housing corporation, for purposes of this subsection only, the term "ten kilowatts" in such section sixty-six-j shall be read as [~~"fifty"~~] "ten" kilowatts

1 multiplied by the number of owner-occupied units in the cooperative or
2 condominium management association."

3 (4) Multiple taxpayers. Where solar energy system equipment is
4 purchased and installed in a principal residence shared by two or more
5 taxpayers, the amount of the credit allowable under this subsection for
6 each such taxpayer shall be prorated according to the percentage of the
7 total expenditure for such solar energy system equipment contributed by
8 each taxpayer.

9 (5) Proportionate share. Where solar energy system equipment is
10 purchased and installed by a condominium management association or a
11 cooperative housing corporation, a taxpayer who is a member of the
12 condominium management association or who is a tenant-stockholder in the
13 cooperative housing corporation may for the purpose of this subsection
14 claim a proportionate share of the total expense as the expenditure for
15 the purposes of the credit attributable to ~~his~~ their principal resi-
16 dence.

17 (6) Grants. For purposes of determining the amount of the expenditure
18 incurred in purchasing and installing solar energy system equipment, the
19 amount of any federal, state or local grant received by the taxpayer,
20 which was used for the purchase and/or installation of such equipment
21 and which was not included in the federal gross income of the taxpayer,
22 shall not be included in the amount of such expenditures.

23 (7) When credit allowed. The credit provided for herein shall be
24 allowed with respect to the taxable year, commencing after nineteen
25 hundred ninety-seven, in which the solar energy system equipment is
26 placed in service.

27 (8) Carryover of credit. If the amount of the credit, and carryovers
28 of such credit, allowable under this subsection for any taxable year
29 shall exceed the taxpayer's tax for such year, such excess amount may be
30 carried over to the five taxable years next following the taxable year
31 with respect to which the credit is allowed and may be deducted from the
32 taxpayer's tax for such year or years. For taxable years beginning on or
33 after January first, two thousand twenty-four, if the amount of the
34 credit allowable under this subsection shall exceed the taxpayer's tax
35 liability for such year, and the taxpayer meets the definition of low-
36 to-moderate income or resides in a disadvantaged community, as identi-
37 fied pursuant to section 75-0111 of the environmental conservation law,
38 the excess shall be treated as an overpayment of tax to be credited or
39 refunded in accordance with the provisions of section six hundred eight-
40 y-six of this article, provided, however, that no interest shall be paid
41 thereon.

42 § 2. This act shall take effect immediately.

43 PART M

44 Section 1. This act shall be known and may be cited as the "solar for
45 all homes and businesses act of 2023".

46 § 2. Section 11-102 of the energy law is amended by adding ten new
47 subdivisions, 3-a, 7-a, 7-b, 10-a, 12-a, 13-a, 15-a, 15-b, 15-c and
48 15-d, to read as follows:

49 3-a. "Board." The state fire prevention and building code council.

50 7-a. "Developer." Any person or company that constructs residential or
51 commercial buildings.

52 7-b. "Effective solar area." The portion of a building roof on which
53 the output from a solar energy system, taking into account shading from
54 existing permanent natural or manmade barriers external to the building

(including but not limited to trees, hills, and adjacent structures), would be equivalent to seventy percent or greater of the output of an unshaded solar energy system on an annual basis.

10-a. "Large commercial building." A commercial building of ten thousand or more square feet of gross floor area.

12-a. "Multi-family dwelling." A building intended to be inhabited as a primary or secondary residence by multiple individuals or groups of individuals living in separate apartments.

13-a. "New building." Any newly constructed residential or commercial building that requires a building permit to proceed.

15-a. "Single-family dwelling." A building intended to be inhabited as a primary or secondary residence by one individual or group of individuals.

15-b. "Solar energy system." Any solar photovoltaic system that is installed on site and uses solar energy to provide all or a portion of the electrical needs of a residential or commercial building.

15-c. "Solar hot water heater." Any system that uses solar energy to heat water for use in a residential or commercial building.

15-d. "Substitute renewable energy system." Any system that uses renewable energy resources other than solar energy to provide for all or a portion of the electrical needs of a residential or commercial building; provided, that a renewable energy system shall use a technology eligible for the renewable energy standard under paragraph (g) of subdivision twenty-seven of section one thousand five of the public authorities law.

§ 3. Section 11-103 of the energy law, as amended by chapter 292 of the laws of 1998, subdivision 1 as amended by chapter 560 of the laws of 2010, paragraph (b) of subdivision 1 and subdivisions 2 and 3 as amended by chapter 374 of the laws of 2022, is amended to read as follows:

§ 11-103. Applications. 1. (a) The state energy conservation construction code adopted by the ~~[state fire prevention and building code council]~~ board and consisting of a building energy code for residential buildings throughout the state and a building energy code for commercial buildings throughout the state is continued until amended or a new code is adopted and effective.

(b) The code shall apply to the construction of any new building. The code shall also apply to an addition to, and alteration of, any existing building or building system; provided, however, that the code shall not be interpreted to require any unaltered portion of the existing building or building system to comply with the code. The code shall be subject to such other exceptions as may be adopted by the ~~[state fire prevention and building code council]~~ board provided that such exceptions shall not prevent the attainment of the compliance goals set forth in section 410(2)(c) of the American Recovery and Reinvestment Act of 2009.

2. (a) The ~~[state fire prevention and building code council]~~ board is authorized, from time to time as it deems appropriate and consistent with the purposes of this article, to review and amend the code, or adopt a new code, through rules and regulations provided that the code remains cost effective with respect to building construction in the state. In determining whether the code remains cost effective, the ~~[code council]~~ board shall consider (i) whether the life-cycle costs for a building will be recovered through savings in energy costs over the design life of the building under a life-cycle cost analysis performed under methodology as established by the New York state energy research and development authority in regulations which may be updated from time to time, and (ii) secondary or societal effects, such as reductions in

1 greenhouse gas emissions, as defined in regulations. Before publication
2 of a notice of proposed rule making establishing the methodology or
3 defining secondary or societal effects, the president of the authority
4 shall conduct public meetings to provide meaningful opportunities for
5 public comment from all segments of the population that would be
6 impacted by the regulations, including persons living in disadvantaged
7 communities as identified by the climate justice working group estab-
8 lished under section 75-0111 of the environmental conservation law. For
9 residential buildings, the code shall meet or exceed the then most
10 recently published International Energy Conservation Code, or achieve
11 equivalent or greater energy savings; and for commercial buildings, the
12 code shall meet or exceed the then most recently published ASHRAE 90.1,
13 or achieve equivalent or greater energy savings.

14 (b) When adopting the first amended version of the code next following
15 the effective date of [~~the~~] chapter three hundred seventy-four of the
16 laws of two thousand twenty-two [~~that added this paragraph~~] and any
17 subsequent codes, the [~~state fire prevention and building code council~~]
18 board shall use its best efforts to adopt provisions for residential
19 buildings that achieve energy savings greater than energy savings
20 achieved by the then most recently published International Energy
21 Conservation Code and to adopt provisions for commercial buildings that
22 achieve energy savings greater than energy savings achieved by the then
23 most recently published ASHRAE 90.1, both at levels recommended by the
24 New York state energy research and development authority, provided that
25 the [~~state fire prevention and building code council~~] board determines
26 that such advanced energy savings can be achieved while still meeting
27 the cost effectiveness considerations contemplated by this subdivision.

28 3. Notwithstanding any other provision of law, the [~~state fire~~
29 ~~prevention and building code council~~] board in accordance with the
30 mandate under this article shall have exclusive authority among state
31 agencies to promulgate a construction code incorporating energy conser-
32 vation features and clean energy features applicable to the construction
33 of any building, including but not limited to greenhouse gas reduction.
34 Any other code, rule or regulation heretofore promulgated or enacted by
35 any other state agency, incorporating specific energy conservation and
36 clean energy requirements applicable to the construction of any build-
37 ing, shall be superseded by the code promulgated pursuant to this
38 section. Notwithstanding the foregoing, nothing in this section shall
39 be deemed to expand the powers of the [~~council~~] board to include matters
40 that are exclusively within the statutory jurisdiction of the public
41 service commission, the department of environmental conservation, the
42 office of renewable energy siting or another state entity.

43 4. The secretary of state is authorized to issue written interpreta-
44 tions of the code upon written request of a permit applicant or the
45 official responsible for the administration and enforcement of the
46 provisions of the code. Subsequent enforcement of the code shall be
47 consistent with such written interpretations.

48 § 4. Subdivision 5 of section 11-104 of the energy law, as amended by
49 chapter 374 of the laws of 2022, is amended to read as follows:

50 5. The [~~state fire prevention and building code council~~] board, in
51 consultation with the commissioner of the department of parks, recre-
52 ation and historic preservation, is authorized to adopt exemptions to
53 such uniform standards and requirements for historic buildings as
54 defined in section 11-102 of this article, to the extent that the
55 uniform standards and requirements would threaten, degrade, or destroy
56 the historic form, fabric, or function of such historic buildings.

§ 5. Section 11-105 of the energy law, as amended by chapter 560 of the laws of 2010, is amended to read as follows:

§ 11-105. Limitation of application. Notwithstanding the provisions of subdivision one of section 11-103 of this article, the ~~[state fire prevention and building code council]~~ board, by regulation, may limit the application of any portion of the code so as to include or exclude classes or types of buildings, according to the use thereof or the cost effectiveness of the code with respect to any such class or type of building, or according to any other distinction as may make differentiation or separate classification or regulation necessary, proper or desirable, provided however, that such limitation: (1) is consistent with the purposes of this article and the criteria set forth in section 11-104 of this article, (2) does not render the code inconsistent with the energy savings requirements of subdivision two of section 11-103 of this article, and (3) whether considered individually or collectively with other limitations, will not prevent the attainment of the compliance goals set forth in section 410(2)(c) of the American Recovery and Reinvestment Act of 2009.

§ 6. Subdivision 2 of section 11-109 of the energy law, as amended by chapter 560 of the laws of 2010, is amended to read as follows:

2. Any municipality which adopts a local energy conservation construction code in accordance with this section shall file a copy of such code and any amendments or revisions thereof with the ~~[state fire prevention and building code council]~~ board within thirty days after promulgation or adoption of such local code or any amendments or revisions thereof. If the municipality files such copy within such thirty day time period, the municipality may enforce such local code, amendment or revision until and unless the ~~[state fire prevention and building code council]~~ board shall determine that such local code, amendment or revision is not more restrictive than the code. If the municipality fails to file such copy within such thirty day time period, the municipality may not enforce such local code, amendment or revision until and unless the ~~[state fire prevention and building code council]~~ board shall determine that such local code, amendment or revision is more restrictive than the code.

§ 7. The energy law is amended by adding a new section 11-111 to read as follows:

§ 11-111. Solar requirements for new buildings. 1. All new buildings shall be built to accommodate the installation of a solar energy system on their roofs. The board shall develop and adopt amendments to the state building code within one year of the effective date of this section to establish minimum standards that shall be met for new construction to accommodate a solar energy system.

2. In drafting the amendments to the building code, the board shall take into account existing building code requirements and compliance costs. The board shall also consult with scientists, engineers, and professional societies with relevant expertise in solar energy systems and building construction.

3. At a minimum, the board shall include requirements for:

(a) static load roof strength, with a requirement that roofing where solar equipment could be placed be capable of supporting a minimum of six pounds per square foot;

(b) placement of non-solar related rooftop equipment, taking into account positioning that avoids shading of solar equipment and maximization of continuous roof space;

1 (c) sizing and provision of extra electrical panels to accommodate the
2 addition of an appropriately sized future solar energy system; and
3 (d) provision of space for a solar energy system DC-AC inverter in the
4 utility room or on an outside wall.

5 4. The board shall also consider including requirements for:

6 (a) roof orientation and angle;

7 (b) roof types that are compatible with a solar installation mounting
8 strategy that will require minimal or no roof penetrations; and

9 (c) a conduit for wiring from roof to electric panel.

10 5. To the extent necessary, the board shall promulgate separate stand-
11 ards for residential and commercial buildings and for different building
12 types and occupancies.

13 6. In developing these regulations, the board shall consult with the
14 New York state energy research and development authority and other state
15 agencies with relevant expertise.

16 § 8. The energy law is amended by adding a new section 11-112 to read
17 as follows:

18 § 11-112. Specific solar requirements for new buildings. 1. The board
19 shall develop and adopt amendments to the state building code within one
20 year from the effective date of this section to amend the state building
21 code to require certain types of new construction, as specified in this
22 section, to have a solar energy system.

23 2. Single-family dwellings shall have a solar energy system producing
24 sufficient electricity on an annual basis to meet one hundred percent of
25 the estimated average annual electricity demand of dwellings of a simi-
26 lar size and type.

27 3. Multi-family dwellings and large commercial buildings up to ten
28 stories in height shall have a solar energy system producing sufficient
29 electricity on an annual basis to meet minimum standards established by
30 the board, which may be based on the size of the roof, building type and
31 occupancy, estimated average annual electricity use of similar build-
32 ings, or other factors.

33 4. The board may require other categories of new construction or reno-
34 vated buildings to have a solar energy system, and set minimum standards
35 for the generating capacity of the solar energy system.

36 5. The board may reduce the required minimum generating capacity of
37 solar energy systems for single-family and multi-family dwellings by up
38 to twenty-five percent if installed in conjunction with a battery stor-
39 age system with a minimum capacity of 7.5 kilowatt-hours per dwelling
40 unit.

41 6. The board shall determine the average annual electricity consump-
42 tion for the types of buildings described in this section and revise its
43 determination at least every three years, taking into account changes in
44 electricity consumption due to energy efficiency improvements, electric
45 vehicle charging, air source heat pumps and other electric heating and
46 cooling technologies, and other factors.

47 § 9. The energy law is amended by adding a new section 11-113 to read
48 as follows:

49 § 11-113. Exemptions from specific solar requirements for new build-
50 ings. 1. Developers may seek an exemption from the inspector of build-
51 ings or building commissioner from the requirements under sections
52 11-111 and 11-112 of this article upon a sufficient showing that the
53 effective solar area is less than eighty contiguous square feet. Devel-
54 opers may seek a reduction in the required generating capacity of a
55 solar energy system upon a sufficient showing that the effective solar
56 area is eighty contiguous square feet or greater, but is insufficient to

1 allow for the installation of a solar energy system meeting the minimum
2 requirements established by the board.

3 2. Developers may seek an exemption from the inspector of buildings or
4 building commissioner from the requirements under sections 11-111 and
5 11-112 of this article upon a sufficient showing that a substitute
6 renewable energy system will be installed at the time of construction,
7 producing an equal or greater amount of electricity on an annual basis
8 as the minimum required solar installation under section 11-112 of this
9 article. Developers may seek a reduction in the required generating
10 capacity of a solar energy system upon a sufficient showing that a
11 substitute renewable energy system will be installed at the time of
12 construction, generating sufficient electricity on an annual basis to
13 offset the reduction in electricity produced by the solar energy system.

14 3. Developers may seek an exemption from the inspector of buildings or
15 building commissioner from the requirements under sections 11-111 and
16 11-112 of this article, or a reduction in the required size of a solar
17 energy system, upon a sufficient showing that a solar hot water heater
18 will be installed at the time of construction. Such exemption or
19 reduction shall only be granted to the extent that the installation of a
20 solar hot water heater will reduce the portion of the effective solar
21 area available for a solar energy system.

22 4. The board may allow exemptions from the requirements of this arti-
23 cle for affordable housing developments, after consulting with affor-
24 dable housing developers and operators, community development corpo-
25 rations, organizations that represent affordable housing residents, and
26 other stakeholders.

27 5. The board shall promulgate regulations within one year of the
28 effective date of this section that clearly defines the process for
29 seeking an exemption.

30 6. Should an exemption be granted, or if the new building does not
31 have a solar energy system producing sufficient electricity on an annual
32 basis to meet one hundred percent of the estimated average annual elec-
33 tricity demand of dwellings of a similar size and type, the developer
34 shall subscribe to a solar community distributed generation project
35 under section sixty-six-p of the public service law to meet the solar
36 generation needs of the building.

37 § 10. The energy law is amended by adding a new section 11-114 to read
38 as follows:

39 § 11-114. Amendments to the building code. 1. All future editions and
40 amended versions of the building code, as adopted by the board, shall
41 include regulations meeting the requirements of sections 11-111, 11-112
42 and 11-113 of this article.

43 2. The board may from time to time revise the regulations promulgated
44 under sections 11-111, 11-112 and 11-113 of this article, in accordance
45 with changes in technology and building practices.

46 § 11. The energy law is amended by adding a new section 11-115 to read
47 as follows:

48 § 11-115. Ensuring continued development incentives for new build-
49 ings. Compliance with the provisions of this article shall not impair a
50 building's eligibility for any incentives, rebates, credits, or other
51 programs in existence to encourage development of renewable energy
52 resources.

53 § 12. The energy law is amended by adding a new section 11-116 to read
54 as follows:

55 § 11-116. No granting of building permits without a showing of
56 compliance. A building permit for new construction shall not be granted

1 without a showing that the building complies with the requirements of
2 this article.

3 § 13. The energy law is amended by adding a new section 11-117 to read
4 as follows:

5 § 11-117. Penalties for failure to comply with this article. Any
6 person who fails to comply with or otherwise violates this article shall
7 be liable for a civil administrative penalty not to exceed ten thousand
8 dollars for each violation, or twice the estimated additional cost that
9 would have been incurred by constructing a building to meet the require-
10 ments of this article, whichever is greater.

11 § 14. This act shall take effect immediately.

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

21 § 5. This act shall take effect immediately; provided, however, that
22 the applicable effective date of Parts A through M of this act shall be
23 as specifically set forth in the last section of such Parts.