§ 9-2101. Health and safety land account creation and use.

1. Definitions. For purposes of this section:

a. "eligible project" means a public health or safety-related project necessary where no viable alternative exists, limited to the following:

(i) address bridge hazards to improve public safety on county highways and town highways;

(ii) elimination of the hazards of dangerous curves and grades on county and town highways to improve public safety;

(iii) relocation, maintenance, and reconstruction of county highways and town highways, including associated culverts, for the purpose of addressing public safety provided that no relocation of any single relocated portion shall exceed one mile in length;

(iv) water wells and necessary appurtenances when such wells are necessary to meet drinking water quality standards and are located within five hundred thirty feet of state highways, county highways and town highways; and

(v) stabilization devices for an existing utility pole adjacent to, or no more than the minimum distance from the width of highway necessary to comply with standard safety practices.

Eligible projects shall not include the use of chemicals/herbicides for clearing state land; the removal of trees and vegetation shall be minimized and the area shall promptly be restored to pre-project conditions to the maximum extent practicable.

b. "county highway" shall have the same meaning as defined in subdivision four of section three of the highway law.

c. "forest preserve expansion fund" shall mean the fund established pursuant to section ninety-seven-e of the state finance law.

d. "project sponsor" means a town, village, or county located in the counties of Clinton, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Herkimer, Lewis, Oneida, Saratoga, Saint Lawrence, Sullivan, Ulster, Warren and Washington.

e. "no viable alternative" means that no other option exists for the eligible project to address ongoing public health or safety concerns other than through the use of state lands.

f. "state highway" means a state highway as defined in subdivisions one, two and three of section three of the highway law.

g. "state lands" means lands owned by the state in forest preserve counties that are under the jurisdiction of the department.

h. "town highway" means a town highway, as defined in subdivision five of section three of the highway law, in existence as of January first, two thousand fifteen, listed on the local highway inventory maintained by the department of transportation, and annually plowed and regularly maintained.

i. "width of the highway" shall have the same meaning as paragraph k of subdivision one of section 9-2103 of this title.

2. Following approval by the legislature of two hundred fifty acres of land to be added to the forest preserve, a health and safety land account of not more than two hundred fifty acres is created for use by project sponsors for eligible projects necessary to protect health and safety where no viable alternative is available. The account will be administered by the department.

3. A project sponsor with an eligible project may apply to the health and safety land account to receive fractional or whole acreage for an eligible project. Such application shall include:

a. a resolution from the governing body of the project sponsor that includes:

(i) attestation that the project is necessary to address public health or safety and no viable alternatives exist;

(ii) attestation that such lands will only be used for eligible purposes and that any real property acquired shall not be sold, leased,

exchanged, donated or otherwise disposed of or used for other than the eligible purposes for which it was approved without the express authority of an act of the legislature.

b. a detailed summary of the proposed eligible project, including the whole action and all related activities, a detailed summary of the alternatives the project sponsor explored prior to arriving at the conclusion there were no viable alternatives;

c. specific metes and bounds, including total proposed acreage;

d. a narrative about the project, including a justification that the size of the fractional or whole acreage sought for such eligible project from the health and safety land account is the minimum amount required;

e. monies at least equivalent to the fair market value of the state land proposed to be conveyed;

f. any necessary permits and authorizations; and,

g. an accurate survey.

4. Immediately upon determining that an application is complete, the department shall cause a notice of application, which shall also include the time period for public comments, to be published in the next available state register and environmental notice bulletin as well as in a newspaper having general circulation in the area in which the eligible project is proposed to be located. Newspaper publications shall be provided by the project sponsor.

5. The department shall hold a public hearing on each eligible project at which the public shall be given an opportunity to be heard.

6. The department, following consultation with the department of transportation to determine that any required authorization has been provided, shall only deem a project sponsor eligible to receive fractional or whole acreage from the health and safety land account

following a determination that:

a. the project meets the eligible project criteria, is necessary to protect public health or safety and the eligible project has no viable alternative on land not owned by the state;

b. the project minimizes adverse environmental impact to the maximum extent practicable;

c. the project will not adversely impact viewsheds or lands with historical, ecological, environmental or recreational value, as determined by the department based on a resource inventory and assessment;

d. the monies to be paid by the project sponsor into the forest preserve expansion fund, are at least equivalent to the fair market value of the state land proposed to be conveyed; and

e. the project minimizes the fractional or whole acreage from the health and safety land account to the maximum extent practicable.

7. Once an application has been approved the commissioner shall cause to be prepared an accurate survey map showing the boundaries of all state land proposed to be conveyed and shall notify the legislature.

8. a. Prior to the actual transfer of title or issuance of letters patent for an eligible project that is longer than one quarter mile that has been approved by the department, the legislature shall approve each eligible project and the monies to be paid into the forest preserve expansion fund equal to or greater than the fair market value of the acreage to be conveyed from the health and safety land account. Once approved by the legislature, title to the land shall be approved and the deed to the people of the state of New York of any lands dedicated shall be approved by the attorney general as to form and manner of execution and recordability prior to its delivery.

b. Prior to the actual transfer of title or issuance of letters patent

for an eligible project that is less than one quarter linear mile total, which shall run and be measured parallel to the county highway or town highway, and which runs no more than ten feet perpendicular beyond the width of the highway which shall mean three rods or the deeded, recorded municipal or state right of way or municipal or state easement in the existence as of January first, two thousand fifteen and, which has been approved by the department, title to land shall be approved and the deed to the people of the state of New York of any lands dedicated shall be approved by the attorney general as to form and manner of execution and recordability prior to its delivery.

9. Real property acquired, developed, improved, restored or rehabilitated by or through a project sponsor pursuant to this section shall not be leased, exchanged, donated or otherwise disposed of or used for other than the eligible project for which it was approved without the express authority of an act of the legislature. When the project sponsor determines such eligible project is no longer needed, the lands shall revert to the state for inclusion in the forest preserve. The department shall prescribe the terms and conditions for the removal of any improvements to the land and restoration of the land to a natural, vegetative state.