

**FY 2023 NEW YORK STATE EXECUTIVE BUDGET**  
**TRANSPORTATION, ECONOMIC DEVELOPMENT AND**  
**ENVIRONMENTAL CONSERVATION**  
**ARTICLE VII LEGISLATION**

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CONSERVATION  
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Legislative Bill Drafting Commission  
12673-01-2

S. -----  
Senate  
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IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
-----

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

**\*BUDGBI\***

(Enacts into law major components of  
legislation necessary to implement  
the state transportation, economic  
development and environmental  
conservation budget for the  
2022-2023 state fiscal year)

-----  
BUDGBI. TED Governor

AN ACT

to amend the penal law and the vehi-  
cle and traffic law, in relation to  
transportation worker safety; and to  
amend the penal law, in relation to  
establishing the offense of menacing  
a highway worker (Subart A); to  
amend the vehicle and traffic law,  
in relation to increasing fines  
payable by a driver of a motor vehi-  
cle who causes injury to a pedestri-

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal:

s15 Addabbo	s17 Felder	s07 Kaplan	s58 O'Mara	s10 Sanders
s52 Akshar	s59 Gallivan	s26 Kavanagh	s62 Ortt	s23 Savino
s36 Bailey	s05 Gaughran	s63 Kennedy	s01 Palumbo	s32 Sepulveda
s34 Biaggi	s12 Gianaris	s28 Krueger	s21 Parker	s41 Serino
s57 Borrello	s22 Gounardes	s24 Lanza	s19 Persaud	s29 Serrano
s04 Boyle	s47 Griffo	s11 Liu	s13 Ramos	s39 Skoufis
s44 Breslin	s40 Harckham	s50 Mannion	s61 Rath	s16 Stavisky
s25 Brisport	s54 Helming	s42 Martucci	s38 Reichlin-	s45 Stec
s08 Brooks	s46 Hinchey	s02 Mattera	Melnick	s35 Stewart-
s55 Brouk	s27 Hoylman	s53 May	s48 Ritchie	Cousins
s30 Cleare	s31 Jackson	s37 Mayer	s33 Rivera	s49 Tedisco
s14 Comrie	s43 Jordan	s20 Myrie	s60 Ryan	s06 Thomas
s56 Cooney	s09 Kaminsky	s51 Oberacker	s18 Salazar	s03 Weik

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

a049 Abbate	a045 Cymbrowitz	a100 Gunther	a015 Montesano	a076 Seawright	
a092 Abinanti	a018 Darling	a139 Hawley	a145 Morinello	a084 Septimo	
a031 Anderson	a053 Davila	a083 Heastie	a065 Niou	a016 Sillitti	
a122 Angelino	a003 DeStefano	a028 Hevesi	a037 Nolan	a052 Simon	
a107 Ashby	a070 Dickens	a128 Hunter	a144 Norris	a114 Simpson	
a035 Aubry	a054 Dilan	a029 Hyndman	a069 O'Donnell	a005 Smith	
a120 Barclay	a081 Dinowitz	a079 Jackson	a091 Otis	a118 Smullen	
a030 Barnwell	a147 DiPietro	a104 Jacobson	a132 Palmesano	a022 Solages	
a106 Barrett	a009 Durso	a011 Jean-Pierre	a088 Paulin	a110 Steck	
a082 Benedetto	a048 Eichenstein	a134 Jensen	a141 Peoples-	a010 Stern	
a042 Bichotte	a004 Englebright	a115 Jones	Stokes	a127 Stirpe	
	Hermelyn	a074 Epstein	a077 Joyner	a058 Perry	a102 Tague
a117 Blankenbush	a109 Fahy	a125 Kelles	a023 Pheffer	a064 Tannousis	
a098 Brabene	a061 Fall	a040 Kim	Amato	a086 Tapia	
a026 Braunstein	a080 Fernandez	a105 Lalor	a089 Pretlow	a071 Taylor	
a138 Bronson	a008 Fitzpatrick	a013 Lavine	a073 Quart	a001 Thiele	
a012 Brown	a057 Forrest	a097 Lawler	a019 Ra	a033 Vanel	
a093 Burdick	a124 Friend	a126 Lemondes	a038 Rajkumar	a116 Walczyk	
a085 Burgos	a046 Frontus	a135 Lunsford	a006 Ramos	a055 Walker	
a142 Burke	a095 Galef	a123 Lupardo	a062 Reilly	a143 Wallace	
a119 Buttenschon	a050 Gallagher	a129 Magnarelli	a087 Reyes	a112 Walsh	
a094 Byrne	a131 Gallahan	a036 Mamdani	a043 Richardson	a041 Weinstein	
a133 Byrnes	a007 Gandolfo	a130 Manktelow	a078 Rivera, J.	a024 Weprin	
a103 Cahill	a002 Giglio, J.A.	a108 McDonald	a149 Rivera, J.D.	a059 Williams	
a044 Carroll	a148 Giglio, J.M.	a014 McDonough	a027 Rosenthal, D.	a113 Woerner	
a136 Clark	a066 Glick	a146 McMahon	a067 Rosenthal, L.	a096 Zebrowski	
a047 Colton	a034 Gonzalez-	a137 Meeks	a025 Rozic	a056 Zinerman	
a140 Conrad	Rojas	a017 Mikulin	a121 Salka	a060	
a032 Cook	a150 Goodell	a101 Miller, B.	a111 Santabarbara	a068	
a039 Cruz	a075 Gottfried	a020 Miller, M.	a090 Sayegh	a072	
a063 Cusick	a021 Griffin	a051 Mitaynes	a099 Schmitt		

1) Single House Bill (introduced and printed separately in either or  
both houses). Uni-Bill (introduced simultaneously in both houses and printed  
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2  
signed copies of bill and: in Assembly 2 copies of memorandum in support, in  
Senate 4 copies of memorandum in support (single house); or 4 signed copies  
of bill and 6 copies of memorandum in support (uni-bill).

an (Subpart B); to amend the vehicle and traffic law, in relation to leaving the scene of an accident; and to amend the highway law in relation to clearing of vehicles from highways (Subpart C); to amend the vehicle and traffic law, in relation to work zone safety and outreach program (Subpart D); to amend the vehicle and traffic law, in relation to increasing penalties for certain traffic infractions and the use of global positioning system technology; to amend the vehicle and traffic law and the general business law, in relation to notification of parkway prohibitions (Subpart E); and to amend the highway law, in relation to increasing certain fines for violations related to permits for work within the state highway right of way (Subpart F) (Part A); to amend the highway law and the transportation law, in relation to consolidated local highway assistance payments (Part B); to amend the transportation law, in relation to airport improvement and revitalization (Part C); to amend the highway law, in relation to the entry of adjacent lands for the safe functionality of state highway infrastructure (Part D); to amend chapter 413 of the laws of 1999, relating to providing for mass transportation payments, in relation to the amount of payments in the Capitol District Transportation District and adding Montgomery County to such District (Part E); to amend the public authorities law, in relation to the electronic submission and public posting of bids for New York state thruway authority construction, reconstruction and improvement contracts (Part F); to amend the public authorities law, in relation to procurement contracts (Part G); to amend the public authorities law, in relation to increasing the statutory threshold for mandatory use of design-build by the metropolitan transportation authority (Part H); to amend the public authorities law, in relation to procurements conducted by the metropolitan trans-

portation authority and the New York city transit authority (Part I); to amend chapter 54 of the laws of 2016 amending the general municipal law relating to the New York transit authority and the metropolitan transportation authority, in relation to extending authorization for tax increment financing for the metropolitan transportation authority (Part J); to amend the public authorities law, in relation to MTA capital projects and utility relocations (Part K); to amend the penal law, in relation to assaulting or harassing certain employees of a transit agency or authority (Part L); 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 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 (Part M); to amend the penal law, in relation to including the intentional use of any toll highway, parkway, road, bridge or tunnel or entry into or remaining in a tolled central business district without payment of the lawful toll or charge as a theft of services; to amend the vehicle and traffic law, in relation to the penalty imposed upon the operator of a vehicle with an altered or obscured license plate while on a toll highway, bridge or tunnel; to amend the vehicle and traffic law, in relation to deterring fraudulent use of the toll exemption for vehicles transporting persons with disabilities into or remaining in a tolled central business district; and to amend the vehicle and traffic law, in relation to allowing the commissioner of motor vehicles to deny registration, reregistration, renewal, replacement or transfer of the registration of a vehicle and



vehicle identification number suspended for toll evasion, or subject to a pending toll authority request for suspension (Part N); to amend chapter 751 of the laws of 2005, amending the insurance law and the vehicle and traffic law relating to establishing the accident prevention course internet technology pilot program, in relation to the effectiveness thereof (Part O); to amend chapter 62 of the laws of 2003, amending the vehicle and traffic law and other laws relating to increasing certain motor vehicle transaction fees, in relation to the effectiveness thereof; and to amend chapter 84 of the laws of 2002, amending the state finance law relating to the costs of the department of motor vehicles, in relation to the effectiveness thereof (Part P); to amend the vehicle and traffic law, in relation to waiving non-driver identification application fees for incarcerated individuals (Part Q); to amend the civil rights law, in relation to requiring all state agencies to update all applicable forms and data systems to include a gender "x" option (Part R); to amend the public officers law, in relation to authorizing the disclosure of records for the public service loan forgiveness program (Part S); 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 T); to amend the general municipal law, in relation to brownfield opportunity areas; and to amend the public authorities law, in relation to funding for certain projects by the dormitory authority (Part U); to amend the agriculture and markets law and chapter 537 of the laws of 1976, relating to paid, free and reduced price breakfast for eligible pupils in certain school districts, in relation to the transfer of the administration of the national school lunch program and related

food programs to the Department of Agriculture and Markets; and to provide for the transfer of certain functions and employees with respect thereto (Part V); to amend the general business law, in relation to appearance enhancement professionals (Part W); in relation to authorizing certain health care professionals licensed to practice in other jurisdictions to practice in this state in connection with the Winter World University Games; and providing for the repeal of such provisions upon expiration thereof (Part X); 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 Y); to amend the 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 Z); to amend the infrastructure investment act, in relation to the effectiveness thereof; and to amend chapter 749 of the laws of 2019 authorizing, for certain public works undertaken pursuant to project labor agreements, use of the alternative delivery method known as design-build contracts, in relation to the effectiveness thereof (Part AA); to amend the state finance law, in relation to the excelsior linked deposit program (Part BB); to amend the New York state urban development corporation act, in relation to creating the small business seed funding grant program (Part CC); to amend chapter 584 of the laws of 2011, amending the public authorities law relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, in relation to the effectiveness thereof (Part DD); to amend the public authorities law, in relation to authorizing the dormitory authority to provide its

services to not-for-profit corporations (Part EE); to amend the public authorities law, in relation to authorizing the dormitory authority to utilize a prequalification list when seeking to bid or enter into a contract for public work (Part FF); 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 (Part GG); to amend the public authorities law, in relation to authorizing the dormitory authority to enter into design and construction management agreements with state authorities (Part HH); to amend the state finance law and the public authorities law, in relation to the cannabis social equity fund (Part II); to amend the highway law and the transportation corporations law, in relation to right of way for fiber optic cable (Part JJ); to amend the environmental conservation law, in relation to removing a program cap and allowing funding of the solid waste mitigation program's inactive landfill initiative (Part KK); to amend the environmental conservation law and the tax law, in relation to eligibility for participation in the brownfield cleanup program, assignment of the brownfield redevelopment tax credits and brownfield opportunity areas; and to amend part H of chapter 1 of the laws of 2003, amending the tax law relating to brownfield redevelopment tax credits, remediated brownfield credit for real property taxes for qualified sites and environmental remediation insurance credits, in relation to the effectiveness thereof (Part LL); to amend the environmental conservation law, in relation to extending the waste tire management fee for five years and conforming the applicable administrative provisions to article 28 of the tax law (Part MM); to amend part TT of chapter 59 of the laws of 2021 authorizing the creation of state debt in the amount of three billion

dollars, in relation to creating the environmental bond act of 2022 "restore mother nature" for the purposes of environmental improvements that preserve, enhance, and restore New York's natural resources and reduce the impact of climate change; and providing for the submission to the people of a proposition or question therefor to be voted upon at the general election to be held in November, 2022, in relation to creating the Clean Water, Clean Air, and Green Jobs Environmental Bond Act of 2022 (Part NN); to amend the environmental conservation law, the state finance law, and part UU of chapter 59 of the laws of 2021 amending the environmental conservation law and the state finance law relating to the implementation of the environmental bond act of 2022 "restore mother nature", in relation to renaming such act "clean water, clean air, and green jobs" (Part OO); to amend the tax law, in relation to increasing the transfer amount from the real estate transfer tax to the environmental protection fund (Part PP); to amend the environmental conservation law, in relation to freshwater wetlands; and to repeal certain provisions of such law relating thereto (Part QQ); amend the environmental conservation law, in relation to enacting the "extended producer responsibility act"; and to amend the state finance law, in relation to creating the stewardship organization fund (Part RR); to amend the environmental conservation law, in relation to enacting the toxics in packaging act to restrict PFAS in all packaging and adding restrictions for phthalates in all packaging; and to repeal title 2 of article 37 of the environmental conservation law relating to hazardous packaging (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 extending the

authority of the county of Suffolk to form a county-wide sewer and wastewater management district (Part TT); to amend the environmental conservation law, in relation to the water pollution control revolving fund (Part UU); to amend the executive law, in relation to ensuring proper administration and enforcement of the uniform fire prevention and building code and the state energy conservation construction code (Part VV); to amend the vehicle and traffic law and the state finance law, in relation to the vessel surcharge; and to repeal certain provisions of the state finance law relating thereto (Part WW); to amend the environmental conservation law and the real property tax law, in relation to river regulating district payment of taxes on lands owned by the state (Part XX); to amend the parks, recreation and historic preservation law, in relation to the powers, functions and duties of the state council of parks, recreation and historic preservation and the regional park, recreation and historic preservation commissions; and to repeal certain provisions of such law relating thereto (Part YY); to amend the insurance law, the public authorities law and the tax law, in relation to authorizing the power authority of the state of New York to form a pure captive insurance company (Part ZZ); to authorize the 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 and the department of agriculture and markets' Fuel NY program, from an assessment on gas and electric corporations (Part AAA); 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; and providing for the repeal of such provisions upon the expiration thereof (Part BBB); to amend the public service law, in relation to the provision of gas service (Part CCC); to amend the public authorities law, in relation to the eligibility of hospitals in the state to receive assistance from the power authority of the state of New York (Part DDD); to amend the energy law, the executive law and the state finance law, in relation to establishing the "advanced building codes, appliance and equipment efficiency standards, and building benchmarking act of 2022" (Part EEE); and to amend the public authorities law, in relation to authorizing the power authority of the state of New York to dispose of excess capacity in its broadband technologies and infrastructure (Part FFF)

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

1 Section 1. This act enacts into law major components of legislation  
2 necessary to implement the state transportation, economic development  
3 and environmental conservation budget for the 2022-2023 state fiscal  
4 year. Each component is wholly contained within a Part identified as  
5 Parts A through FFF. The effective date for each particular provision  
6 contained within such Part is set forth in the last section of such  
7 Part. Any provision in any section contained within a Part, including  
8 the effective date of the Part, which makes a reference to a section "of  
9 this act", when used in connection with that particular component, shall  
10 be deemed to mean and refer to the corresponding section of the Part in  
11 which it is found. Section three of this act sets forth the general  
12 effective date of this act.

13 PART A

14 Section 1. This Part enacts into law major components of legislation  
15 relating to safety on highways of the state. Each component is wholly  
16 contained within a Subpart identified as Subparts A through F. The  
17 effective date for each particular provision contained within such  
18 Subpart is set forth in the last section of such Subpart. Any provision  
19 in any section contained within a Subpart, including the effective date  
20 of the Subpart, which makes a reference to a section "of this act", when  
21 used in connection with that particular component, shall be deemed to  
22 mean and refer to the corresponding section of the Subpart in which it  
23 is found. Section three of this Part sets forth the general effective  
24 date of this Part.

25 SUBPART A

1 Section 1. Subdivisions 3 and 11 of section 120.05 of the penal law,  
2 subdivision 3 as amended by chapter 267 of the laws of 2016 and subdivi-  
3 sion 11 as separately amended by chapters 268 and 281 of the laws of  
4 2016, are amended to read as follows:

5 3. With intent to prevent a peace officer, a police officer, prosecu-  
6 tor as defined in subdivision thirty-one of section 1.20 of the criminal  
7 procedure law, registered nurse, licensed practical nurse, public health  
8 sanitarian, New York city public health sanitarian, sanitation enforce-  
9 ment agent, New York city sanitation worker, a firefighter, including a  
10 firefighter acting as a paramedic or emergency medical technician admin-  
11 istering first aid in the course of performance of duty as such fire-  
12 fighter, an emergency medical service paramedic or emergency medical  
13 service technician, or medical or related personnel in a hospital emer-  
14 gency department, a city marshal, a school crossing guard appointed  
15 pursuant to section two hundred eight-a of the general municipal law, a  
16 traffic enforcement officer, traffic enforcement agent, highway worker  
17 as defined in section one hundred eighteen-a of the vehicle and traffic  
18 law, motor vehicle inspector or motor carrier investigator as defined in  
19 section one hundred eighteen-b of the vehicle and traffic law, employee  
20 of the New York state department of motor vehicles or a county clerk  
21 performing motor vehicle transactions on behalf of such department, or  
22 employee of any entity governed by the public service law in the course  
23 of performing an essential service, from performing a lawful duty, by  
24 means including releasing or failing to control an animal under circum-  
25 stances evincing the actor's intent that the animal obstruct the lawful  
26 activity of such peace officer, police officer, prosecutor as defined in  
27 subdivision thirty-one of section 1.20 of the criminal procedure law,  
28 registered nurse, licensed practical nurse, public health sanitarian,



1 New York city public health sanitarian, sanitation enforcement agent,  
2 New York city sanitation worker, firefighter, paramedic, technician,  
3 city marshal, school crossing guard appointed pursuant to section two  
4 hundred eight-a of the general municipal law, traffic enforcement offi-  
5 cer, traffic enforcement agent, highway worker as defined in section one  
6 hundred eighteen-a of the vehicle and traffic law, motor vehicle inspec-  
7 tor or motor carrier investigator as defined in section one hundred  
8 eighteen-b of the vehicle and traffic law, employee of the New York  
9 state department of motor vehicles or a county clerk performing motor  
10 vehicle transactions on behalf of such department, or employee of an  
11 entity governed by the public service law, he or she causes physical  
12 injury to such peace officer, police officer, prosecutor as defined in  
13 subdivision thirty-one of section 1.20 of the criminal procedure law,  
14 registered nurse, licensed practical nurse, public health sanitarian,  
15 New York city public health sanitarian, sanitation enforcement agent,  
16 New York city sanitation worker, firefighter, paramedic, technician or  
17 medical or related personnel in a hospital emergency department, city  
18 marshal, school crossing guard, traffic enforcement officer, traffic  
19 enforcement agent, highway worker as defined in section one hundred  
20 eighteen-a of the vehicle and traffic law, motor vehicle inspector or  
21 motor carrier investigator as defined in section one hundred eighteen-b  
22 of the vehicle and traffic law, employee of the New York state depart-  
23 ment of motor vehicles or a county clerk performing motor vehicle trans-  
24 actions on behalf of such department, or employee of an entity governed  
25 by the public service law; or

26 11. With intent to cause physical injury to a train operator, ticket  
27 inspector, conductor, signalperson, bus operator, station agent, station  
28 cleaner or terminal cleaner employed by any transit agency, authority or

1 company, public or private, whose operation is authorized by New York  
2 state or any of its political subdivisions, a city marshal, a school  
3 crossing guard appointed pursuant to section two hundred eight-a of the  
4 general municipal law, a traffic enforcement officer, traffic enforce-  
5 ment agent, highway worker as defined in section one hundred eighteen-a  
6 of the vehicle and traffic law, motor vehicle inspector or motor carrier  
7 investigator as defined in section one hundred eighteen-b of the vehicle  
8 and traffic law, employee of the New York state department of motor  
9 vehicles or a county clerk performing motor vehicle transactions on  
10 behalf of such department, prosecutor as defined in subdivision thirty-  
11 one of section 1.20 of the criminal procedure law, sanitation enforce-  
12 ment agent, New York city sanitation worker, public health sanitarian,  
13 New York city public health sanitarian, registered nurse, licensed prac-  
14 tical nurse, emergency medical service paramedic, or emergency medical  
15 service technician, he or she causes physical injury to such train oper-  
16 ator, ticket inspector, conductor, signalperson, bus operator, station  
17 agent, station cleaner or terminal cleaner, city marshal, school cross-  
18 ing guard appointed pursuant to section two hundred eight-a of the  
19 general municipal law, traffic enforcement officer, traffic enforcement  
20 agent, highway worker as defined in section one hundred eighteen-a of  
21 the vehicle and traffic law, motor vehicle inspector or motor carrier  
22 investigator as defined in section one hundred eighteen-b of the vehicle  
23 and traffic law, employee of the New York state department of motor  
24 vehicles or a county clerk performing motor vehicle transactions on  
25 behalf of such department, prosecutor as defined in subdivision thirty-  
26 one of section 1.20 of the criminal procedure law, registered nurse,  
27 licensed practical nurse, public health sanitarian, New York city public  
28 health sanitarian, sanitation enforcement agent, New York city sanita-

1 tion worker, emergency medical service paramedic, or emergency medical  
2 service technician, while such employee is performing an assigned duty  
3 on, or directly related to, the operation of a train or bus, including  
4 the cleaning of a train or bus station or terminal, or such city  
5 marshal, school crossing guard, traffic enforcement officer, traffic  
6 enforcement agent, highway worker as defined in section one hundred  
7 eighteen-a of the vehicle and traffic law, motor vehicle inspector or  
8 motor carrier investigator as defined in section one hundred eighteen-b  
9 of the vehicle and traffic law, employee of the New York state depart-  
10 ment of motor vehicles or a county clerk performing motor vehicle trans-  
11 actions on behalf of such department, prosecutor as defined in subdivi-  
12 sion thirty-one of section 1.20 of the criminal procedure law,  
13 registered nurse, licensed practical nurse, public health sanitarian,  
14 New York city public health sanitarian, sanitation enforcement agent,  
15 New York city sanitation worker, emergency medical service paramedic, or  
16 emergency medical service technician is performing an assigned duty; or

17 § 2. The penal law is amended by adding a new section 120.19 to read  
18 as follows:

19 § 120.19 Menacing a highway worker.

20 A person is guilty of menacing a highway worker when he or she inten-  
21 tionally places or attempts to place a highway worker in reasonable fear  
22 of death, imminent serious physical injury or physical injury. For  
23 purposes of this subdivision, a highway worker shall be as defined in  
24 section one hundred eighteen-a of the vehicle and traffic law.

25 Menacing a highway worker is a class E felony.

26 § 3. The vehicle and traffic law is amended by adding two new sections  
27 118-a and 118-b to read as follows:

1 § 118-a. Highway worker. Any person employed by or on behalf of the  
2 state, a county, city, town or village, a public authority, a local  
3 authority, or a public utility company, or the agent or contractor of  
4 any such entity, who has been assigned to perform work on a highway,  
5 including maintenance, repair, flagging, utility work, construction,  
6 reconstruction or operation of equipment on public highway infrastruc-  
7 ture and associated rights-of-way in highway work areas, and shall also  
8 include any flagperson as defined in section one hundred fifteen-b of  
9 the vehicle and traffic law.

10 § 118-b. Motor vehicle inspector and motor carrier investigator. Any  
11 person employed by the New York state department of transportation who  
12 has been assigned to perform inspections of any motor vehicles or inves-  
13 tigation of any carriers regulated by the commissioner of the New York  
14 state department of transportation.

15 § 4. Paragraph a of subdivision 2 of section 510 of the vehicle and  
16 traffic law is amended by adding a new subparagraph (xiv) to read as  
17 follows:

18 (xiv) of menacing a highway worker, or menacing in the first, second  
19 or third degree, as defined in article one hundred twenty of the penal  
20 law, where such offense was committed against a highway worker.

21 § 5. The vehicle and traffic law is amended by adding a new section  
22 1221-a to read as follows:

23 § 1221-a. Intrusion into an active work zone. 1. No driver of a vehi-  
24 cle shall enter or intrude into an active work zone except upon direc-  
25 tion from a flagperson, police officer or other visibly designated  
26 person in charge of traffic control or direction from a traffic control  
27 device regulating entry therein. For purposes of this section, the term  
28 "active work zone" shall mean the physical area of a highway, street or

1 private road on which construction, maintenance or utility work is being  
2 conducted, which area is marked by any signs, channeling devices, barri-  
3 ers, pavement markings, or work vehicles, and where workers are phys-  
4 ically present.

5 2. A violation of subdivision one of this section shall constitute a  
6 class B misdemeanor punishable by a fine of not less than two hundred  
7 fifty dollars nor more than five hundred dollars, or by a period of  
8 imprisonment not to exceed three months, or by both such fine and impri-  
9 sonment.

10 § 6. This act shall take effect on the one hundred eightieth day after  
11 it shall have become a law.

12 SUBPART B

13 Section 1. Paragraph 1 of subdivision (b) of section 1146 of the  
14 vehicle and traffic law, as amended by chapter 333 of the laws of 2010,  
15 is amended to read as follows:

16 1. A driver of a motor vehicle who causes physical injury as defined  
17 in article ten of the penal law to a pedestrian or bicyclist while fail-  
18 ing to exercise due care in violation of subdivision (a) of this  
19 section, shall be guilty of a traffic infraction punishable by a fine of  
20 not more than [five hundred] one thousand dollars or by imprisonment for  
21 not more than fifteen days or by both such fine and imprisonment.

22 § 2. Paragraph 1 of subdivision (c) of section 1146 of the vehicle  
23 and traffic law, as amended by chapter 333 of the laws of 2010, is  
24 amended to read as follows:

25 1. A driver of a motor vehicle who causes serious physical injury as  
26 defined in article ten of the penal law to a pedestrian or bicyclist

1 while failing to exercise due care in violation of subdivision (a) of  
2 this section, shall be guilty of a traffic infraction punishable by a  
3 fine of not more than [seven hundred fifty] one thousand five hundred  
4 dollars or by imprisonment for not more than fifteen days or by required  
5 participation in a motor vehicle accident prevention course pursuant to  
6 paragraph (e-1) of subdivision two of section 65.10 of the penal law or  
7 by any combination of such fine, imprisonment or course, and by suspen-  
8 sion of a license or registration pursuant to subparagraph (xiv) or (xv)  
9 of paragraph b of subdivision two of section five hundred ten of this  
10 chapter.

11 § 3. Subdivision (d) of section 1146 of the vehicle and traffic law,  
12 as amended by chapter 333 of the laws of 2010, is amended to read as  
13 follows:

14 (d) A violation of subdivision (b) or (c) of this section committed by  
15 a person who has previously been convicted of any violation of such  
16 subdivisions within the preceding five years, shall constitute a class B  
17 misdemeanor punishable by a fine of not more than [one] two thousand  
18 dollars in addition to any other penalties provided by law.

19 § 4. This act shall take effect on the one hundred eightieth day after  
20 it shall have become a law.

21 SUBPART C

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

24 4. Any person operating a motor vehicle involved in an accident not  
25 involving personal injury or death who moves such vehicle to a location  
26 off the roadway but as near as possible to the place where the damage

1 occurred, so as not to obstruct the regular flow of traffic, shall not  
2 be construed to be in violation of subdivision one of this section  
3 because of such movement.

4 § 2. Subdivision 2 of section 15 of the highway law, as amended by  
5 chapter 1110 of the laws of 1971, is amended to read as follows:

6 2. The commissioner of transportation or a police officer, or any  
7 person acting at the direction of the commissioner or a police officer,  
8 shall have the power to cause the immediate removal, from the right of  
9 way of any state highway, of any vehicle, cargo, or debris which  
10 obstructs or interferes with the use of such a highway for public trav-  
11 el; or which obstructs or interferes with the construction, recon-  
12 struction or maintenance of such a highway; or which obstructs or inter-  
13 feres with the clearing or removal of snow or ice from such a highway;  
14 or which obstructs or interferes with any operation of the department of  
15 transportation during a public emergency. The commissioner of transpor-  
16 tation or a police officer, or any person acting at the direction of the  
17 commissioner or a police officer, shall not be liable for any damage to  
18 such vehicle, cargo, or debris, unless such removal was carried out in a  
19 reckless or grossly negligent manner.

20 § 3. This act shall take effect immediately.

21 SUBPART D

22 Section 1. The vehicle and traffic law is amended by adding a new  
23 section 1221-b to read as follows:

24 § 1221-b. Work zone safety and outreach. The governor's traffic safety  
25 committee, upon consultation with the commissioner of transportation,  
26 the superintendent of state police, the commissioner of motor vehicles,

1 the chairman of the New York state thruway authority, local law enforce-  
2 ment agencies, and representatives for contractors and laborers, shall  
3 design and implement a public education and outreach program to increase  
4 motorist awareness of the importance of highway work zone safety, to  
5 reduce the number of work zone incidents, including speeding, unauthor-  
6 ized intrusions into work zones, and any conduct resulting in threats or  
7 injuries to highway workers, and to increase and promote work zone safe-  
8 ty.

9 § 2. This act shall take effect immediately.

10 SUBPART E

11 Section 1. Subdivisions (h) and (i) of section 1800 of the vehicle and  
12 traffic law, as amended by section 1 of part B of chapter 58 of the laws  
13 of 2020, are amended to read as follows:

14 (h) Notwithstanding the provisions of subdivisions (b) and (c) of this  
15 section, a person convicted of a traffic infraction for a violation of  
16 any ordinance, order, rule, regulation or local law adopted pursuant to  
17 one or more of the following provisions of this chapter: paragraphs two  
18 and nine of subdivision (a) of section sixteen hundred twenty-one;  
19 subdivision three of section sixteen hundred thirty; or subdivision five  
20 of section seventy-one of the transportation law, prohibiting the opera-  
21 tion on a highway or parkway of a motor vehicle registered as a commer-  
22 cial vehicle and having a gross vehicle weight rating of at least ten  
23 thousand pounds but no more than twenty-six thousand pounds shall, for a  
24 first conviction thereof, be punished by a fine of not more than [three  
25 hundred fifty] one thousand dollars or by imprisonment of not more than  
26 fifteen days or by both such fine and imprisonment; for a conviction of



1 a second violation, both of which were committed within a period of  
2 eighteen months, such person shall be punished by a fine of not more  
3 than [seven] fifteen hundred dollars or by imprisonment for not more  
4 than forty-five days or by both such fine and imprisonment; upon a  
5 conviction of a third or subsequent violation, all of which were commit-  
6 ted within a period of eighteen months, such person shall be punished by  
7 a fine of not more than [one] two thousand five hundred dollars or by  
8 imprisonment of not more than ninety days or by both such fine and  
9 imprisonment; provided, however, the provisions of this subdivision  
10 shall not apply to a commercial motor vehicle as such term is defined in  
11 paragraph (a) of subdivision four of section five hundred one-a of this  
12 chapter.

13 (i) Notwithstanding the provisions of subdivisions (b) and (c) of this  
14 section, a person convicted of a traffic infraction for a violation of  
15 any ordinance, order, rule, regulation or local law adopted pursuant to  
16 one or more of the following provisions of this chapter: paragraphs two  
17 and nine of subdivision (a) of section sixteen hundred twenty-one;  
18 subdivision three of section sixteen hundred thirty; or subdivision five  
19 of section seventy-one of the transportation law, prohibiting the opera-  
20 tion on a highway or parkway of a commercial motor vehicle as defined in  
21 paragraph (a) of subdivision four of section five hundred one-a of this  
22 chapter, for a first conviction thereof, be punished by a fine of not  
23 more than [seven hundred] five thousand dollars or by imprisonment of  
24 not more than fifteen days or by both such fine and imprisonment; for a  
25 conviction of a second violation, both of which were committed within a  
26 period of eighteen months, such person shall be punished by a fine of  
27 not more than [one] seven thousand five hundred dollars or by imprison-  
28 ment for not more than forty-five days or by both such fine and impri-

1 sonment; upon a conviction of a third or subsequent violation, all of  
2 which were committed within a period of eighteen months, such person  
3 shall be punished by a fine of not more than [two] ten thousand dollars  
4 or by imprisonment of not more than ninety days or by both such fine and  
5 imprisonment. In addition to the penalties provided for in this subdivi-  
6 sion, the registration of the vehicle may be suspended for a period not  
7 to exceed one year whether at the time of the violation the vehicle was  
8 in charge of the owner or his agent. The provisions of section five  
9 hundred ten of this chapter shall apply to such suspension except as  
10 otherwise provided herein.

11 § 2. Subdivision 18-a of section 385 of the vehicle and traffic law,  
12 as added by section 2 of part B of chapter 58 of the laws of 2020, is  
13 amended to read as follows:

14 18-a. A violation of the provisions of subdivisions two or fourteen of  
15 this section, where the violation relates to the height of the vehicle,  
16 including a violation related to the operation, within a city not wholly  
17 included within one county, of a vehicle which exceeds the limitations  
18 provided for in the rules and regulations of the city department of  
19 transportation of such city, shall be punishable by a fine of not more  
20 than [one] five thousand dollars, or by imprisonment for not more than  
21 thirty days, or by both such fine and imprisonment, for the first  
22 offense; by a fine of not more than [two] seven thousand five hundred  
23 dollars, or by imprisonment for not more than sixty days, or by both  
24 such fine and imprisonment, for the second or subsequent offense;  
25 provided that a sentence or execution thereof for any violation under  
26 this subdivision may not be suspended. For any violation of the  
27 provisions of subdivisions two or fourteen of this section where the  
28 violation relates to the height of the vehicle, including a violation

1 related to the operation, within a city not wholly included within one  
2 county, of a vehicle which exceeds the limitations provided for in the  
3 rules and regulations of the city department of transportation of such  
4 city, the registration of the vehicle may be suspended for a period not  
5 to exceed one year whether at the time of the violation the vehicle was  
6 in charge of the owner or his agent. The provisions of section five  
7 hundred ten of this chapter shall apply to such suspension except as  
8 otherwise provided herein.

9 § 3. Subdivision 54 of section 375 of the vehicle and traffic law, as  
10 amended by chapter 473 of the laws of 2021, is amended to read as  
11 follows:

12 54. Stretch limousine [and], charter bus, and commercial motor vehicle  
13 commercial GPS. (a) Every stretch limousine [and], charter bus, and  
14 commercial motor vehicle registered in this state shall be equipped with  
15 commercial global positioning system (GPS) technology within no later  
16 than one year of the date upon which the national highway traffic safety  
17 administration promulgates final regulations establishing standards for  
18 commercial GPS.

19 (b) It shall be unlawful to operate or cause to be operated a stretch  
20 limousine [or], charter bus, or commercial motor vehicle registered in  
21 this state on any public highway or private road open to public motor  
22 vehicle traffic unless such stretch limousine [or], charter bus, or  
23 commercial motor vehicle is equipped with commercial global positioning  
24 system (GPS) technology as required by this subdivision and such commer-  
25 cial global positioning system (GPS) technology is used. The presence in  
26 such stretch limousine [or], charter bus, or commercial motor vehicle of  
27 commercial global positioning system (GPS) technology connected to a  
28 power source and in an operable condition is presumptive evidence of its

1 use by any person operating such stretch limousine [or], charter bus, or  
2 commercial motor vehicle. Such presumption may be rebutted by any cred-  
3 ible and reliable evidence which tends to show that such commercial  
4 global positioning system (GPS) technology was not in use.

5 (c) For the purposes of this subdivision:

6 (i) "Stretch limousine" shall mean an altered motor vehicle having a  
7 seating capacity of nine or more passengers, including the driver,  
8 commonly referred to as a "stretch limousine" and which is used in the  
9 business of transporting passengers for compensation;

10 (ii) "Charter bus" shall mean a bus transporting passengers for  
11 compensation in a chartered party;

12 (iii) "Chartered party" shall mean a group of persons who, pursuant to  
13 a common purpose and under a single contract and at a fixed charge, have  
14 acquired exclusive use of a bus to travel together as a group to a  
15 specific destination or for a particular itinerary either agreed upon in  
16 advance or modified after having left the place of origin by such group;  
17 [and]

18 (iv) "Commercial motor vehicle" shall mean a motor vehicle or combina-  
19 tion of vehicles having a gross combination weight rating of more than  
20 ten thousand pounds used in commerce to transport property or persons  
21 and shall include a tow truck with a gross vehicle weight rating of at  
22 least eighty-six hundred pounds; and

23 (v) "Commercial global positioning system (GPS) technology" shall mean  
24 global positioning system (GPS) technology which has been specifically  
25 designed to assist in the navigation of commercial motor vehicles.

26 § 4. The vehicle and traffic law is amended by adding a new section  
27 509-vv to read as follows:

1     § 509-vv. The use of non-commercial global positioning systems. One  
2 year following the date upon which the national highway traffic safety  
3 administration promulgates final regulations establishing standards for  
4 commercial global positioning systems (GPS), the use of non-commercial  
5 global positioning systems (GPS) by any commercial driver or commercial  
6 motor carrier, while engaged in the operation or directing the operation  
7 of any commercial vehicle, is prohibited. For purposes of this section,  
8 non-commercial global position system (GPS) shall mean any global posi-  
9 tioning technology which has not been specifically designed to assist in  
10 the navigation of commercial vehicles.

11     § 5. The vehicle and traffic law is amended by adding a new section  
12 509-vvv to read as follows:

13     § 509-vvv. Parkways notification. Commercial carriers must notify,  
14 in writing, all commercial drivers in their employ of the prohibition  
15 against operating commercial motor vehicles on parkways.

16     § 6. The vehicle and traffic law is amended by adding a new section  
17 509-ii to read as follows:

18     § 509-ii. The use of non-commercial global positioning systems. One  
19 year following the date upon which the national highway traffic safety  
20 administration promulgates final regulations establishing standards for  
21 commercial global positioning systems (GPS), the use of non-commercial  
22 global positioning systems (GPS) by any bus driver or motor carrier,  
23 while engaged in the operation or directing the operation of any bus, is  
24 prohibited. For purposes of this section, non-commercial global posi-  
25 tion system (GPS) shall mean any global positioning technology which has  
26 not been specifically designed to assist in the navigation of commercial  
27 vehicles.

1 § 7. The vehicle and traffic law is amended by adding a new section  
2 509-iii to read as follows:

3 § 509-iii. Parkways notification. Motor carriers must notify, in  
4 writing, all bus drivers in their employ of the prohibition against  
5 operating commercial motor vehicles on parkways.

6 § 8. The general business law is amended by adding a new section 396-  
7 zz to read as follows:

8 § 396-zz. Commercial vehicle owner notifications of parkway prohibi-  
9 tions. (a) All rental vehicle companies, as defined in section three  
10 hundred ninety-six-z of this article, must notify in writing all author-  
11 ized drivers or renters, as defined in section three hundred  
12 ninety-six-z of this article, of the prohibition against commercial  
13 motor vehicles operating on parkways for any rentals or leases of  
14 commercial motor vehicles. For purposes of this section "commercial  
15 motor vehicle" shall mean a motor vehicle or combination of vehicles  
16 having a gross combination weight rating of more than ten thousand  
17 pounds used to transport property or persons and shall include a tow  
18 truck with a gross vehicle weight rating of at least eighty-six hundred  
19 pounds.

20 (b) A conviction for a violation of this section shall be punishable  
21 by a fine of not more than one thousand dollars.

22 § 9. Severability. If any clause, sentence, subdivision, paragraph,  
23 section or part of this act be adjudged by any court of competent juris-  
24 diction to be invalid, or if any federal agency determines in writing  
25 that this act would render New York state ineligible for the receipt of  
26 federal funds, such judgment or written determination shall not affect,  
27 impair or invalidate the remainder thereof, but shall be confined in its  
28 operation to the clause, sentence, subdivision, paragraph, section or

1 part thereof directly involved in the controversy in which such judgment  
2 or written determination shall have been rendered.

3 § 10. This act shall take effect on the one hundred eightieth day  
4 after it shall have become a law; provided, however, that if chapter 473  
5 of the laws of 2021 shall not have taken effect on or before such date  
6 then section three of this act shall take effect on the same date and in  
7 the same manner as such chapter of the laws of 2021 takes effect;  
8 provided further that this act shall be deemed repealed if any federal  
9 agency determines in writing that this act would render New York state  
10 ineligible for the receipt of federal funds or any court of competent  
11 jurisdiction finally determines that this act would render New York  
12 state out of compliance with federal law or regulation; and provided  
13 that the commissioner of transportation shall notify the legislative  
14 bill drafting commission upon the occurrence of the provisions of this  
15 act in order that the commission may maintain an accurate and timely  
16 effective data base of the official text of the laws of the state of New  
17 York in furtherance of effectuating the provisions of section 44 of the  
18 legislative law and section 70-b of the public officers law; and  
19 provided further, however, that with respect to sections four and six of  
20 this act, the commissioner of transportation shall notify the legisla-  
21 tive bill drafting commission upon the occurrence of the provisions of  
22 sections four and six of this act, in order that the commission may  
23 maintain an accurate and timely effective data base of the official text  
24 of the laws of the state of New York in furtherance of effectuating the  
25 provisions of section 44 of the legislative law and section 70-b of the  
26 public officers law. Effective immediately, the addition, amendment  
27 and/or repeal of any rule or regulation necessary for the implementation

1 of this act on its effective date are authorized to be made and  
2 completed on or before such effective date.

3 SUBPART F

4 Section 1. Section 52 of the highway law, as amended by chapter 297 of  
5 the laws of 1972, the fourth undesignated paragraph as amended by chap-  
6 ter 643 of the laws of 1998 and the closing paragraph as amended by  
7 section 14 of part EE of chapter 63 of the laws of 2000, is amended to  
8 read as follows:

9 § 52. Permits for work within the state highway right of way. 1.  
10 Except in connection with the construction, reconstruction, maintenance  
11 or improvement of a state highway, no person, firm, corporation, munici-  
12 pality, or state department or agency shall construct or improve, within  
13 the state highway right of way an entrance or connection to such high-  
14 way, or construct within the state highway right of way any works,  
15 structure or obstruction, or any overhead or underground crossing there-  
16 of, or lay or maintain therein underground wires or conduits or drain-  
17 age, sewer or water pipes, except in accordance with the terms and  
18 conditions of a work permit issued by the commissioner of transportation  
19 or his duly designated agent, notwithstanding any consent or franchise  
20 granted by any town or county superintendent, or by any other municipal  
21 authority. Any municipal corporation may enter upon any state highway  
22 for the purpose of widening the pavement or for any other purpose  
23 authorized by this section, but only after securing a permit as provided  
24 herein. Notwithstanding the limitations in any general or special law,  
25 every municipal corporation shall have and is hereby given authority to  
26 deposit with the department of transportation, such a sum of money or a



1 security bond as may be required by the commissioner of transportation  
2 as a condition precedent to the granting of the permit provided in this  
3 section.

4 2. (a) The commissioner of transportation shall establish regulations  
5 governing the issuance of highway work permits, including the fees to be  
6 charged therefor, a system of deposits of money or bonds guaranteeing  
7 the performance of the work and requirements of insurance to protect the  
8 interests of the state during performance of the work pursuant to a  
9 highway work permit. With respect to driveway entrance permits, the  
10 regulations shall take into consideration the prospective character of  
11 the development, the traffic which will be generated by the facility  
12 within the reasonably foreseeable future, the design and frequency of  
13 access to the facility, the effect of the facility upon drainage as  
14 related to existing drainage systems, the extent to which such facility  
15 may impair the safety and traffic carrying capacity of the existing  
16 state highway and any proposed improvement thereto within the reasonably  
17 foreseeable future, and any standards governing access, non-access or  
18 limited access which have been established by the department of trans-  
19 portation.

20 (b) Upon completion of the work within the state highway right of way,  
21 authorized by the work permit, the person, firm, corporation, munici-  
22 pality, or state department or agency, and his or its successors in  
23 interest, shall be responsible for the maintenance and repair of such  
24 work or portion of such work as set forth within the terms and condi-  
25 tions of the work permit.

26 3. An advertising sign, display or device, or any part thereof,  
27 erected or maintained in violation of this section shall be removed from  
28 the state highway right of way by the owner or the party responsible for

1 its erection and maintenance. The commissioner of transportation shall  
2 make a demand by mail, to the last known address of the owner, apparent  
3 owner or party responsible for the erection and maintenance of such  
4 advertising sign, display or device, for its removal and, if it is not  
5 removed within thirty days from the date of the mailing of such demand,  
6 the commissioner of transportation may remove any such advertising sign,  
7 display or device, or any part thereof, from the state highway right of  
8 way. Any such legally permitted, erected and maintained sign, display or  
9 device may be maintained by its owner in accordance with the provisions  
10 of this section upon the approval of the permit issuing office on the  
11 same terms and conditions as may exist for the granting of such  
12 approvals generally. Where such approvals are for permits to control  
13 vegetation, the permit issuing office shall approve no more than two  
14 hundred fifty permits per annum. The commissioner of transportation may  
15 also order the approval of additional permits to control vegetation on  
16 an individual basis upon demonstration of acute need.

17 4. The term "state highway right of way" shall, for the purposes of  
18 this section, mean the entire width between the boundary line of all  
19 property which has been purchased or appropriated by the state for state  
20 highway purposes, all property over which the commissioner of transpor-  
21 tation or his predecessors has assumed jurisdiction for state highway  
22 purposes, all property over which the commissioner of transportation has  
23 assumed jurisdiction during the period of construction, reconstruction  
24 or improvement and all property which has become part of the state high-  
25 way system through dedication or use.

26 5. Any person, firm or corporation violating this section shall be  
27 liable [to] for a fine of not [less than twenty-five dollars nor] more  
28 than [one] twenty-five thousand dollars for each day of violation to be

1 recovered by the commissioner of transportation. All fees, fines or  
2 penalties collected or recovered by the commissioner pursuant to this  
3 section shall be deposited by the comptroller into the special obli-  
4 gation reserve and payment account of the dedicated highway and bridge  
5 trust fund established pursuant to section eighty-nine-b of the state  
6 finance law, excepting monies deposited with the state on account of  
7 betterments performed pursuant to subdivision twenty-seven or subdivi-  
8 sion thirty-five of section ten of this chapter.

9 § 2. This act shall take effect immediately.

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

19 § 3. This act shall take effect immediately; provided, however, that  
20 the applicable effective date of Subparts A through F of this Part shall  
21 be as specifically set forth in the last section of such Subparts.

22 PART B

23 Section 1. Paragraph (e) of subdivision 4 of section 10-c of the high-  
24 way law, as amended by section 1 part A of chapter 58 of the laws of  
25 2020, is amended to read as follows:

1 (e) Funds allocated for local street or highway projects under this  
2 subdivision shall be used to undertake work on a project either with the  
3 municipality's own forces or by contract, provided however, that whenever  
4 er the estimate for the construction contract work exceeds one hundred  
5 thousand dollars but does not exceed [three] seven hundred fifty thou-  
6 sand dollars such work must be performed either with the municipality's  
7 own forces or by contract let by competitive bid in accordance with the  
8 provisions of section one hundred three of the general municipal law and  
9 provided further, however, that whenever the estimate for the  
10 construction contract work exceeds [three] seven hundred fifty thousand  
11 dollars such work must be performed by contract let by competitive bid  
12 in accordance with the provisions of section one hundred three of the  
13 general municipal law.

14 § 2. This act shall take effect immediately.

15 PART C

16 Section 1. Section 14-1 of the transportation law, as added by  
17 section 2 of part H of chapter 413 of the laws of 1999, paragraph (f) of  
18 subdivision 2 as amended by section 1 of subpart XX of chapter 59 of the  
19 laws of 2021, is amended to read as follows:

20 § 14-1. Airport improvement and revitalization. 1. Notwithstanding any  
21 other provision of law to the contrary, an airport improvement and re-  
22 talization grant [and loan] program is established. Such program is  
23 established to provide assistance for the revitalization of public use  
24 airports through funding of projects or portions thereof, for which  
25 sufficient federal capital assistance and required non-federal matching  
26 funding is not available and provided the project is consistent with the

1 airport layout plan approved by the department or the Federal Aviation  
2 Administration. The funding of capital improvements pursuant to this  
3 section shall not be used to provide the non-federal matching share for  
4 federal airport capital improvement grants.

5 2. (a) Assistance may consist of grants [and loans] for capital  
6 improvements and technical assistance provided by the department pursu-  
7 ant to this section.

8 [Loans and grants] Grants pursuant to this section may be made to any  
9 municipal corporation, public authority, public benefit corporation or  
10 any combination thereof, or to other owners of a public use airport for  
11 the purpose of improving a public use airport. A county, pursuant to a  
12 written agreement, may act on behalf of one or more cities, towns or  
13 villages for the purposes of this section. No such assistance shall be  
14 provided to any airport operated by a bi-state authority.

15 (b) Improvements pursuant to this section may be made for the follow-  
16 ing purposes:

17 (i) construction, reconstruction, improvement, reconditioning and  
18 preservation of capital facilities where the service life of the project  
19 is at least ten years, and related engineering services provided, howev-  
20 er, that for pavement management projects the service life of the  
21 project shall be at least five years; and

22 (ii) purchase of airport equipment, including navigational aids,  
23 acquisition of land and easements[; and

24 (iii) technical assistance for airports including, but not limited to,  
25 preparation of studies to attract, retain or improve air carrier or air  
26 cargo services including low fare commercial service air carrier  
27 services, airport business plans, activities to inform the general  
28 public or public and private organizations of the availability and

1 economic impact of the airport and the aviation services at the airport  
2 on the community].

3 (c) Assistance pursuant to this section shall be provided pursuant to  
4 contract with the commissioner. Contracts for capital improvements shall  
5 insure the availability to the public of any airport improved hereunder  
6 for the useful life of such improvement as defined in section sixty-one  
7 of the state finance law. The commissioner shall establish standards  
8 governing the form, content and submission of applications for partic-  
9 ipation in this program. Such standards shall include, but not be limit-  
10 ed to, the requirement that, with respect to applications submitted by  
11 owners of privately-owned airports, the commissioner shall make a deter-  
12 mination that a request submitted by such owners will serve a public  
13 purpose [and such applications are accompanied by]. Before any funding  
14 under this section may be accepted or disbursed, the commissioner must  
15 be provided with a resolution from the governing body of the county in  
16 which such privately-owned airport is located formally endorsing the  
17 project for which assistance is requested. The commissioner shall not  
18 approve an application for a grant [or loan] unless the applicant can  
19 demonstrate commitment of sufficient funds to provide the match set  
20 forth in paragraph (d) of this subdivision.

21 [All loans shall be repaid within ten years and bear such rate of  
22 interest as shall be established therefor by the commissioner upon the  
23 issuance of the loan; provided, however, such rate shall not exceed six  
24 percent per annum. Payments on all loans shall be made to the department  
25 and credited to the airport improvement and revitalization fund estab-  
26 lished pursuant to section eighty-eight-d of the state finance law.]

27 (d) Matching ratios. [(i)] Capital grants [and loans]. State assist-  
28 ance for the program shall cover the following share of the project

1 cost: for general aviation airports and commercial service airports with  
2 less than fifty thousand annual enplanements, up to ninety percent; for  
3 commercial service airports with fifty thousand or more but less than  
4 seven hundred thousand annual enplanements, up to eighty percent; and  
5 for commercial service airports with annual enplanements of seven  
6 hundred thousand or more, up to seventy percent.

7 [(ii) Technical assistance. Technical assistance may be up to eighty  
8 percent of the project cost. Funding for technical assistance shall be  
9 limited to general aviation airports and commercial service airports  
10 with less than two hundred fifty thousand annual enplanements, provided,  
11 however, that such funding may be granted to general aviation airports  
12 and commercial service airports, regardless of the number of annual  
13 enplanements, for the preparation of studies to attract, retain or  
14 improve low fare commercial service air carrier services. The entire  
15 cost of regional or statewide studies conducted by or on behalf of the  
16 department may be funded.]

17 (e) Funds for assistance pursuant to this section shall be from the  
18 airport improvement and revitalization fund established pursuant to  
19 section eighty-eight-d of the state finance law. No funds shall be paid  
20 pursuant to this section unless the applicant for assistance provides  
21 for the required non-state funded share of the costs of a project.

22 (f) No grant [or loan] to any eligible applicant shall exceed the sum  
23 of [two] five million [five hundred thousand] dollars, and no part of  
24 any such grant [or loan] shall be used for salaries or for services  
25 regularly provided by the applicant for administrative costs in  
26 connection with such grant [or loan].

27 (g) On or before May first each year, the commissioner shall submit a  
28 report on the immediately preceding fiscal year to the governor, tempo-

1 rary president of the senate and speaker of the assembly showing the  
2 total funds available for assistance pursuant to this section, and item-  
3 ization of assistance provided[, and the repayments of loans].

4 (h) No provision of this section shall be deemed to make any applicant  
5 ineligible for assistance otherwise available pursuant to section four-  
6 teen-h or fourteen-k of this article.

7 (i) The commissioner may promulgate rules and regulations for the  
8 implementation of this section.

9 § 2. This act shall take effect immediately.

10 PART D

11 Section 1. Section 45 of the highway law, as amended by chapter 1110  
12 of the laws of 1971, is amended to read as follows:

13 § 45. Entry upon adjacent lands and streams. Lands adjacent to a state  
14 highway or adjoining or in the bed or beds of any streams or creeks may  
15 be entered upon and occupied by the commissioner of transportation, his  
16 or her representatives and employees, or by a contractor or any of his  
17 or her agents or employees when directed by the commissioner of trans-  
18 portation or his or her representative:

19 1. to open, maintain or construct an existing ditch or drain or for  
20 making surveys and for digging a new ditch or drain, or a section there-  
21 of, for the free passage of water for the drainage of such highways.

22 2. to perform such work of construction, reconstruction, improvement  
23 or maintenance in order to keep the waters of such streams or creeks  
24 within their proper channels and to prevent their encroachment upon  
25 state highways or bridges thereon.



1 3. to remove or change the position of a fence or other obstruction  
2 which, in the judgment of the commissioner of transportation, prevents  
3 the free flow of water under or through a state highway, bridge or  
4 culvert.

5 4. to remove any fence or other obstruction which, in the judgment of  
6 the commissioner of transportation, causes snow to drift in and upon a  
7 state highway, and to erect snow fences or other devices upon such lands  
8 to prevent the drifting of snow in or upon any such highway.

9 5. to inspect trees for the purpose of determining whether any are in  
10 such a condition as to constitute a danger to users of the adjacent  
11 highway and to remove or prune those trees or parts thereof which in the  
12 judgment of the commissioner constitute such a danger.

13 6. on a temporary basis, when determined to be necessary in the  
14 discretion of the commissioner, to perform emergency repairs to provide  
15 for the safe functionality and operation of state highways and bridges  
16 when such functionality or operation is impacted by storm damage, land-  
17 slide, or retaining wall or drainage failure, and may pose a threat to  
18 the traveling public.

19 Notwithstanding the provisions of any general, special or local law or  
20 of any inconsistent provision of this chapter, claims for any damage  
21 caused by such entry and work and not exceeding three hundred and fifty  
22 dollars may be adjusted by agreement by the commissioner of transporta-  
23 tion without appropriating any property. Upon making any such agreement  
24 and adjustment, and upon the approval thereof by the department of audit  
25 and control, the commissioner of transportation shall deliver to the  
26 comptroller such agreement and a certificate stating the amount due such  
27 owner for damage caused by such entry and work and the amount so fixed

1 shall be paid out of the state treasury from moneys appropriated for the  
2 maintenance and repair of state highways.

3 § 2. This act shall take effect immediately.

4 PART E

5 Section 1. Section 1 of part I of chapter 413 of the laws of 1999,  
6 relating to providing for mass transportation payments, as amended by  
7 section 1 of part D of chapter 58 of the laws of 2015, is amended to  
8 read as follows:

9 Section 1. Notwithstanding any other law, rule or regulation to the  
10 contrary, payment of mass transportation operating assistance pursuant  
11 to section 18-b of the transportation law shall be subject to the  
12 provisions contained herein and the amounts made available therefor by  
13 appropriation.

14 In establishing service and usage formulas for distribution of mass  
15 transportation operating assistance, the commissioner of transportation  
16 may combine and/or take into consideration those formulas used to  
17 distribute mass transportation operating assistance payments authorized  
18 by separate appropriations in order to facilitate program administration  
19 and to ensure an orderly distribution of such funds.

20 To improve the predictability in the level of funding for those  
21 systems receiving operating assistance payments under service and usage  
22 formulas, the commissioner of transportation is authorized with the  
23 approval of the director of the budget, to provide service payments  
24 based on service and usage statistics of the preceding year.

25 In the case of a service payment made, pursuant to section 18-b of the  
26 transportation law, to a regional transportation authority on account of

1 mass transportation services provided to more than one county (consider-  
 2 ing the city of New York to be one county), the respective shares of the  
 3 matching payments required to be made by a county to any such authority  
 4 shall be as follows:

5	Percentage
6	of Matching
7 Local Jurisdiction	Payment
8 .....	
9 In the Metropolitan Commuter	
10 Transportation District:	
11 New York City .....	6.40
12 Dutchess .....	1.30
13 Nassau .....	39.60
14 Orange .....	0.50
15 Putnam .....	1.30
16 Rockland .....	0.10
17 Suffolk .....	25.70
18 Westchester .....	25.10
19 In the Capital District Trans-	
20 portation District:	
21 Albany .....	[56.10] <u>55.27</u>
22 Rensselaer .....	[23.30] <u>22.96</u>
23 Saratoga .....	[4.10] <u>4.04</u>
24 Schenectady .....	[16.50] <u>16.26</u>
25 <u>Montgomery</u> .....	<u>1.47</u>
26 In the Central New York Re-	
27 gional Transportation Dis-	

1	trict:		
2	Cayuga .....	5.11	
3	Onondaga .....	75.83	
4	Oswego .....	2.85	
5	Oneida .....	16.21	
6	In the Rochester-Genesee Re-		
7	gional Transportation Dis-		
8	trict:		
9	Genesee .....	1.36	
10	Livingston .....	.90	
11	Monroe .....	90.14	
12	Wayne .....	.98	
13	Wyoming .....	.51	
14	Seneca .....	.64	
15	Orleans .....	.77	
16	Ontario .....	4.69	
17	In the Niagara Frontier Trans-		
18	portation District: Erie .....		89.20
19	Niagara .....	10.80	

20 Notwithstanding any other inconsistent provisions of section 18-b of  
21 the transportation law or any other law, any moneys provided to a public  
22 benefit corporation constituting a transportation authority or to other  
23 public transportation systems in payment of state operating assistance  
24 or such lesser amount as the authority or public transportation system  
25 shall make application for, shall be paid by the commissioner of trans-  
26 portation to such authority or public transportation system in lieu, and

1 in full satisfaction, of any amounts which the authority would otherwise  
2 be entitled to receive under section 18-b of the transportation law.

3 Notwithstanding the reporting date provision of section 17-a of the  
4 transportation law, the reports of each regional transportation authori-  
5 ty and other major public transportation systems receiving mass trans-  
6 portation operating assistance shall be submitted on or before July 15  
7 of each year in the format prescribed by the commissioner of transporta-  
8 tion. Copies of such reports shall also be filed with the chairpersons  
9 of the senate finance committee and the assembly ways and means commit-  
10 tee and the director of the budget. The commissioner of transportation  
11 may withhold future state operating assistance payments to public trans-  
12 portation systems or private operators that do not provide such reports.

13 Payments may be made in quarterly installments as provided in subdivi-  
14 sion 2 of section 18-b of the transportation law or in such other manner  
15 and at such other times as the commissioner of transportation, with the  
16 approval of the director of the budget, may provide; and where payment  
17 is not made in the manner provided by such subdivision 2, the matching  
18 payments required of any city, county, Indian tribe or intercity bus  
19 company shall be made within 30 days of the payment of state operating  
20 assistance pursuant to this section or on such other basis as may be  
21 agreed upon by the commissioner of transportation, the director of the  
22 budget, and the chief executive officer of such city, county, Indian  
23 tribe or intercity bus company.

24 The commissioner of transportation shall be required to annually eval-  
25 uate the operating and financial performance of each major public trans-  
26 portation system. Where the commissioner's evaluation process has iden-  
27 tified a problem related to system performance, the commissioner may  
28 request the system to develop plans to address the performance deficien-

1 cies. The commissioner of transportation may withhold future state oper-  
2 ating assistance payments to public transportation systems or private  
3 operators that do not provide such operating, financial, or other infor-  
4 mation as may be required by the commissioner to conduct the evaluation  
5 process.

6 Payments shall be made contingent upon compliance with regulations  
7 deemed necessary and appropriate, as prescribed by the commissioner of  
8 transportation and approved by the director of the budget, which shall  
9 promote the economy, efficiency, utility, effectiveness, and coordinated  
10 service delivery of public transportation systems. The chief executive  
11 officer of each public transportation system receiving a payment shall  
12 certify to the commissioner of transportation, in addition to informa-  
13 tion required by section 18-b of the transportation law, such other  
14 information as the commissioner of transportation shall determine is  
15 necessary to determine compliance and carry out the purposes herein.

16 Counties, municipalities or Indian tribes that propose to allocate  
17 service payments to operators on a basis other than the amount earned by  
18 the service payment formula shall be required to describe the proposed  
19 method of distributing governmental operating aid and submit it one  
20 month prior to the start of the operator's fiscal year to the commis-  
21 sioner of transportation in writing for review and approval prior to the  
22 distribution of state aid. The commissioner of transportation shall only  
23 approve alternate distribution methods which are consistent with the  
24 transportation needs of the people to be served and ensure that the  
25 system of private operators does not exceed established maximum service  
26 payment limits. Copies of such approvals shall be submitted to the  
27 chairpersons of the senate finance and assembly ways and means commit-  
28 tees.

1 Notwithstanding the provisions of subdivision 4 of section 18-b of the  
2 transportation law, the commissioner of transportation is authorized to  
3 continue to use prior quarter statistics to determine current quarter  
4 payment amounts, as initiated in the April to June quarter of 1981. In  
5 the event that actual revenue passengers and actual total number of  
6 vehicle, nautical or car miles are not available for the preceding quar-  
7 ter, estimated statistics may be used as the basis of payment upon  
8 approval by the commissioner of transportation. In such event, the  
9 succeeding payment shall be adjusted to reflect the difference between  
10 the actual and estimated total number of revenue passengers and vehicle,  
11 nautical or car miles used as the basis of the estimated payment. The  
12 chief executive officer may apply for less aid than the system is eligi-  
13 ble to receive. Each quarterly payment shall be attributable to operat-  
14 ing expenses incurred during the quarter in which it is received, unless  
15 otherwise specified by such commissioner. In the event that a public  
16 transportation system ceases to participate in the program, operating  
17 assistance due for the final quarter that service is provided shall be  
18 based upon the actual total number of revenue passengers and the actual  
19 total number of vehicle, nautical or car miles carried during that quar-  
20 ter.

21 Payments shall be contingent on compliance with audit requirements  
22 determined by the commissioner of transportation.

23 In the event that an audit of a public transportation system or  
24 private operator receiving funds discloses the existence of an overpay-  
25 ment of state operating assistance, regardless of whether such an over-  
26 payment results from an audit of revenue passengers and the actual  
27 number of revenue vehicle miles statistics, or an audit of private oper-  
28 ators in cases where more than a reasonable return based on equity or

1 operating revenues and expenses has resulted, the commissioner of trans-  
2 portation, in addition to recovering the amount of state operating  
3 assistance overpaid, shall also recover interest, as defined by the  
4 department of taxation and finance, on the amount of the overpayment.

5 Notwithstanding any other law, rule or regulation to the contrary,  
6 whenever the commissioner of transportation is notified by the comp-  
7 troller that the amount of revenues available for payment from an  
8 account is less than the total amount of money for which the public mass  
9 transportation systems are eligible pursuant to the provisions of  
10 section 88-a of the state finance law and any appropriations enacted for  
11 these purposes, the commissioner of transportation shall establish a  
12 maximum payment limit which is proportionally lower than the amounts set  
13 forth in appropriations.

14 Notwithstanding paragraphs (b) of subdivisions 5 and 7 of section 88-a  
15 of the state finance law and any other general or special law, payments  
16 may be made in quarterly installments or in such other manner and at  
17 such other times as the commissioner of transportation, with the  
18 approval of the director of the budget may prescribe.

19 § 2. This act shall take effect immediately and shall be deemed to  
20 have been in full force and effect on and after April 1, 2022.

21

## PART F

22 Section 1. Subdivision 1 of section 359 of the public authorities law,  
23 as amended by section 6 of part TT of chapter 54 of the laws of 2016, is  
24 amended to read as follows:



1 1. On assuming jurisdiction of a thruway section or connection or any  
2 part thereof, or of a highway connection, the authority shall proceed  
3 with the construction, reconstruction or improvement thereof. All such  
4 work shall be done pursuant to a contract or contracts which shall be  
5 let to the lowest responsible bidder, by sealed proposals publicly  
6 opened, or by electronically secure proposal submission as permitted by  
7 the authority and electronically posted for public view, after public  
8 advertisement and upon such terms and conditions as the authority shall  
9 require; provided, however, that the authority may reject any and all  
10 proposals and may advertise for new proposals, as herein provided, if in  
11 its opinion, the best interests of the authority will thereby be  
12 promoted; provided further, however, that at the request of the authori-  
13 ty, all or any portion of such work, together with any engineering  
14 required by the authority in connection therewith, shall be performed by  
15 the commissioner and his subordinates in the department of transporta-  
16 tion as agents for, and at the expense of, the authority.

17 § 2. This act shall take effect immediately.

18 PART G

19 Section 1. Section 359-a of the public authorities law, as amended by  
20 section 7 of part TT of chapter 54 of the laws of 2016, is amended to  
21 read as follows:

22 § 359-a. Procurement contracts. For the purposes of section twenty-  
23 eight hundred seventy-nine of this chapter as applied to the authority,  
24 the term "procurement contract" shall mean any written agreement for the  
25 acquisition of goods or services of any kind by the authority in the  
26 actual or estimated amount of [fifteen] fifty thousand dollars or more.

1 The authority may utilize a procurement contract let by any department,  
2 agency or instrumentality of the United States government and/or any  
3 department, agency, office, political subdivision or instrumentality of  
4 any state or states. The authority shall document in the procurement  
5 record its rationale for the use of such a contract. Such rationale  
6 shall include, but need not be limited to, a determination of need, a  
7 consideration of the procurement method by which the contract was  
8 awarded, an analysis of alternative procurement sources including an  
9 explanation why a competitive procurement or the use of a centralized  
10 contract let by the commissioner of the office of general services is  
11 not in the best interest of the authority, and the reasonableness of  
12 cost. The authority shall accept sole responsibility for any payment  
13 due the vendor or contractor as a result of the authority's use of the  
14 contract.

15 § 2. This act shall take effect immediately.

16 PART H

17 Section 1. Subdivision 1 of section 1264 of the public authorities  
18 law, as amended by section 2 of subpart B of part ZZZ of chapter 59 of  
19 the laws of 2019, is amended to read as follows:

20 1. The purposes of the authority shall be the continuance, further  
21 development and improvement of commuter transportation and other  
22 services related thereto within the metropolitan commuter transportation  
23 district, including but not limited to such transportation by railroad,  
24 omnibus, marine and air, in accordance with the provisions of this  
25 title. It shall be the further purpose of the authority, consistent with  
26 its status as the ex officio board of both the New York city transit

1 authority and the triborough bridge and tunnel authority, to develop and  
2 implement a unified mass transportation policy for such district in an  
3 efficient and cost-effective manner that includes the use of design-  
4 build contracting on all projects over [twenty-five] two hundred million  
5 dollars in cost for new construction and all projects over four hundred  
6 million dollars in cost for projects that are predominantly rehabili-  
7 tation or replacement of existing assets except where a waiver is grant-  
8 ed by the New York state budget director pursuant to a request in writ-  
9 ing from the metropolitan transportation authority. For purposes of  
10 granting a waiver pursuant to this section, such review shall consider  
11 whether the design build contracting method is appropriate for the  
12 project that such waiver is sought for, and the amount of savings and  
13 efficiencies that could be achieved using such method. The determination  
14 for such waiver shall be made in writing within forty-five days from  
15 request or shall be deemed granted.

16 § 2. This act shall take effect immediately.

17 PART I

18 Section 1. Paragraph (b) of subdivision 7 of section 1209 of the  
19 public authorities law, as amended by section 3 of subpart C of part ZZZ  
20 of chapter 59 of the laws of 2019, is amended to read as follows:

21 (b) Section twenty-eight hundred seventy-nine of this chapter shall  
22 apply to the authority's acquisition of goods or services of any kind,  
23 in the actual or estimated amount of fifteen thousand dollars or more,  
24 provided that (i) a contract for services in the actual or estimated  
25 amount of one million dollars or less shall not require approval by the  
26 board of the authority regardless of the length of the period over which

1 the services are rendered, and provided further that a contract for  
2 services in the actual or estimated amount in excess of one million  
3 dollars shall require approval by the board of the authority regardless  
4 of the length of the period over which the services are rendered unless  
5 such a contract is awarded to the lowest responsible bidder after  
6 obtaining sealed bids and (ii) the board of the authority may by resol-  
7 ution adopt guidelines that authorize the award of contracts to small  
8 business concerns, to service disabled veteran owned businesses certi-  
9 fied pursuant to article seventeen-B of the executive law, or minority  
10 or women-owned business enterprises certified pursuant to article  
11 fifteen-A of the executive law, or purchases of goods or technology that  
12 are recycled or remanufactured, in an amount not to exceed one million  
13 five hundred thousand dollars without a formal competitive process and  
14 without further board approval. The board of the authority shall adopt  
15 guidelines which shall be made publicly available for the awarding of  
16 such contract without a formal competitive process.

17 § 2. Paragraph (a) of subdivision 8 of section 1209 of the public  
18 authorities law, as amended by chapter 725 of the laws of 1993, is  
19 amended to read as follows:

20 (a) Advertisement for bids, when required by this section, shall be  
21 published at least once in a newspaper of general circulation in the  
22 area served by the authority and in the procurement opportunities news-  
23 letter published pursuant to article four-C of the economic development  
24 law provided that, notwithstanding the provisions of article four-C of  
25 the economic development law, an advertisement shall only be required  
26 when required by this section. Publication in a newspaper of general  
27 circulation in the area served or in the procurement opportunities news-  
28 letter shall not be required if bids for contracts for supplies, materi-

1 als or equipment are of a type regularly purchased by the authority and  
2 are to be solicited from a list of potential suppliers, if such list is  
3 or has been developed consistent with the provisions of subdivision  
4 eleven of this section. Any such advertisement shall contain a statement  
5 of: (i) the time and place where bids received pursuant to any notice  
6 requesting sealed bids will be publicly opened and read; (ii) the name  
7 of the contracting agency; (iii) the contract identification number;  
8 (iv) a brief description of the public work, supplies, materials, or  
9 equipment sought, the location where work is to be performed, goods are  
10 to be delivered or services provided and the contract term; (v) the  
11 address where bids or proposals are to be submitted; (vi) the date when  
12 bids or proposals are due; (vii) a description of any eligibility or  
13 qualification requirement or preference; (viii) a statement as to wheth-  
14 er the contract requirements may be fulfilled by a subcontracting, joint  
15 venture, or co-production arrangement; (ix) any other information deemed  
16 useful to potential contractors; and (x) the name, address, and tele-  
17 phone number of the person to be contacted for additional information.  
18 At least [fifteen] ten business days shall elapse between the first  
19 publication of such advertisement or the solicitation of bids, as the  
20 case may be, and the date of opening and reading of bids provided that  
21 at least fifteen business days shall elapse between the first publica-  
22 tion of such advertisement or the solicitation of bids, as the case may  
23 be, and the date of opening and reading of bids for public work  
24 contracts.

25 § 3. Paragraph (e) of subdivision 9 of section 1209 of the public  
26 authorities law, as added by chapter 929 of the laws of 1986, is amended  
27 to read as follows:

1 (e) the item is available through an existing contract [between a  
2 vendor and (i) another public authority provided that such other author-  
3 ity utilized a process of competitive bidding or a process of compet-  
4 itive requests for proposals to award such contract or (ii) the state of  
5 New York or the city of New York, provided that in any case when the  
6 authority under this paragraph determines that obtaining such item  
7 thereby would be in the public interest and sets forth the reasons for  
8 such determination] let by any department, agency or instrumentality of  
9 the United States government and/or any department, agency, office,  
10 political subdivision or instrumentality of any state or states. The  
11 authority shall document in the procurement record its rationale for the  
12 use of such a contract. Such rationale shall include, but need not be  
13 limited to, a determination of need, a consideration of the procurement  
14 method by which the contract was awarded, an analysis of alternative  
15 procurement sources including an explanation why a competitive procure-  
16 ment or the use of a centralized contract let by the commissioner of the  
17 office of general services is not in the best interest of the authority,  
18 and the reasonableness of cost. The authority shall accept sole respon-  
19 sibility for any payment due the vendor as a result of the authority's  
20 order; or

21 § 4. Subdivision 10 of section 1209 of the public authorities law, as  
22 added by chapter 929 of the laws of 1986, is amended to read as follows:

23 10. Upon the adoption of a resolution by the authority stating, for  
24 reasons of efficiency, economy, compatibility or maintenance reliabil-  
25 ity, that there is a need for standardization, the authority may estab-  
26 lish procedures whereby particular supplies, materials or equipment are  
27 identified on a qualified products list. Such procedures shall provide  
28 for products or vendors to be added to or deleted from such list and

1 shall include provisions for public advertisement of the manner in which  
2 such lists are compiled. The authority shall review such list no less  
3 than [twice] once a year for the purpose of making modifications there-  
4 to. Contracts for particular supplies, materials or equipment identi-  
5 fied on a qualified products list may be awarded by the authority to the  
6 lowest responsible bidder after obtaining sealed bids in accordance with  
7 this section or without competitive sealed bids in instances when the  
8 item is available from only a single source, except that the authority  
9 may dispense with advertising provided that it mails copies of the invi-  
10 tation to bid to all vendors of the particular item on the qualified  
11 products list.

12 § 5. Paragraph (b) of subdivision 2 of section 1265-a of the public  
13 authorities law, as amended by section 3-a of subpart C of part ZZZ of  
14 chapter 59 of the laws of 2019, is amended to read as follows:

15 (b) Section twenty-eight hundred seventy-nine of this chapter shall  
16 apply to the authority's acquisition of goods or services of any kind,  
17 in the actual or estimated amount of fifteen thousand dollars or more,  
18 provided (i) that a contract for services in the actual or estimated  
19 amount of one million dollars or less shall not require approval by the  
20 board of the authority regardless of the length of the period over which  
21 the services are rendered, and provided further that a contract for  
22 services in the actual or estimated amount in excess of one million  
23 dollars shall require approval by the board of the authority regardless  
24 of the length of the period over which the services are rendered unless  
25 such a contract is awarded to the lowest responsible bidder after  
26 obtaining sealed bids, and (ii) the board of the authority may by resol-  
27 ution adopt guidelines that authorize the award of contracts to small  
28 business concerns, to service disabled veteran owned businesses certi-

1 fied pursuant to article seventeen-B of the executive law, or minority  
2 or women-owned business enterprises certified pursuant to article  
3 fifteen-A of the executive law, or purchases of goods or technology that  
4 are recycled or remanufactured, in an amount not to exceed one million  
5 five hundred thousand dollars without a formal competitive process and  
6 without further board approval. The board of the authority shall adopt  
7 guidelines which shall be made publicly available for the awarding of  
8 such contract without a formal competitive process.

9 § 6. Paragraph (a) of subdivision 3 of section 1265-a of the public  
10 authorities law, as amended by chapter 494 of the laws of 1990, is  
11 amended to read as follows:

12 (a) Advertisement for bids, when required by this section, shall be  
13 published at least once in a newspaper of general circulation in the  
14 area served by the authority and in the procurement opportunities news-  
15 letter published pursuant to article four-C of the economic development  
16 law provided that, notwithstanding the provisions of article four-C of  
17 the economic development law, an advertisement shall only be required  
18 for a purchase contract for supplies, materials or equipment when  
19 required by this section. Publication in a newspaper of general circu-  
20 lation in the area served or in the procurement opportunities newsletter  
21 shall not be required if bids for contracts for supplies, materials or  
22 equipment are of a type regularly purchased by the authority and are to  
23 be solicited from a list of potential suppliers, if such list is or has  
24 been developed consistent with the provisions of subdivision six of this  
25 section. Any such advertisement shall contain a statement of: (i) the  
26 time and place where bids received pursuant to any notice requesting  
27 sealed bids will be publicly opened and read; (ii) the name of the  
28 contracting agency; (iii) the contract identification number; (iv) a



1 brief description of the public work, supplies, materials, or equipment  
2 sought, the location where work is to be performed, goods are to be  
3 delivered or services provided and the contract term; (v) the address  
4 where bids or proposals are to be submitted; (vi) the date when bids or  
5 proposals are due; (vii) a description of any eligibility or qualifica-  
6 tion requirement or preference; (viii) a statement as to whether the  
7 contract requirements may be fulfilled by a subcontracting, joint  
8 venture, or co-production arrangement; (ix) any other information deemed  
9 useful to potential contractors; and (x) the name, address, and tele-  
10 phone number of the person to be contacted for additional information.  
11 At least [fifteen] ten business days shall elapse between the first  
12 publication of such advertisement or the solicitation of bids, as the  
13 case may be, and the date of opening and reading of bids provided that  
14 at least fifteen business days shall elapse between the first publica-  
15 tion of such advertisement or the solicitation of bids, as the case may  
16 be, and the date of opening and reading of bids for public work  
17 contracts.

18 § 7. Paragraph (e) of subdivision 4 of section 1265-a of the public  
19 authorities law, as added by chapter 929 of the laws of 1986, is amended  
20 to read as follows:

21 (e) the item is available through an existing contract [between a  
22 vendor and (i) another public authority provided that such other author-  
23 ity utilized a process of competitive bidding or a process of compet-  
24 itive requests for proposals to award such contracts or (ii) Nassau  
25 county, or (iii) the state of New York or (iv) the city of New York,  
26 provided that in any case when under this paragraph the authority deter-  
27 mines that obtaining such item thereby would be in the public interest  
28 and sets forth the reasons for such determination] let by any depart-

1 ment, agency or instrumentality of the United States government and/or  
2 any department, agency, office, political subdivision or instrumentality  
3 of any state or states. The authority shall document in the procurement  
4 record its rationale for the use of such a contract. Such rationale  
5 shall include, but need not be limited to, a determination of need, a  
6 consideration of the procurement method by which the contract was  
7 awarded, an analysis of alternative procurement sources including an  
8 explanation why a competitive procurement or the use of a centralized  
9 contract let by the commissioner of the office of general services is  
10 not in the best interest of the authority, and the reasonableness of  
11 cost. The authority shall accept sole responsibility for any payment due  
12 the vendor as a result of the authority's order; or

13 § 8. Subdivision 5 of section 1265-a of the public authorities law, as  
14 added by chapter 929 of the laws of 1986, is amended to read as follows:

15 5. Upon the adoption of a resolution by the authority stating, for  
16 reasons of efficiency, economy, compatibility or maintenance reliabil-  
17 ity, that there is a need for standardization, the authority may estab-  
18 lish procedures whereby particular supplies, materials or equipment are  
19 identified on a qualified products list. Such procedures shall provide  
20 for products or vendors to be added to or deleted from such list and  
21 shall include provisions for public advertisement of the manner in which  
22 such lists are compiled. The authority shall review such list no less  
23 than [twice] once a year for the purpose of making such modifications.  
24 Contracts for particular supplies, materials or equipment identified on  
25 a qualified products list may be awarded by the authority to the lowest  
26 responsible bidder after obtaining sealed bids in accordance with this  
27 section or without competitive sealed bids in instances when the item is  
28 available from only a single source, except that the authority may

1 dispense with advertising provided that it mails copies of the invita-  
2 tion to bid to all vendors of the particular item on the qualified  
3 products list.

4 § 9. This act shall take effect immediately; provided, however, that  
5 the amendments to paragraph (b) of subdivision 7 of section 1209 of the  
6 public authorities law made by section one of this act shall not affect  
7 the expiration of such subdivision and shall be deemed to expire there-  
8 with; and provided further, however, that the amendments to paragraph  
9 (b) of subdivision 2 of section 1265-a of the public authorities law  
10 made by section five of this act shall not affect the expiration of such  
11 paragraph and shall be deemed to expire therewith.

12 PART J

13 Section 1. Section 3 of part PP of chapter 54 of the laws of 2016,  
14 amending the general municipal law relating to the New York transit  
15 authority and the metropolitan transportation authority, as amended by  
16 section 1 of part K of chapter 58 of the laws of 2020, is amended to  
17 read as follows:

18 § 3. This act shall take effect immediately; provided that the amend-  
19 ments to subdivision 1 of section 119-r of the general municipal law  
20 made by section two of this act shall expire and be deemed repealed  
21 April 1, [2022] 2032, and provided further that such repeal shall not  
22 affect the validity or duration of any contract entered into before that  
23 date pursuant to paragraph f of such subdivision.

24 § 2. This act shall take effect immediately.

25 PART K

1 Section 1. Section 1266 of the public authorities law is amended by  
2 adding a new subdivision 12-b to read as follows:

3 12-b. Whenever in connection with the improvement, construction,  
4 reconstruction or rehabilitation of a transportation facility the  
5 authority determines that the pipes, mains, conduits or other infras-  
6 tructure of any public service corporation and any fixtures and appli-  
7 ances connected therewith or attached thereto must be removed, relocated  
8 or otherwise protected or replaced, either temporarily or permanently  
9 ("the required work"), the following provisions shall apply.

10 (a) The design for the required work may be prepared by the authority  
11 or the authority's contractor. Such designs shall be subject to the  
12 review and approval of the public service corporation, which shall not  
13 be unreasonably withheld. Such review and approval shall be completed  
14 within a reasonable period of time as may be determined by the authority  
15 after consultation with the public service corporation.

16 (b) In reviewing and approving designs for the required work, a public  
17 service corporation may not require the authority to provide for antic-  
18 ipated future service increases or other betterments, other than to  
19 comply with current standards or ensure reliability as determined by the  
20 department of public service, without the authority's agreement, which  
21 shall not be unreasonably withheld.

22 (c) Where the public service corporation determines that it will  
23 perform any portion of the required work, that portion of the required  
24 work shall be performed according to a schedule determined by the  
25 authority after consultation with the public service corporation,  
26 provided that the schedule is reasonable and practicable.

27 § 2. This act shall take effect immediately.

1

## PART L

2 Section 1. Subdivision 11 of section 120.05 of the penal law, as sepa-  
3 rately amended by chapters 268 and 281 of the laws of 2016, is amended  
4 to read as follows:

5 11. With intent to cause physical injury to a train operator, ticket  
6 inspector, conductor, signalperson, bus operator, station agent, station  
7 cleaner [or], terminal cleaner, station customer assistant; person whose  
8 official duties include the sale or collection of tickets, passes,  
9 vouchers, or other fare payment media for use on a train or bus; a  
10 person whose official duties include the maintenance, repair,  
11 inspection, troubleshooting, testing or cleaning of a transit signal  
12 system, elevated or underground subway tracks, transit station struc-  
13 ture, commuter rail tracks or stations, train yard, revenue train in  
14 passenger service, bus while on the road, or a train or bus station or  
15 terminal; or a supervisor of such personnel, employed by any transit or  
16 commuter railroad agency, authority or company, public or private, whose  
17 operation is authorized by New York state or any of its political subdi-  
18 visions, a city marshal, a school crossing guard appointed pursuant to  
19 section two hundred eight-a of the general municipal law, a traffic  
20 enforcement officer, traffic enforcement agent, prosecutor as defined in  
21 subdivision thirty-one of section 1.20 of the criminal procedure law,  
22 sanitation enforcement agent, New York city sanitation worker, public  
23 health sanitarian, New York city public health sanitarian, registered  
24 nurse, licensed practical nurse, emergency medical service paramedic, or  
25 emergency medical service technician, he or she causes physical injury  
26 to such train operator, ticket inspector, conductor, signalperson, bus  
27 operator, station agent, station cleaner [or], terminal cleaner, station

1 customer assistant; person whose official duties include the sale or  
2 collection of tickets, passes, vouchers or other fare payment media for  
3 use on a train or bus; a person whose official duties include the main-  
4 tenance, repair, inspection, troubleshooting, testing or cleaning of a  
5 transit signal system, elevated or underground subway tracks, transit  
6 station structure, commuter rail tracks or stations, train yard, revenue  
7 train in passenger service, bus while on the road, or a train or bus  
8 station or terminal; or a supervisor of such personnel, city marshal,  
9 school crossing guard appointed pursuant to section two hundred eight-a  
10 of the general municipal law, traffic enforcement officer, traffic  
11 enforcement agent, prosecutor as defined in subdivision thirty-one of  
12 section 1.20 of the criminal procedure law, registered nurse, licensed  
13 practical nurse, public health sanitarian, New York city public health  
14 sanitarian, sanitation enforcement agent, New York city sanitation work-  
15 er, emergency medical service paramedic, or emergency medical service  
16 technician, while such employee is performing an assigned duty on, or  
17 directly related to, the operation of a train or bus, [including the]  
18 cleaning of a train or bus station or terminal, assisting customers, the  
19 sale or collection of tickets, passes, vouchers, or other fare media for  
20 use on a train or bus, or maintenance of a train or bus station or  
21 terminal, signal system, elevated or underground subway tracks, transit  
22 station structure, commuter rail tracks or stations, train yard, revenue  
23 train in passenger service or bus while on the road, or such city  
24 marshal, school crossing guard, traffic enforcement officer, traffic  
25 enforcement agent, prosecutor as defined in subdivision thirty-one of  
26 section 1.20 of the criminal procedure law, registered nurse, licensed  
27 practical nurse, public health sanitarian, New York city public health  
28 sanitarian, sanitation enforcement agent, New York city sanitation work-

1 er, emergency medical service paramedic, or emergency medical service  
2 technician is performing an assigned duty; or

3 § 2. Section 240.30 of the penal law is amended by adding a new subdi-  
4 vision 3-a to read as follows:

5 3-a. Strikes, shoves, kicks, or otherwise subjects another person to  
6 physical contact, which includes spitting on such other person, and such  
7 other person is an on-duty train operator; ticket inspector; conductor;  
8 signalperson; bus operator; station agent; station cleaner; terminal  
9 cleaner; station customer assistant; person whose official duties  
10 include the sale or collection of tickets, passes, vouchers or other  
11 fare payment media for use on a train or bus; person whose official  
12 duties include the maintenance, repair, inspection, troubleshooting,  
13 testing or cleaning of a transit signal system, elevated or underground  
14 subway tracks, transit station structure, commuter rail tracks or  
15 stations, train yard, revenue train in passenger service, bus while on  
16 the road, or train or bus station or terminal, or a supervisor of such  
17 personnel, employed by any transit or commuter railroad agency, authori-  
18 ty or company, public or private, whose operation is authorized by New  
19 York state or any of its political subdivisions; or

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

22 PART M

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

25 § 1111-c-1. Owner liability for failure of operator to comply with bus  
26 operation-related local law or regulation traffic restrictions. (a)

1 Notwithstanding any other provision of law, in accordance with the  
2 provisions of this section, the city of New York is hereby authorized  
3 and empowered to impose monetary liability on the owner of a vehicle for  
4 failure of an operator thereof to comply with the applicable local laws  
5 and regulations of the city of New York regarding bus operation-related  
6 traffic restrictions. The department of transportation of the city of  
7 New York and/or an applicable mass transit agency, shall operate photo  
8 devices that may be stationary or mobile and shall be activated at  
9 locations determined by such department of transportation and/or on  
10 buses selected by the applicable mass transit agency.

11 (b) Any image or images captured by photo devices shall be inadmissi-  
12 ble in any disciplinary proceeding convened by the applicable mass tran-  
13 sit agency or any subsidiary thereof and any proceeding initiated by the  
14 department involving licensure privileges of bus operators. Any mobile  
15 bus photo device mounted on a bus shall be directed outwardly from such  
16 bus to capture images of vehicles operated in violation of the local  
17 laws and regulations relating to bus operation traffic restrictions, and  
18 images produced by such device shall not be used for any other purpose  
19 in the absence of a court order requiring such images to be produced.

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

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



1 allows for the identification of the driver, the passengers or other  
2 contents of a vehicle;

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

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

8 (ii) as required by court order;

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

11 (iv) as otherwise required by law;

12 3. the installation of signage that is clearly visible to drivers at  
13 regular intervals along and adjacent to bus lanes stating that mobile  
14 and stationary photo devices are used to enforce restrictions relating  
15 to bus operation traffic restrictions including stopping, standing,  
16 parking and turning movements; and

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

19 (d) Warning notices of violation shall be issued during the first  
20 sixty days that photo device enforcement pursuant to this section is  
21 active.

22 (e) The owner of a vehicle shall be liable for a penalty imposed  
23 pursuant to this section if such vehicle was used or operated with the  
24 permission of the owner, express or implied, in violation of any appli-  
25 cable bus operation-related local law or regulation traffic restrictions  
26 and such violation is evidenced by information obtained from a photo  
27 device; provided however that no owner of a vehicle shall be liable for  
28 a penalty imposed pursuant to this section where the operator of such

1 vehicle has been convicted of the underlying violation of such applica-  
2 ble local law or regulation.

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

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

7 2. "photo device" shall mean a mobile or stationary device that is  
8 capable of operating independently of an enforcement officer and produc-  
9 es one or more images of each vehicle at the time it is in violation of  
10 an applicable local law or regulation.

11 3. "applicable bus operation-related local law or regulation traffic  
12 restrictions" shall mean the restrictions set forth in chapter four of  
13 title thirty-four of the rules of the city of New York affecting bus  
14 operations including but not limited to the following: 4-08(f)(4),  
15 general no standing zones, bus lanes; 4-08(c)(3), violation of posted no  
16 standing rules prohibited, bus stop; 4-08(f)(1), general no standing  
17 zones, double parking; 4-08(k)(2), special rules for commercial vehi-  
18 cles, no standing except trucks loading and unloading; 4-07(b)(1) and  
19 4-08(e)(11), stopping prohibited; 4-08(e)(4), general no stopping zones,  
20 intersections; 4-08(e)(5), general no stopping zones, crosswalks;  
21 4-08(e)(12), general no stopping zones, obstructing traffic at inter-  
22 section; and 4-05 and 4-07(h)(2), turns.

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

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

5 (g) A certificate, sworn to or affirmed by a technician employed by  
6 the city in which the charged violation occurred, or a facsimile there-  
7 of, based upon inspection of photographs, microphotographs, videotape or  
8 other recorded images produced by a photo device, shall be prima facie  
9 evidence of the facts contained therein. Any photographs, microphoto-  
10 graphs, videotape or other recorded images evidencing such a violation  
11 shall be available for inspection in any proceeding to adjudicate the  
12 liability for such violation pursuant to this section.

13 (h) An owner liable for a violation under this section shall be liable  
14 for monetary penalties in accordance with a schedule of fines and penal-  
15 ties promulgated by the parking violations bureau of the city of New  
16 York; provided, however, that the monetary penalty for a first offense  
17 of a provision of local law or regulation of the city of New York relat-  
18 ing to stopping, standing, parking and turning movement violations  
19 pursuant to this section shall not exceed one hundred twenty-five  
20 dollars for a first offense, one hundred fifty dollars for a second  
21 offense within a twelve-month period, two hundred dollars for a third  
22 offense within a twelve-month period, two hundred fifty dollars for a  
23 fourth offense within a twelve-month period, and three hundred fifty  
24 dollars for each subsequent offense within a twelve-month period; and  
25 provided, further, that an owner shall be liable for an additional  
26 penalty not to exceed twenty-five dollars for each violation for the  
27 failure to respond to a notice of liability within the prescribed time  
28 period set forth in the notice of violation.

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

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

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

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

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

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

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

17 (m) 1. An owner who is a lessor of a vehicle to which a notice of  
18 liability was issued pursuant to this section shall not be liable for  
19 the violation of an applicable bus operation-related local law or regu-  
20 lation traffic restriction, provided that:

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

24 (ii) within thirty-seven days after receiving notice from the parking  
25 violations bureau of the city of New York of the date and time of a  
26 liability, together with the other information contained in the original  
27 notice of liability, the lessor submits to such bureau the correct name  
28 and address of the lessee of the vehicle identified in the notice of

1 liability at the time of such violation, together with such other addi-  
2 tional information contained in the rental, lease or other contract  
3 document, as may be reasonably required by such bureau pursuant to regu-  
4 lations that may be promulgated for such purpose. Failure to timely  
5 submit such information shall render the lessor liable for the penalty  
6 prescribed in this section.

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

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

17 (o) Nothing in this section shall be construed to limit the liability  
18 of an operator of a vehicle for any violation of an applicable local law  
19 or regulation.

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

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

- 1 2. the total number of violations under this section recorded on a
- 2 monthly and annual basis;
- 3 3. the total number of notices of liability issued under this section;
- 4 4. the number of fines and total amount of fines paid after the first
- 5 notice of liability under this section;
- 6 5. the number of violations under this section adjudicated and results
- 7 of such adjudications including breakdowns of dispositions made;
- 8 6. the total amount of revenue realized by the city of New York and
- 9 any participating mass transit agency under this section;
- 10 7. the quality of the adjudication process under this section and its
- 11 results;
- 12 8. the total number of cameras by type of camera used under this
- 13 section; and
- 14 9. the total cost to the city of New York and the total cost to any
- 15 participating mass transit agency under this section.

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

22 § 2. The opening paragraph of section 14 of part II of chapter 59 of  
23 the laws of 2010, amending the vehicle and traffic law and the public  
24 officers law relating to establishing a bus rapid transit demonstration  
25 program to restrict the use of bus lanes by means of bus lane photo  
26 devices, as amended by section 2 of part D of chapter 39 of the laws of  
27 2019, is amended to read as follows:

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

6 § 3. This act shall take effect immediately; provided that section one  
7 of this act shall take effect on the one hundred eightieth day after it  
8 shall have become a law. Effective immediately, the addition, amendment  
9 and/or repeal of any rule or regulation necessary for the implementation  
10 of this act on its effective date are authorized to be made and  
11 completed on or before such effective date.

12 PART N

13 Section 1. Subdivision 3 of section 165.15 of the penal law is amended  
14 to read as follows:

15 3. With intent to obtain railroad, subway, bus, air, taxi or any other  
16 public transportation service or to use any toll highway, parkway, road,  
17 bridge or tunnel or to enter or remain in the tolled central business  
18 district described in section seventeen hundred four of the vehicle and  
19 traffic law without payment of the lawful charge or toll therefor, or to  
20 avoid payment of the lawful charge or toll for such transportation  
21 service which has been rendered to him or her or for such use of any  
22 toll highway, parkway, road, bridge or tunnel or for such entering or  
23 remaining in such tolled central business district, he or she obtains or  
24 attempts to obtain such service or to use any toll highway, parkway,  
25 road, bridge or tunnel or to enter or remain in a tolled central busi-  
26 ness district or avoids or attempts to avoid payment therefor by force,



1 intimidation, stealth, deception or mechanical tampering, or by unjusti-  
2 fiable failure or refusal to pay; or

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

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

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

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

19 (c) It shall be unlawful for any person to operate, drive or park a  
20 motor vehicle on a toll highway, bridge and/or tunnel facility or enter  
21 or remain in the tolled central business district described in section  
22 seventeen hundred four of this chapter, under the jurisdiction of the  
23 tolling authority, if such number plate is not easily readable, nor  
24 shall any number plate be covered by glass or any plastic material, and  
25 shall not be knowingly covered or coated with any artificial or synthet-  
26 ic material or substance that conceals or obscures such number plates or  
27 that distorts a recorded or photographic image of such number plates,  
28 and the view of such number plates shall not be obstructed by any part

1 of the vehicle or by anything carried thereon, except for a receiver-  
2 transmitter issued by a publicly owned tolling authority in connection  
3 with electronic toll collection when such receiver-transmitter is  
4 affixed to the exterior of a vehicle in accordance with mounting  
5 instructions provided by the tolling authority. For purposes of this  
6 paragraph, "tolling authority" shall mean every public authority which  
7 operates a toll highway, bridge and/or tunnel or a central business  
8 district tolling program, as well as the port authority of New York and  
9 New Jersey, a bi-state agency created by compact set forth in chapter  
10 one hundred fifty-four of the laws of nineteen hundred twenty-one, as  
11 amended.

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

15 8. A violation of this section shall be punishable by a fine of not  
16 less than twenty-five nor more than two hundred dollars, except that:  
17 (a) a violation of subparagraph (ii) or subparagraph (iii) of paragraph  
18 (b) of subdivision one of this section shall be punishable by a fine of  
19 not less than fifty nor more than three hundred dollars; and (b) a  
20 violation of paragraph (c) of subdivision one of this section shall be  
21 punishable by a fine of not less than one hundred nor more than five  
22 hundred dollars.

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

25 d. It shall be unlawful for any person to register, reregister, renew,  
26 replace or transfer the registration, change the name, address or other  
27 information of the registered owner, or change the registration classi-  
28 fication of any vehicle whose vehicle identification number is associ-

1 ated with a vehicle whose registration has been suspended, or is subject  
2 to a pending request from a tolling authority to suspend the registra-  
3 tion, under paragraph d of subdivision three of section five hundred ten  
4 of this chapter and 15 NYCRR 127.14. The commissioner or the commission-  
5 er's agent shall impose a vehicle identification number block and deny  
6 the registration, reregistration, renewal, replacement or transfer of  
7 the registration for such vehicle and vehicle identification number  
8 until the tolling authority advises, in such form and manner as the  
9 commissioner shall prescribe, that notices of violation have been  
10 responded to and any unpaid tolls, fees or other charges associated with  
11 the vehicle and the vehicle identification number have been paid to the  
12 tolling authority. Where an application is denied pursuant to this  
13 paragraph, the commissioner may, in the commissioner's discretion, deny  
14 a registration, reregistration, renewal, replacement or transfer of the  
15 registration for any other motor vehicle registered in the name of the  
16 applicant where the commissioner has determined that such registrant's  
17 intent has been to evade the purposes of this paragraph and where the  
18 commissioner has reasonable grounds to believe that such registration,  
19 reregistration, renewal, replacement or transfer of registration will  
20 have the effect of defeating the purposes of this paragraph. Such vehi-  
21 cle identification number block and denial shall only remain in effect  
22 until the tolling authority advises, in such form and manner as the  
23 commissioner shall prescribe, that notices of violation have been  
24 responded to and any unpaid tolls, fees or other charges associated with  
25 the vehicle and the vehicle identification number have been paid to the  
26 tolling authority.

1 § 5. Paragraph d of subdivision 3 of section 510 of the vehicle and  
2 traffic law, as amended by chapter 173 of the laws of 1990, is amended  
3 to read as follows:

4 d. for habitual or persistent violation of any of the provisions of  
5 this chapter, or of any lawful ordinance, rule or regulation made by  
6 local authorities in relation to traffic, including violations of any  
7 statute, ordinance, rule or regulation pertaining to a tolling  
8 authority;

9 § 6. Subdivision 4-d of section 510 of the vehicle and traffic law, as  
10 added by chapter 379 of the laws of 1992, is amended to read as follows:

11 4-d. Suspension of registration for failure to answer or pay penalties  
12 with respect to certain violations. Upon the receipt of a notification  
13 from a court or an administrative tribunal that an owner of a motor  
14 vehicle failed to appear on the return date or dates or a new subsequent  
15 adjourned date or dates or failed to pay any penalty imposed by a court  
16 or failed to comply with the rules and regulations of an administrative  
17 tribunal following entry of a final decision or decisions, in response  
18 to [five] three or more notices of liability or other process, issued  
19 within [an eighteen month] a five year period charging such owner with a  
20 violation of toll collection regulations in accordance with the  
21 provisions of section two thousand nine hundred eighty-five of the  
22 public authorities law or sections sixteen-a, sixteen-b and sixteen-c of  
23 chapter seven hundred seventy-four of the laws of nineteen hundred  
24 fifty, the commissioner or his agent shall suspend the registration of  
25 the vehicle or vehicles involved in the violation or the privilege of  
26 operation of any motor vehicle owned by the registrant. Such suspension  
27 shall take effect no less than thirty days from the date on which notice  
28 thereof is sent by the commissioner to the person whose registration or

1 privilege is suspended and shall remain in effect until such registrant  
2 has appeared in response to such notices of liability or has paid such  
3 penalty or in the case of an administrative tribunal, the registrant has  
4 complied with the rules and regulations following the entry of a final  
5 decision or decisions.

6 § 7. Section 1704-a of the vehicle and traffic law is amended by  
7 adding a new subdivision 5 to read as follows:

8 5. (a) Any person who knowingly makes a false statement, or falsifies  
9 or permits to be falsified any record or records of the central business  
10 district tolling program, for the purpose of fraudulently obtaining an  
11 exemption from the central business district toll under subdivision two  
12 of this section for a qualifying vehicle transporting a person with  
13 disabilities, shall be guilty of a misdemeanor, and shall also be  
14 subject to a civil penalty not to exceed five thousand dollars and the  
15 stated value of the claim for each such violation.

16 (b) Any violation of subdivision one of this section that results in a  
17 person receiving exemptions from central business district tolls under  
18 subdivision two of this section for a qualifying vehicle transporting a  
19 person with disabilities with a value in excess of one thousand dollars  
20 more than they would have been entitled to shall be a class E felony.  
21 Any such violation that results in a person receiving such exemptions  
22 with a value in excess of five thousand dollars more than they would  
23 have been entitled to shall be a class D felony.

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

1 Section 1. Section 5 of chapter 751 of the laws of 2005, amending the  
2 insurance law and the vehicle and traffic law relating to establishing  
3 the accident prevention course internet technology pilot program, as  
4 amended by section 4 of part ZZ of chapter 58 of the laws of 2020, is  
5 amended to read as follows:

6 § 5. This act shall take effect on the one hundred eightieth day after  
7 it shall have become a law and shall expire and be deemed repealed April  
8 1, [2022] 2024; provided that any rules and regulations necessary to  
9 implement the provisions of this act on its effective date are author-  
10 ized and directed to be completed on or before such date.

11 § 2. This act shall take effect immediately.

12 PART P

13 Section 1. Section 13 of part U1 of chapter 62 of the laws of 2003,  
14 amending the vehicle and traffic law and other laws relating to increas-  
15 ing certain motor vehicle transaction fees, as amended by section 1 of  
16 part YY of chapter 58 of the laws of 2020, is amended to read as  
17 follows:

18 § 13. This act shall take effect immediately; provided however that  
19 sections one through seven of this act, the amendments to subdivision 2  
20 of section 205 of the tax law made by section eight of this act, and  
21 section nine of this act shall expire and be deemed repealed on April 1,  
22 [2022] 2024; provided further, however, that the provisions of section  
23 eleven of this act shall take effect April 1, 2004 and shall expire and  
24 be deemed repealed on April 1, [2022] 2024.

25 § 2. Section 2 of part B of chapter 84 of the laws of 2002, amending  
26 the state finance law relating to the costs of the department of motor

1 vehicles, as amended by section 2 of part YY of chapter 58 of the laws  
2 of 2020, is amended to read as follows:

3 § 2. This act shall take effect April 1, 2002; provided, however, if  
4 this act shall become a law after such date it shall take effect imme-  
5 diately and shall be deemed to have been in full force and effect on and  
6 after April 1, 2002; provided further, however, that this act shall  
7 expire and be deemed repealed on April 1, [2022] 2024.

8 § 3. This act shall take effect immediately.

9 PART Q

10 Section 1. Subdivision 3 of section 491 of the vehicle and traffic  
11 law, as added by section 1 of part H of chapter 58 of the laws of 2017,  
12 is amended to read as follows:

13 3. Waiver of fee. The commissioner may waive the payment of fees  
14 required by subdivision two of this section if the applicant is (a) an  
15 incarcerated individual in an institution under the jurisdiction of a  
16 state department or agency, or (b) a victim of a crime and the identifi-  
17 cation card applied for is a replacement for one that was lost or  
18 destroyed as a result of the crime.

19 § 2. This act shall take effect immediately.

20 PART R

21 Section 1. The civil rights law is amended by adding a new section  
22 79-q to read as follows:

23 § 79-q. Collection of gender or sex designation information by state  
24 agencies. 1. All New York state agencies that collect demographic infor-

1 mation about a person's gender or sex shall make available to the person  
2 at the point of data collection an option to mark their gender or sex as  
3 "x".

4 2. Where applicable federal law requires a state agency to collect sex  
5 or gender data as either "m" or "f", the state agency shall create a  
6 separate field for state purposes so that a person has the option to  
7 mark their gender or sex as "x" to be collected by the state.

8 3. All state agencies shall update any applicable forms or data  
9 systems by January first, two thousand twenty-three, except the depart-  
10 ment of labor, the office of children and family services, the office of  
11 temporary and disability assistance and the division of criminal justice  
12 services, which shall update any applicable forms or data systems by  
13 January first, two thousand twenty-four.

14 4. A state agency that cannot comply with the requirements of this  
15 section shall post publicly on its website a written report of the steps  
16 the agency has taken to comply with this section and the time frame for  
17 compliance at least sixty days before the date required by this section.  
18 The written report shall be updated every six months from the date of  
19 the original posting.

20 § 2. Subdivision 3 of section 62 of the civil rights law, as added by  
21 chapter 158 of the laws of 2021, is amended to read as follows:

22 3. Except as provided in subdivisions one and two of this section, the  
23 court shall not require any other pre-hearing notice. [The court shall  
24 not condition the entry of an order on notice to any other party or to  
25 any city, state or federal agency except by written order detailing the  
26 court's reasoning for requiring such notice and showing cause why such  
27 notice should be served.] Under no circumstances shall the court require  
28 notice to United States immigration and customs enforcement, United



1 States customs and border protection, United States citizenship and  
2 immigration services, or any successor agencies, or any agencies having  
3 similar duties.

4 § 3. This act shall take effect immediately.

5 PART S

6 Section 1. Paragraph (o) of subdivision 1 of section 96 of the public  
7 officers law, as added by chapter 319 of the laws of 2014, is amended to  
8 read as follows:

9 (o) to officers or employees of a public retirement system of the city  
10 of New York if the information sought to be disclosed is necessary for  
11 the receiving public retirement system to process benefits under the  
12 retirement and social security law, the administrative code of the city  
13 of New York, or the education law or any other applicable provision of  
14 law. A written request or consent from the data subject pursuant to  
15 paragraph (a) of this subdivision shall not be required for the disclo-  
16 sure of records pursuant to this paragraph; or

17 (p) to officers or employees of the United States department of educa-  
18 tion for such department to process credit for qualifying employment and  
19 loan forgiveness under the public service loan forgiveness program. A  
20 written request or consent from the data subject pursuant to paragraph  
21 (a) of this subdivision shall not be required for the disclosure of  
22 records pursuant to this paragraph.

23 § 2. This act shall take effect immediately.

24 PART T

1 Section 1. Section 4 of chapter 495 of the laws of 2004, amending the  
2 insurance law and the public health law relating to the New York state  
3 health insurance continuation assistance demonstration project, as  
4 amended by section 1 of part KK of chapter 57 of the laws of 2021, is  
5 amended to read as follows:

6 § 4. This act shall take effect on the sixtieth day after it shall  
7 have become a law; provided, however, that this act shall remain in  
8 effect until July 1, [2022] 2023 when upon such date the provisions of  
9 this act shall expire and be deemed repealed; provided, further, that a  
10 displaced worker shall be eligible for continuation assistance retroac-  
11 tive to July 1, 2004.

12 § 2. This act shall take effect immediately.

13 PART U

14 Section 1. Subparagraph 7 of paragraph b of subdivision 2 of section  
15 970-r of the general municipal law, as amended by section 1 of part U of  
16 chapter 58 of the laws of 2018, is amended to read as follows:

17 (7) preliminary descriptions of possible remediation strategies, reuse  
18 opportunities, necessary infrastructure improvements and other public or  
19 private measures needed to stimulate investment, promote revitalization,  
20 [and] support job growth, reduce greenhouse gas emissions, increase  
21 climate resilience, enhance community health and environmental condi-  
22 tions, and achieve environmental justice.

23 § 2. Subparagraph 11 of paragraph d of subdivision 3 of section 970-r  
24 of the general municipal law, as amended by section 1 of part U of chap-  
25 ter 58 of the laws of 2018, is amended to read as follows:

1 (11) descriptions of possible remediation strategies, reuse opportu-  
2 nities, brownfield redevelopment, necessary infrastructure improvements  
3 and other public or private measures needed to stimulate investment,  
4 promote revitalization, [and] support job growth, reduce greenhouse gas  
5 emissions, increase climate resilience, enhance community health and  
6 environmental conditions, and achieve environmental justice;

7 § 3. Paragraph a of subdivision 3-a of section 970-r of the general  
8 municipal law, as added by section 1 of part U of chapter 58 of the laws  
9 of 2018, is amended to read as follows:

10 a. Within amounts appropriated therefor, the secretary is authorized  
11 to provide, on a competitive basis, financial assistance to munici-  
12 palities, to community based organizations, to community boards, or to  
13 community based organizations acting in cooperation with a municipality,  
14 to conduct predevelopment activities within a designated brownfield  
15 opportunity area to advance the goals and priorities of the brownfield  
16 opportunity area program set forth in the nomination of such area. Such  
17 financial assistance shall not exceed ninety percent of the costs of  
18 such activities. Activities eligible to receive such assistance shall  
19 include: development and implementation of marketing strategies; devel-  
20 opment of plans and specifications; real estate services; building  
21 condition studies; infrastructure analyses; zoning and regulatory  
22 updates; environmental, housing and economic studies, analyses and  
23 reports; renewable energy feasibility studies, legal and financial  
24 services; impact analyses; demolition; site preparation; asbestos  
25 removal; and public outreach.

26 § 4. Paragraphs c, d, f, g, and h of subdivision 6 of section 970-r of  
27 the general municipal law, as amended by section 1 of part U of chapter  
28 58 of the laws of 2018, are amended to read as follows:

1 c. Brownfield site assessment activities eligible for funding include,  
2 but are not limited to, testing of properties to determine the nature  
3 and extent of the contamination (including soil and groundwater), envi-  
4 ronmental assessments, the development of a proposed remediation strate-  
5 gy to address any identified contamination, and any other activities  
6 deemed appropriate by the [commissioner] secretary of state in consulta-  
7 tion with the [secretary of state] commissioner. Any environmental  
8 assessment shall be subject to the review and approval of such secretary  
9 in consultation with such commissioner.

10 d. Applications for such assistance shall be submitted to the [commis-  
11 sioner] secretary in a format, and containing such information, as  
12 prescribed by the [commissioner] secretary in consultation with the  
13 [secretary of state] commissioner.

14 f. The [commissioner] secretary, upon the receipt of an application  
15 for such assistance from a community based organization not in cooper-  
16 ation with the local government having jurisdiction over the proposed  
17 brownfield opportunity area, shall request the municipal government to  
18 review and state the municipal government's support or lack of support.  
19 The municipal government's statement shall be considered a part of the  
20 application.

21 g. Prior to making an award for assistance, the [commissioner] secre-  
22 tary shall notify the temporary president of the senate and the speaker  
23 of the assembly.

24 h. Following notification to the applicant that assistance has been  
25 awarded, and prior to disbursement of funds, a contract shall be  
26 executed between the department and the applicant or co-applicants. The  
27 [commissioner] secretary of state shall establish terms and conditions  
28 for such contracts as the [commissioner] secretary deems appropriate in

1 consultation with the [secretary of state] commissioner, including  
2 provisions to define: applicant's work scope, work schedule, and deliv-  
3 erables; fiscal reports on budgeted and actual use of funds expended;  
4 and requirements for submission of a final fiscal report. The contract  
5 shall also require the distribution of work products to the department,  
6 and, for community based organizations, to the applicant's municipality.  
7 Applicants shall be required to make the results publicly available.  
8 Such contract shall further include a provision providing that if any  
9 responsible party payments become available to the applicant, the amount  
10 of such payments attributable to expenses paid by the award shall be  
11 paid to the department by the applicant; provided that the applicant may  
12 first apply such responsible party payments towards actual project costs  
13 incurred by the applicant.

14 § 5. Subdivision 8 of section 970-r of the general municipal law, as  
15 amended by section 1 of part U of chapter 58 of the laws of 2018, is  
16 amended to read as follows:

17 8. [Applications] Community participation requirements. a. All appli-  
18 cations for financial assistance for pre-nomination or nomination study  
19 [assistance] or applications for designation of a brownfield opportunity  
20 area shall demonstrate that the following community participation activ-  
21 ities have been or will be performed by the applicant:

22 (1) identification of the interested public and preparation of a  
23 contact list;

24 (2) identification of major issues of public concern;

25 (3) [public access to (i) the draft and final application for pre-no-  
26 mination assistance and brownfield opportunity area designation, and  
27 (ii) any supporting documents in a manner convenient to the public;

1 (4)] public notice and newspaper notice of (i) the intent of the muni-  
2 cipality and/or community based organization to undertake a pre-nomina-  
3 tion [process] or nomination study or [prepare] apply for designation of  
4 a brownfield opportunity area [plan], and (ii) the availability of such  
5 application and any supporting documents in a manner convenient to the  
6 public.

7 b. Application for [nomination] designation of a brownfield opportu-  
8 nity area shall provide the following minimum community participation  
9 activities:

10 (1) a comment period of at least thirty days on a draft [application]  
11 nomination;

12 (2) a public meeting on [a brownfield opportunity area draft] an  
13 application.

14 § 6. Section 970-r of the general municipal law is amended by adding a  
15 new subdivision 11 to read as follows:

16 11. All applicants for financial assistance and participation in any  
17 other activity authorized under this section, as determined by the  
18 secretary, may contract with the dormitory authority of the state of New  
19 York in use of such financial assistance and in completion of such other  
20 activities that the secretary determines and requires under this  
21 section. The dormitory authority of the state of New York is authorized  
22 to provide planning, design and construction services and to contract  
23 for and render any such services the secretary determines and requires  
24 to such applicants under this section.

25 § 7. Paragraph (b) of subdivision 2 of section 1676 of the public  
26 authorities law is amended by adding a new undesignated paragraph to  
27 read as follows:

1 Applicants for financial assistance for pre-nomination or nomination  
2 study of a brownfield opportunity area or for pre-development activities  
3 or site assessments within a brownfield opportunity area designated by  
4 the secretary that has been awarded pursuant to section nine hundred  
5 seventy-r of the general municipal law, as determined by the secretary  
6 and for the purposes authorized by section nine hundred seventy-r of the  
7 general municipal law.

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

10 Applicants for financial assistance for pre-nomination or nomination  
11 study of a brownfield opportunity area or for pre-development activities  
12 or site assessments within a brownfield opportunity area designated by  
13 the secretary that has been awarded pursuant to section nine hundred  
14 seventy-r of the general municipal law, as determined by the secretary  
15 and for the purposes authorized by section nine hundred seventy-r of the  
16 general municipal law.

17 § 9. This act shall take effect immediately.

18 PART V

19 Section 1. Paragraph (a) of subdivision 5-b of section 16 of the agri-  
20 culture and markets law, as amended by chapter 530 of the laws of 2013,  
21 is amended to read as follows:

22 (a) [Establish] Administer, in cooperation with the commissioner of  
23 education, a farm-to-school program to facilitate and promote the  
24 purchase of New York farm products by schools, universities and other  
25 educational institutions [under the jurisdiction of the education  
26 department] and the National School Lunch Act and related food programs.

1 The department shall solicit information from the education department  
2 regarding school districts and other educational institutions interested  
3 in purchasing New York farm products, including but not limited to, the  
4 type and amount of such products schools wish to purchase and the name  
5 of the appropriate contact person from the interested school district.  
6 The department shall make this information readily available to inter-  
7 ested New York farmers, farm organizations and businesses that market  
8 New York farm products. The department shall provide information to the  
9 education department and interested school districts and other educa-  
10 tional institutions about the availability of New York farm products,  
11 including but not limited to, the types and amount of products, and the  
12 names and contact information of farmers, farm organizations and busi-  
13 nesses marketing such products. The commissioner shall report to the  
14 legislature on the need for changes in law to facilitate the purchases  
15 of such products by schools and educational institutions.

16 The department shall also coordinate with the education department,  
17 and school food service, education, health and nutrition, farm, and  
18 other interested organizations in establishing a promotional event, to  
19 be known as New York Harvest For New York Kids Week, in early October  
20 each year, that will promote New York agriculture and foods to children  
21 through school meal programs and the classroom, at farms and farmers'  
22 markets and other locations in the community.

23 § 2. Subdivision 32 of section 16 of the agriculture and markets law,  
24 as added by chapter 297 of the laws of 1961, is amended to read as  
25 follows:

26 32. Receive and disburse federal moneys allotted to the state by or  
27 pursuant to the federal agricultural marketing act of nineteen hundred  
28 forty-six as amended, or any other act of the congress making appropri-



1 ation for the allocation among the states for research into basic laws  
2 and principles relating to agriculture [and], to improve and facilitate  
3 the marketing and distribution of agricultural products, [and] or for  
4 any other purpose relating to agriculture or marketing agricultural  
5 products; on behalf of the state, to adopt, execute and administer plans  
6 and programs and to put into effect such measures as may be necessary  
7 for such research [into basic laws and principles], plans, or programs  
8 relating to agriculture and to improve and facilitate the marketing and  
9 distribution of agricultural products; on behalf of the state, to make  
10 and execute such contracts, agreements, covenants or conditions, not  
11 inconsistent with law, as may be necessary or required by any duly  
12 constituted agency of the federal government as a condition precedent to  
13 receiving such funds or in connection with such research; to cooperate  
14 with all federal, state or local authorities, or other agencies, author-  
15 ized under such acts of congress to carry out the purposes thereof; to  
16 adopt and from time to time to amend such rules and regulations and to  
17 prescribe such conditions, not inconsistent with law, as may be neces-  
18 sary to make available to the people of the state the benefits afforded  
19 by such acts of congress; and to enforce all the provisions of this  
20 subdivision and the rules adopted pursuant hereto. The department of  
21 taxation and finance is designated as custodian of all federal-aid funds  
22 allotted to the state for the purposes of this subdivision by the United  
23 States and such funds shall be payable only on the audit and warrant of  
24 the comptroller on certificate of the commissioner as provided in  
25 section one hundred ten of the state finance law.

26 § 3. Paragraph (v) of subdivision c of section 1 of chapter 537 of the  
27 laws of 1976, relating to paid, free and reduced price breakfast for

1 eligible pupils in certain school districts, as separately amended by  
2 chapters 260 and 615 of the laws of 1993, is amended to read as follows:

3 (v) Any school not offering a breakfast program on the dates specified  
4 in this section, which would be required under the provisions of para-  
5 graph (i), (ii), (iii) or (iv) of this subdivision to implement such  
6 program in September of the same year, may apply to the commissioner of  
7 [education] agriculture and markets for an exemption from the provisions  
8 of this act. Such an exemption shall not be granted by such commission-  
9 er unless a school demonstrates with good cause: (1) that there is no  
10 need for such breakfast program because of low enrollment or documented  
11 projections of low participation or (2) that economic hardship or other  
12 good cause makes the establishment of such a program impractical. Such  
13 commissioner shall establish explicit good cause criteria in regulations  
14 pursuant to this act and annually review the basis for such exemptions.  
15 Such commissioner may also grant a waiver for up to one year from the  
16 provisions of this subdivision to allow adequate time for planning and  
17 implementation of a breakfast program

18 § 4. Subdivisions d and e of section 1 of chapter 537 of the laws of  
19 1976, relating to paid, free and reduced price breakfast for eligible  
20 pupils in certain school districts, are amended to read as follows:

21 d. In accordance with subsections (c) and (d) of section seventeen  
22 hundred seventy-three of title forty-two of the United States Code and  
23 derivative regulations, the commissioner of [education] agriculture and  
24 markets shall determine which participating school facilities are finan-  
25 cially unable to support the service of free and reduced price break-  
26 fasts and therefore are considered "especially needy" school facilities.  
27 Such school facilities subsequently shall be assigned the appropriate  
28 increased "especially needy" per meal reimbursement calculated pursuant

1 to such code and regulations in support of the cost of free and reduced  
2 price breakfasts.

3 e. In the provision of free and reduced price meals for the school  
4 breakfast programs, the [state commissioner of education] commissioner  
5 of agriculture and markets shall prescribe maximum eligibility standards  
6 permissible under section nine of the National School Lunch Act and  
7 section four of the Child Nutrition Act.

8 § 5. Section 3 of chapter 537 of the laws of 1976, relating to paid,  
9 free and reduced price breakfast for eligible pupils in certain school  
10 districts, is amended to read as follows:

11 § 3. The [state commissioner of education] commissioner of agriculture  
12 and markets hereby is directed to request the bureau of school food  
13 management to provide any additional information and assistance which  
14 may be required by the schools and school districts to aid them in  
15 developing and implementing the various school food programs.

16 § 6. Subdivisions a, d and e of section 4 of chapter 537 of the laws  
17 of 1976, relating to paid, free and reduced price breakfast for eligible  
18 pupils in certain school districts, as added by section 2 of part B of  
19 chapter 56 of the laws of 2018, are amended to read as follows:

20 a. All public elementary or secondary schools in this state, not  
21 including a charter school authorized by article 56 of the education  
22 law, with at least seventy percent or more of its students eligible for  
23 free or reduced-price meals under the federal National School Lunch  
24 Program as determined by the [State Education Department] Department of  
25 Agriculture and Markets based upon data submitted by schools through the  
26 basic educational data system (BEDS) and provided by the State Education  
27 Department to the Department of Agriculture and Markets for the prior

1 school year and, shall be required to offer all students a school break-  
2 fast after the instructional day has begun.

3 d. Any school identified pursuant to this section may apply to the  
4 commissioner of [education] agriculture and markets for a waiver from  
5 establishing a school breakfast program after the instructional day has  
6 begun. Such waiver may be granted by the commissioner of [education]  
7 agriculture and markets upon the school demonstrating:

8 i. A lack of need for a school breakfast program after the instruc-  
9 tional day has begun because of a successful existing breakfast program;  
10 or

11 ii. Providing a school breakfast program after the instructional day  
12 has begun would cause economic hardship for the school.

13 The commissioner of [education] agriculture and markets shall annually  
14 review the basis for waivers granted to schools.

15 e. The [State Education Department] Department of Agriculture and  
16 Markets shall:

17 i. [on or before May 1, 2018] commencing on the first May 1 following  
18 the department's receipt of authority to administer the programs herein,  
19 and on or before May 1 of each year thereafter preceding each school  
20 year, publish on its website a list of the public schools that meet the  
21 requirements for operating such programs, and provide notification to  
22 such schools;

23 ii. develop and distribute guidelines for the implementation of such  
24 programs, which shall be in the compliance with all applicable federal  
25 and state laws governing the School Breakfast Program;

26 iii. provide technical assistance relating to the implementation of  
27 such program and submission of claims for reimbursement under the School  
28 Breakfast Program; and

1 iv. [annually publish by December 2019] commencing on the first  
2 December 1 following the department's receipt of authority to administer  
3 the programs herein, and each December thereafter, on its website infor-  
4 mation relating to each school subject to this requirement, as well as  
5 any other schools operating such program which are not subject to this  
6 requirement, in the prior school year. Such information shall include,  
7 but not be limited to: the school name, service delivery models imple-  
8 mented, student enrollment, the free and reduced-price lunch percentage,  
9 the average daily breakfast participation rate.

10 § 7. Subdivisions a, b and c of section 5 of chapter 537 of the laws  
11 of 1976, relating to paid, free and reduced price breakfast for eligible  
12 pupils in certain school districts, as added by section 2 of part B of  
13 chapter 56 of the laws of 2018, are amended to read as follows:

14 a. Notwithstanding any monetary limitations with respect to school  
15 lunch programs contained in any law or regulation, for school lunch  
16 meals served in the school year commencing [July 1, 2019 and] on the  
17 first July 1 following the department's receipt of authority to adminis-  
18 ter the programs herein and each July 1 thereafter, a school food  
19 authority shall be eligible for a lunch meal State subsidy of twenty-  
20 five cents, which shall include any annual State subsidy received by  
21 such school food authority under any other provision of State law, for  
22 any school lunch meal served by such school food authority; provided  
23 that the school food authority certifies to the [State Education Depart-  
24 ment] Department of Agriculture and Markets through the application  
25 submitted pursuant to subdivision b of this section that such food  
26 authority has purchased at least thirty percent of its total cost of  
27 food products for its school lunch service program from New York state  
28 farmers, growers, producers or processors in the preceding school year.

1 b. The [State Education Department, in cooperation with the] Depart-  
2 ment of Agriculture and Markets[,] shall develop an application for  
3 school food authorities to seek an additional State subsidy pursuant to  
4 this section in a timeline and format prescribed by [the commissioner of  
5 education] such department. Such application shall include, but not be  
6 limited to, documentation demonstrating the school food authority's  
7 total food purchases for its school lunch service program, and documen-  
8 tation demonstrating its total food purchases and percentages for such  
9 program from New York State farmers, growers, producers or processors in  
10 the preceding school year. The application shall also include an attes-  
11 tation from the school food authority's chief operating officer that it  
12 purchased at least thirty percent of its total cost of food products for  
13 its school lunch service program from New York State farmers, growers,  
14 producers or processors in the preceding school year in order to meet  
15 the requirements for this additional State subsidy. School food authori-  
16 ties shall be required to annually apply for this subsidy.

17 c. [The State Education Department] Commencing on the first September  
18 1 following the Department of Agriculture and Markets' receipt of  
19 authority to administer the programs herein and on or before each  
20 September 1 thereafter, the department shall annually publish informa-  
21 tion on its website [commencing on September 1, 2019 and each September  
22 1 thereafter,] relating to each school food authority that applied for  
23 and received this additional State subsidy, including but not limited  
24 to: the school food authority name, student enrollment, average daily  
25 lunch participation, total food costs for its school lunch service  
26 program, total cost of food products for its school lunch service  
27 program purchased from New York State farmers, growers, producers or  
28 processors, and the percent of total food costs that were purchased from

1 New York State farmers, growers, producers or processors for its school  
2 lunch service program.

3 § 8. 1. Transfer of functions. All of the functions and powers  
4 possessed by and the obligations and duties of the State Department of  
5 Education in connection with the administration of the National School  
6 Lunch Program and related programs are hereby transferred to the Depart-  
7 ment of Agriculture and Markets.

8 2. Transfer of employees. (a) Upon the transfer of functions, powers,  
9 duties and obligations of the State Department of Education's Child  
10 Nutrition Program Administration relating to the National School Lunch  
11 Program and related programs to the Department of Agriculture and  
12 Markets pursuant to this section, provisions shall be made for the  
13 transfer to the Department of Agriculture and Markets such employees of  
14 the State Education Department who are substantially engaged in the  
15 performance of the functions herein. Employees so transferred shall be  
16 transferred without further examination or qualification and shall  
17 retain their respective civil service classifications and status. For  
18 the purpose of determining the employees holding permanent appointments  
19 in competitive class positions to be transferred, such employees shall  
20 be selected within each class of positions in the order of their  
21 original appointment, with due regard to the right of preference in  
22 retention of disabled and non-disabled veterans. Any such employee who,  
23 at the time of such transfer, has a temporary or provisional appointment  
24 shall be transferred subject to the same right of removal, examination  
25 or termination as though such transfer had not been made. Employees  
26 holding permanent appointments in competitive class positions who are  
27 not transferred pursuant to this section shall have their names entered

1 upon an appropriate preferred list for reinstatement pursuant to the  
2 civil service law.

3 (b) A transferred employee shall remain in the same collective  
4 bargaining unit as was the case prior to his or her transfer; successor  
5 employees to the positions held by such transferred employees shall,  
6 consistent with the provisions of article fourteen of the civil service  
7 law, be included in the same unit as their predecessors. Employees other  
8 than management or confidential persons as defined in article fourteen  
9 of the civil service law serving positions in newly created titles shall  
10 be assigned to the appropriate bargaining unit. Nothing contained in  
11 this section shall be construed to affect:

12 (i) the rights of employees pursuant to a collective bargaining agree-  
13 ment;

14 (ii) the representational relationships among employee organizations  
15 or the bargaining relationships between the state and an employee organ-  
16 ization; or

17 (iii) existing law with respect to an application to the public  
18 employment relations board; provided, however, that the merger of such  
19 negotiating units of employees shall be effected only with the consent  
20 of the recognized and certified representative of such units and of the  
21 department of law.

22 § 9. This act shall take effect on the one hundred eightieth day after  
23 the Department of Agriculture and Markets is notified by the United  
24 States Department of Agriculture of the approval of the authority of the  
25 Department of Agriculture and Markets to administer the National School  
26 Lunch Program, provided that the commissioner of the Department of Agri-  
27 culture and Markets shall notify the legislative bill drafting commis-  
28 sion upon receipt of approval from the United States Department of Agri-



1 culture of the authority of the Department of Agriculture and Markets to  
2 administer the National School Lunch Program in order that the commis-  
3 sion may maintain an accurate and timely effective database of the offi-  
4 cial text of laws of the state of New York in furtherance of effecting  
5 the provisions of section 44 of the legislative law and section 70-b of  
6 the public officers law.

7 PART W

8 Section 1. Subdivisions 3, 5, 8 and 11 of section 400 of the general  
9 business law, subdivisions 3 and 8 as added by chapter 509 of the laws  
10 of 1992, subdivision 5 as amended by chapter 343 of the laws of 1998,  
11 and subdivision 11 as added by chapter 80 of the laws of 2015, are  
12 amended to read as follows:

13 3. "Licensee" means a person licensed pursuant to this article to  
14 engage in the practice of [natural hair styling] waxing, esthetics, nail  
15 specialty or cosmetology, or to operate an appearance enhancement busi-  
16 ness in which such practice, as herein defined, is provided to the  
17 public, or to provide the services of a salon assistant, as herein  
18 defined.

19 5. The [practice] services of ["natural hair styling"] "salon assist-  
20 ant" means providing for a fee, or any consideration or exchange, wheth-  
21 er direct or indirect, any of the following services to the hair of a  
22 human being: shampooing, arranging, dressing, [twisting, wrapping, weav-  
23 ing, extending, locking or braiding] or blow drying the hair [or beard]  
24 by either hand or mechanical appliances, including but not limited to,  
25 curling irons and mechanical hair straighteners. Such practice shall not  
26 include twisting, wrapping, weaving, extending, locking, braiding,

1 cutting, shaving or trimming hair except that such activities are  
2 permissible to the extent that such activities are incidental to the  
3 [practice] services of [natural hair styling] a salon assistant. Such  
4 [practice] services shall not include the application of dyes, reactive  
5 chemicals, or other preparations to alter the color or to straighten,  
6 curl, or alter the structure of the hair. [Techniques] Nothing contained  
7 in this subdivision shall be deemed to require a license for services  
8 which result in tension on hair roots such as certain types of braiding,  
9 weaving, wrapping, and locking [and extending of the hair may only be  
10 performed by a natural hair styling or cosmetology licensee who has  
11 successfully completed an approved course of study in such techniques],  
12 or incidental services attended thereto.

13 8. "Appearance enhancement business" means the business of providing  
14 any or all of the services licensed pursuant to this article at a fixed  
15 location. In addition, any business which offers, demands, collects, or  
16 receives a fee, or any consideration or exchange, whether direct or  
17 indirect, for any of the following services to the hair of a human  
18 being: shampooing, arranging, dressing, twisting, wrapping, weaving,  
19 extending, locking or braiding the hair or beard by either hand or  
20 mechanical appliances shall also be required to obtain a license pursu-  
21 ant to this article.

22 11. "Trainee" means a person pursuing in good faith a course of study  
23 [in the practice of nail specialty] to become a licensee under the  
24 tutelage, supervision and direction of a licensed [nail] practitioner of  
25 the same license type, as herein defined. Such trainee shall be employed  
26 by a licensed appearance enhancement business.

27 § 2. Subdivisions 1 and 3 of section 401 of the general business law,  
28 subdivision 1 as amended by chapter 80 of the laws of 2015, and subdivi-

1 sion 3 as amended by chapter 341 of the laws of 1998, are amended to  
2 read as follows:

3 1. No person shall engage in the practice of nail specialty, waxing,  
4 [natural hair styling,] esthetics or cosmetology, as defined in section  
5 four hundred of this article, or offer the services of a salon assist-  
6 ant, as defined in section four hundred of this article, without having  
7 received a license to engage in such practice in the manner prescribed  
8 in this article. No person shall act as a trainee or perform any service  
9 as such unless he or she has obtained a certificate of registration  
10 pursuant to this article.

11 3. A person licensed by any other state or country to practice nail  
12 specialty, waxing, [natural hair styling,] esthetics or cosmetology, or  
13 who is licensed to offer the services of a salon assistant, shall be  
14 allowed to practice in New York state for three months or less within  
15 any calendar year for the purpose of giving to, or receiving from,  
16 persons who are licensed under this article training in current styles,  
17 techniques or materials, provided however, that no such unlicensed  
18 person may provide services to the public for any fee, or other compen-  
19 sation, whether direct or indirect.

20 § 3. Subdivision 1 of section 403 of the general business law, as  
21 amended by chapter 339 of the laws of 2017, is amended to read as  
22 follows:

23 1. There shall be established within the department an advisory  
24 committee which shall consist of nine members broadly representative of  
25 the appearance enhancement industry; including one person engaged in the  
26 practice of either nail specialty or waxing; [two persons engaged in  
27 natural hair styling; one of whom shall be knowledgeable in the practice  
28 of styling techniques which place tension on the hair roots, and one of

1 whom shall ensure strict adherence to quality services for all clients  
2 of all hair types, including, but not limited to, curl pattern, hair  
3 strand thickness, and volume of hair;] one person engaged in esthetics;  
4 [two] four persons engaged in cosmetology; two persons engaged in train-  
5 ing of persons for such practices and one person licensed as a dermatol-  
6 ogist. The secretary shall appoint such persons to serve on the advisory  
7 committee, provided, that two shall be appointed by the secretary on the  
8 recommendation of the temporary president of the senate and two shall be  
9 appointed by the secretary on the recommendation of the speaker of the  
10 assembly. Each member of the committee shall be appointed for terms of  
11 two years. Any member may be reappointed for additional terms. The  
12 secretary shall designate from among the members of the committee a  
13 chairperson who shall serve at the pleasure of the secretary.

14 § 4. Section 404 of the general business law, as amended by chapter 80  
15 of the laws of 2015, is amended to read as follows:

16 § 404. Rules and regulations. The secretary shall promulgate rules and  
17 regulations which establish standards for practice and operation by  
18 licensees and trainees under this article in order to ensure the health,  
19 safety and welfare of the public including licensees and trainees when  
20 they are working within such establishments. Such rules and regulations  
21 shall include, but not be limited to, the sanitary conditions and proce-  
22 dures required to be maintained, a minimum standard of training appro-  
23 priate to the duties of nail specialists, trainees, waxers, [natural  
24 hair stylists] salon assistants, estheticians, and cosmetologists and  
25 the provision of service by nail specialists, trainees, waxers, [natural  
26 hair stylists] salon assistants, estheticians or cosmetologists at  
27 remote locations other than the licensee's home provided that such prac-  
28 titioner holds an appearance enhancement business license to operate at

1 a fixed location or is employed by the holder of an appearance enhance-  
2 ment business license. Regulations setting forth the educational  
3 requirements for nail specialists and trainees shall include education  
4 in the area of causes of infection and bacteriology. In promulgating  
5 such rules and regulations the secretary shall consult with the state  
6 education department, the advisory committee established pursuant to  
7 this article, any other state agencies and private industry represen-  
8 tatives as may be appropriate in determining minimum training require-  
9 ments.

10 § 5. Paragraphs a and f of subdivision 1, subdivision 2 and paragraph  
11 b of subdivision 4 of section 406 of the general business law, paragraph  
12 a of subdivision 1, subdivision 2 and paragraph b of subdivision 4 as  
13 amended by chapter 341 of the laws of 1998, paragraph f of subdivision 1  
14 as added by chapter 80 of the laws of 2015, and paragraph c of subdivi-  
15 sion 2 as amended by section 3 of part D of chapter 328 of the laws of  
16 2014, are amended to read as follows:

17 a. Any person intending to practice nail specialty, waxing, [natural  
18 hair styling,] esthetics or cosmetology as defined in this article, or  
19 to own or operate an appearance enhancement business, or to offer  
20 services as a salon assistant or to practice as a trainee, shall first  
21 make application to the secretary for a license therefor.

22 f. Notwithstanding the educational requirements of this section, a  
23 trainee may [obtain a license to practice nail specialty] submit an  
24 application to become a licensee if such trainee provides satisfactory  
25 evidence to the secretary that such trainee has been actively engaged in  
26 a traineeship for a period of one year and has completed a course of  
27 study set forth by the secretary. Such course of study may be delivered  
28 by electronic means.

1 2. a. Any person seventeen years of age or older may apply to the  
2 secretary for a license to practice nail specialty, waxing, [natural  
3 hair styling,] esthetics or cosmetology, or to offer services as a salon  
4 assistant, or to practice as a trainee.

5 b. Each such application shall also be accompanied by satisfactory  
6 evidence of having taken and passed the appropriate examination or exam-  
7 inations offered by the secretary pursuant to this article for the  
8 license sought and evidence of the successful completion of an approved  
9 course of study in nail specialty, waxing, [natural hair styling] salon  
10 assistant services, esthetics or cosmetology in a school duly licensed  
11 pursuant to the education law.

12 c. Any applicant for a license to practice nail specialty, waxing,  
13 [natural hair styling] or to provide salon assistant services, esthetics  
14 or cosmetology may submit satisfactory evidence of licensure to practice  
15 an equivalent occupation issued by any other state, territory, protec-  
16 torate or dependency of the United States or any other country in lieu  
17 of the evidence of schooling and examination required by this subdivi-  
18 sion, provided that such license was granted in compliance with stand-  
19 ards which were, in the judgment of the secretary, not lower than those  
20 of this state and provided that such state, territory, protectorate,  
21 dependency, or country extends similar reciprocity to the licensees of  
22 this state, or the applicant practiced an equivalent occupation in such  
23 state, territory, protectorate, dependency or country for a minimum of  
24 five years, or the applicant is a member of the household of a member of  
25 the armed forces of the United States, national guard or reserves and  
26 was a member of such household before such member relocated to the  
27 state.

1 d. Notwithstanding the educational requirements of this section and  
2 the testing requirements of this section, an applicant who otherwise has  
3 met the licensing requirements of this article for a nail specialist,  
4 waxer, [natural hair stylist,] esthetician or cosmetologist who shall  
5 provide satisfactory evidence he or she has been actively and contin-  
6 uously engaged in the practice of nail specialty, waxing, [natural hair  
7 styling,] esthetics or cosmetology for at least one year prior to the  
8 effective date of this article, may be issued a license for nail  
9 specialty, waxing, [natural hair styling,] esthetics or cosmetology  
10 pursuant to this article. Notwithstanding the educational and testing  
11 requirements of this section, a person licensed to practice barbering  
12 under article twenty-eight of this chapter who otherwise has met the  
13 licensing requirements of this article may be issued a license to [prac-  
14 tice natural hairstyling] provide salon assistant services. Other than  
15 applicants licensed under article twenty-eight of this chapter, those  
16 persons who apply after a twelve month period from the effective date of  
17 this article will be required to provide evidence of training and to  
18 take the examination or examinations as required for other licenses  
19 pursuant to this article.

20 e. Upon acceptance by the secretary of a proper application for an  
21 operator's license to practice nail [speciality] specialty, waxing,  
22 [natural hair styling] or to provide salon assistant services, esthetics  
23 or cosmetology, the secretary may issue a temporary operator's license  
24 which shall expire six months from issuance. Upon good cause shown, the  
25 secretary may renew a temporary operator's license for one additional  
26 six-month period upon filing the appropriate application and fee.

27 b. In the case of persons who are called to active military service  
28 and will be discharged from active military service, the period of two

1 years specified in paragraph d of subdivision two of this section need  
2 not be continuous. The length of time such person was engaged in the  
3 practice of nail specialty, waxing, [natural hair styling,] esthetics or  
4 cosmetology, or to provide salon assistant services, before entering  
5 active military service may be added to any period of time during which  
6 such person was or is engaged in the practice of nail specialty, waxing,  
7 [natural hair styling,] esthetics or cosmetology after the termination  
8 of active military service.

9 § 6. Subdivision 1 of section 407 of the general business law, as  
10 amended by section 1 of chapter 255 of the laws of 1999, is amended to  
11 read as follows:

12 1. The examinations for the license to practice [natural hair styl-  
13 ing,] esthetics, nail specialty and cosmetology shall be practical and  
14 written. The examinations for the license to practice waxing shall be  
15 limited to a written examination only. The examinations to provide salon  
16 assistant services shall be limited to a practical examination only. The  
17 secretary shall determine reasonable standards of performance for each  
18 license and shall evaluate the prospective applicants and applicants on  
19 the basis of such standards. The objectives of the examinations shall be  
20 to insure that prospective applicants and applicants have sufficient  
21 basic skills to safeguard the health and safety of the public and to  
22 insure that prospective applicants and applicants have attained adequate  
23 levels of skill to competently engage in the activities authorized by  
24 the license.

25 § 7. Subdivision 1 of section 409 of the general business law, as  
26 amended by section 2 of part Y of chapter 60 of the laws of 2011, is  
27 amended to read as follows:



1 1. The non-refundable fee for an application for a license to engage  
2 in the practice of nail specialty, waxing, [natural hair styling,]  
3 esthetics or cosmetology, shall be forty dollars initially and for each  
4 renewal thereof the fee shall be forty dollars; the fee for a temporary  
5 license and each renewal shall be ten dollars.

6 § 8. Paragraph a of subdivision 2 of section 410 of the general busi-  
7 ness law, as amended by chapter 80 of the laws of 2015, is amended to  
8 read as follows:

9 a. The secretary may issue an order directing the cessation of any  
10 activity related to nail specialty, waxing, [natural hair styling,]  
11 esthetics or cosmetology, or to services relating to salon assistants,  
12 for which a license is required by this article upon a determination  
13 that a person, partnership, limited liability company or business corpo-  
14 ration, engaging in the business or occupation of, or holding himself,  
15 herself or itself out as or acted, temporarily or otherwise, as a nail  
16 specialist, [natural hair stylist] salon assistant, esthetician or  
17 cosmetologist within this state without a valid license being in effect.  
18 The secretary shall, before making such determination and order, afford  
19 such person, partnership, limited liability company or business corpo-  
20 ration an opportunity to be heard in person or by counsel in reference  
21 thereto in an adjudicatory proceeding held pursuant to section four  
22 hundred eleven of this article as applicable.

23 § 9. Subdivision 1 of section 412 of the general business law, as  
24 amended by chapter 80 of the laws of 2015, is amended to read as  
25 follows:

26 1. The practice of nail specialty, waxing, [natural hair styling,]  
27 esthetics or cosmetology, or providing salon assistant services, without  
28 a license or while under suspension or revocation, or in violation of an

1 order directing the cessation of unlicensed activity issued by the  
2 secretary pursuant to section four hundred ten or four hundred eleven of  
3 this article, is a violation and is subject to a civil penalty of up to  
4 five hundred dollars for the first violation; one thousand dollars for a  
5 second such violation; and two thousand five hundred dollars for a third  
6 violation and any subsequent violation.

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

13 PART X

14 Section 1. Notwithstanding any other provision of law to the contrary,  
15 any person who is licensed or certified as a physician, physician's  
16 assistant, massage therapist, physical therapist, chiropractor, dentist,  
17 optometrist, nurse, nurse practitioner, emergency medical technician,  
18 podiatrist or athletic trainer by a foreign government may provide  
19 professional services within this state without first being licensed  
20 pursuant to the provisions of title 8 of the education law or certified  
21 pursuant to the provisions in the public health law, as may be applica-  
22 ble, to the team athletes, coaches, staff and delegations originating  
23 from such foreign government, in connection with the Winter World  
24 University Games, Lake Placid 2023. Such services shall be limited to  
25 athletes and personnel in relation to the Winter World University Games,

1 Lake Placid 2023, between the dates of January 5, 2023 and January 25,  
2 2023.

3 § 2. Any person who is licensed or certified to practice as a physi-  
4 cian, physician's assistant, massage therapist, physical therapist,  
5 chiropractor, dentist, optometrist, nurse, nurse practitioner, emergency  
6 medical technician, podiatrist or athletic trainer in another state or  
7 territory, who is in good standing in such state or territory, and who  
8 has been appointed by the Adirondack North Country Sports Council to  
9 provide professional services at an event in this state sanctioned by  
10 the Adirondack North Country Sports Council, may provide such profes-  
11 sional services to team athletes, coaches, staff and delegations from  
12 such state or territory registered to train at a location in this state  
13 or registered to compete in an event conducted under the sanction of the  
14 Adirondack North Country Sports Council in this state without first  
15 being licensed pursuant to the provisions of title 8 of the education  
16 law or certified pursuant to the provisions of the public health law, as  
17 may be applicable. Such services shall be limited to team athletes,  
18 coaches, staff and delegations in relation to the Winter World Universi-  
19 ty Games, Lake Placid 2023, between the dates of January 5, 2023 and  
20 January 25, 2023.

21 § 3. This act shall take effect January 5, 2023 and shall expire and  
22 be deemed repealed January 25, 2023.

23 PART Y

24 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the  
25 New York state urban development corporation act, relating to the powers  
26 of the New York state urban development corporation to make loans, as

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

3 § 2. This act shall take effect immediately provided, however, that  
4 section one of this act shall expire on July 1, [2022] 2025, at which  
5 time the provisions of subdivision 26 of section 5 of the New York state  
6 urban development corporation act shall be deemed repealed; provided,  
7 however, that neither the expiration nor the repeal of such subdivision  
8 as provided for herein shall be deemed to affect or impair in any manner  
9 any loan made pursuant to the authority of such subdivision prior to  
10 such expiration and repeal.

11 § 2. This act shall take effect immediately and shall be deemed to  
12 have been in full force and effect on and after July 1, 2021.

13 PART Z

14 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174  
15 of the laws of 1968 constituting the New York state urban development  
16 corporation act, as amended by section 1 of part K of chapter 58 of the  
17 laws of 2021, is amended to read as follows:

18 3. The provisions of this section shall expire, notwithstanding any  
19 inconsistent provision of subdivision 4 of section 469 of chapter 309 of  
20 the laws of 1996 or of any other law, on July 1, [2022] 2025.

21 § 2. This act shall take effect immediately and shall be deemed to  
22 have been in full force and effect on and after July 1, 2021.

23 PART AA

1 Section 1. Section 17 of part F of chapter 60 of the laws of 2015  
2 constituting the infrastructure investment act, as amended by section 7  
3 of part DD of chapter 58 of the laws of 2020, is amended to read as  
4 follows:

5 § 17. This act shall take effect immediately and shall expire and be  
6 deemed repealed December 31, [2022] 2027, provided that, projects with  
7 requests for qualifications issued prior to such repeal shall be permit-  
8 ted to continue under this act notwithstanding such repeal.

9 § 2. Section 14 of chapter 749 of the laws of 2019 authorizing, for  
10 certain public works undertaken pursuant to project labor agreements,  
11 use of the alternative delivery method known as design-build contracts,  
12 is amended to read as follows:

13 § 14. This act shall take effect immediately and shall expire and be  
14 deemed repealed [three] eight years after such date, provided that,  
15 public works with requests for qualifications issued prior to such  
16 repeal shall be permitted to continue under this act notwithstanding  
17 such repeal.

18 § 3. This act shall take effect immediately.

19 PART BB

20 Section 1. Subparagraph 6 of paragraph (g) of subdivision 11 of  
21 section 213 of the state finance law, as added by section 1 of part HH  
22 of chapter 59 of the laws of 2013, is amended and a new paragraph (h) is  
23 added to read as follows:

24 (6) small scale systems integration and packaging[.]; or

25 (h) a community development financial institution.

1 § 2. Paragraph (e) of subdivision 12 of section 213 of the state  
2 finance law, as added by chapter 705 of the laws of 1993, is amended and  
3 a new paragraph (f) is added to read as follows:

4 (e) for certified minority-and women-owned businesses, projects to  
5 provide financing necessary to carry out a procurement contract with an  
6 agency or authority or other entity of the state or federal govern-  
7 ment[.]; or

8 (f) projects in which community development financial institutions  
9 make loans.

10 § 3. Section 213 of the state finance law is amended by adding a new  
11 subdivision 25 to read as follows:

12 25. "Community development financial institution" means an organiza-  
13 tion as defined in 12 U.S.C. 4702(5)(a).

14 § 4. This act shall take effect immediately.

15 PART CC

16 Section 1. Section 1 of chapter 174 of the laws of 1968, constituting  
17 the New York state urban development corporation act, is amended by  
18 adding a new section 16-gg to read as follows:

19 § 16-gg. Small business seed funding grant program. 1. Definitions.  
20 As used in this section, the following terms shall have the following  
21 meanings:

22 (a) "Small business" shall mean a business which is resident in this  
23 state, independently owned and operated, not dominant in its field, and  
24 employs one hundred or less persons, was started on March 1, 2019 or  
25 later and has been operational for a minimum of six months prior to  
26 application.

1 (b) "Micro-business" shall mean a business which is a resident in this  
2 state, independently owned and operated, not dominant in its field, and  
3 employs ten or less persons.

4 (c) "The program" shall mean the small business seed funding grant  
5 program established pursuant to subdivision two of this section.

6 (d) "Applicant" shall mean a small business or for-profit independent  
7 arts and cultural organization submitting an application for a grant  
8 award to the program.

9 2. Small business seed funding grant program established. The small  
10 business seed funding grant program is hereby created to provide assist-  
11 ance to early-stage small businesses to succeed in a recovering New York  
12 state economy.

13 3. Authorization. The corporation is hereby authorized, using avail-  
14 able funds, to issue grants and provide technical assistance and  
15 outreach to small businesses and technical assistance partners for the  
16 purpose of aiding the recovery of the New York state economy, and may  
17 promulgate guidelines to effectuate the purposes herein.

18 4. Selection criteria and application process. (a) In order to be  
19 eligible for a grant or additional form of support under the program, an  
20 eligible small business shall:

21 (i) be incorporated in New York state or licensed or registered to do  
22 business in New York state and must be resident in the state of New  
23 York;

24 (ii) be a currently viable small business that started business on  
25 March 1, 2019 or later and has been operational for at least six months  
26 before application;

1 (iii) have between five thousand and one million dollars in gross  
2 receipts or be able to demonstrate ten thousand dollars in business  
3 expenses;

4 (iv) be in substantial compliance with applicable federal, state and  
5 local laws, regulations, codes and requirements; and

6 (v) not owe any federal, state or local taxes, or have an approved  
7 repayment, deferral plan, or agreement with appropriate federal, state,  
8 and local taxing authorities.

9 (b) Grants awarded from this program shall be available to eligible  
10 micro-businesses and small businesses that do not qualify for business  
11 assistance grant programs under the federal American Rescue Plan Act of  
12 2021 or any other available federal COVID-19 economic recovery or busi-  
13 ness assistance grant programs, including loans forgiven under the  
14 federal Paycheck Protection Program, or are unable to obtain sufficient  
15 business assistance from such federal programs, with priority given to  
16 socially and economically disadvantaged business owners including, but  
17 not limited to, minority and women-owned business enterprises, service-  
18 disabled veteran-owned businesses, and veteran-owned businesses, or  
19 businesses located in communities that were economically distressed  
20 prior to March 1, 2020, as determined by the most recent census data.

21 5. Eligible costs. (a) Eligible costs considered for micro-businesses  
22 and small businesses under this program must have been incurred between  
23 March 1, 2019 and January 1, 2022.

24 (b) (i) The following costs incurred by a micro-business and small  
25 businesses, shall be considered eligible under the program at a minimum:  
26 payroll costs; costs of rent or mortgage as provided for in subparagraph  
27 (ii) of this paragraph; costs of repayment of local property or school  
28 taxes associated with such small business's location as provided for in



1 subparagraph (iii) of this paragraph; insurance costs; utility costs;  
2 costs of personal protection equipment (PPE) necessary to protect worker  
3 and consumer health and safety; heating, ventilation, and air condition-  
4 ing (HVAC) costs, or other machinery or equipment costs, or supplies and  
5 materials necessary for compliance with COVID-19 health and safety  
6 protocols, and other documented COVID-19 costs as approved by the corpo-  
7 ration.

8 (ii) Mortgage payments or commercial rent shall be considered eligible  
9 costs.

10 (iii) Payment of local property taxes and school taxes shall be  
11 considered eligible costs.

12 (c) Grants awarded under the program shall not be used to re-pay or  
13 pay down any portion of a loan obtained through a federal coronavirus  
14 relief package for business assistance or any New York state business  
15 assistance programs.

16 6. Application and approval process. (a) An eligible micro-business,  
17 small business shall submit a complete application in a form and manner  
18 prescribed by the corporation.

19 (b) The corporation shall establish the procedures and time period for  
20 micro-businesses and small businesses to submit applications to the  
21 program. As part of the application each micro-business and small busi-  
22 ness shall provide sufficient documentation in a manner prescribed by  
23 the corporation to demonstrate hardship, and prevent fraud, waste, and  
24 abuse.

25 7. Technical assistance and outreach. The corporation may offer or  
26 make available to all applicants, regardless of approval status, direct  
27 or indirect access to financial and business planning, legal consulta-  
28 tion, language assistance services, mentoring services for post-pandemic

1 planning, reopening planning assistance and other assistance and support  
2 as determined by the corporation. Assistance, support, outreach and  
3 other services may be provided by or through partner organizations,  
4 including but not limited to chambers of commerce, local business devel-  
5 opment corporations, trade associations and other community organiza-  
6 tions that have expertise and background in providing technical assist-  
7 ance, at the discretion of the corporation.

8 § 2. This act shall take effect immediately.

9 PART DD

10 Section 1. Section 2 of chapter 584 of the laws of 2011, amending the  
11 public authorities law relating to the powers and duties of the dormito-  
12 ry authority of the state of New York relative to the establishment of  
13 subsidiaries for certain purposes, as amended by section 1 of part CC of  
14 chapter 58 of the laws of 2020, is amended to read as follows:

15 § 2. This act shall take effect immediately and shall expire and be  
16 deemed repealed on July 1, [2022] 2025; provided however, that the expi-  
17 ration of this act shall not impair or otherwise affect any of the  
18 powers, duties, responsibilities, functions, rights or liabilities of  
19 any subsidiary duly created pursuant to subdivision twenty-five of  
20 section 1678 of the public authorities law prior to such expiration.

21 § 2. This act shall take effect immediately.

22 PART EE

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

4 Any not-for-profit corporation or collaboration of not-for-profit  
5 corporations, for capital projects located in New York state related to  
6 physical infrastructure with a total cost of not less than five million  
7 dollars. For the purposes of this paragraph "not-for-profit corporation"  
8 shall mean a domestic corporation or authorized foreign corporation as  
9 defined in section one hundred two of the not-for-profit corporation  
10 law. Any such not-for-profit corporation shall possess the requisite  
11 credit standing to secure such funding in the private or public capital  
12 markets to be eligible to obtain a loan from the authority pursuant to  
13 subdivision three of section sixteen hundred eighty of this title.

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

16 Any not-for-profit corporation or collaboration of not-for-profit  
17 corporations, for capital projects located in New York state related to  
18 physical infrastructure with a total cost of not less than five million  
19 dollars. For the purposes of this paragraph "not-for-profit corpo-  
20 ration" shall mean a domestic corporation or authorized foreign corpo-  
21 ration as defined in section one hundred two of the not-for-profit  
22 corporation law. Any such not-for-profit corporation shall possess the  
23 requisite credit standing to secure such funding in the private or  
24 public capital markets to be eligible to obtain a loan from the authori-  
25 ty pursuant to subdivision three of this section.

26 § 3. Nothing in this act is intended to limit, impair, or affect the  
27 legal authority of the Dormitory Authority of the state of New York  
28 under any other provision of law.

1 § 4. This act shall take effect immediately.

2 PART FF

3 Section 1. Section 1678 of the public authorities law is amended by  
4 adding a new subdivision 30 to read as follows:

5 30. (a) Notwithstanding any law, rule or regulation to the contrary,  
6 when awarding a contract for public work, the authority may establish  
7 guidelines governing the qualifications of bidders seeking to bid or  
8 enter into such contracts. If the authority maintains an appropriate  
9 list of qualified bidders, the bidding shall be restricted to those who  
10 have qualified prior to the receipt of bids according to standards fixed  
11 by the authority. In determining whether a prospective bidder qualifies  
12 for inclusion on a list of prequalified bidders, the authority shall  
13 consider the experience and record of performance of the prospective  
14 bidder in the particular type of work, as well as: (i) the prospective  
15 bidder's ability to undertake the particular type and complexity of  
16 work; (ii) the financial capability, responsibility and reliability of  
17 the prospective bidder for such type and complexity of work; (iii) the  
18 record of the prospective bidder in complying with existing labor stand-  
19 ards and maintaining harmonious labor relations; (iv) the prospective  
20 bidder's compliance with equal employment opportunity requirements and  
21 anti-discrimination laws, and demonstrated commitment to working with  
22 minority and women-owned businesses through joint ventures or subcon-  
23 tractor relationships; and (v) the record of the prospective bidder in  
24 protecting the health and safety of workers on public works projects and  
25 job sites as demonstrated by the prospective bidder's experience modifi-  
26 cation rate for each of the last three years.

1 (b) The authority shall, not less than annually, publish in a newspa-  
2 per of general circulation or post in the New York State Contract Repor-  
3 ter an advertisement requesting prospective bidders to submit qualifica-  
4 tion statements. Lists of prequalified bidders may be established on a  
5 project-specific basis. Prequalified lists shall include all bidders  
6 that qualify; provided, however, that any such list shall have no less  
7 than five bidders but shall remain open for all additional qualified  
8 bidders. The authority's procedures for prequalifying bidders shall  
9 include an appeals process for those denied a place on a prequalified  
10 list. Any denial must be based upon substantial evidence, cannot be  
11 arbitrary or capacious, and shall be subject to judicial review pursuant  
12 to article seventy-eight of the civil practice law and rules. The  
13 authority may move forward on the contract award during such appeals.

14 § 2. This act shall take effect immediately.

15 PART GG

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

19 Any recipient of loans or grants awarded pursuant to the downtown  
20 revitalization program designed and executed by the department of state  
21 and the division of housing and community renewal for transformative  
22 housing, economic development, transportation, and community projects.

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

25 Any recipient of loans or grants awarded pursuant to the downtown  
26 revitalization program designed and executed by the department of state

1 and the division of housing and community renewal for transformative  
2 housing, economic development, transportation, and community projects.

3 § 3. This act shall take effect immediately.

4 PART HH

5 Section 1. Section 1678 of the public authorities law is amended by  
6 adding a new subdivision 30 to read as follows:

7 30. To enter into a design and construction management agreement with  
8 any state authority, pursuant to which one or more facilities are to be  
9 planned, designed, constructed, reconstructed, rehabilitated, improved,  
10 furnished, or equipped for such state authority. Any such design and  
11 construction management agreement entered into pursuant to this subdivi-  
12 sion shall provide for the following; the scope of design and  
13 construction management services to be provided, the fees to be charged  
14 by the dormitory authority and the sources of funds for the projects. No  
15 design-build contract as defined in part F of chapter fifty-six of the  
16 laws of two thousand eleven shall be awarded pursuant to this subdivi-  
17 sion except if the state authority is otherwise authorized to utilize a  
18 design-build contract. For the purposes of this subdivision the term  
19 "state authority" shall have the same meaning as defined pursuant to  
20 section two of this chapter.

21 § 2. This act shall take effect immediately.

22 PART II

23 Section 1. Section 99-ii of the state finance law is amended by adding  
24 a new subdivision 2-a to read as follows:

1 2-a. Revenues deposited into this fund pursuant to section fifteen of  
2 the cannabis law shall first be used to reimburse the state for any  
3 funds deposited into this fund from the state general fund and used to  
4 support expenditures authorized under paragraph (c) of subdivision three  
5 of this section.

6 § 2. Subparagraph (c) of subdivision 3 of section 99-ii of the state  
7 finance law, as added by chapter 92 of the laws of 2021, is amended to  
8 read as follows:

9 (c) Actual and necessary costs incurred by the office of cannabis  
10 management and the cannabis control board, and the urban development  
11 corporation, related to the administration of incubators and other  
12 assistance to qualified social and economic equity applicants including  
13 the administration, capitalization, and provision of low and zero inter-  
14 est loans to such applicants pursuant to section sixteen-ee of the urban  
15 development corporation act[. Such] and the funding of, whether directly  
16 or indirectly by investment in a private debt or equity fund formed for  
17 the limited purpose of funding the fixed capital costs associated with  
18 establishing adult-use cannabis retail dispensaries for operation by  
19 social and economic equity applicants duly licensed pursuant to article  
20 four of the cannabis law. Such fixed capital costs shall include, but  
21 are not limited to, all costs related to the acquisition, leasing,  
22 purchasing, planning, design, construction, reconstruction, rehabili-  
23 tation, improvement, furnishing, or equipping of such adult-use cannabis  
24 retail dispensaries, whether such work has been undertaken or costs for  
25 such work incurred by (i) the office of cannabis management and the  
26 cannabis control board, (ii) the dormitory authority of the state of New  
27 York, or any subsidiary thereof, under agreement with the office of  
28 cannabis management and the cannabis control board, or with the private

1 debt or equity fund formed for the limited purpose of funding the fixed  
2 capital costs associated with establishing such adult-use cannabis  
3 retail dispensaries, or (iii) the private debt or equity fund formed for  
4 the limited purpose of funding the fixed capital costs associated with  
5 establishing such adult-use cannabis retail dispensaries. Payments for  
6 the fixed capital costs to establish such adult-use cannabis retail  
7 dispensaries, including any investment in a private debt or equity fund  
8 formed for the limited purpose of funding such fixed capital costs, and  
9 any repayments of these amounts may be deposited in the New York state  
10 cannabis revenue fund or such other account as determined by the direc-  
11 tor of the division of the budget. All above referenced costs shall be  
12 paid out of revenues received, including, but not limited to, from  
13 special one-time fees paid by registered organizations pursuant to  
14 section sixty-three of the cannabis law.

15 § 3. Section 1678 of the public authorities law is amended by adding  
16 two new subdivisions 30 and 31 to read as follows:

17 30. To enter into one or more agreements with the office of cannabis  
18 management, the cannabis control board, or any private debt or equity  
19 fund, in which the state or any state agency, public authority, public  
20 benefit corporation, or division thereof has invested and is formed for  
21 the limited purpose of funding the fixed capital costs associated with  
22 establishing adult-use cannabis retail dispensaries for operation by  
23 social and economic equity applicants duly licensed pursuant to article  
24 four of the cannabis law, for the following purposes:

25 (a) To acquire by purchase, condemnation, gift, devise, lease, or  
26 other agreement such real property or an interest therein as may be  
27 necessary or convenient for the acquisition, construction, recon-  
28 struction, rehabilitation, improvement, or provision of adult-use canna-



1 bis retail dispensaries for operation by social and economic equity  
2 licensees;

3 (b) To prepare or cause to be prepared plans, specifications, designs,  
4 and estimates of costs for the design, construction, reconstruction,  
5 rehabilitation, improvement, furnishing or equipping of adult-use canna-  
6 bis retail dispensaries for operation by social and economic equity  
7 licensees;

8 (c) To design, construct, reconstruct, rehabilitate, or improve  
9 adult-use cannabis retail dispensaries for operation by social and  
10 economic equity licensees and to enter into contracts to cause such  
11 facilities to be designed, constructed, reconstructed, rehabilitated,  
12 improved, furnished, or equipped;

13 (d) To enter, as lessor or as agent for the lessor, into leases,  
14 subleases, or other agreements with the social and economic equity  
15 licensees operating the adult-use cannabis retail dispensaries;

16 (e) To enter, as lender or as agent for the lender, into loan or other  
17 agreements with the social and economic equity licensees operating the  
18 adult-use cannabis retail dispensaries; and

19 (f) To sell, convey, lease, sublease or otherwise transfer any real  
20 property or interest therein held by the authority to any person, firm,  
21 association, corporation, or agency, including a public body, for the  
22 purpose of constructing an adult-use cannabis retail dispensary,  
23 provided that, simultaneously therewith, the authority enters into an  
24 agreement for the reconveyance, purchase, lease, sublease, or other  
25 acquisition of such dispensary.

26 31. (a) To form one or more subsidiaries for the purpose of limiting  
27 the potential liability of the authority when exercising the powers and  
28 duties conferred upon the authority by subdivision thirty of this

1 section in connection with certain work performed on behalf of the  
2 office of cannabis management, the cannabis control board, or any  
3 private debt or equity fund in which the state or any state agency,  
4 public authority, public benefit corporation, or division thereof has  
5 invested and is formed for the limited purpose of funding the fixed  
6 capital costs associated with establishing adult-use cannabis retail  
7 dispensaries for operation by social and economic equity applicants duly  
8 licensed pursuant to article four of the cannabis law. Such subsidiary  
9 created pursuant to this subdivision may exercise and perform one or  
10 more of the purposes, powers, duties, functions, rights and responsibil-  
11 ities of the authority other than the issuance of indebtedness, in  
12 connection with real and personal property with respect to which the  
13 authority holds title or a leasehold interest including, but not limited  
14 to: (i) bidding for, taking, holding, selling, conveying, assigning or  
15 transferring title to such property; (ii) entering into leases,  
16 subleases, or other arrangements with regard to such property and acting  
17 in a manner consistent with the rights, obligations or responsibilities  
18 of the owner, landlord or tenant of such property pursuant to such lease  
19 or sublease agreements; (iii) servicing loan payments; (iv) furnishing  
20 property management services; and (v) providing general operational and  
21 administrative support services.

22 (b) Such subsidiary authorized by paragraph (a) of this subdivision  
23 shall be established in the form of a public benefit corporation by  
24 executing and filing with the secretary of state a certificate of incor-  
25 poration which shall identify the authority as the entity organizing  
26 such subsidiary and set forth the name of such subsidiary public benefit  
27 corporation, its duration, the location of its principal office and its  
28 corporate purposes as provided in this subdivision and which certificate

1 may be amended from time to time by the filing of amendments thereto  
2 with the secretary of state. Such subsidiary shall be organized as a  
3 public benefit corporation, shall be a body politic and corporate, and  
4 shall have all the privileges, immunities, tax exemptions and other  
5 exemptions of the authority. The members of such subsidiary shall be the  
6 same as the members of the authority and the provisions of subdivision  
7 two of section sixteen hundred ninety-one of this title shall in all  
8 respects apply to such members when acting in such capacity.

9 (c) Nothing in this subdivision shall be construed to impose any  
10 liabilities, obligations, or responsibilities of such subsidiary upon  
11 the authority and the authority shall have no liability or responsibil-  
12 ity therefor unless the authority expressly agrees to assume the same.

13 (d) Such subsidiary created pursuant to this subdivision shall be  
14 subject to any other provision of this chapter pertaining to subsid-  
15 aries of public authorities.

16 § 4. Paragraph (b) of subdivision 2 of section 1676 of the public  
17 authorities law is amended by adding three undesignated paragraphs to  
18 read as follows:

19 the office of cannabis management.

20 the cannabis control board.

21 any private debt or equity fund in which the state or any state agen-  
22 cy, public authority or public benefit corporation, or division thereof,  
23 has invested and is formed for the limited purpose of funding the fixed  
24 capital costs associated with establishing adult-use cannabis retail  
25 dispensaries for operation by social and economic equity applicants duly  
26 licensed pursuant to article four of the cannabis law.

27 § 5. Subdivision 1 of section 1680 of the public authorities law is  
28 amended by adding three undesignated paragraphs to read as follows:

1 the office of cannabis management.  
2 the cannabis control board.  
3 any private debt or equity fund in which the state or any agency,  
4 authority or division thereof has invested and is formed for the limited  
5 purpose of funding the fixed capital costs associated with establishing  
6 adult-use cannabis retail dispensaries for operation by social and  
7 economic equity applicants, duly licensed pursuant to article four of  
8 the cannabis law.  
9 § 6. This act shall take effect immediately.

10 PART JJ

11 Section 1. Subdivision 24-e of section 10 of the highway law, as added  
12 by section 1 of part RRR of chapter 59 of the laws of 2019, is amended  
13 to read as follows:

14 24-e. The commissioner of transportation is hereby authorized to enter  
15 into an agreement with any fiber optic utility for use and occupancy of  
16 the state right of way for the purposes of installing, modifying, relo-  
17 cating, repairing, operating, or maintaining fiber optic facilities.  
18 Such agreement may include a fee for use and occupancy of the right of  
19 way, provided, however, such fee shall not be greater than fair market  
20 value. Any provider using or occupying a right of way in fulfillment of  
21 a state grant award through either the New NY Broadband Program or any  
22 successor office shall not be subject to a fee for such use or occupan-  
23 cy. Such exemption shall be applied to the entirety of an award recipi-  
24 ent's built footprint, and no portion of such footprint, notwithstanding  
25 current status as it relates to access to broadband and other connectiv-

1 ity infrastructure, shall be subject to a fee for use and occupancy. Any  
2 fee for use or occupancy charged to a fiber optic utility shall not be  
3 passed through in whole or in part as a fee, charge, increased service  
4 cost, or by any other means by a fiber optic utility to any person or  
5 entity that contracts with such fiber optic utility for service. Any  
6 compensation received by the state pursuant to such agreement shall be  
7 deposited by the comptroller into the special obligation reserve and  
8 payment account of the dedicated highway and bridge trust fund estab-  
9 lished pursuant to section eighty-nine-b of the state finance law. Noth-  
10 ing herein shall impair, inhibit, or otherwise affect the ability of any  
11 municipality to regulate zoning, land use, or any other power or author-  
12 ity granted under the law. For purposes of this subdivision, "munici-  
13 pality" shall include a county, city, village, or town.

14 § 2. Section 7 of the transportation corporations law, as added by  
15 section 2 of part RRR of chapter 59 of the laws of 2019, is amended to  
16 read as follows:

17 § 7. Agreement for fiber optic utility use and occupancy of state  
18 right of way. The commissioner of transportation is hereby authorized to  
19 enter into an agreement with any fiber optic utility for use and occu-  
20 pancy of the state right of way for the purposes of installing, modify-  
21 ing, relocating, repairing, operating, or maintaining fiber optic facil-  
22 ities. Such agreement may include a fee for use and occupancy of the  
23 right of way, provided, however, such fee shall not be greater than fair  
24 market value. Any provider using or occupying a right of way in fulfill-  
25 ment of a state grant award through either the New NY Broadband Program  
26 or any successor office shall not be subject to a fee for such use or  
27 occupancy. Such exemption shall be applied to the entirety of an award  
28 recipient's built footprint, and no portion of such footprint, notwith-

1 standing current status as it relates to access to broadband and other  
2 connectivity infrastructure, shall be subject to a fee for use and occu-  
3 pancy. Any fee for use or occupancy charged to a fiber optic utility  
4 shall not be passed through in whole or in part as a fee, charge,  
5 increased service cost, or by any other means by a fiber optic utility  
6 to any person or entity that contracts with such fiber optic utility for  
7 service. Any compensation received by the state pursuant to such agree-  
8 ment shall be deposited by the comptroller into the special obligation  
9 reserve and payment account of the dedicated highway and bridge trust  
10 fund established pursuant to section eighty-nine-b of the state finance  
11 law. Nothing herein shall impair, inhibit, or otherwise affect the abil-  
12 ity of any municipality to regulate zoning, land use, or any other power  
13 or authority granted under the law. For purposes of this section, "muni-  
14 cipality" shall include a county, city, village, or town.

15 § 3. This act shall take effect immediately; provided that the amend-  
16 ments to subdivision 24-e of section 10 of the highway law and section 7  
17 of the transportation corporations law made by this act shall not affect  
18 the repeal of such subdivision and section and shall expire and be  
19 deemed repealed therewith.

20 PART KK

21 Section 1. Subdivision 2 of section 27-1207 of the environmental  
22 conservation law, as amended by section 7 of part AA of chapter 58 of  
23 the laws of 2018, is amended to read as follows:

24 2. [The] Appropriations for the solid waste mitigation program [shall  
25 receive no more than twenty-five million dollars] from the clean water  
26 infrastructure act of 2017 [and] shall be made available to the depart-

1 ment and the department of health, as applicable, for the following  
2 purposes:

- 3 a. enumeration and assessment of solid waste sites;
- 4 b. investigation and environmental characterization of solid waste  
5 sites, including environmental sampling;
- 6 c. mitigation and remediation of solid waste sites;
- 7 d. monitoring of solid waste sites; and
- 8 e. administration and enforcement of the requirements of section  
9 27-1203 of this title.

10 § 2. This act shall take effect immediately.

11 PART LL

12 Section 1. Section 27-1405 of the environmental conservation law is  
13 amended by adding three new subdivisions 32, 33 and 34 to read as  
14 follows:

15 32. "Conforming BOA site" shall mean a site located within an area  
16 designated by the secretary of state as a brownfield opportunity area  
17 pursuant to section nine hundred seventy-r of the general municipal law  
18 and for which the secretary of state has issued an affirmative conform-  
19 ance determination pursuant to subdivision ten of such section.

20 33. "Disadvantaged community" shall mean a community that is identi-  
21 fied pursuant to section 75-0111 of this chapter.

22 34. "Renewable energy facility site" shall mean real property: (a)  
23 that is primarily used for any renewable energy system, as defined in  
24 section sixty-six-p of the public service law; (b) any co-located system  
25 storing energy generated from such a renewable energy system prior to  
26 delivering it to the bulk transmission, sub-transmission, or distrib-

1 ution system; or (c) any standalone system storing energy interconnected  
2 into New York's bulk transmission system or an Investor Owned Utility's  
3 (IOU) transmission or distribution system providing distribution  
4 services, wholesale market energy, ancillary services, and/or capacity  
5 services, including all associated appurtenances to electric plants as  
6 defined under section two of the public service law.

7 § 2. The opening paragraph of subdivision 1-a of section 27-1407 of  
8 the environmental conservation law, as added by section 3 of part BB of  
9 chapter 56 of the laws of 2015, is amended to read as follows:

10 If the person is also seeking a determination that the site is eligi-  
11 ble for the tangible property credit component of the brownfield rede-  
12 velopment tax credit pursuant to paragraph three of subdivision (a) of  
13 section twenty-one of the tax law for a site located in a city having a  
14 population of one million or more, such person shall submit information  
15 sufficient to demonstrate that: (a) at least half of the site area is  
16 located in an environmental zone as defined in section twenty-one of the  
17 tax law; (b) the property is upside down or underutilized; [or] (c) the  
18 project is an affordable housing project; (d) the project is a conform-  
19 ing BOA site; or (e) the project is being developed as a renewable ener-  
20 gy facility site. An applicant may request an eligibility determination  
21 for tangible property credits at any time from application until the  
22 site receives a certificate of completion pursuant to section 27-1419 of  
23 this title except for sites seeking eligibility under the underutilized  
24 category.

25 § 3. Section 27-1409 of the environmental conservation law is amended  
26 by adding a new subdivision 13 to read as follows:

27 13. After acceptance by the department, an executed brownfield cleanup  
28 agreement shall be submitted and returned to the department with payment



1 of a nonrefundable program fee in the amount of fifty thousand dollars,  
2 which shall be deposited to the credit of the oversight and assistance  
3 account of the hazardous waste remedial fund pursuant to section nine-  
4 ty-seven-b of the state finance law. The department may reduce or waive  
5 such fee upon a demonstration of financial hardship by the applicant.  
6 Program fees shall not qualify for any of the tax credits available for  
7 brownfield sites under sections twenty-one, twenty-two, and twenty-three  
8 of the tax law.

9 § 4. Paragraph 2 of subdivision (a) of section 21 of the tax law, as  
10 amended by section 1 of part H of chapter 577 of the laws of 2004, is  
11 amended to read as follows:

12 (2) Site preparation credit component. The site preparation credit  
13 component shall be equal to the applicable percentage of the site prepa-  
14 ration costs paid or incurred by the taxpayer with respect to a quali-  
15 fied site. The credit component amount so determined with respect to a  
16 site's qualification for a certificate of completion shall be allowed  
17 for the taxable year in which the effective date of the certificate of  
18 completion occurs. The credit component amount determined other than  
19 with respect to such qualification shall be allowed for the taxable year  
20 in which the improvement to which the applicable costs apply is placed  
21 in service for up to five taxable years after the issuance of such  
22 certificate of completion; provided, however, that for any qualified  
23 site to which a certificate of completion is issued on or after March  
24 twentieth, two thousand fifteen but on or before June twenty-fourth, two  
25 thousand twenty-one, the site preparation credit component for such  
26 costs shall be allowed for up to seven taxable years after the issuance  
27 of such certificate of completion.

1 § 5. Paragraph 4 of subdivision (a) of section 21 of the tax law, as  
2 amended by section 1 of part H of chapter 577 of the laws of 2004, is  
3 amended to read as follows:

4 (4) On-site groundwater remediation credit component. The on-site  
5 groundwater remediation credit component shall be equal to the applica-  
6 ble percentage of the on-site groundwater remediation costs paid or  
7 incurred by the taxpayer with respect to a qualified site (to the extent  
8 that such groundwater remediation costs are not included in the determi-  
9 nation of the site preparation credit or the cost or other basis  
10 included in the determination of the tangible property credit). The  
11 credit component so determined for costs incurred and paid with respect  
12 to and prior to the issuance of a certificate of completion shall be  
13 allowed for the taxable year in which the effective date of the issuance  
14 of a certificate of completion occurs. The credit component amount  
15 determined in taxable years after the effective date of the issuance of  
16 a certificate of completion shall be allowed in the taxable year such  
17 qualified costs are incurred and paid for up to five taxable years after  
18 the issuance of such certificate of completion; provided, however, that  
19 with respect to any qualified site for which a certificate of completion  
20 has been issued on or after July first, two thousand fifteen but on or  
21 before June twenty-fourth, two thousand twenty-one, the credit component  
22 amount determined in taxable years after the effective date of the issu-  
23 ance of a certificate of completion shall be allowed in the taxable year  
24 such qualified costs are incurred and paid for up to seven taxable years  
25 after the issuance of such certificate of completion.

26 § 6. Subparagraph (B) of paragraph 5 of subdivision (a) of section 21  
27 of the tax law, as amended by section 21 of part BB of chapter 56 of the  
28 laws of 2015, is amended to read as follows:

1 (B) With respect to such qualified site for which the department of  
2 environmental conservation has issued a notice to the taxpayer on or  
3 after July first, two thousand fifteen [or the date of publication in  
4 the state register of proposed regulations defining "underutilized" as  
5 provided in subdivision thirty of section 27-1405 of the environmental  
6 conservation law, whichever shall be later], that its request for  
7 participation has been accepted under subdivision six of section 27-1407  
8 of the environmental conservation law, the applicable percentage for the  
9 tangible property credit component of the brownfield redevelopment tax  
10 credit pursuant to paragraph three of [subdivision (a) of] this  
11 [section] subdivision shall be the sum of ten percent and the following  
12 additional percentages, provided that if the sum is greater than twen-  
13 ty-four percent, the total percentage of the tangible property credit  
14 component shall be twenty-four percent and is otherwise subject to the  
15 limitations set forth in paragraphs three and three-a of [subdivision  
16 (a) of] this [section] subdivision:

17 (i) five percent for a site which:

18 (1) is located within an environmental zone; or

19 (2) is in a disadvantaged community as that term is defined in section  
20 27-1405 of the environmental conservation law for which the department  
21 of environmental conservation has issued a notice to the taxpayer on or  
22 after January first, two thousand twenty-three that its request for  
23 participation has been accepted under subdivision six of section 27-1407  
24 of the environmental conservation law;

25 (ii) five percent for a site located within a designated brownfield  
26 opportunity area and that is [developed in conformance with the goals  
27 and priorities established for that applicable brownfield opportunity

1 area] a conforming BOA site as that term is defined in section 27-1405  
2 of the environmental conservation law;

3 (iii) five percent for a site developed as affordable housing, as  
4 defined in section 27-1405 of the environmental conservation law;

5 (iv) five percent for a site to be used primarily for manufacturing  
6 activities as such term is defined in subparagraph (B) of paragraph  
7 three-a of this subdivision; [and]

8 (v) five percent for sites remediated to Track 1 as that term is  
9 defined in subdivision four of section 27-1415 of the environmental  
10 conservation law; and

11 (vi) for a qualified site for which the department of environmental  
12 conservation has issued a notice to the taxpayer on or after January  
13 first, two thousand twenty-three that its request for participation has  
14 been accepted under subdivision six of section 27-1407 of the environ-  
15 mental conservation law, five percent for sites developed as renewable  
16 energy facility sites as defined in section 27-1405 of the environmental  
17 conservation law.

18 § 7. Paragraph 2 of subdivision (b) of section 21 of the tax law, as  
19 amended by section 23 of part BB of chapter 56 of the laws of 2015, is  
20 amended to read as follows:

21 (2) Site preparation costs. The term "site preparation costs" shall  
22 mean all amounts properly chargeable to a capital account, which are  
23 paid or incurred which are necessary to implement a site's investi-  
24 gation, remediation, or qualification for a certificate of completion,  
25 and shall include costs of: excavation; demolition; activities undertak-  
26 en under the oversight of the department of labor or in accordance with  
27 standards established by the department of health to remediate and  
28 dispose of regulated materials including asbestos, lead or polychlori-

1 nated biphenyls; environmental consulting; engineering; legal costs;  
2 transportation, disposal, treatment or containment of contaminated soil;  
3 remediation measures taken to address contaminated soil vapor; cover  
4 systems consistent with applicable regulations; physical support of  
5 excavation; dewatering and other work to facilitate or enable remedi-  
6 ation activities; sheeting, shoring, and other engineering controls  
7 required to prevent off-site migration of contamination from the quali-  
8 fied site or migrating onto the qualified site; and the costs of fenc-  
9 ing, temporary electric wiring, scaffolding, and security facilities  
10 until such time as the certificate of completion has been issued. Site  
11 preparation shall include all costs paid or incurred within sixty months  
12 after the last day of the tax year in which the certificate of  
13 completion is issued that are necessary for compliance with the certif-  
14 icate of completion or subsequent modifications thereof, or the remedial  
15 program defined in such certificate of completion including but not  
16 limited to institutional controls, engineering controls, an approved  
17 site management plan, and an environmental easement with respect to the  
18 qualified site. Provided, however, with respect to any qualified site  
19 for which a certificate of completion has been issued on or after July  
20 first, two thousand fifteen but on or before June twenty-fourth, two  
21 thousand twenty-one, site preparation costs shall include all such costs  
22 paid or incurred within eighty-four months after the last day of the tax  
23 year in which the certificate of completion is issued. Site preparation  
24 cost shall not include the costs of foundation systems that exceed the  
25 cover system requirements in the regulations applicable to the qualified  
26 site.

1 § 8. Paragraph 4 of subdivision (b) of section 21 of the tax law, as  
2 amended by section 23 of part BB of chapter 56 of the laws of 2015, is  
3 amended to read as follows:

4 (4) On-site groundwater remediation costs. The term "on-site groundwa-  
5 ter remediation costs" shall mean all amounts properly chargeable to a  
6 capital account, which are paid or incurred which are necessary to  
7 implement a site's groundwater investigation, remediation, or qualifica-  
8 tion for a certificate of completion not already covered under site  
9 preparation costs, and shall include costs of: environmental consulting;  
10 engineering; legal costs; transportation, disposal, treatment or  
11 containment of contaminated groundwater; sheeting, shoring, and other  
12 engineering controls required to prevent off-site migration of groundwa-  
13 ter contamination from the qualified site or migrating onto the quali-  
14 fied site; and the costs of fencing, temporary electric wiring and secu-  
15 rity facilities until such time as the certificate of completion is  
16 issued. On-site groundwater remediation costs shall include all costs  
17 paid or incurred within sixty months after the last day of the tax year  
18 in which the certificate of completion is issued that are necessary for  
19 compliance with the certificate of completion or subsequent modifica-  
20 tions thereof, or the groundwater remedial program defined in such  
21 certificate of completion including but not limited to institutional  
22 controls, engineering controls, an approved site management plan specif-  
23 ic to on-site groundwater remediation, and an environmental easement  
24 with respect to the qualified site. Provided, however, with respect to  
25 any qualified site for which a certificate of completion has been issued  
26 on or after July first, two thousand fifteen but on or before June twen-  
27 ty-fourth, two thousand twenty-one, on-site groundwater remediation  
28 costs shall include all such costs paid or incurred within eighty-four

1 months after the last day of the tax year in which the certificate of  
2 completion is issued.

3 § 9. Section 31 of part H of chapter 1 of the laws of 2003, amending  
4 the tax law relating to brownfield redevelopment tax credits, remediated  
5 brownfield credit for real property taxes for qualified sites and envi-  
6 ronmental remediation insurance credits, as amended by section 32 of  
7 part BB of chapter 56 of the laws of 2015, is amended to read as  
8 follows:

9 § 31. The tax credits allowed under section 22 or 23 of the tax law  
10 and the corresponding provisions in articles 9, 9-A, 22 and 33 of the  
11 tax law, as added by the provisions of sections one through twenty-nine  
12 of this act, shall not be applicable to any site accepted into the  
13 brownfield cleanup program on and after July 1, 2015 [or the date of  
14 publication in the state register of proposed regulations defining  
15 "underutilized" as provided in subdivision 30 of section 27-1405 of the  
16 environmental conservation law, whichever shall be later]. The tax cred-  
17 its allowed under section 21 of the tax law and the corresponding  
18 provisions in articles 9, 9-A, 22 and 33 of the tax law, as added by the  
19 provisions of sections one through twenty-nine of this act, shall not be  
20 applicable to any site accepted into the brownfield cleanup program  
21 after December 31, [2022] 2032, provided, however that any sites  
22 accepted on or before December 31, [2022] 2032 must have received the  
23 certificate of completion required to qualify for any of such credits on  
24 or before [March] December 31, [2026] 2036.

25 § 10. This act shall take effect immediately.

1 Section 1. Subdivision 1 and the opening paragraph of subdivision 2 of  
2 section 27-1905 of the environmental conservation law, as amended by  
3 section 1 of part E of chapter 58 of the laws of 2019, are amended to  
4 read as follows:

5 1. Until December thirty-first, two thousand [twenty-two]  
6 twenty-seven, accept from a customer, waste tires of approximately the  
7 same size and in a quantity equal to the number of new tires purchased  
8 or installed by the customer; and

9 Until December thirty-first, two thousand [twenty-two] twenty-seven,  
10 post written notice in a prominent location, which must be at least  
11 eight and one-half inches by fourteen inches in size and contain the  
12 following language:

13 § 2. Subdivisions 1, 2, 3 and paragraph (a) of subdivision 6 of  
14 section 27-1913 of the environmental conservation law, as amended by  
15 section 2 of part E of chapter 58 of the laws of 2019, are amended to  
16 read as follows:

17 1. Until December thirty-first, two thousand [twenty-two]  
18 twenty-seven, a waste tire management and recycling fee of two dollars  
19 and fifty cents shall be charged on each new tire sold. The fee shall be  
20 paid by the purchaser to the tire service at the time the new tire or  
21 new motor vehicle is purchased.

22 The waste tire management and recycling fee does not apply to:

23 (a) recapped or resold tires;

24 (b) mail-order sales; or

25 (c) the sale of new motor vehicle tires to a person solely for the  
26 purpose of resale provided the subsequent retail sale in this state is  
27 subject to such fee.



1 2. Until December thirty-first, two thousand [twenty-two]  
2 twenty-seven, the tire service shall collect the waste tire management  
3 and recycling fee from the purchaser at the time of the sale and shall  
4 remit such fee to the department of taxation and finance with the quar-  
5 terly report filed pursuant to subdivision three of this section.

6 (a) The fee imposed shall be stated as an invoice item separate and  
7 distinct from the selling price of the tire.

8 (b) The tire service shall be entitled to retain an allowance of twen-  
9 ty-five cents per tire from fees collected.

10 3. [Until March thirty-first, two thousand twenty-three, each] Each  
11 tire service maintaining a place of business in this state shall make a  
12 return to the department of taxation and finance on a quarterly basis,  
13 with the return for December, January, and February being due on or  
14 before the immediately following March thirty-first; the return for  
15 March, April, and May being due on or before the immediately following  
16 June thirtieth; the return for June, July, and August being due on or  
17 before the immediately following September thirtieth; and the return for  
18 September, October, and November being due on or before the immediately  
19 following December thirty-first.

20 (a) Each return shall include:

21 (i) the name of the tire service;

22 (ii) the address of the tire service's principal place of business and  
23 the address of the principal place of business (if that is a different  
24 address) from which the tire service engages in the business of making  
25 retail sales of tires;

26 (iii) the name and signature of the person preparing the return;

1 (iv) the total number of new tires sold at retail for the preceding  
2 quarter and the total number of new tires placed on motor vehicles prior  
3 to original retail sale;

4 (v) the amount of waste tire management and recycling fees due; and

5 (vi) such other reasonable information as the department of taxation  
6 and finance may require.

7 (b) Copies of each report shall be retained by the tire service for  
8 three years.

9 If a tire service ceases business, it shall file a final return and  
10 remit all fees due under this title with the department of taxation and  
11 finance not more than one month after discontinuing that business.

12 (a) Until December thirty-first, two thousand [twenty-two] twenty-sev-  
13 en, any additional waste tire management and recycling costs of the tire  
14 service in excess of the amount authorized to be retained pursuant to  
15 paragraph (b) of subdivision two of this section may be included in the  
16 published selling price of the new tire, or charged as a separate per-  
17 tire charge on each new tire sold. When such costs are charged as a  
18 separate per-tire charge: (i) such charge shall be stated as an invoice  
19 item separate and distinct from the selling price of the tire; (ii) the  
20 invoice shall state that the charge is imposed at the sole discretion of  
21 the tire service; and (iii) the amount of such charge shall reflect the  
22 actual cost to the tire service for the management and recycling of  
23 waste tires accepted by the tire service pursuant to section 27-1905 of  
24 this title, provided however, that in no event shall such charge exceed  
25 two dollars and fifty cents on each new tire sold.

26 § 3. Subdivision 3 of section 27-1913 of the environmental conserva-  
27 tion law, as amended by section two of this act, is amended to read as  
28 follows:

1 3. Each tire service maintaining a place of business in this state  
2 shall make a return to the department of taxation and finance [on a  
3 quarterly basis, with the return for December, January, and February  
4 being due on or before the immediately following March thirty-first; the  
5 return for March, April, and May being due on or before the immediately  
6 following June thirtieth; the return for June, July, and August being  
7 due on or before the immediately following September thirtieth; and the  
8 return for September, October, and November being due on or before the  
9 immediately following December thirty-first.

10 (a) Each return shall include:

11 (i) the name of the tire service;

12 (ii) the address of the tire service's principal place of business and  
13 the address of the principal place of business (if that is a different  
14 address) from which the tire service engages in the business of making  
15 retail sales of tires;

16 (iii) the name and signature of the person preparing the return;

17 (iv) the total number of new tires sold at retail for the preceding  
18 quarter and the total number of new tires placed on motor vehicles prior  
19 to original retail sale;

20 (v) the amount of waste tire management and recycling fees due; and

21 (vi) such other reasonable information as the department of taxation  
22 and finance may require.

23 (b) Copies of each report shall be retained by the tire service for  
24 three years.

25 If a tire service ceases business, it shall file a final return and  
26 remit all fees due under this title with the department of taxation and  
27 finance not more than one month after discontinuing that business] on  
28 such form and including such information as the commissioner of taxation

1 and finance may require. Such returns shall be due at the same time and  
2 for the same periods as the sales tax return of such tire service, in  
3 accordance with section eleven hundred thirty-six of the tax law, and  
4 payment of all fees due for such periods shall be remitted with such  
5 returns.

6 § 4. Subdivision 5 of section 27-1913 of the environmental conserva-  
7 tion law, as added by section 2 of part E of chapter 686 of the laws of  
8 2003, is amended to read as follows:

9 5. (a) The provisions of article [twenty-seven] twenty-eight of the  
10 tax law, including the provisions relating to definitions, exemptions,  
11 returns, personal liability for the tax, collection of tax from the  
12 customer, payment of tax and the administration of the tax imposed,  
13 shall apply to the provisions of this section in the same manner and  
14 with the same force and effect as if the language of such article had  
15 been incorporated in full into this section and had expressly referred  
16 to the fee under this section, except to the extent that any provision  
17 of such article is either inconsistent with a provision of this section  
18 or is not relevant to this section. For purposes of this section, any  
19 reference to a tax or the taxes imposed by article twenty-eight of the  
20 tax law shall be deemed also to refer to the waste tire management and  
21 recycling fee imposed under the authority of this section unless a  
22 different meaning is clearly required.

23 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-  
24 sion, the exemptions provided in section eleven hundred sixteen of the  
25 tax law shall not apply to this section except with respect to the enti-  
26 ties described in paragraphs one, two, three and six of subdivision (a)  
27 of such section.

1 § 5. This act shall take effect immediately; provided that sections  
2 three and four of this act shall take effect on March 1, 2023; provided,  
3 further, that the return for the quarterly period ending on the last day  
4 of February, 2023 shall be due on March 31, 2023, and any fees required  
5 to be collected and paid for such period must be remitted with such  
6 return.

7 PART NN

8 Section 1. Sections 1, 2, and 3 of section 1 and section 2 of part TT  
9 of chapter 59 of the laws of 2021 authorizing the creation of state debt  
10 in the amount of three billion dollars, in relation to creating the  
11 environmental bond act of 2022 "restore mother nature" for the purposes  
12 of environmental improvements that preserve, enhance, and restore New  
13 York's natural resources and reduce the impact of climate change; and  
14 providing for the submission to the people of a proposition or question  
15 therefor to be voted upon at the general election to be held in Novem-  
16 ber, 2022, are amended to read as follows:

17 § 1. Short title. This act shall be known and may be cited as the  
18 "clean water, clean air, and green jobs environmental bond act of 2022  
19 [restore mother nature]".

20 § 2. Creation of state debt. The creation of state debt in an amount  
21 not exceeding in the aggregate [three] four billion dollars  
22 [(\$3,000,000,000)] (\$4,000,000,000) is hereby authorized to provide  
23 moneys for the single purpose of making environmental improvements that  
24 preserve, enhance, and restore New York's natural resources and reduce  
25 the impact of climate change by funding capital projects for: restora-  
26 tion and flood risk reduction not less than one billion two hundred

1 million dollars [(\$1,000,000,000)] (\$1,200,000,000); open space land  
2 conservation and recreation up to [five] six hundred fifty million  
3 dollars [(\$550,000,000)] (\$650,000,000); climate change mitigation up to  
4 [seven hundred] one billion one hundred million dollars [(\$700,000,000)]  
5 (\$1,100,000,000); and, water quality improvement and resilient infras-  
6 tructure not less than [five] six hundred fifty million dollars  
7 [(\$550,000,000)] (\$650,000,000).

8 § 3. Bonds of the state. The state comptroller is hereby authorized  
9 and empowered to issue and sell bonds of the state up to the aggregate  
10 amount of [three] four billion dollars [(\$3,000,000,000)]  
11 (\$4,000,000,000) for the purposes of this act, subject to the provisions  
12 of article 5 of the state finance law. The aggregate principal amount of  
13 such bonds shall not exceed [three] four billion dollars  
14 [(\$3,000,000,000)] (\$4,000,000,000) excluding bonds issued to refund or  
15 otherwise repay bonds heretofore issued for such purpose; provided,  
16 however, that upon any such refunding or repayment, the total aggregate  
17 principal amount of outstanding bonds may be greater than [three] four  
18 billion dollars [(\$3,000,000,000)] (\$4,000,000,000) only if the present  
19 value of the aggregate debt service of the refunding or repayment bonds  
20 to be issued shall not exceed the present value of the aggregate debt  
21 service of the bonds to be refunded or repaid. The method for calculat-  
22 ing present value shall be determined by law.

23 § 2. This act shall take effect immediately, provided that the  
24 provisions of section one of this act shall not take effect unless and  
25 until this act shall have been submitted to the people at the general  
26 election to be held in November 2022 and shall have been approved by a  
27 majority of all votes cast for and against it at such general election.  
28 Upon approval by the people, section one of this act shall take effect

1 immediately. The ballots to be furnished for the use of voters upon  
2 submission of this act shall be in the form prescribed by the election  
3 law and the proposition or question to be submitted shall be printed  
4 thereon in the following form, namely "To address and combat the impact  
5 of climate change and damage to the environment, the "Clean Water, Clean  
6 Air, and Green Jobs Environmental Bond Act of 2022 ["Restore Mother  
7 Nature]" authorizes the sale of state bonds up to [three] four billion  
8 dollars to fund environmental protection, natural restoration, resilien-  
9 cy, and clean energy projects. Shall the Environmental Bond Act of 2022  
10 be approved?".

11 § 2. This act shall take effect immediately.

12 PART OO

13 Section 1. The article heading of article 58 of the environmental  
14 conservation law, as added by section 1 of part UU of chapter 59 of the  
15 laws of 2021, is amended to read as follows:

16 IMPLEMENTATION OF THE ENVIRONMENTAL BOND ACT OF 2022 "[RESTORE MOTHER  
17 NATURE] CLEAN WATER, CLEAN AIR, AND GREEN JOBS"

18 § 2. Subdivision 1 of section 58-0101 of the environmental conserva-  
19 tion law, as added by section 1 of part UU of chapter 59 of the laws of  
20 2021, is amended to read as follows:

21 1. "Bonds" shall mean general obligation bonds issued pursuant to the  
22 environmental bond act of 2022 "[restore mother nature] clean water,  
23 clean air, and green jobs" in accordance with article VII of the New  
24 York state constitution and article five of the state finance law.

1 § 3. Section 58-0103 of the environmental conservation law, as added  
2 by section 1 of part UU of chapter 59 of the laws of 2021, is amended to  
3 read as follows:

4 § 58-0103. Allocation of moneys.

5 The moneys received by the state from the sale of bonds pursuant to  
6 the environmental bond act of 2022 shall be disbursed in the following  
7 amounts pursuant to appropriations as specifically provided for in  
8 titles three, five, seven, and nine of this article:

9 1. Not less than one billion two hundred million dollars  
10 [(\$1,000,000,000)] (\$1,200,000,000) for restoration and flood risk  
11 reduction as set forth in title three of this article.

12 2. Up to [five] six hundred fifty million dollars [(\$550,000,000)]  
13 (\$650,000,000) for open space land conservation and recreation as set  
14 forth in title five of this article.

15 3. Up to [seven] one billion one hundred million dollars  
16 [(\$700,000,000)] (\$1,100,000,000) for climate change mitigation as set  
17 forth in title seven of this article.

18 4. Not less than [five] six hundred fifty million dollars  
19 [(\$550,000,000)] (\$650,000,000) for water quality improvement and resil-  
20 ient infrastructure as set forth in title nine of this article.

21 § 4. Subdivision 1 of section 58-0105 of the environmental conserva-  
22 tion law, as added by section 1 of part UU of chapter 59 of the laws of  
23 2021, is amended to read as follows:

24 1. Administer funds generated pursuant to the environmental bond act  
25 of 2022 "[restore mother nature] clean water, clean air, and green  
26 jobs".



1 § 5. Section 58-0301 of the environmental conservation law, as added  
2 by section 1 of part UU of chapter 59 of the laws of 2021, is amended to  
3 read as follows:

4 § 58-0301. Allocation of moneys.

5 Of the moneys received by the state from the sale of bonds pursuant to  
6 the environmental bond act of 2022, not less than one billion two  
7 hundred million dollars [(\$1,000,000,000)] (\$1,200,000,000) shall be  
8 available for disbursements for restoration and flood risk reduction  
9 projects developed pursuant to section 58-0303 of this title. Not more  
10 than two hundred fifty million dollars (\$250,000,000) of this amount  
11 shall be available for projects pursuant to subdivision two of section  
12 58-0303 of this title and not less than one hundred million dollars  
13 (\$100,000,000) each shall be available for coastal rehabilitation and  
14 shoreline restoration projects and projects which address inland flood-  
15 ing, pursuant to paragraph a of subdivision one of section 58-0303 of  
16 this title.

17 § 6. Section 58-0501 of the environmental conservation law, as added  
18 by section 1 of part UU of chapter 59 of the laws of 2021, is amended to  
19 read as follows:

20 § 58-0501. Allocation of moneys.

21 Of the moneys received by the state from the sale of bonds pursuant to  
22 the environmental bond act of 2022 to be used for open space land  
23 conservation and recreation projects, up to [five] six hundred fifty  
24 million dollars [(\$550,000,000)] (\$650,000,000) shall be available for  
25 programs, plans, and projects developed pursuant to section 58-0503 of  
26 this title, however, not more than seventy-five million dollars  
27 (\$75,000,000) shall be made available for the creation of a fish hatch-  
28 ery, or the improvement, expansion, repair or maintenance of existing

1 fish hatcheries, not less than two hundred million dollars  
2 (\$200,000,000) shall be made available for open space land conservation  
3 projects pursuant to paragraph a of subdivision one of section 58-0503  
4 of this title and not less than one hundred million dollars  
5 (\$100,000,000) shall be made available for farmland protection pursuant  
6 to paragraph b of subdivision one of section 58-0503 of this title.

7 § 7. Section 58-0701 of the environmental conservation law, as added  
8 by section 1 of part UU of chapter 59 of the laws of 2021, is amended to  
9 read as follows:

10 § 58-0701. Allocation of moneys.

11 Of the moneys received by the state from the sale of bonds pursuant to  
12 the environmental bond act of 2022, up to [seven] one billion one  
13 hundred million dollars [(\$700,000,000)] (\$1,100,000,000) shall be made  
14 available for disbursements for climate change mitigation projects  
15 developed pursuant to section 58-0703 of this title. Not less than three  
16 hundred fifty million dollars (\$350,000,000) of this amount shall be  
17 available for green buildings projects.

18 § 8. Section 58-0901 of the environmental conservation law, as added  
19 by section 1 of part UU of chapter 59 of the laws of 2021, is amended to  
20 read as follows:

21 § 58-0901. Allocation of moneys.

22 Of the moneys received by the state from the sale of bonds pursuant to  
23 the environmental bond act of 2022 for disbursements for state assist-  
24 ance for water quality improvement projects as defined by title one of  
25 this article, not less than [five] six hundred fifty million dollars  
26 [(\$550,000,000)] (\$650,000,000) shall be available for water quality  
27 improvement projects developed pursuant to section 58-0903 of this  
28 title. Not less than two hundred million dollars (\$200,000,000) of this

1 amount shall be available for wastewater infrastructure projects under-  
2 taken pursuant to the New York state water infrastructure improvement  
3 act of 2017 pursuant to paragraph e of subdivision one of section  
4 58-0903 of this title, and not less than one hundred million dollars  
5 (\$100,000,000) shall be available for municipal stormwater projects  
6 pursuant to paragraph a of subdivision one of section 58-0903 of this  
7 title.

8 § 9. Subdivision 1 of section 58-1103 of the environmental conserva-  
9 tion law, as added by section 1 of part UU of chapter 59 of the laws of  
10 2021, is amended to read as follows:

11 1. No later than sixty days following the end of each fiscal year,  
12 each department, agency, public benefit corporation, and public authori-  
13 ty receiving an allocation or allocations of appropriation financed from  
14 the [restore mother nature] clean water, clean air, and green jobs envi-  
15 ronmental bond act of 2022 shall submit to the commissioner in a manner  
16 and form prescribed by the department, the following information as of  
17 March thirty-first of such fiscal year, within each category listed in  
18 this title: the total appropriation; total commitments; year-to-date  
19 disbursements; remaining uncommitted balances; and a description of each  
20 project.

21 § 10. Section 97-tttt of the state finance law, as added by section 2  
22 of part UU of chapter 59 of the laws of 2021, is amended to read as  
23 follows:

24 § 97-tttt. [Restore mother nature] Clean water, clean air, and green  
25 jobs bond fund. 1. There is hereby established in the joint custody of  
26 the state comptroller and the commissioner of taxation and finance a  
27 special fund to be known as the "[restore mother nature] clean water,  
28 clean air, and green jobs bond fund".

1 2. The state comptroller shall deposit into the [restore mother  
2 nature] clean water, clean air, and green jobs bond fund all moneys  
3 received by the state from the sale of bonds and/or notes for uses  
4 eligible pursuant to section four of the environmental bond act of 2022  
5 "[restore mother nature] clean water, clean air, and green jobs".

6 3. Moneys in the [restore mother nature] clean water, clean air, and  
7 green jobs bond fund, following appropriation by the legislature and  
8 allocation by the director of the budget, shall be available only for  
9 reimbursement of expenditures made from appropriations from the capital  
10 projects fund for the purpose of the [restore mother nature] clean  
11 water, clean air, and green jobs bond fund, as set forth in the environ-  
12 mental bond act of 2022 "[restore mother nature] clean water, clean air,  
13 and green jobs".

14 4. No moneys received by the state from the sale of bonds and/or notes  
15 sold pursuant to the environmental bond act of 2022 "[restore mother  
16 nature] clean water, clean air, and green jobs" shall be expended for  
17 any project until funds therefor have been allocated pursuant to the  
18 provisions of this section and copies of the appropriate certificates of  
19 approval filed with the chair of the senate finance committee, the chair  
20 of the assembly ways and means committee and the state comptroller.

21 § 11. Subdivision 32 of section 61 of the state finance law, as added  
22 by section 3 of part UU of chapter 59 of the laws of 2021, is amended to  
23 read as follows:

24 32. Thirty years. For the payment of "[restore mother nature] clean  
25 water, clean air, and green jobs" projects, as defined in article  
26 fifty-eight of the environmental conservation law and undertaken pursu-  
27 ant to a chapter of the laws of two thousand twenty-one, enacting and  
28 constituting the environmental bond act of 2022 "[restore mother nature]

1 clean water, clean air, and green jobs". Thirty years for flood control  
2 infrastructure, other environmental infrastructure, wetland and other  
3 habitat restoration, water quality projects, acquisition of land,  
4 including acquisition of real property, and renewable energy projects.  
5 Notwithstanding the foregoing, for the purposes of calculating annual  
6 debt service, the state comptroller shall apply a weighted average peri-  
7 od of probable life of [restore mother nature] clean water, clean air,  
8 and green jobs projects, including any other works or purposes to be  
9 financed with state debt. Weighted average period of probable life shall  
10 be determined by computing the sum of the products derived from multi-  
11 plying the dollar value of the portion of the debt contracted for each  
12 work or purpose (or class of works or purposes) by the probable life of  
13 such work or purpose (or class of works or purposes) and dividing the  
14 resulting sum by the dollar value of the entire debt after taking into  
15 consideration any original issue premium or discount.

16 § 12. Section 5 of part UU of chapter 59 of the laws of 2021 amending  
17 the environmental conservation law and the state finance law relating to  
18 the implementation of the environmental bond act of 2022 "restore mother  
19 nature", is amended to read as follows:

20 § 5. This act shall take effect only in the event that section 1 of  
21 part TT of the chapter of the laws of 2021 enacting the environmental  
22 bond act of 2022 "[restore mother nature] clean water, clean air, and  
23 green jobs" is submitted to the people at the general election to be  
24 held in November 2022 and is approved by a majority of all votes cast  
25 for and against it at such election. Upon such approval, this act shall  
26 take effect immediately; provided that the commissioner of environmental  
27 conservation shall notify the legislative bill drafting commission upon  
28 the occurrence of the enactment of section 1 of part TT of the chapter

1 of the laws of 2021 enacting the environmental bond act of 2022  
2 "[restore mother nature] clean water, clean air, and green jobs", in  
3 order that the commission may maintain an accurate and timely effective  
4 data base of the official text of the laws of the state of New York in  
5 furtherance of effectuating the provisions of section 44 of the legisla-  
6 tive law and section 70-b of the public officers law. Effective imme-  
7 diately, the addition, amendment, and/or repeal of any rule or regu-  
8 lation necessary for the implementation of the foregoing sections of  
9 this act are authorized [and directed] to be made and completed on or  
10 before such effective date.

11 § 13. This act shall take effect immediately; provided, however that  
12 sections one, two, three, four, five, six, seven, eight, nine, ten and  
13 eleven of this act shall take effect on the same date and in the same  
14 manner as part UU of chapter 59 of the laws of 2021, takes effect.

15 PART PP

16 Section 1. Subdivision (a) of section 1421 of the tax law, as amended  
17 by section 4 of part 000 of chapter 59 of the laws of 2019, is amended  
18 to read as follows:

19 (a) From the taxes, interest and penalties attributable to the tax  
20 imposed pursuant to section fourteen hundred two of this article, the  
21 amount of one hundred ninety-nine million three hundred thousand dollars  
22 shall be deposited by the comptroller in the environmental protection  
23 fund established pursuant to section ninety-two-s of the state finance  
24 law for the fiscal year beginning April first, two thousand nine; the  
25 amount of one hundred nineteen million one hundred thousand dollars  
26 shall be deposited in such fund for the fiscal year beginning April

1 first, two thousand ten; the amount of two hundred fifty-seven million  
2 three hundred fifty thousand dollars shall be deposited into such fund  
3 for the fiscal year beginning April first, two thousand twenty-two; and  
4 for each fiscal year thereafter. On or before June twelfth, nineteen  
5 hundred ninety-five and on or before the twelfth day of each month ther-  
6 eafter (excepting the first and second months of each fiscal year), the  
7 comptroller shall deposit into such fund from the taxes, interest and  
8 penalties collected pursuant to such section fourteen hundred two of  
9 this article which have been deposited and remain to the comptroller's  
10 credit in the banks, banking houses or trust companies referred to in  
11 section one hundred seventy-one-a of this chapter at the close of busi-  
12 ness on the last day of the preceding month, an amount equal to one-  
13 tenth of the annual amount required to be deposited in such fund pursu-  
14 ant to this section for the fiscal year in which such deposit is  
15 required to be made. In the event such amount of taxes, interest and  
16 penalties so remaining to the comptroller's credit is less than the  
17 amount required to be deposited in such fund by the comptroller, an  
18 amount equal to the shortfall shall be deposited in such fund by the  
19 comptroller with subsequent deposits, as soon as the revenue is avail-  
20 able. Beginning April first, nineteen hundred ninety-seven, the comp-  
21 troller shall transfer monthly to the clean water/clean air fund estab-  
22 lished pursuant to section ninety-seven-bbb of the state finance law,  
23 all moneys remaining from such taxes, interest and penalties collected  
24 that are not required for deposit in the environmental protection fund.

25 § 2. This act shall take effect immediately.

1 Section 1. Subdivisions 2, 3 and 7 of section 24-0105 of the environ-  
2 mental conservation law, as added by chapter 614 of the laws of 1975,  
3 subdivision 7 as renumbered by chapter 654 of the laws of 1977, are  
4 amended to read as follows:

5 2. Considerable acreage of freshwater wetlands in the state of New  
6 York has been lost, despoiled or impaired by unregulated draining,  
7 dredging, filling, excavating, building, pollution or other [acts]  
8 activities inconsistent with the natural uses of such areas. [Other  
9 freshwater] Freshwater wetlands are in jeopardy of being lost, despoiled  
10 or impaired by such [unrelated acts] activities.

11 3. Recurrent flooding aggravated or caused by the loss of freshwater  
12 wetlands has serious effects upon natural ecosystems and communities.  
13 The increasing severity and duration of storm-related flooding due to  
14 climate change, which has caused billions of dollars of property damage  
15 across the state, makes protection of all freshwater wetlands in the  
16 state of vital importance.

17 7. Any loss of freshwater wetlands deprives the people of the state of  
18 some or all of the many and multiple benefits to be derived from  
19 wetlands, to wit:

20 (a) flood and storm control by the hydrologic absorption and storage  
21 capacity of freshwater wetlands;

22 (b) wildlife habitat by providing breeding, nesting and feeding  
23 grounds and cover for many forms of wildlife, wildfowl and shorebirds,  
24 including migratory wildfowl and rare, endangered or threatened species  
25 [such as the bald eagle and osprey];

26 (c) protection of subsurface water resources and provision for valu-  
27 able watersheds and recharging ground water supplies;



1 (d) recreation by providing areas for hunting, fishing, boating,  
2 hiking, bird watching, photography, camping and other uses;

3 (e) pollution treatment by serving as biological and chemical oxida-  
4 tion basins;

5 (f) erosion control by serving as sedimentation areas and filtering  
6 basins, absorbing silt and organic matter and protecting channels and  
7 harbors;

8 (g) education and scientific research by providing readily accessible  
9 outdoor bio-physical laboratories, living classrooms and vast training  
10 and education resources; [and]

11 (h) open space and aesthetic appreciation by providing often the only  
12 remaining open areas along crowded river fronts and coastal Great Lakes  
13 regions; [and]

14 (i) sources of nutrients in freshwater food cycles and nursery grounds  
15 and sanctuaries for freshwater fish[.];

16 (j) supporting a diversity of plant species that are rare, endangered  
17 or threatened, or exploitably vulnerable as defined in section 9-1503 of  
18 this chapter; and

19 (k) supporting a diversity of communities of plants and animals that  
20 are deemed by the commissioner to be rare in the state or in a region of  
21 the state.

22 § 2. The opening paragraph and paragraphs (c) and (d) of subdivision  
23 1, and subdivisions 2, 3 and 8 of section 24-0107 of the environmental  
24 conservation law, as amended by chapter 654 of the laws of 1977, are  
25 amended and two new subdivisions 9 and 10 are added to read as follows:

26 "Freshwater wetlands" means lands and waters of the state [as shown on  
27 the freshwater wetlands map] that have an area of at least twelve and  
28 four-tenths acres or, if less than twelve and four-tenths acres in size,

1 are of unusual importance, and which contain any or all of the follow-  
2 ing:

3 (c) lands and waters substantially enclosed by aquatic or semi-aquatic  
4 vegetation as set forth in paragraph (a) of this subdivision or by dead  
5 vegetation as set forth in paragraph (b) of this subdivision, the regu-  
6 lation of which is necessary to protect and preserve the aquatic and  
7 semi-aquatic vegetation; and

8 (d) the waters overlying the areas set forth in paragraphs (a) and (b)  
9 of this subdivision and the lands underlying paragraph (c) of this  
10 subdivision.

11 2. "Freshwater wetlands map" shall mean a map promulgated by the  
12 department pursuant to section 24-0301 of this article on which are  
13 indicated the boundaries of any freshwater wetlands. Freshwater wetland  
14 maps depict the approximate location of wetlands and are not necessarily  
15 determinative as to whether a permit is required pursuant to section  
16 24-0701 of this article. There is a rebuttable presumption that mapped  
17 and unmapped areas meeting the definition of a freshwater wetland in  
18 this section are regulated and subject to permit requirements. This  
19 presumption may be rebutted by presenting information to the department  
20 that the area does not meet the definition contained in this section. A  
21 wetland delineation by the department, or a verification by the depart-  
22 ment of a wetland delineation by another party, is required to identify  
23 the regulated freshwater wetland boundary in a particular location.

24 3. "Boundaries of a freshwater wetland" shall mean the outer limit of  
25 the vegetation specified in paragraphs (a) and (b) of subdivision one of  
26 this section [24-0107] and of the lands and waters specified in para-  
27 graph (c) of such subdivision.

1 8. "Pollution" shall mean the presence in the environment of [man-in-  
2 duced] human-induced conditions, or contaminants in quantities or char-  
3 acteristics which are or may be injurious to human, plant or wildlife,  
4 or other animal life or to property.

5 9. "Unusual importance" shall mean a freshwater wetland, regardless of  
6 size, that possesses one or more of the following characteristics as  
7 determined by the department:

8 (a) it is located in a watershed that has experienced significant  
9 flooding in the past, or is expected to experience significant flooding  
10 in the future from severe storm events related to climate change;

11 (b) it is located within an urbanized area, as defined by the United  
12 States census bureau;

13 (c) it contains a plant species occurring in fewer than thirty-five  
14 sites statewide or having fewer than five thousand individuals state-  
15 wide;

16 (d) it contains habitat for an essential behavior of an endangered or  
17 threatened species or a species of special concern as defined under  
18 section 11-0535 of this chapter or listed as a species of greatest  
19 conservation need in New York's wildlife action plan;

20 (e) it is classified by the department as a Class I wetland;

21 (f) it was previously classified and mapped by the department as a  
22 wetland of unusual local importance; or

23 (g) it is determined by the commissioner to be of significant impor-  
24 tance to protecting the state's water quality.

25 10. "Delineation" shall mean a precise representation of a regulated  
26 freshwater wetland as defined in subdivisions one and three of this  
27 section.

1 § 3. Subdivisions 1, 2, 3, 4 and 5 of section 24-0301 of the environ-  
2 mental conservation law are REPEALED.

3 § 4. Subdivisions 6, 7 and 8 of section 24-0301 of the environmental  
4 conservation law, subdivision 6 as amended by chapter 16 of the laws of  
5 2010 and subdivision 7 as amended and subdivision 8 as added by chapter  
6 654 of the laws of 1977, are amended to read as follows:

7 [6.] 1. Except as provided in subdivision [eight] three of this  
8 section, the commissioner shall supervise the maintenance of [such boun-  
9 dary] freshwater wetlands maps, which shall be available to the public  
10 [for inspection and examination at the regional office of the department  
11 in which the wetlands are wholly or partly located and in the office of  
12 the clerk of each county in which each such wetland or a portion thereof  
13 is located] on the department's website. The commissioner may readjust  
14 the map [thereafter to clarify the boundaries of the wetlands, to  
15 correct any errors on the map, to effect any additions, deletions or  
16 technical changes on the map, and to reflect changes as have occurred as  
17 a result of the granting of permits pursuant to section 24-0703 of this  
18 article, or natural changes which may have occurred through erosion,  
19 accretion, or otherwise. Notice of such readjustment shall be given in  
20 the same manner as set forth in subdivision five of this section for the  
21 promulgation of final freshwater wetlands maps. In addition, at the time  
22 notice is provided pursuant to subdivision five of this section, the  
23 commissioner shall update any digital image of the map posted on the  
24 department's website to reflect such readjustment] at any time to more  
25 accurately depict the approximate location of wetlands.

26 [7.] 2. Except as provided in subdivision [eight] three of this  
27 section, the commissioner may, upon [his] their own initiative, and  
28 shall, upon a written request by a landowner whose land or a portion

1 thereof may be included within a wetland, or upon the written request of  
2 another person or persons or an official body whose interests are shown  
3 to be affected, cause to be delineated [more precisely] the boundary  
4 line or lines of a freshwater wetland or a portion thereof. [Such more  
5 precise delineation of a freshwater wetland boundary line or lines shall  
6 be of appropriate scale and sufficient clarity to permit the ready iden-  
7 tification of individual buildings and of other major man-made struc-  
8 tures or facilities or significant geographical features with respect to  
9 the boundary of any freshwater wetland.] The commissioner shall under-  
10 take to delineate the boundary of a particular wetland or wetlands, or a  
11 particular part of the boundary thereof only upon a showing by the  
12 applicant therefor of good cause for such [more precise] delineation and  
13 the establishment of such [more precise] line.

14 [8.] 3. The supervision of the maintenance of any freshwater wetlands  
15 map or portion thereof applicable to wetlands within the Adirondack  
16 park, the readjustment and precise delineation of wetland boundary lines  
17 and the other functions and duties ascribed to the commissioner by  
18 subdivisions [six and seven] one and two of this section shall be  
19 performed by the Adirondack park agency, which shall make such maps  
20 available [for public inspection and examination at its headquarters] on  
21 the agency's website.

22 § 5. Subdivisions 1 and 4 of section 24-0701 of the environmental  
23 conservation law, subdivision 1 as amended by chapter 654 of the laws of  
24 1977 and subdivision 4 as amended by chapter 697 of the laws of 1979,  
25 are amended to read as follows:

26 1. [After issuance of the official freshwater wetlands map of the  
27 state, or of any selected section or region thereof, any] Any person  
28 desiring to conduct activities on freshwater wetlands [as so designated

1 thereon any of the regulated activities set forth in subdivision two of  
2 this section], or the regulated areas adjacent to these wetlands set  
3 forth in subdivision two of this section, must obtain a permit as  
4 provided in this title.

5 4. [The] On lands in active agricultural use, the activities of farm-  
6 ers and other landowners in grazing and watering livestock, making  
7 reasonable use of water resources, harvesting natural products of the  
8 wetlands, selectively cutting timber, draining land or wetlands for  
9 growing agricultural products and otherwise engaging in the use of  
10 wetlands or other land for growing agricultural products shall be  
11 excluded from regulated activities and shall not require a permit under  
12 subdivision one [hereof] of this section, except that structures not  
13 required for enhancement or maintenance of the agricultural productivity  
14 of the land and any filling activities shall not be excluded hereunder,  
15 and provided that the use of land [designated as a freshwater wetland  
16 upon the freshwater wetlands map at the effective date thereof] that  
17 meets the definition of a freshwater wetland in section 24-0107 of this  
18 article for uses other than those referred to in this subdivision shall  
19 be subject to the provisions of this article. All activities on lands  
20 that meet the definition of a freshwater wetland shall be subject to the  
21 provisions of this article once agricultural activities cease.

22 § 6. Subdivision 5 of section 24-0703 of the environmental conserva-  
23 tion law, as amended by section 38 of part D of chapter 60 of the laws  
24 of 2012, is amended to read as follows:

25 5. [Prior to the promulgation of the final freshwater wetlands map in  
26 a particular area and the implementation of a freshwater wetlands  
27 protection law or ordinance, no person shall conduct, or cause to be  
28 conducted, any activity for which a permit is required under section

1 24-0701 of this title on any freshwater wetland unless he has obtained a  
2 permit from the commissioner under this section.] Any person may inquire  
3 of the department as to whether or not a given parcel of land [will be  
4 designated] includes a freshwater wetland subject to regulation or a  
5 regulated freshwater wetland adjacent area. The department shall give a  
6 definite answer in writing within [thirty] sixty days of such request as  
7 to [whether] the status of such parcel [will or will not be so desig-  
8 nated]. Provided that, in the event that weather or ground conditions  
9 prevent the department from making a determination within [thirty] sixty  
10 days, it may extend such period until a determination can be made. Such  
11 answer in the affirmative shall be reviewable; such an answer in the  
12 negative shall be a complete defense to the enforcement of this article  
13 as to such parcel of land for a period of five years from the date the  
14 department issues the negative answer. [The commissioner may by regu-  
15 lation adopted after public hearing exempt categories or classes of  
16 wetlands or individual wetlands which he determines not to be critical  
17 to the furtherance of the policies and purposes of this article.]

18 § 7. Subdivision 1 of section 24-0901 of the environmental conserva-  
19 tion law, as added by chapter 614 of the laws of 1975, is amended to  
20 read as follows:

21 1. [Upon completion of the freshwater wetlands map, the] The commis-  
22 sioner shall confer with local government officials in each region in  
23 which the inventory has been conducted to establish a program for the  
24 protection of the freshwater wetlands of the state.

25 § 8. Subdivisions 1 and 5 of section 24-0903 of the environmental  
26 conservation law, as added by chapter 614 of the laws of 1975, are  
27 amended to read as follows:

1 1. [Upon completion of the freshwater wetlands map of the state, or of  
2 any selected section or region thereof, the] The commissioner shall  
3 [proceed to] classify freshwater wetlands so designated thereon accord-  
4 ing to their most appropriate uses, in light of the values set forth in  
5 section 24-0105 of this article and the present conditions of such  
6 wetlands. The commissioner shall determine what uses of such wetlands  
7 are most compatible with the foregoing and shall prepare minimum land  
8 use regulations to permit only such compatible uses. The classifications  
9 may cover freshwater wetlands in more than one governmental subdivision.  
10 Permits pursuant to section 24-0701 of this article are required whether  
11 or not a classification has been promulgated.

12 5. Prior to the adoption of any land use regulations governing fresh-  
13 water wetlands, the commissioner shall hold a public hearing thereon in  
14 the area in which the affected freshwater wetlands are located, and give  
15 fifteen days prior notice thereof by posting on the department's website  
16 or by publication at least once in a newspaper having general circu-  
17 lation in the area of the local government involved. The commissioner  
18 shall promulgate the regulations within thirty days of such hearing and  
19 post such order on the department's website or publish such order [at  
20 least once] in a newspaper having general circulation in the area of the  
21 local government affected and make such plan available for public  
22 inspection and review; such order shall not take effect until thirty  
23 days after the filing thereof with the clerk of the county in which such  
24 wetland is located.

25 § 9. Section 24-1305 of the environmental conservation law, as added  
26 by chapter 771 of the laws of 1976, is amended to read as follows:

27 § 24-1305. Applicability.



1 The provisions of this article shall not apply to any land use,  
2 improvement or development for which final approval shall have been  
3 obtained prior to the effective date of this article from the local  
4 governmental authority or authorities having jurisdiction over such land  
5 use. As used in this section, the term "final approval" shall mean[:

6 (a) in the case of the subdivision of land, conditional approval of a  
7 final plat as the term is defined in section two hundred seventy-six of  
8 the town law, and approval as used in section 7-728 of the village law  
9 and section thirty-two of the general cities law;

10 (b) in the case of a site plan not involving the subdivision of land,  
11 approval by the appropriate body or office of a city, village or town of  
12 the site plan; and

13 (c) in those cases not covered by subdivision (a) or (b) above,] the  
14 issuance of a building permit or other authorization for the commence-  
15 ment of the use, improvement or development for which such permit or  
16 authorization was issued or in those local governments which do not  
17 require such permits or authorizations, the actual commencement of the  
18 use, improvement or development of the land.

19 § 10. Subdivision 2 of section 34-0104 of the environmental conserva-  
20 tion law, as added by chapter 841 of the laws of 1981, is amended to  
21 read as follows:

22 2. Upon completion of a preliminary identification of an erosion  
23 hazard area, the commissioner or [his] their designated hearing officer  
24 shall hold a public hearing in a place reasonably accessible to resi-  
25 dents of the affected area in order to afford an opportunity for any  
26 person to propose changes in such preliminary identification. The  
27 commissioner shall [give notice of such hearing to each owner of record,  
28 as shown on the latest completed tax assessment rolls, of lands included

1 within such area, and also to the chief executive officer and clerk of  
2 each local government within the boundaries of which any portion of such  
3 area may be located, by certified mail at least thirty days prior to the  
4 date set for such hearing, and shall insure] ensure that a copy of the  
5 preliminary identification is available for public inspection at a  
6 convenient location [in such local government]. The commissioner shall  
7 also cause notice of such hearing to be published at least once, not  
8 more than thirty days nor fewer than ten days before the date set for  
9 such hearing, in at least one newspaper having general circulation in  
10 the area involved and in the environmental notice publication provided  
11 for under section 3-0306 of this chapter.

12 § 11. Subdivision 3 of section 34-0104 of the environmental conserva-  
13 tion law, as added by chapter 841 of the laws of 1981, is amended to  
14 read as follows:

15 3. After considering the testimony given at such hearings and the  
16 potential erosion hazard in accordance with the purposes and policies of  
17 this article, and after consultation with affected local governments,  
18 the commissioner shall issue the final identification of the erosion  
19 hazard areas. Such final identification shall not be made less than  
20 sixty days from the date of the public hearing required by subdivision  
21 two hereof. A copy of such final identification shall be filed in the  
22 office of the clerk of each local government in which such area or any  
23 portion thereof is located. Notice [that such final identification has  
24 been made shall be given each owner of lands included within the erosion  
25 hazard area, as such ownership is shown on the latest completed tax  
26 assessment rolls, by certified mail in any case where a notice by certi-  
27 fied mail was not sent pursuant to subdivision two of this section, and  
28 in all other cases by first class mail. Such notice] shall also be given

1 at such time to the chief executive officer of each local government  
2 within the boundaries of which such erosion hazard area or any portion  
3 thereof is located.

4 § 12. Subdivision 8 of section 70-0117 of the environmental conserva-  
5 tion law, as added by section 1 of part AAA of chapter 59 of the laws of  
6 2009, is amended to read as follows:

7 8. (a) All persons required to obtain a permit from the department  
8 pursuant to section 24-0701 of this chapter shall submit to the depart-  
9 ment an application fee in an amount not to exceed the following:

10 (i) [fifty] one hundred dollars per application for a [permit for a  
11 minor project as defined in this article or] modification to any exist-  
12 ing permit issued pursuant to section 24-0701 of this chapter;

13 (ii) [fifty] three hundred dollars per application for [a permit for a  
14 residential project defined as associated with] one new single family  
15 dwelling and customary appurtenances thereto;

16 (iii) [one] five hundred dollars per application for new multiple  
17 single family dwellings, new multiple family dwelling and customary  
18 appurtenances thereto;

19 (iv) [two] one thousand dollars per application for new commercial or  
20 industrial structures or improvements;

21 (v) one hundred dollars per application for a permit for any other  
22 project as defined in this article.

23 (b) All persons required to obtain a permit from the department pursu-  
24 ant to section 25-0402 of this chapter shall submit to the department an  
25 application fee in an amount not to exceed the following:

26 (i) [two] three hundred dollars per application for a permit for a  
27 minor project as defined in this article or modification to any existing  
28 permit issued pursuant to section 25-0402 of this chapter;

1 (ii) [nine hundred] two thousand dollars per application for subdivi-  
2 sion of land or new commercial or industrial structures or improvements;

3 (iii) one thousand dollars per application for a permit for a project  
4 as defined in this article.

5 (c) [All fees] Fees collected pursuant to [this] paragraph (a) of this  
6 subdivision shall be deposited [into the environmental protection fund  
7 pursuant to section ninety-two-s of the state finance law] to the credit  
8 of the conservation fund. Fees collected pursuant to paragraph (b) of  
9 this subdivision shall be deposited to the credit of the marine  
10 resources account of the conservation fund.

11 (d) Application fees required pursuant to this subdivision will not be  
12 required for any state department.

13 § 13. Subdivisions 1 and 2 of section 71-2303 of the environmental  
14 conservation law, as amended by chapter 99 of the laws of 2010, are  
15 amended to read as follows:

16 1. [Administrative] Civil sanctions. a. Any person who violates, diso-  
17 beys or disregards any provision of article twenty-four, including title  
18 five and section 24-0507 thereof or any rule or regulation, local law or  
19 ordinance, permit or order issued pursuant thereto, shall be liable to  
20 the people of the state for a civil penalty of not to exceed eleven  
21 thousand dollars for every such violation, to be assessed, after a hear-  
22 ing or opportunity to be heard upon due notice and with the rights to  
23 specification of the charges and representation by counsel at such hear-  
24 ing, by the commissioner or local government or in an action initiated  
25 by the attorney general pursuant to section 71-2305 of this title or on  
26 the attorney general's own initiative. Each violation shall be a sepa-  
27 rate and distinct violation and, in the case of a continuing violation,  
28 each day's continuance thereof shall be deemed a separate and distinct

1 violation. Such penalty assessed by the commissioner or local government  
2 may be recovered in an action brought by the attorney general at the  
3 request and in the name of the commissioner or local government in any  
4 court of competent jurisdiction. Such civil penalty may be released or  
5 compromised by the commissioner or local government before the matter  
6 has been referred to the attorney general; and where such matter has  
7 been referred to the attorney general, any such penalty may be released  
8 or compromised and any action commenced to recover the same may be  
9 settled and discontinued by the attorney general with the consent of the  
10 commissioner or local government. In addition, the commissioner or local  
11 government shall have power, following a hearing held in conformance  
12 with the procedures set forth in section 71-1709 of this article, to  
13 direct the violator to cease [his violation of] violating the act and to  
14 restore the affected freshwater wetland to its condition prior to the  
15 violation, insofar as that is possible within a reasonable time and  
16 under the supervision of the commissioner or local government. Any such  
17 order of the commissioner or local government shall be enforceable in an  
18 action brought by the attorney general at the request and in the name of  
19 the commissioner or local government in any court of competent jurisdic-  
20 tion. Any civil penalty or order issued by the commissioner or local  
21 government pursuant to this subdivision shall be reviewable in a  
22 proceeding pursuant to article seventy-eight of the civil practice law  
23 and rules.

24 b. Upon determining that significant damage to the functions and bene-  
25 fits of a freshwater wetland is occurring or is imminent as a result of  
26 any violation of article twenty-four of this chapter, including but not  
27 limited to (i) activity taking place requiring a permit under article  
28 twenty-four of this chapter but for which no permit has been granted or

1 (ii) failure on the part of a permittee to adhere to permit conditions,  
2 the commissioner or local government shall have power to direct the  
3 violation to cease and desist from violating the act. In such cases the  
4 violation shall be provided an opportunity to be heard within ten days of  
5 receipt of the notice to cease and desist.

6 2. Criminal sanctions. Any person who violates any provision of arti-  
7 cle twenty-four of this chapter, including any rule or regulation, local  
8 law or ordinance, permit or order issued pursuant thereto, shall, in  
9 addition, for the first offense, be guilty of a violation punishable by  
10 a fine of not less than two thousand nor more than [four] five thousand  
11 dollars; for a second and each subsequent offense he shall be guilty of  
12 a misdemeanor punishable by a fine of not less than four thousand nor  
13 more than [seven] ten thousand dollars or a term of imprisonment of not  
14 less than fifteen days nor more than six months or both. [Instead of] In  
15 addition to these punishments, any offender may be punishable by being  
16 ordered by the court to restore the affected freshwater wetland to its  
17 condition prior to the offense, insofar as that is possible. The court  
18 shall specify a reasonable time for the completion of such restoration,  
19 which shall be effected under the supervision of the commissioner or  
20 local government. Each offense shall be a separate and distinct offense  
21 and, in the case of a continuing offense, each day's continuance thereof  
22 shall be deemed a separate and distinct offense.

23 § 14. Subdivision 1 of section 71-2305 of the environmental conserva-  
24 tion law, as added by chapter 614 of the laws of 1975, is amended to  
25 read as follows:

26 1. The attorney general, upon [his] their own initiative or upon  
27 complaint of the commissioner or local government, shall prosecute

1 persons alleged to have violated [any such order of the commissioner or  
2 local government pursuant to] article twenty-four of this chapter.

3 § 15. The title heading of title 25 of article 71 of the environmental  
4 conservation law, as added by chapter 182 of the laws of 1975, is  
5 amended to read as follows:

6 ENFORCEMENT OF ARTICLE 25 AND ARTICLE 34

7 § 16. Section 71-2501 of the environmental conservation law, as added  
8 by chapter 182 of the laws of 1975, is amended to read as follows:

9 § 71-2501. Applicability of this title.

10 The provisions of this title shall be applicable to the enforcement of  
11 article twenty-five and article thirty-four.

12 § 17. Section 71-2503 of the environmental conservation law, as  
13 amended by chapter 666 of the laws of 1989, is amended to read as  
14 follows:

15 § 71-2503. Violation; penalties.

16 1. Administrative sanctions.

17 a. Any person who violates, disobeys or disregards any provision of  
18 article twenty-five including any rule or regulation, local law or ordi-  
19 nance, permit or order issued pursuant thereto, or article thirty-four  
20 shall be liable to the people of the state for a civil penalty of not to  
21 exceed ten thousand dollars for every such violation, to be assessed,  
22 after a hearing or opportunity to be heard, by the commissioner. Each  
23 violation shall be a separate and distinct violation and, in the case of  
24 a continuing violation, each day's continuance thereof shall be deemed a  
25 separate and distinct violation. The penalty may be recovered in an  
26 action brought by the commissioner in any court of competent jurisdic-  
27 tion. Such civil penalty may be released or compromised by the commis-

1 sioner before the matter has been referred to the attorney general; and  
2 where such matter has been referred to the attorney general, any such  
3 penalty may be released or compromised and any action commenced to  
4 recover the same may be settled and discontinued by the attorney general  
5 with the consent of the commissioner.

6 b. Upon determining that significant damage to the functions and bene-  
7 fits of tidal wetlands or coastal erosion hazard areas is occurring or  
8 is imminent as a result of any violation of article twenty-five or arti-  
9 cle thirty-four, including but not limited to (i) activity taking place  
10 requiring a permit under article twenty-five or article thirty-four but  
11 for which no permit has been granted or (ii) failure on the part of a  
12 permittee to adhere to permit conditions, the [commissioner] department  
13 shall have power to direct the violator to cease and desist from violat-  
14 ing the act. In such cases the violator shall be provided an opportunity  
15 to be heard within ten days of receipt of the notice to cease and  
16 desist.

17 c. Following a hearing held pursuant to section 71-1709 of this arti-  
18 cle, the commissioner shall have power to direct the violator to cease  
19 and desist from violating the act and to restore the affected tidal  
20 wetland or area immediately adjacent thereto or coastal erosion hazard  
21 area to its condition prior to the violation, insofar as that is possi-  
22 ble within a reasonable time and under the supervision of the commis-  
23 sioner. Any order of the commissioner shall be enforceable in an action  
24 brought by the commissioner in any court of competent jurisdiction. Any  
25 civil penalty or order issued by the commissioner under this subdivision  
26 shall be reviewable in a proceeding under article seventy-eight of the  
27 civil practice law and rules.



1 2. Criminal sanctions. Any person who violates any provision of arti-  
2 cle twenty-five or article thirty-four shall, in addition, for the first  
3 offense, be guilty of a violation punishable by a fine of not less than  
4 five hundred nor more than five thousand dollars; for a second and each  
5 subsequent offense such person shall be guilty of a misdemeanor punisha-  
6 ble by a fine of not less than one thousand nor more than ten thousand  
7 dollars or a term of imprisonment of not less than fifteen days nor more  
8 than six months or both. In addition to or instead of these punishments,  
9 any offender shall be punishable by being ordered by the court to  
10 restore the affected tidal wetland or area immediately adjacent thereto  
11 or coastal erosion hazard area to its condition prior to the offense,  
12 insofar as that is possible. The court shall specify a reasonable time  
13 for the completion of the restoration, which shall be effected under the  
14 supervision of the commissioner. Each offense shall be a separate and  
15 distinct offense and, in the case of a continuing offense, each day's  
16 continuance thereof shall be deemed a separate and distinct offense.

17 3. The proceeds of any penalty or fine assessed under this section  
18 shall be deposited to the credit of the marine resources account of the  
19 conservation fund.

20 § 18. Section 71-2505 of the environmental conservation law, as  
21 amended by chapter 249 of the laws of 1997, is amended to read as  
22 follows:

23 § 71-2505. Enforcement.

24 The attorney general, on [his] their own initiative or at the request  
25 of the commissioner, shall prosecute persons who violate article twen-  
26 ty-five or article thirty-four. In addition the attorney general, on  
27 [his] their own initiative or at the request of the commissioner, shall  
28 have the right to recover a civil penalty of up to ten thousand dollars

1 for every violation of any provision of such [article] articles, and to  
2 seek equitable relief to restrain any violation or threatened violation  
3 of such [article] articles and to require the restoration of any  
4 affected tidal wetland or area immediately adjacent thereto or coastal  
5 erosion hazard area to its condition prior to the violation, insofar as  
6 that is possible, within a reasonable time and under the supervision of  
7 the commissioner. In the case of a continuing violation, each day's  
8 continuance thereof shall be deemed a separate and distinct violation.

9 § 19. Section 71-2507 of the environmental conservation law, as added  
10 by chapter 182 of the laws of 1975, is amended to read as follows:

11 § 71-2507. Pollution of tidal wetlands or coastal erosion hazard areas.

12 Where any tidal wetlands or coastal erosion hazard areas are subject  
13 to pollution, the commissioner and attorney general shall take all  
14 appropriate action to abate the pollution. In addition, the commissioner  
15 may restrict or order cessation of solid waste disposal, deep well  
16 disposal, or liquid waste disposal where such is polluting a given area  
17 of tidal wetland or coastal erosion hazard area. Where pesticides, chem-  
18 ical products, or fertilizer residues are the polluting agents, the  
19 commissioner shall confer with other appropriate public officials to  
20 limit the use of such substances at their source; after appropriate  
21 consultations, the commissioner may make such rules and regulations as  
22 [he deems] they deem necessary under section 3-0301 of [the environ-  
23 mental conservation law] this chapter.

24 § 20. This act shall take effect immediately, provided, however, that  
25 sections two, three, four, five, six, seven and eight of this act shall  
26 take effect January 1, 2025.

1 Section 1. Legislative intent. The legislature finds the amount of  
2 waste generated in New York is a threat to the environment. The legisla-  
3 ture further finds and declares that it is in the public interest of the  
4 state of New York for packaging and paper products producers to take  
5 responsibility for the development and implementation of strategies to  
6 promote reduction, reuse, recovery, and recycling of covered materials  
7 and products through investments in the end-of-product-life management  
8 of printed paper and product packaging.

9 § 2. Article 27 of the environmental conservation law is amended by  
10 adding a new title 33 to read as follows:

11 TITLE 33

12 EXTENDED PRODUCER RESPONSIBILITY ACT

13 Section 27-3301. Definitions.

14 27-3303. Needs assessment and establishment of a packaging and  
15 paper products program.

16 27-3305. Advisory committee.

17 27-3307. Producer responsibility program plan.

18 27-3309. Reporting requirements and audits.

19 27-3311. Antitrust protections.

20 27-3313. Penalties.

21 27-3315. State preemption.

22 27-3317. Authority to promulgate rules and regulations.

23 27-3319. Extended producer responsibility reporting to the  
24 governor and legislature.

25 27-3321. Severability.

26 § 27-3301. Definitions.

27 When used in this title:

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

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

8 3. "Department" means the New York state department of environmental  
9 conservation.

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

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

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

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

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

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

27 (iv) for a single or short-term use.

28 (b) Paper products means:

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

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

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

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

10 (i) packaging or paper products that could become unsafe or unsanitary  
11 to recycle by virtue of their anticipated use;

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

13 (iii) newspapers, magazines, and periodicals;

14 (iv) beverage containers, as defined in section 27-1003 of this arti-  
15 cle on which a deposit is required to be initiated;

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

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

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

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

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

10 7. "Post-consumer recycled content" means the content of a product  
11 made of recycled materials derived from post-consumer recycled materials  
12 or feedstock.

13 8. (a) "Producer" means an entity that shall be determined to be the  
14 producer, for the purposes of this title, based on the following hierar-  
15 chy:

16 (i) the person who manufactures the packaging or paper product under  
17 such person's own name or brand and who sells or offers for sale the  
18 packaging or paper product in the state; or

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

22 (iii) the person or company that offers for sale, sells, or distrib-  
23 utes the packaging or paper product in the state.

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

26 (i) generate less than one million dollars in annual gross revenue;

27 (ii) generate less than one ton of packaging and paper products  
28 supplied to New York state consumers per year;

1 (iii) operate as a single point of retail sale and are not supplied or  
2 operated as part of a franchise; or

3 (iv) are a municipality or a local government planning unit, or a  
4 registered 501(c)(3) charitable organization or 501(c)(4) social welfare  
5 organization.

6 (c) If more than one person is a producer of a brand of packaging or  
7 paper product, any such person may assume responsibility for obligations  
8 of a producer of that brand under this title. If none of those persons  
9 assume responsibility for the obligations of a producer under this  
10 title, any and all such persons jointly and severally may be considered  
11 the responsible producer of that brand for purposes of this title.

12 9. "Producer responsibility organization" means a not-for-profit  
13 organization designated by a group of producers to act as an agent on  
14 behalf of each participating producer to develop and implement a produc-  
15 er responsibility program. To the extent applicable, a producer respon-  
16 sibility organization shall have a governing board that represents the  
17 diversity of producers and the covered materials and product types, and  
18 such board shall include non-voting members representing a diversity of  
19 material trade associations.

20 10. "Readily-recyclable" means packaging that can be sorted by enti-  
21 ties processing recyclables from New York and for which, during the  
22 previous two calendar years, there was a consistent market, meaning  
23 recyclers were willing to pay for fully sorted material at the door of  
24 their facilities in quantities equal to or in excess of material supply.  
25 This does not include material types that recyclers accept in low quan-  
26 tities or sort out of material during additional processing steps; if  
27 material recyclers do not desire a full bale of a specific material  
28 type, that material type is not readily-recyclable.

1 11. "Recovery rate" means the amount of packaging or paper products  
2 collected and recovered for reuse or recycling over a program year by  
3 material type, divided by the amount of packaging or paper products sold  
4 into the state, by material type, expressed as percentages.

5 12. "Recycling" means the processing of source-separated packaging and  
6 paper products to produce a marketable product or secondary raw materi-  
7 al. Recycling does not include thermal treatment processes that produce  
8 fuel or fuel products without substantial production of a marketable  
9 non-fuel product or secondary raw material.

10 13. "Recycling collection" means a recycling program that serves resi-  
11 dential units, schools, federal, state or local agencies, businesses, or  
12 institutions, where such schools, federal, state or local agencies,  
13 businesses, or institutions were eligible to be served under a contract  
14 with a municipality by a municipality or a private sector hauler as of  
15 the effective date of this title, and such recycling program is operated  
16 by a municipality or pursuant to a contract with the municipality,  
17 private sector hauler, or other public agency or through approved local  
18 solid waste management plans.

19 14. "Recycling rate" means the amount of discarded packaging and paper  
20 products that is managed through recycling, as defined by this title,  
21 and is computed by dividing the amount of discarded packaging and paper  
22 products collected and recycled, by material type, by the total amount  
23 of discarded packaging and paper products collected over a program year,  
24 by material type, expressed as percentages.

25 15. "Retailer" means a person who sells or offers for sale a product  
26 to a consumer, including sales made through an internet transaction to  
27 be delivered to a consumer in the state.



1 16. "Reuse" means returning, donating or selling a discarded packaging  
2 or paper product back into the market for its original intended use,  
3 when the discarded packaging or paper product retains its original  
4 performance characteristics and can be used for its original purpose.

5 § 27-3303. Needs assessment and establishment of a packaging and paper  
6 products program.

7 1. (a) By January first, two thousand twenty-four, a statewide needs  
8 assessment conducted by a third-party organization selected by the  
9 department, shall be submitted to the department.

10 (b) The statewide needs assessment shall be retroactively funded by  
11 the producers or producer responsibility organization.

12 (c) The statewide needs assessment shall include an evaluation of the  
13 capacity, costs, gaps, and needs for the following factors:

14 (i) current funding needs, both operational and capital, impacting  
15 recycling access and availability;

16 (ii) existing state statutory provisions and funding sources for recy-  
17 cling, reuse, reduction, and recovery;

18 (iii) the collection and hauling system for recyclable materials in  
19 the state;

20 (iv) the processing capacity and infrastructure for recyclable materi-  
21 als in the state and regionally and identifying necessary capital  
22 investments to existing and future reuse and recycling infrastructure;

23 (v) the market conditions and opportunities for recyclable and reus-  
24 able materials in the state and regionally;

25 (vi) consumer education needs for recycling, reuse, and reduction of  
26 covered materials and products;

27 (vii) current state packaging and paper product recovery rates, recy-  
28 cling rates, and post-consumer recycled content rates, by material type;

1 (viii) accounting of greenhouse gas emissions associated with  
2 collection, processing, and marketing of packaging and paper products;

3 (ix) an evaluation of state and regionally accepted recycling prac-  
4 tices that constitute legitimate recycling; and

5 (x) current barriers affecting the equitable access to recycling or  
6 reuse programs.

7 2. By June first, two thousand twenty-three, an advisory committee  
8 shall be established and begin performing its obligations pursuant to  
9 section 27-3305 of this title.

10 3. (a) By April first, two thousand twenty-five, any producer imple-  
11 menting an individual extended producer responsibility program or any  
12 producer responsibility organization, shall submit a producer responsi-  
13 bility program plan developed in consultation with the advisory commit-  
14 tee to the department for approval. A producer may satisfy its obli-  
15 gations under this title individually or through a producer  
16 responsibility organization.

17 (b) Any producer implementing an individual extended producer respon-  
18 sibility program or any producer responsibility organization, shall  
19 begin program implementation within six months after the date the plan  
20 is approved, but not later than April first, two thousand twenty-six.

21 4. Any person that becomes a producer after April first, two thousand  
22 twenty-five, shall submit an individual extended producer responsibility  
23 program plan within six months and begin program implementation within  
24 six months of plan approval, or join a producer responsibility organiza-  
25 tion.

26 5. By April first, two thousand twenty-six, no producer shall sell,  
27 offer for sale, or distribute packaging or paper products for use in New  
28 York unless the producer, or its designated producer responsibility

1 organization, has submitted a producer responsibility program plan to  
2 the department for approval.

3 6. To address program performance, producers shall be required to  
4 evaluate how they are meeting the minimum post-consumer recycled content  
5 rate, minimum recovery rate, and minimum recycling rate for packaging  
6 and paper material types, as recommended by the advisory committee, and  
7 adopted by the department in regulation.

8 7. No producer shall sell, offer for sale, or distribute packaging and  
9 paper products for use in New York unless such packaging or paper  
10 products are in compliance with title two of article thirty-seven of  
11 this chapter.

12 8. Funds collected from producers by a producer responsibility organ-  
13 ization to operate the program pursuant to this title shall not be used  
14 to carry out lobbying activities, bring a lawsuit against the state,  
15 defend litigation involving claims of a producer responsibility organ-  
16 ization's failure to comply with the requirements of this chapter, or  
17 for payment of penalties for violations of this chapter.

18 9. No person may charge a consumer a point-of-sale or point-of-collec-  
19 tion fee to recoup the costs associated with meeting the obligations  
20 under this title.

21 § 27-3305. Advisory committee.

22 1. The commissioner of the department shall appoint members to the  
23 advisory committee, which shall be comprised of an odd number of  
24 members, with at least one member representing each of the following  
25 disciplines, with each discipline having equal representation:

26 (a) an association representing municipalities and an additional  
27 municipal representative from a city with a population of one million or  
28 more residents;

- 1 (b) a municipality operating a recycling program;  
2 (c) a statewide environmental organization;  
3 (d) a representative of an environmental justice community or organ-  
4 ization;  
5 (e) a statewide waste disposal association;  
6 (f) a recyclables handling and recovery facility located within the  
7 state of New York;  
8 (g) a recycling collection provider;  
9 (h) a manufacturer of packaging materials utilizing post-consumer  
10 recycled content;  
11 (i) a manufacturer of paper materials utilizing post-consumer recycled  
12 content;  
13 (j) a consumer advocate;  
14 (k) a retail organization; and  
15 (l) a producer of packaging products, producer of paper products, and  
16 a representative from a producer responsibility organization established  
17 under this title as non-voting members.
- 18 2. The advisory committee shall select a chair from among the  
19 members. The chair will be responsible for selecting secretarial support  
20 for the advisory committee.
- 21 3. The advisory committee shall be consulted as needed, but at least  
22 once, during the development of the producer responsibility program  
23 plan, prior to any update to the producer responsibility program plan,  
24 and prior to the submission of an annual report.
- 25 4. The advisory committee shall use the findings from the statewide  
26 needs assessment to inform its producer or producer responsibility  
27 organization program plan recommendations.

1 5. The advisory committee shall work with all producers implementing  
2 an individual extended producer responsibility program and all producer  
3 responsibility organizations to ensure consistent messaging and coordi-  
4 nation across program plans.

5 6. The advisory committee shall review the producer responsibility  
6 program plans required under this title and prepare specific written  
7 recommendations on all portions of the producer responsibility program  
8 plans and on all updates or revisions to approved producer responsibil-  
9 ity program plans. Such recommendation shall be approved by a majority  
10 of the advisory committee's members. The producer implementing an indi-  
11 vidual extended producer responsibility program or producer responsibil-  
12 ity organization shall consider and respond to those written recommenda-  
13 tions in writing, and such recommendations and responses shall be  
14 provided to the department at the time of plan submission.

15 7. By April first, two thousand twenty-four, the advisory committee  
16 shall recommend to the department annual minimum recovery rates, recycl-  
17 ing rates, and post-consumer recycled content rates, by material type,  
18 over a five-year timeframe beginning in two thousand twenty-six. Such  
19 rate setting recommendation shall be informed by the needs assessment  
20 and approved by the department.

21 8. By October first, two thousand twenty-five, the department shall  
22 adopt regulations setting forth initial annual minimum recovery rates,  
23 recycling rates, and post-consumer recycled content rates, by material  
24 type, over a five-year timeframe beginning in two thousand twenty-six.

25 9. (a) The advisory committee shall make recommendations to the  
26 department at the time of producer or producer responsibility organiza-  
27 tion annual report submittal, as to whether any adjustments to the  
28 initially adopted minimum recovery rates, recycling rates, and post-con-

1 sumer recycled content rates are necessary. The advisory committee, in  
2 consideration of a recommendation to adjust any rates, shall consider:

3 (i) changes in market conditions, including supply and demand for  
4 post-consumer recycled plastics, both domestically and globally;

5 (ii) current recycling rates;

6 (iii) the availability of recycled materials suitable to meet the  
7 minimum recycled content goals, including the availability of high-qual-  
8 ity recycled materials, and food-grade recycled materials;

9 (iv) the capacity of recycling or processing infrastructure;

10 (v) utilization rates of the material; and

11 (vi) the progress made by producers in meeting the post-consumer recy-  
12 clad targets by material type.

13 (b) If an adjustment is recommended, the advisory committee shall  
14 provide a detailed basis for justification.

15 10. Members of the advisory committee shall be reimbursed for any  
16 necessary travel expenses, related to participating on the advisory  
17 committee, by the producer implementing an individual extended producer  
18 responsibility program or producer responsibility organization, and the  
19 department shall be responsible for monitoring these expenses. Members  
20 of the advisory committee shall receive no salary from a producer imple-  
21 menting an individual extended producer responsibility program or  
22 producer responsibility organization. The costs for secretarial support  
23 to the advisory committee shall be paid for by the producer implementing  
24 an individual extended producer responsibility program or producer  
25 responsibility organization, and the department shall be responsible for  
26 monitoring these expenses.

27 11. Members shall serve on the advisory committee for at least three  
28 years.

1 § 27-3307. Producer responsibility program plan.

2 1. By April first, two thousand twenty-five, any producer implementing  
3 an individual extended producer responsibility program or any producer  
4 responsibility organization, shall submit to the department a producer  
5 responsibility program plan, detailing its proposed collection and recy-  
6 cling program for packaging and paper products.

7 2. The producer responsibility program plan shall be valid for five  
8 years and shall be reviewed and updated every five years following the  
9 approval of the original plan. The department shall have the discretion  
10 to require the plan to be reviewed or revised prior to the five-year  
11 period if the department has cause to believe the minimum post-consumer  
12 recycled content rates, minimum recovery rates, minimum recycling rates,  
13 as specified by the department in regulation, or other factors of the  
14 plan are not being met or followed by the producer or producer responsi-  
15 bility organization, or if there has been a change in circumstances that  
16 warrants revision of the plan.

17 3. The submitted plan shall, at a minimum, address the following:

18 (a) Contact information. Contact information, including the name,  
19 electronic and physical address, and telephone number of the authorized  
20 representative of the producer implementing an individual extended  
21 producer responsibility program or producer responsibility organization.

22 (b) Participating producer or producers. Identify the producer or  
23 producers participating in the submitted producer responsibility program  
24 plan.

25 (c) Advisory committee recommendations. A description of how the  
26 recommendations from the advisory committee were considered and  
27 addressed in the development of the plan.

1 (d) Types and brands of packaging and paper products. A list of the  
2 types and brands of packaging and paper products for which the producer  
3 or producer responsibility organization is responsible for.

4 (e) Funding mechanism. A description of the proposed funding mechanism  
5 that is necessary to meet the requirements of this title and is suffi-  
6 cient to cover the cost of operating the program, updating the plan, and  
7 maintaining a financial reserve sufficient to operate the program in a  
8 fiscally prudent and responsible manner. The department may promulgate  
9 regulations necessary for a producer implementing an individual extended  
10 producer responsibility program or a producer responsibility organiza-  
11 tion to develop and manage a funding mechanism and activity-based costs.  
12 The following funding mechanism details shall be provided in the produc-  
13 er responsibility plan:

14 (i) proposed program charges for producers, listed by producer, which  
15 shall be sufficient to cover all program costs;

16 (ii) eco-modulation. For purposes of this title, "eco-modulation"  
17 shall provide that program charges are structured to provide producers  
18 with financial incentives that reward waste and source reduction and  
19 recycling compatibility innovations and practices, reward producers of  
20 packaging and paper products that can be easily reused, and that disin-  
21 centivize designs or practices that increase costs of managing the pack-  
22 aging and paper products. The producer responsibility organization may  
23 adjust charges to be paid by participating producers, or the producers  
24 may be provided a credit, based on factors that affect system costs. At  
25 a minimum, charges shall be variable based on:

26 (A) costs to provide recycling collection or other form of consumer  
27 service that is, at minimum, as convenient as the previous waste  
28 collection schema in the particular jurisdiction for all consumers;



1 (B) costs to process a producer's packaging and paper products for  
2 sale to secondary material markets;

3 (C) whether the packaging or paper product would typically be readi-  
4 ly-recyclable except that as a consequence of the product's design, the  
5 product has the effect of disrupting recycling processes or the product  
6 includes labels, inks, or adhesives containing heavy metals that would  
7 contaminate the recycling process;

8 (D) whether the packaging and paper products are nonfood contact pack-  
9 aging that is specifically designed to be reusable or refillable and has  
10 a high reuse or refill rate;

11 (E) the commodity value of packaging and paper products; and

12 (F) contributions to greenhouse gas emissions from the production,  
13 use, collection, processing, and marketing of the packaging or paper  
14 product.

15 (iii) a proposed special assessment charge on specific categories of  
16 covered packaging and paper products at the request of responsible enti-  
17 ties representing and approved by the advisory committee if the nature  
18 of the covered packaging and paper product imposes unusual costs in  
19 collection or processing or requires special actions to address effec-  
20 tive access to recycling or successful processing in municipal recycling  
21 facilities. The revenue from the special assessment shall be used to  
22 make system improvements for the specific covered packaging and paper  
23 products on which the special assessment was applied;

24 (iv) how charges shall be adjusted based upon the percentage of post-  
25 consumer recycled content and such percentage of post-consumer recycled  
26 content shall be verified either by the producer responsibility organ-  
27 ization or by an independent party designated by the department to  
28 ensure that such percentage meets or exceeds the minimum requirements in

1 the packaging or paper product, as long as the recycled content does not  
2 disrupt the potential for future recycling; and

3 (v) how activity-based costs are calculated and dispersed for services  
4 utilized by a producer implementing an individual extended producer  
5 responsibility program or producer responsibility organization if the  
6 waste haulers, recyclables handling and recovery facilities, recyclers,  
7 and municipalities, and other service providers elect to participate and  
8 be compensated by the producer implementing an individual extended  
9 producer responsibility program or producer responsibility organization  
10 in the recovery, recycling, and processing of packaging and paper  
11 products. The activity-based cost mechanism shall be based on the cost  
12 of consumer recycling collection, on-site processing cost for each read-  
13 ily-recyclable material, processing cost of non-readily recyclable mate-  
14 rial types, transportation cost of recycling for each material type,  
15 disposal costs for any residual or non-recyclable material, and any  
16 other cost factors as determined by the advisory committee or depart-  
17 ment.

18 (f) Municipal and private entity reimbursement. A description of the  
19 process for municipalities or private entities (such as solid waste  
20 collection, transportation, sorting, and processing companies, and other  
21 participating service providers) operating under the producer or produc-  
22 er responsibility organization's plan, to recoup reasonable costs from  
23 the producer or producer responsibility organization for the activity-  
24 based costs, including, as applicable, any administrative, collection,  
25 sorting, transportation, capital improvement, or processing costs. The  
26 municipality or private entity may not pass on to the consumer costs for  
27 which it has been paid by the producer or producer responsibility organ-  
28 ization. To facilitate the producer's or producer responsibility organ-

1 ization's determination of activity-based costs, participating municipi-  
2 palities and private entities shall report data related to their costs  
3 and the value of materials to the producer or producer responsibility  
4 organization. Cost calculations shall account for revenue generated from  
5 recyclable materials.

6 (g) Outreach and education. A description of the producer's or produc-  
7 er responsibility organization's public outreach and education program  
8 for consumers and other stakeholders.

9 (i) The plan shall address how the outreach and education program  
10 will:

11 (A) be designed to achieve the management goals of packaging and paper  
12 products extended producer responsibility under this title, including  
13 the prevention of contamination of products;

14 (B) be coordinated across producer and producer responsibility organ-  
15 ization programs to avoid confusion for consumers; and

16 (C) consult with municipalities and other stakeholders, coordinate  
17 with and assist local municipal programs, municipal contracted programs,  
18 solid waste collection companies, and other entities providing services,  
19 and develop and provide outreach and education to the diverse popu-  
20 lations in the state, including utilizing a variety of outreach and  
21 education tools and ensuring materials are accessible to all persons and  
22 are provided in multiple languages.

23 (ii) Participating producers shall label or mark packaging and paper  
24 products in accordance with current labeling rules, laws, or regulations  
25 with information to assist consumers in responsibly managing and recycl-  
26 ing packaging and paper products, responsibly composting packaging and  
27 paper products, and educating consumers about the percentage of post-  
28 consumer recycled content.

1 (iii) Details on the following components of the outreach and educa-  
2 tion program shall be provided in the plan, and available to consumers  
3 and other stakeholders on the producer's or producer responsibility  
4 organization's public education program website:

5 (A) proper end-of-life management of packaging, paper products and  
6 beverage containers;

7 (B) the location and availability of recycling collection;

8 (C) how to prevent litter of packaging, paper products, and beverage  
9 containers;

10 (D) information on how consumers can reduce their consumption for  
11 single-use packaging and paper products in favor of more reusable mate-  
12 rials;

13 (E) recycling and composting instructions that are: consistent state-  
14 wide, except as necessary to take into account differences among local  
15 laws and processing capabilities; easy to understand; and easily acces-  
16 sible; and

17 (F) a description of the process for answering stakeholder questions  
18 and resolving any issues.

19 (iv) A producer implementing an individual extended producer responsi-  
20 bility program or producer responsibility organization shall undertake  
21 outreach, education, and communications that assist in attaining or  
22 exceeding the minimum post-consumer content, minimum recovery rates, and  
23 minimum recycling rates, as specified by the department in regulation.

24 (h) Existing infrastructure. How the producer implementing an individ-  
25 ual extended producer responsibility program or the producer responsi-  
26 bility organization will work with existing waste haulers, recyclables  
27 handling and recovery facilities, recyclers, and municipalities to oper-

1 ate or expand current collection programs to address material collection  
2 methods.

3 (i) Convenience. A description of how the producer implementing an  
4 individual extended producer responsibility program or producer respon-  
5 sibility organization intends to meet the convenience requirements set  
6 forth as follows:

7 (i) A producer implementing an individual extended producer responsi-  
8 bility program or producer responsibility organization shall provide for  
9 widespread, free, convenient, and equitable consumer access to  
10 collection opportunities for the packaging and paper products identified  
11 under the producer or producer responsibility organization's program  
12 plan.

13 (ii) A producer implementing an individual extended producer responsi-  
14 bility program or producer responsibility organization shall ensure  
15 services, that are at least as convenient as the previous collection  
16 schema in a particular jurisdiction, continue for all consumers as of  
17 the effective date of this title.

18 (iii) A producer implementing an individual extended producer respon-  
19 sibility program or producer responsibility organization shall ensure  
20 services that collect covered packaging and paper products generated by  
21 business establishments are at least as orderly and efficient as the  
22 previous collection schema as of the effective date of this title.

23 (iv) A producer implementing an individual extended producer responsi-  
24 bility program or producer responsibility organization may rely on a  
25 range of means to collect various categories of packaging and paper  
26 products including, but not limited to, curbside collection, facility  
27 drop-off, and events, so long as packaging and paper products collection  
28 options include recycling collection services if:

1 (A) The category of packaging and paper products is suitable for recy-  
2 cling collection and can be effectively sorted by the facilities receiv-  
3 ing the collected material;

4 (B) The provider of the recycling collection service agrees to include  
5 the category of packaging and paper products as an accepted material;

6 (C) The packaging and paper products category is not handled through a  
7 deposit and return scheme, other extended producer responsibility  
8 program, or buy back system that relies on a collection system other  
9 than recycling collection; and

10 (D) The provider of the recycling collection service agrees to the  
11 producer implementing an individual extended producer responsibility  
12 program's or producer responsibility organization's activity-based costs  
13 arrangement.

14 (v) Where recycling collection is not available and drop-off  
15 collection facilities are utilized, consumers shall have free and equi-  
16 table access to facilities that are within fifteen miles of at least  
17 ninety-five percent of the jurisdiction's population unserved by recycl-  
18 ing collection.

19 (j) Minimum recycling, recovery and content rates. A description of  
20 how the producer implementing an individual extended producer responsi-  
21 bility program or producer responsibility organization intends to meet  
22 or exceed the minimum recycling rate, minimum recovery rate, and minimum  
23 post-consumer recycled content rates for packaging or paper products, by  
24 material type, as specified by the department in regulation.

25 (k) End-of-life management processes. A description of the process for  
26 end-of-life management, including recycling and disposal, for each  
27 component material, using environmentally sound management practices.

1 (l) A description of how the producer responsibility organization  
2 shall provide the option to purchase recycled materials from processors  
3 on behalf of producer members interested in obtaining recycled feedstock  
4 in order to achieve post-consumer recycled content objectives.

5 (m) A description of how the producer responsibility organization will  
6 work with producers to help reduce a producer's total amount of non-  
7 reusable packaging.

8 (n) Packaging and paper products reduction. A description of how a  
9 producer responsibility organization will work with producers to reduce  
10 packaging and paper products through product design and program inno-  
11 ventions.

12 (o) Consumer concerns process. A process to address concerns and ques-  
13 tions from consumers.

14 (p) Additional information. Any other information as specified by the  
15 department.

16 4. (a) No later than ninety days after the submission of the producer  
17 responsibility plan, the department shall determine whether to approve  
18 the plan as submitted; approve the plan with conditions; or deny the  
19 plan.

20 (b) The department shall consider the following in determining whether  
21 to approve a plan:

22 (i) whether the plan adequately addresses all elements described in  
23 this section;

24 (ii) whether the producer has undertaken satisfactory consultation  
25 with the advisory committee and has provided an opportunity for advisory  
26 committee input in the development of the plan prior to submission of  
27 the plan;

28 (iii) whether the plan adequately provides for:

1 (A) the producer responsibility organization collecting and funding  
2 the costs of collecting and processing packaging and paper products  
3 covered by the plan and reimbursing a municipality or private entity;

4 (B) the funding mechanism to cover the entire cost of the producer  
5 responsibility organization's program;

6 (C) convenient and free consumer access to collection facilities or  
7 collection services;

8 (D) an evaluation system for the program charge structure, which shall  
9 be evaluated on an annual basis by the producer responsibility organiza-  
10 tion and advisory committee and resubmitted to the department annually;  
11 and

12 (E) effective consumer outreach and education.

13 (iv) whether the plan satisfactorily provides for how the producer  
14 implementing an individual extended producer responsibility program or  
15 the producer responsibility organization will meet the minimum post-con-  
16 sumer content rates, recovery rates, and recycling rates, as specified  
17 by the department in regulation, which will create or enhance markets  
18 for recycled materials; and

19 (v) whether the plan creates a convenient system for consumers to  
20 recycle covered packaging and paper products that meets or exceeds the  
21 convenience criteria set forth in paragraph (i) of subdivision three of  
22 section 27-3307 of this title.

23 (c) The department may deny a plan. (i) If a plan is denied, the  
24 department shall inform the producer implementing an individual extended  
25 producer responsibility program or producer responsibility organization  
26 in writing as to any deficiencies in said plan. A producer implementing  
27 an individual extended producer responsibility program or producer  
28 responsibility organization shall amend and resubmit any denied plans



1 for reconsideration within sixty days of notification of the denial of  
2 said plan. The department shall approve or deny said plan within thirty  
3 days of resubmission.

4 (ii) If a plan is denied a second time, the department will provide  
5 the producer implementing an individual extended producer responsibility  
6 program or producer responsibility organization with direction for meet-  
7 ing any additional required elements of the plan it deems necessary.

8 (d) The department may rescind the approval of an approval plan at any  
9 time for just cause. If a plan is rescinded, the department shall  
10 inform the producer implementing an individual extended producer respon-  
11 sibility program or producer responsibility organization in writing as  
12 to any and all reasons why the plan was rescinded. A producer implement-  
13 ing an individual extended producer responsibility program or producer  
14 responsibility organization shall amend and resubmit any rescinded plans  
15 for reconsideration within sixty days of notification of the rescission  
16 of said plan. The department shall approve or reject said plan within  
17 thirty days of resubmission.

18 5. The producer implementing an individual extended producer responsi-  
19 bility program or producer responsibility organization shall notify the  
20 department of any modification to the program. If the department deter-  
21 mines that the producer responsibility plan has been substantially modi-  
22 fied, the producer implementing an individual extended producer respon-  
23 sibility program or producer responsibility organization, after  
24 consultation with the advisory committee, shall submit a proposed plan  
25 amendment describing the changes to the department within ninety days of  
26 the determination. Within ninety days of receipt of a proposed amended  
27 plan, the department shall determine whether the amended plan complies  
28 with this title. The department shall send a letter notifying the

1 producer implementing an individual extended producer responsibility  
2 program or producer responsibility organization of: (a) approval; or (b)  
3 disapproval, including the reasons for rejecting the plan. The producer  
4 implementing an individual extended producer responsibility program or  
5 producer responsibility organization shall provide the department's  
6 letter of disapproval to the advisory committee. The producer imple-  
7 menting an individual extended producer responsibility program or  
8 producer responsibility organization shall submit a revised plan within  
9 sixty days after receipt of the letter of disapproval.

10 6. The producer implementing an individual extended producer responsi-  
11 bility program or producer responsibility organization shall reimburse  
12 the department annually at the time of annual reporting for all adminis-  
13 trative costs associated with oversight of the program, which shall be  
14 deposited to the credit of the stewardship organization fund established  
15 pursuant to section ninety-two-kk of the state finance law.

16 § 27-3309. Reporting requirements and audits.

17 1. Fifteen months after the first plan of a producer implementing an  
18 individual extended producer responsibility program or producer respon-  
19 sibility organization is implemented, and annually thereafter, each  
20 producer implementing an individual extended producer responsibility  
21 program, or each producer responsibility organization, shall submit a  
22 report to the department that details the prior calendar year's program.  
23 The report shall be posted on the website of the producer implementing  
24 an individual extended producer responsibility program or producer  
25 responsibility organization.

26 2. Such annual report shall include:

27 (a) a detailed description of the methods used to collect, transport,  
28 and process packaging and paper products including detailing collection

1 methods made available to consumers and an evaluation of the program's  
2 collection convenience;

3 (b) a detailed description of the amount of packaging and paper  
4 products sold, offered for sale, or distributed to consumers in the  
5 state on an annual basis, including a percentage of packaging and paper  
6 products sold, offered for sale, or distributed to consumers in the  
7 state through internet transactions;

8 (c) the weight of packaging and paper products collected for reuse or  
9 recycling in the state, by material type;

10 (d) the weight, by material type, of packaging and paper products  
11 collected for reuse or recycling in the state by the method of disposi-  
12 tion;

13 (e) the total cost of implementing the program;

14 (f) financial statements detailing all deposits received and  
15 reimbursements paid by the producers covered by the approved plan;

16 (g) a detailed accounting of how the program compensated munici-  
17 palities, solid waste collection, transportation, sorting, and repro-  
18 cessing companies, and other entities, for their recycling efforts and  
19 other related services;

20 (h) a description of investments made in infrastructure and market  
21 development in New York state as related to the needs identified,  
22 including the amount spent expressed as a percentage of the program's  
23 total annual expenditures;

24 (i) a description of investment made and an evaluation of the effec-  
25 tiveness of outreach and education efforts to determine whether changes  
26 are necessary to improve those outreach and education efforts. If the  
27 department determines improvements are necessary, the producer imple-  
28 menting an individual extended producer responsibility program or

1 producer responsibility organization shall develop new and improved  
2 outreach and education methods for approval by the department;

3 (j) samples of all educational materials provided to consumers or  
4 other entities;

5 (k) a detailed list of efforts undertaken and an evaluation of the  
6 methods used to disseminate such materials including recommendations, if  
7 any, for how the educational component of the program can be improved;

8 (l) the achieved post-consumer recycled content rates, recovery rates,  
9 and recycling rates for packaging and paper product material types, how  
10 the rates were derived, and a discussion of how these rates may be  
11 improved. If, upon consultation with the advisory committee, there is  
12 reason to adjust minimum rates, the annual report shall include  
13 suggestions and justifications for the department to consider revision  
14 of such rates in regulation;

15 (m) a detailed description of any efforts undertaken to reduce the  
16 amount of packaging used; changes in material types used in packaging  
17 that have helped to improve recyclability, post-consumer recycled  
18 content rates, recovery rates, recycling rates for packaging, greenhouse  
19 gas emissions, and the result on program implementation costs through  
20 such efforts;

21 (n) a discussion on the feasibility to increase consumer convenience  
22 through curbside collection, facility drop-off, events or other alterna-  
23 tives, and to expand the program, for example, to include additional  
24 service to consumers without previous access to recycling collection,  
25 and public spaces, as well as a discussion on how the producer imple-  
26 menting an individual extended producer responsibility program or  
27 producer responsibility organization plans for continuous improvement;  
28 and

1 (o) an evaluation of the feasibility and recommendation for adding  
2 beverages in beverage containers as defined in title ten of this article  
3 to the covered packaging and paper products definition of this title.

4 3. Prior to the submission of the annual report, all data and informa-  
5 tion that is material to the department's review of the program's  
6 compliance with the requirements of this title shall be annually audited  
7 and verified by an independent third-party auditor, approved by the  
8 department. This includes, but is not limited to, a review and verifica-  
9 tion of all financial documentation and all information related to the  
10 material recycling rates, recovery rates, and the post-consumer recycled  
11 content rates. A copy of the independent audit shall be included in the  
12 annual report.

13 4. The department shall not require public reporting of any confiden-  
14 tial information that the department determines to be trade secrets,  
15 confidential commercial information or critical infrastructure informa-  
16 tion, in accordance with article six of the public officers law and the  
17 department's rules and regulations promulgated pursuant thereto.

18 § 27-3311. Antitrust protections.

19 A producer implementing an individual extended producer responsibility  
20 program or producer responsibility organization that organizes the  
21 collection, transportation, and processing of packaging and paper  
22 products, in accordance with a producer responsibility program plan  
23 approved under this title, shall not be liable for any claim of a  
24 violation of antitrust, restraint of trade, or unfair trade practice  
25 arising from conduct undertaken in accordance with the program pursuant  
26 to this title; provided, however, this section shall not apply to any  
27 agreement establishing or affecting the price of packaging or a paper  
28 product, or the output or production of any agreement restricting the

1 geographic area or customers to which packaging or a paper product will  
2 be sold.

3 § 27-3313. Penalties.

4 1. Except as otherwise provided in this section, any person or entity  
5 that violates any provision of or fails to perform any duty imposed  
6 pursuant to this title or any rule or regulation promulgated pursuant  
7 thereto, or any final determination or order of the commissioner made  
8 pursuant to this article or article seventy-one of this chapter shall be  
9 liable for a civil penalty not to exceed five hundred dollars for each  
10 violation and an additional penalty of not more than five hundred  
11 dollars for each day during which such violation continues.

12 2. (a) Any producer or producer responsibility organization who  
13 violates any provision of or fails to perform any duty imposed pursuant  
14 to this title or any rule or regulation promulgated pursuant thereto, or  
15 any term or condition of any registration or permit issued pursuant  
16 thereto, or any final determination or order of the commissioner made  
17 pursuant to this article or article seventy-one of this chapter shall be  
18 liable for a civil penalty not to exceed five thousand dollars for each  
19 violation and an additional penalty of not more than one thousand five  
20 hundred dollars for each day during which such violation continues. For  
21 a second violation committed within twelve months of a prior violation,  
22 the producer implementing an individual extended producer responsibility  
23 program or producer responsibility organization shall be liable for a  
24 civil penalty not to exceed ten thousand dollars and an additional  
25 penalty of not more than three thousand dollars for each day during  
26 which such violation continues. For a third or subsequent violation  
27 committed within twelve months of any prior violation, the producer  
28 implementing an individual extended producer responsibility program or

1 producer responsibility organization shall be liable for a civil penalty  
2 not to exceed twenty thousand dollars and an additional penalty of six  
3 thousand dollars for each day during which such violation continues.

4 (b) All producers participating in a producer responsibility organiza-  
5 tion shall be jointly and severally liable for any penalties assessed  
6 against the producer responsibility organization pursuant to this title  
7 and article seventy-one of this chapter.

8 3. Civil penalties under this section shall be assessed by the depart-  
9 ment after an opportunity to be heard pursuant to the provisions of  
10 section 71-1709 of this chapter, or by the court in any action or  
11 proceeding pursuant to section 71-2727 of this chapter, and in addition  
12 thereto, such person or entity may by similar process be enjoined from  
13 continuing such violation and any permit, registration or other approval  
14 issued by the department may be revoked or suspended or a pending  
15 renewal denied.

16 4. The department and the attorney general are hereby authorized to  
17 enforce the provisions of this title and all monies collected shall be  
18 deposited to the credit of the environmental protection fund as estab-  
19 lished pursuant to section ninety-two-s of the state finance law.  
20 § 27-3315. State preemption.

21 Jurisdiction in all matters pertaining to activity-based costs and  
22 funding mechanisms of producer responsibility organizations relating to  
23 the recovery of packaging and paper products by this title, is vested  
24 exclusively in the state. Any provision of any local law or ordinance,  
25 or any rule or regulation promulgated thereto, governing packaging and  
26 paper products recycling shall, upon the effective date of this title,  
27 be preempted; provided however, that nothing in this section shall

1 preclude a person from coordinating, for recycling or reuse, the  
2 collection of packaging and paper products.

3 § 27-3317. Authority to promulgate rules and regulations.

4 The department shall have the authority to promulgate rules and regu-  
5 lations necessary and appropriate for the administration of this title.

6 § 27-3319. Extended producer responsibility reporting to the governor  
7 and legislature.

8 1. (a) By November first, two thousand twenty-four, and biennially  
9 thereafter, the department shall submit to the governor and legislature  
10 a report that includes the following:

11 (i) a review and evaluation of the performance of existing extended  
12 producer responsibility programs in the state;

13 (ii) recommendations the department would propose through legislation  
14 to improve existing extended producer responsibility programs;

15 (iii) recommendations the department would propose through legislation  
16 to promote the reduction targets through the promotion of reusable  
17 products or source reduction; and

18 (iv) draft legislation required to amend an existing extended producer  
19 responsibility program based on recommendations in paragraph (b) of this  
20 subdivision.

21 (b) The report submitted in accordance with this section shall fulfill  
22 the requirements found in subdivision four of section 27-1807, subdivi-  
23 sion two of section 27-2005, and subdivision four of section 27-2617 of  
24 this article, and future biennial reports on extended producer responsi-  
25 bility programs required of the department to be provided to the gover-  
26 nor and legislature.

27 2. The department shall collect information available in the public  
28 domain regarding potential products in the waste stream to assist in



1 designating products or product categories for extended producer respon-  
2 sibility programs in accordance with this title. At the department's  
3 discretion, a report shall be submitted to the governor and legislature  
4 which shall contain the following:

5 (a) Recommendations for establishing new extended producer responsi-  
6 bility programs. The department may identify a potential product or  
7 product category as a candidate for an extended producer responsibility  
8 program if it is determined after evaluation of each of the following  
9 that:

10 (i) the potential product or product category is found to contain  
11 toxins that pose the risk of an adverse impact to the environment or  
12 public health and safety; or

13 (ii) an extended producer responsibility program for the potential  
14 product or product category will increase the recovery of materials for  
15 reuse and recycling and reduce the need for use of virgin materials; or

16 (iii) an extended producer responsibility program for the potential  
17 product or product category will reduce the costs of waste management to  
18 local governments and taxpayers; or

19 (iv) an extended producer responsibility program for the potential  
20 product or product category will enhance energy conservation or mitigate  
21 climate change impacts; or

22 (v) an extended producer responsibility program for the potential  
23 product or product category will be beneficial for existing and new  
24 businesses and infrastructure to manage the products and lead to the  
25 development of new industries to utilize the recovered materials; or

26 (vi) there exists public demand for an extended producer responsibil-  
27 ity program for the potential product or product category; or

1 (vii) there is success in collecting and processing similar types of  
2 products in programs in other states or countries; or

3 (viii) existing voluntary extended producer responsibility programs  
4 for the potential product or product category in the state are not  
5 effective in achieving the policy of this chapter; and

6 (b) Draft legislation required to implement and enforce an extended  
7 producer responsibility program for a potential product or product cate-  
8 gory recommended in paragraph (a) of this subdivision.

9 3. At least thirty days prior to submitting the report pursuant to  
10 subdivision two of this section to the governor and legislature, the  
11 department shall post the report on its publicly accessible website.  
12 Within that period, a person may submit to the department written  
13 comments regarding the report. The department shall submit all public  
14 comments received to the governor and legislature with the report.

15 § 27-3321. Severability.

16 The provisions of this title shall be severable and if any phrase,  
17 clause, sentence or provision of this title or the applicability thereof  
18 to any person or circumstance shall be held invalid, the remainder of  
19 this title and the application thereof shall not be affected thereby.

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

22 § 92-kk. Stewardship organization fund. 1. There is hereby established  
23 in the joint custody of the state comptroller and the commissioner of  
24 the department of taxation and finance, a special fund to be known as  
25 the "stewardship organization fund".

26 2. The stewardship organization fund shall consist of all revenue  
27 collected from fees pursuant to title thirty-three of article twenty-  
28 seven of the environmental conservation law and any cost recoveries or

1 other revenues collected pursuant to title thirty-three of article twen-  
2 ty-seven of the environmental conservation law, and any other monies  
3 deposited into the fund pursuant to law.

4 3. Moneys of the fund, following appropriation by the legislature,  
5 shall be used for execution of the program pursuant to title thirty-  
6 three of article twenty-seven of the environmental conservation law, and  
7 expended for the purposes as set forth in title thirty-three of article  
8 twenty-seven of the environmental conservation law.

9 § 4. This act shall take effect immediately.

10 PART SS

11 Section 1. Title 2 of article 37 of the environmental conservation law  
12 is REPEALED and a new title 2 is added to read as follows:

13 TITLE 2

14 TOXICS IN PACKAGING ACT

15 Section 37-0201. Legislative findings and intent.

16 37-0203. Short title and definitions.

17 37-0205. Prohibitions.

18 37-0207. Certificate of compliance.

19 37-0209. Violations.

20 37-0211. Regulations.

21 37-0213. Severability.

22 § 37-0201. Legislative findings and intent.

23 The legislature finds and declares that:

24 1. The management of solid waste can pose a wide range of hazards to  
25 public health and safety and to the environment; and

1 2. Packaging comprises a significant percentage of the overall solid  
2 waste stream; and

3 3. The presence of chemicals, such as heavy metals, in packaging is a  
4 part of the total concern in light of their likely presence in emissions  
5 or ash when packaging is incinerated, or in leachate when packaging is  
6 landfilled; and

7 4. Lead, mercury, cadmium, hexavalent chromium, PFAS, and phthalates,  
8 on the basis of available scientific and medical evidence, are of  
9 particular concern; and

10 5. It is desirable as a first step in reducing the toxicity of packag-  
11 ing waste to eliminate the addition of these chemicals to packaging; and

12 6. The intent of this title is to achieve this reduction in toxicity  
13 without impeding or discouraging the expanded use of post-consumer mate-  
14 rials in the production of packaging and its components.

15 § 37-0203. Short title and definitions.

16 1. This title shall be known as and may be cited as the "toxics in  
17 packaging act".

18 2. For the purpose of this title, the term:

19 a. "Distribute" means to offer for sale, barter, exchange, give, or  
20 supply.

21 b. "Distributor" means the importer, or first domestic distributor of  
22 a package or packaging component, if the person who currently manufac-  
23 turers or assembles the product does not have a presence in the United  
24 States. Persons involved solely in delivering a package or packaging  
25 component on behalf of third parties are not considered distributors.

26 c. "Food packaging" means a package or packaging component that is  
27 intended for direct food contact and is comprised of in substantial

1 part, but not limited to, paper, paperboard, or other materials  
2 originally derived from plant fibers.

3 d. "Manufacturer" means any person who currently manufactures a pack-  
4 age or packaging component, or whose brand name is affixed to such pack-  
5 age or packaging component. In the case of a package or packaging compo-  
6 nent that was imported into the United States, "manufacturer" includes  
7 the importer or first domestic distributor of the package or packaging  
8 component if the person who currently manufactures or assembles the  
9 package or packaging component or whose brand name is affixed to such  
10 package or packaging component does not have a presence in the United  
11 States.

12 e. "Package" means any container produced domestically or interna-  
13 tionally that markets, protects, or allows for the handling of a product  
14 and shall include a unit package, an intermediate package, or a shipping  
15 container. "Package" shall also mean and include such unsealed recepta-  
16 cles as carrying cases, crates, cups, pails, tubs, rigid foil and other  
17 trays, wrappers, wrapping films, and bags.

18 f. "Packaging component" means any individual assembled part of a  
19 package produced domestically or internationally, such as, but not  
20 limited to, any interior or exterior blocking, bracing, cushioning,  
21 weatherproofing, exterior strapping, coatings, closures, inks, dyes,  
22 pigments, adhesives, stabilizers, labels, or any other additives.

23 g. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means all  
24 members of the class of fluorinated organic chemicals containing at  
25 least one fully fluorinated carbon atom.

26 h. "Person" means any individual, public or private corporation, poli-  
27 tical subdivision, government agency, municipality, industry, co-part-  
28 nership, association, firm, trust, estate, or any other legal entity.

1 i. "Phthalates" or "ortho-phthalates" means all members of the class  
2 of organic chemicals that are esters of phthalic acid and that contain  
3 two carbon chains located in the ortho position.

4 § 37-0205. Prohibitions.

5 1. No person shall distribute a package or packaging component, or any  
6 product that incorporates such package or packaging component, in which  
7 lead, cadmium, mercury, or hexavalent chromium are present, individually  
8 or in combination, in amounts exceeding 100 parts per million by weight.

9 2. Beginning December 31, 2024, no person shall distribute a package  
10 or packaging component, or any product that incorporates such package or  
11 packaging component, in which phthalates are present, individually or in  
12 combination, in amounts exceeding 100 parts per million by weight  
13 (0.01%).

14 3. Beginning December 31, 2022, no person shall distribute food pack-  
15 aging, or any product that incorporates such food packaging, in which  
16 PFAS is present, individually or in combination, in amounts exceeding  
17 100 parts per million by weight (0.01%).

18 4. Notwithstanding subdivision three of this section, beginning Decem-  
19 ber 31, 2024, no person shall distribute a package or packaging compo-  
20 nent, or any product that incorporates such package or packaging compo-  
21 nent, in which PFAS is present, individually or in combination, in  
22 amounts exceeding 100 parts per million by weight (0.01%).

23 § 37-0207. Certificate of compliance.

24 No person who distributes a package or packaging component, or any  
25 product that incorporates such package or packaging component, shall be  
26 held in violation of this title if they can show that they relied in  
27 good faith on the written assurance of the manufacturer or distributor  
28 of such package or packaging component that such a package or packaging

1 component met the requirements of this title. Such written assurance  
2 shall take the form of a certificate of compliance, in a form and manner  
3 prescribed by the department, stating that such a package or packaging  
4 component is in compliance with the requirements of this title. The  
5 certificate of compliance shall be signed by an authorized officer of  
6 the manufacturer or distributor of such package or packaging component.  
7 A copy of the certificate of compliance shall be kept on file by the  
8 manufacturer or distributor of the package or packaging component, and  
9 shall be provided to the department, upon request.

10 § 37-0209. Violations.

11 A violation of any of the provisions of this title or any rule or  
12 regulation promulgated pursuant thereto shall be punishable in the case  
13 of a first violation, by a civil penalty not to exceed ten thousand  
14 dollars. In the case of a second and any further violation, the liabil-  
15 ity shall be for a civil penalty not to exceed twenty-five thousand  
16 dollars for each violation per day. The commissioner shall deposit all  
17 money recovered or received by the department in satisfaction of penal-  
18 ties assessed for violations of this title or any rule or regulation  
19 promulgated pursuant thereto to the credit of the environmental regula-  
20 tory account.

21 § 37-0211. Regulations.

22 The department is authorized to promulgate any other such rules and  
23 regulations as it shall deem necessary to implement the provisions of  
24 this title. The department is authorized to evaluate other chemicals to  
25 review for potential regulation under this title. The department may  
26 provide a report based upon that evaluation to the governor and legisla-  
27 ture which may contain recommendations to add other chemicals contained

1 in a package or packaging component to regulate in order to further  
2 reduce the toxicity of packaging waste.

3 § 37-0213. Severability.

4 If any clause, sentence, paragraph, section or part of this title  
5 shall be adjudged by any court of competent jurisdiction to be invalid,  
6 such judgment shall not affect, impair or invalidate the remainder ther-  
7 eof, but shall be confined in its operation to the clause, sentence,  
8 paragraph, section or part thereof directly involved in the controversy  
9 in which such judgment shall have been rendered.

10 § 2. Subdivisions 1 and 2 of section 72-1009 of the environmental  
11 conservation law, subdivision 1 as amended by chapter 60 of the laws of  
12 1993 and subdivision 2 as added by chapter 166 of the laws of 1991, are  
13 amended to read as follows:

14 1. The environmental regulatory account shall be credited with all  
15 moneys received from fees and fee interest collected; all other moneys  
16 collected by the department pursuant to title twenty-seven of article  
17 twenty-three of this chapter, except as identified under article six of  
18 the public officers law; all moneys collected or received by the depart-  
19 ment pursuant to title two of article thirty-seven of this chapter; and  
20 any other contributions or donations by the public to such account.

21 2. Moneys in the account, following appropriation by the legislature,  
22 shall be allocated upon the certification of approval for availability  
23 by the director of the budget for the administration and enforcement of  
24 title twenty-seven of article twenty-three and title two of article  
25 thirty-seven of this chapter, including but not limited to monitoring,  
26 surveillance, enforcement, training, research, administration and coop-  
27 eration with any federal, state or local agency.

28 § 3. This act shall take effect immediately.



1

## PART TT

2 Section 1. Short title. This act shall be known and may be cited as the  
3 "Suffolk County water quality restoration act".

4 § 2. Legislative intent. The county of Suffolk ("county"), with a  
5 population of one million five hundred thousand persons, has in excess  
6 of three hundred eighty thousand existing onsite systems, comprised  
7 mostly of cesspools and septic systems, with two hundred nine thousand  
8 of these onsite systems in environmentally sensitive areas which could  
9 benefit from nitrogen-reducing technologies. The United States Environ-  
10 mental Protection Agency recognizes Long Island as having a sole source  
11 aquifer system for its drinking water supply. Suffolk county has an  
12 imminent need to preserve this valuable water resource by reducing the  
13 amount of nitrogen discharged into the groundwater by onsite systems.  
14 The full water cycle is impacted by increasing quantities of nutrients,  
15 pathogens, pesticides, volatile organic contaminants and saltwater  
16 intrusion, as well as a number of emerging threats such as prescription  
17 drugs and sea level rise.

18 The Suffolk county subwatersheds wastewater plan ("SWP"), certified by  
19 the department of environmental conservation as a Nine Elements  
20 Watershed (9E) plan, has documented the devastating effects of high  
21 levels of nitrogen pollution, not only on the drinking water quality,  
22 but also on coastal ecosystems, dissolved oxygen, water clarity,  
23 eelgrass, wetlands, shellfish, coastal resilience and in triggering  
24 harmful algal blooms. The Suffolk county subwatersheds wastewater plan,  
25 or SWP, is a long-term plan to address the need for wastewater treatment  
26 infrastructure throughout the county comprehensively over a period of

1 fifty years. The SWP delineates the source and concentration of nitrogen  
2 loading in one hundred ninety-one subwatersheds throughout the county,  
3 and established nitrogen reduction goals for each watershed.

4 For many areas of the county, installing or connecting sewers is not a  
5 practical or cost-effective method of treating wastewater. For that  
6 reason, the SWP prescribes a hybrid approach that relies on sewerage  
7 where feasible, and the replacement of cesspools and septic systems with  
8 innovative/alternative onsite wastewater treatment systems. The consol-  
9 idation of any or all of the twenty-seven county sewer districts, as  
10 well as unsewered areas of the county, into a county-wide wastewater  
11 management district allows for the implementation of a much needed inte-  
12 grated long-term wastewater solution for the county through comprehen-  
13 sive planning and management, the establishment of a water quality  
14 restoration fund and county-wide district board of trustees to monitor  
15 progress and the allocation of resources consistent with the goals of  
16 the SWP.

17 The purpose of this act is to create a water quality restoration fund  
18 to finance projects for the protection, preservation, and rehabilitation  
19 of groundwater and surface waters as recommended by the SWP. This act  
20 would allow the funding of projects that will mitigate wastewater pollu-  
21 tants utilizing the best available technology consistent with the SWP.

22 A county-wide wastewater management district, supported by a dedicated  
23 and recurring revenue source, will provide an integrated and efficient  
24 approach to managing wastewater services across the county; allow the  
25 county to enhance and expand its incentive program to property owners to  
26 upgrade their wastewater treatment systems without risk of adverse  
27 personal income tax consequences; to manage, monitor and enforce nitro-  
28 gen reduction programs throughout the county; to complete additional

1 sewer extension projects; and provide an opportunity to consolidate and  
2 streamline the county's existing sewer district system and normalize the  
3 inequitable rate structure that has long existed.

4 § 3. The county law is amended by adding a new section 256-b to read  
5 as follows:

6 § 256-b. Suffolk county wastewater management district. 1. (a)  
7 Notwithstanding the provisions of any general, special or local law to  
8 the contrary, including this article, the county legislature of Suffolk  
9 county is hereby authorized to establish by resolution a Suffolk county  
10 wastewater management district, hereinafter referred to in this section  
11 as the "district", which shall include all powers of a sewer district  
12 and a wastewater disposal district as provided in section two hundred  
13 fifty of this article and as set forth in this subdivision, pursuant to  
14 the procedure contained in this section.

15 (b) In addition to the powers provided in section two hundred fifty of  
16 this article, the district shall have the power, as determined by the  
17 county legislature, to: (i) consolidate all of the original sewer  
18 districts within the county as well as unsewered areas of the county,  
19 under the jurisdiction of the district; (ii) establish one or more zones  
20 of assessment within the district based upon territorial boundaries, the  
21 method of wastewater collection, treatment and disposal, existing or  
22 proposed, or both, and make changes to such zones of assessments; (iii)  
23 acquire interests in real property which may be completed by the trans-  
24 fer of property of original sewer districts to the district, necessary  
25 for the installation and maintenance of district facilities; (iv) prior-  
26 itize district projects in accordance with the Suffolk county subwat-  
27 ershed wastewater plan (SWP) adopted by the county legislature, and any  
28 amendments thereto; (v) receive funds from the county or the water qual-

1 ity restoration fund, as established by subdivision twelve of this  
2 section, and distribute grant proceeds within the district in accordance  
3 with the goals established in the Suffolk county subwatershed wastewater  
4 plan; (vi) assume and pay any remaining indebtedness of each original  
5 sewer district; (vii) establish and provide for the collection of charg-  
6 es, rates, taxes or assessments to provide for the costs of operation,  
7 expenses, interest payments, maintenance and improvements of the  
8 district, including but not limited to: (A) special assessment as  
9 defined in subdivision fifteen of section one hundred two of the real  
10 property tax law; (B) special ad valorem levy as defined in subdivision  
11 fourteen of section one hundred two of the real property tax law; (C)  
12 sewer rent as provided under article fourteen-F of the general municipal  
13 law; and (viii) distribute grant proceeds within the district in accord-  
14 ance with the goals established in the SWP.

15 2. Boundaries. The boundaries of the district shall coincide with the  
16 territorial boundaries of the county of Suffolk.

17 3. County agency review and report. The county legislature shall  
18 direct the county agency, appointed or established pursuant to section  
19 two hundred fifty-one of this article, to review and report thereon to  
20 the county legislature on the creation of the district and the merger  
21 therewith of any or all existing county sewer districts in accordance  
22 with this section and such other details as may be directed by the coun-  
23 ty legislature consistent with this article. When the agency has caused  
24 such report to be prepared, it shall transmit it to the county legisla-  
25 ture. Upon receipt of the report, the county legislature shall call a  
26 public hearing pursuant to subdivision five of this section to create a  
27 Suffolk county wastewater management district in accordance with this

1 section. Such report shall be filed in the office of the clerk of the  
2 legislature of Suffolk county.

3 4. Resolution. The county legislature of Suffolk county may adopt a  
4 resolution calling a public hearing upon the proposed creation of the  
5 district.

6 5. Notice. The clerk of the county legislature shall give notice of  
7 the hearing described in subdivision four of this section in such news-  
8 papers and within such time period as set forth in section two hundred  
9 fifty-four of this article. Such notice shall specify the time, date  
10 and location of such hearing and, in general terms, describe the  
11 proposed establishment of the district and the proposed basis of the  
12 future assessment of all costs of operation, maintenance and improve-  
13 ments of the district.

14 6. Hearing and resolution to establish. (a) The county legislature  
15 shall meet at the time, date and location specified in such notice and  
16 hear all persons interested in the subject matter thereof concerning the  
17 same. If the county legislature determines that it is in the public  
18 interest to establish the district as specified in such notice, the  
19 county legislature may adopt a resolution, subject to a mandatory refer-  
20 endum, establishing the district.

21 (b) The permission of the state comptroller shall not be required to  
22 establish a district created pursuant to this section.

23 7. Notice of adoption of resolution. Within ten days after the  
24 adoption by the county legislature of the resolution to establish the  
25 district described in subdivision six of this section, the county legis-  
26 lature shall give notice thereof, at the expense of the county, by the  
27 publication of a notice in such newspapers and within such time period  
28 as set forth in section one hundred of this chapter. Such notice shall

1 set forth the date of adoption of the resolution and contain an abstract  
2 of such resolution, describing, in general terms, the district, the  
3 basis for the future assessment of all costs of operation, maintenance  
4 and improvements, and that such resolution was adopted subject to a  
5 mandatory referendum.

6 8. Assessments, levys and charges. After the establishment of the  
7 district in accordance with this section, the county is hereby author-  
8 ized by resolution approved by majority vote of the total membership of  
9 the county legislature to assess, levy and collect upon each lot or  
10 parcel of land subject to taxation within the district: (a) special  
11 assessment as that term is defined in subdivision fifteen of section one  
12 hundred two of the real property tax law; (b) special ad valorem levy as  
13 that term is defined in subdivision fourteen of section one hundred two  
14 of the real property tax law; and (c) sewer rents as provided by article  
15 fourteen-F of the general municipal law. Such costs and expenses may  
16 include, but shall not be limited to, the amount of money required to  
17 pay the annual expenses of maintenance, operation, personnel services of  
18 the district and the sums sufficient to pay the annual installment of  
19 principal of, and interest on, obligations for improvements of the  
20 district. Such sums so levied shall be collected by the local tax  
21 collectors or receivers of taxes and assessments and shall be paid over  
22 to the chief fiscal officer of the county, in the same manner and at the  
23 same time as taxes levied for general county purposes. The chief fiscal  
24 officer shall keep a separate account of such moneys and they shall be  
25 used only for purposes set forth in this section, and in addition, all  
26 monies collected from each zone of assessment established or amended in  
27 accordance with this section shall be further segregated and shall not  
28 be commingled with monies of other zones of assessment except upon

1 approval by resolution of the county legislature upon recommendation of  
2 the district board of trustees established in accordance with the  
3 Suffolk county water quality restoration act.

4 8-a. Recording determination. The clerk of the county legislature  
5 shall within ten days after the effective date of the resolution creat-  
6 ing the district cause a certified copy to be recorded in the office of  
7 the clerk of the county and when so recorded such order shall be  
8 presumptive evidence of the regularity of the proceedings for the  
9 creation of the district and of all other action taken by the county  
10 legislature pursuant to this section. A certified copy shall also be  
11 filed in the office of the state department of audit and control in  
12 Albany, New York.

13 9. Other laws. All provisions of the real property tax law and the  
14 Suffolk county tax act, as the same may be amended from time to time,  
15 not inconsistent with the provisions of this article, relating to the  
16 assessing, levy and collection and enforcement of special assessments,  
17 ad valorem levies and sewer rents in the county shall apply and be of  
18 equal force and applicability to special assessments, ad valorem levies  
19 and sewer rents authorized pursuant to this section.

20 10. Towns and villages. This section shall not be construed as merging  
21 the sewer districts of towns and villages within the county of Suffolk  
22 into the district created by this section, however the merger of any  
23 town or village sewer district with the district shall be in accordance  
24 with section two hundred seventy-seven of this article.

25 11. Water quality restoration fee. (a) Notwithstanding any provision  
26 of law to the contrary, the county of Suffolk is authorized to establish  
27 a water quality restoration fund pursuant to subdivision twelve of this  
28 section, to be financed by the water quality restoration fee as provided

1 by this subdivision. Said fund shall be enacted by local law, subject  
2 to mandatory referendum, pursuant to section twenty-three of the munici-  
3 pal home rule law.

4 (b) For each residential dwelling unit, the fee shall be five dollars  
5 per month. For all other properties, the fee shall be five dollars per  
6 month for each "equivalent dwelling unit" (EDU). An EDU shall be defined  
7 as three hundred gallons of wastewater generated per day. The number of  
8 EDUs for each property shall be determined by the actual amount of  
9 wastewater generated per day. Where such amount of actual wastewater  
10 generated per day cannot be determined for a property, the county, by  
11 local law, shall establish a schedule of EDUs for each category of land  
12 use consistent with the Suffolk County Sanitary Code. The local law may  
13 provide for subcategories for each land use.

14 (c) Such fee shall be collected on all properties in the county of  
15 Suffolk except as provided herein. Water usage on public land shall be  
16 excluded from such fee. Land utilized as part of a farm operation: (i)  
17 located in an agricultural district; or (ii) benefitted by an agricul-  
18 tural assessment, pursuant to article twenty-five-AA of the agriculture  
19 and markets law; or (iii) subject to a government purchase of develop-  
20 ment rights program; or (iv) otherwise protected for agricultural  
21 purposes shall be exempt from the fee. For the purposes of this act  
22 "public land" shall mean any land exempt from real property taxation  
23 pursuant to title one of article four of the real property tax law. For  
24 the purposes of this section, "farm operation" shall have the same mean-  
25 ing as provided for in section three hundred one of the agriculture and  
26 markets law.

27 (d) The local law shall also provide for an exemption from the water  
28 restoration fee based upon substantial financial hardship.



1 (e) The county, by local law, shall determine the criteria for estab-  
2 lishing such substantial financial hardship. The county, by local law,  
3 shall determine the means and manner of collection for the fee author-  
4 ized pursuant to this section.

5 12. Water quality restoration fund. (a) Notwithstanding any provision  
6 of law to the contrary, the net collections from the fee imposed pursu-  
7 ant to subdivision eleven of this section shall be deposited in a  
8 special fund by the county of Suffolk, to be designated as the water  
9 quality restoration fund, to be created by said county therefor, sepa-  
10 rate and apart from any other funds and accounts of the county. In no  
11 event shall monies deposited in the fund be transferred to any other  
12 account. Deposits into the fund may include revenues of Suffolk county  
13 from whatever source and shall include, at a minimum, all net revenues  
14 from the water quality restoration fee imposed pursuant to subdivision  
15 eleven of this section. The fund shall also be authorized to accept  
16 gifts of funds. Interest accrued by monies deposited into the fund shall  
17 be credited to the fund. Nothing contained in this section shall be  
18 construed to prevent the financing in whole or in part, pursuant to the  
19 local finance law, of any project authorized pursuant to this section.  
20 Monies from the fund may be utilized to repay any indebtedness or obli-  
21 gations incurred pursuant to the local finance law consistent with  
22 effectuating the purposes of this section. Where Suffolk county finances  
23 a project, in whole, or in part, pursuant to the local finance law, the  
24 resolution authorizing such indebtedness shall be accompanied by a  
25 report from the county executive demonstrating how said indebtedness  
26 will be repaid by the fund. Said report shall include an estimate of  
27 projected revenues of the fund during the period of indebtedness. The  
28 report shall also provide an accounting of all other indebtedness

1 incurred against the fund to be repaid for the same period. The county  
2 legislature shall make findings by resolution that there will be suffi-  
3 cient revenue to repay such indebtedness in its entirety from the fund  
4 before authorizing such indebtedness. Monies in said fund may be appro-  
5 priated from or expended in any fiscal year to implement the powers set  
6 forth in this section and to repay any indebtedness or obligations  
7 incurred pursuant to the local finance law for the purposes authorized  
8 pursuant to this section.

9 (b) (i) For purposes of this section: "water quality improvement  
10 project" shall mean the planning, design, construction, acquisition,  
11 enlargement, extension, or alteration of a wastewater treatment facili-  
12 ty, including individual hookups, or an individual septic system,  
13 including an alternative wastewater treatment facility or an individual  
14 septic system with active treatment, to treat, neutralize, stabilize,  
15 eliminate or partially eliminate sewage or reduce pollutants, including  
16 permanent or pilot demonstration wastewater treatment projects, or  
17 equipment or furnishings thereof. Such projects shall have as their  
18 purpose the remediation of existing water quality to meet specific water  
19 quality standards consistent with the SWP. Projects consistent with or  
20 listed in the SWP that are part of a plan adopted by a local government  
21 resulting in a net nitrogen reduction shall be eligible for consider-  
22 ation by the district board of trustees, established in accordance with  
23 subdivision six of this section. Projects designed primarily to increase  
24 density shall not be included within this definition. Of the annual  
25 collections of the fund, seventy-five percent of the annual funds shall  
26 be used toward individual septic systems purposes, inclusive of: (A) the  
27 preparation of an annual SWP implementation action plan to protect,  
28 preserve, and rehabilitate groundwater, surface water, and drinking

1 water; (B) the construction of water quality improvement projects; (C)  
2 the establishment of a program for residents of the county of Suffolk  
3 for grants and low-interest loans as incentives to construct individual  
4 septic systems which qualify as water quality improvement projects; and  
5 (D) administration of the county wastewater management district not to  
6 exceed ten percent of the annual funds.

7 (ii) Other than for the payment of indebtedness or obligations  
8 incurred as set forth in paragraph (a) of this subdivision, and except  
9 for the preparation of the annual SWP implementation plan, itself, no  
10 monies may be expended until the annual SWP implementation plan has been  
11 prepared and approved as provided for in this section.

12 (c) (i) Within the local law establishing the water quality restora-  
13 tion fund, the county shall establish a district board of trustees of  
14 seventeen members to review and approve the action plan for submission  
15 to the county executive and county legislature. Such approval shall be  
16 in addition to all other approvals required by law. The board of trus-  
17 tees shall consist of: (A) a representative from the department of envi-  
18 ronmental conservation; (B) a representative from the East End supervi-  
19 sors and mayors association; (C) a representative of the Suffolk town  
20 supervisors association; (D) a representative of the Suffolk County  
21 Village Officials Association; (E) a town representative from the State  
22 Central Pine Barrens Joint Planning and Policy Commission to be desig-  
23 nated by the commission; (F) a municipal representative from the Peconic  
24 Estuary Partnership; (G) a municipal representative from the State South  
25 Shore Estuary Reserve; (H) a municipal representative from the Long  
26 Island Sound Estuary; (I) a representative of the Long Island Federation  
27 of Labor; (J) a representative of Building and Construction Trades Coun-  
28 cil of Nassau & Suffolk counties; (K) a representative from a regional

1 environmental organization; (L) the chair of the Suffolk county planning  
2 commission; (M) the county executive or designee; (N) the presiding  
3 officer of the county legislature or designee; (O) the minority leader  
4 of the county legislature or designee; (P) the county department of  
5 public works commissioner or designee; and (Q) the county department of  
6 health services commissioner or designee.

7 (ii) The powers and duties of the district board of trustees shall  
8 include auditing fiscal allocations as it relates to the goals of the  
9 Suffolk county subwatersheds wastewater plan, making prudent recommenda-  
10 tions for resource allocations for county-approved alternative wastewa-  
11 ter treatment technologies not contemplated in the Suffolk county  
12 subwatersheds wastewater plan and long-term progress monitoring of the  
13 implementation of the Suffolk county subwatersheds wastewater plan  
14 regarding achievements of nitrogen load reductions and ecological  
15 endpoints.

16 (d) Water quality restoration citizens advisory committee. Within the  
17 local law establishing the district board of trustees, the county is  
18 authorized to establish a water quality restoration citizens advisory  
19 committee ("advisory committee") to actively assist and advise the board  
20 of trustees in the preparation, adoption and implementation of the annu-  
21 al SWP implementation plan. The committee shall consist of not more  
22 than twenty-five members which shall include representatives of environ-  
23 mental groups, economic development and real estate interests, farmers,  
24 water suppliers, civic groups, planners, biologists, and water quality  
25 scientists and recreational interests. The members of the committee  
26 shall serve without compensation. The committee by a majority vote shall  
27 elect a chairperson. The advisory committee shall meet periodically with  
28 the board of trustees, make available working drafts of such plan and

1 other documents, and shall provide services to the district board of  
2 trustees, as are necessary and appropriate to carry out its functions  
3 under this section. The county by resolution of the county legislature,  
4 shall appoint the members of the advisory committee.

5 (e) Annual SWP implementation plan. The water quality restoration fund  
6 and district board of trustees shall prepare, review and approve and  
7 submit to the county executive the annual SWP implementation plan within  
8 one year of the effective date of this section, and in every year there-  
9 after in a like manner. The board of trustees shall conduct a public  
10 hearing on said plan before its adoption or subsequent amendment. Each  
11 year, said plan shall list every water quality restoration project which  
12 the county plans to undertake pursuant to the fund and shall state how  
13 such project would improve existing water quality. Funds may only be  
14 expended pursuant to this section for projects which have been included  
15 in said plan. Said plan shall be consistent with state, federal, county,  
16 and local government land use and wastewater management plans. After  
17 submission and approval by the county executive, such plan shall be  
18 submitted to the county legislature. Such plan shall not become effec-  
19 tive until approved by local law.

20 (f) Annual audit. The county shall annually commission an independent  
21 audit of the fund. The audit shall be conducted by an independent certi-  
22 fied public accountant or an independent public accountant. Said audit  
23 shall be performed by a certified public accountant or an independent  
24 public accountant other than the one that performs the general audit of  
25 the county's finances. Such audit shall be an examination of the fund  
26 and shall determine whether the fund has been administered consistent  
27 with the provisions of this section and all other applicable provisions  
28 of state law. Said audit shall be initiated within sixty days of the

1 close of the fiscal year of the county and shall be completed within one  
2 hundred twenty days of the close of the fiscal year. A copy of the  
3 audit shall be submitted annually to the state comptroller and the coun-  
4 ty comptroller. A copy of the audit shall be made available to the  
5 public within thirty days of its completion. A notice of the completion  
6 of the audit shall be published in the official newspaper of the county  
7 and shall also be posted on the internet website for the county. The  
8 cost of the audit may be a charge to the fund.

9 (g) Annual report. In addition to any other report required by this  
10 section, the water quality restoration fund and district board of trus-  
11 tees, through its chairperson, shall deliver annually, in oral and  
12 written form, a report to the county legislature. Such report shall  
13 be presented by May fifteenth of each year. The report shall describe in  
14 detail the projects undertaken, the monies expended, and the administra-  
15 tive activities of the water quality fund and district established in  
16 accordance with this section, during the prior year. At the conclusion  
17 of the report, the chairperson of the water quality restoration fund and  
18 district board of trustees shall be prepared to answer the questions of  
19 the county legislature with respect to the projects undertaken, the  
20 monies expended, and the administrative activities during the past year.

21 13. Amendment by mandatory referendum only. Where the provisions of  
22 this section have been adopted by local law subject to mandatory refer-  
23 endum, said local law may only be amended, modified, repealed, or  
24 altered by enactment of another local law subject to mandatory referen-  
25 dum under the municipal home rule law.

26 § 4. This act shall take effect immediately.

1 Section 1. Paragraph h of subdivision 1 of section 17-1909 of the  
2 environmental conservation law, as added by chapter 565 of the laws of  
3 1989, is amended to read as follows:

4 h. "Municipality" means any county, city, town, village, district  
5 corporation, county or town improvement district, school district, Indi-  
6 an reservation wholly within New York state, any public benefit corpo-  
7 ration or public authority established pursuant to the laws of New York  
8 or any agency of New York state which is empowered to construct and  
9 operate an eligible project, or any two or more of the foregoing which  
10 are acting jointly in connection with an eligible project.

11 § 2. This act shall take effect immediately.

12 PART VV

13 Section 1. Subdivisions 2, 3, 4 and 5 of section 381 of the executive  
14 law, as added by chapter 707 of the laws of 1981, subdivision 2 as  
15 amended by chapter 560 of the laws of 2010, are amended, subdivision 6  
16 is renumbered subdivision 8, and two new subdivisions 6 and 7 are added  
17 to read as follows:

18 2. Except as may be provided in regulations of the secretary pursuant  
19 to subdivision one of this section, every local government shall admin-  
20 ister and enforce the uniform fire prevention and building code and the  
21 state energy conservation construction code on and after the first day  
22 of January, nineteen hundred eighty-four, provided, however, that a  
23 local government may enact a local law prior to the first day of July in  
24 any year providing that it will not enforce such codes on and after the  
25 first day of [January] April next succeeding. In such event the county  
26 in which said local government is situated shall administer and enforce

1 such codes within such local government from and after the first day of  
2 [January] April next succeeding the effective date of such local law, in  
3 accordance with the provisions of paragraph b of subdivision five of  
4 this section unless the county shall have previously enacted a local law  
5 providing that it will not enforce such codes within that county. In  
6 such event the secretary in the place and stead of the local government  
7 shall, directly or by [contract] using the services of any contractors  
8 or other third-party providers as the secretary may deem to be  
9 qualified, administer and enforce the uniform code and the state energy  
10 conservation construction code within such local government on and after  
11 the first day of April next succeeding. A county that is responsible for  
12 administering and enforcing such codes within a local government pursu-  
13 ant to the foregoing provisions of this subdivision may enact a local  
14 law prior to the first day of October in any year providing that it will  
15 not enforce such codes within such local government on and after the  
16 first day of April next succeeding. In such event, the secretary, in the  
17 place and stead of such local government, shall, directly or by using  
18 the services of any contractors or other third-party providers as the  
19 secretary may deem to be qualified, administer and enforce such codes in  
20 such local government from and after the first day of April next  
21 succeeding. A local government that adopts a local law providing that it  
22 will not enforce such codes on and after the first day of April next  
23 succeeding shall promptly notify the county in which such local govern-  
24 ment is located and the secretary of the adoption of such local law. A  
25 county that adopts a local law providing that it will not enforce such  
26 codes on and after the first day of April next succeeding shall promptly  
27 notify each local government in which such county is administering and  
28 enforcing such codes and the secretary of the adoption of such local



1 law. A local government or a county may repeal a local law which  
2 provides that it will not enforce such codes and shall thereafter admin-  
3 ister and enforce such codes as provided above. Two or more local  
4 governments may provide for joint administration and enforcement of the  
5 uniform code, the state energy conservation construction code, or both,  
6 by agreement pursuant to article five-G of the general municipal law.  
7 Any local government may enter into agreement with the county in which  
8 such local government is situated to administer and enforce the uniform  
9 code, the state energy conservation construction code, or both, within  
10 such local government. Local governments or counties that administer  
11 and enforce the uniform code, the state energy conservation construction  
12 code, or both, may charge and collect fees to defray the costs of admin-  
13 istration and enforcement. Where the secretary is responsible for  
14 administration and enforcement of the uniform code and state energy  
15 conservation construction code within a local government pursuant to  
16 this subdivision or pursuant to paragraph e of subdivision four of this  
17 section, (a) the secretary shall administer and enforce the codes in  
18 accordance with the provisions of rules and regulations promulgated  
19 pursuant to subdivision one of this section; (b) any person or entity  
20 who knowingly violates any provision of such rules and regulations shall  
21 be punishable by a fine not to exceed one thousand dollars per day of  
22 violation, imprisonment not to exceed one year, or both, and (c) the  
23 secretary may charge and collect fees to defray the costs of adminis-  
24 tration and enforcement.

25 3. a. On and after the first day of July, nineteen hundred eighty-  
26 five, the secretary shall have power to investigate [and conduct hear-  
27 ings relative to] whether administration and enforcement of the uniform  
28 fire prevention and building code and the state energy conservation

1 construction code complies with the minimum standards promulgated pursu-  
2 ant to subdivision one of this section. In connection with any such  
3 investigation, the secretary shall have the power to issue subpoenas  
4 compelling the testimony of witnesses, the production of documents, or  
5 both, and the power, at the secretary's discretion, to conduct one or  
6 more hearings. At least ten days written notice of any such hearing  
7 shall be provided to the elective or appointive chief executive officer  
8 or, if there be none, the chairman of the legislative body of the local  
9 government or county whose administration and enforcement of the uniform  
10 code and state energy conservation construction code is at issue.

11 b. The elective or appointive chief executive officer or, if there be  
12 none, the chairman of the legislative body of a county may, with  
13 approval of a majority vote of the legislative body of such county,  
14 submit to the secretary a written notice requesting the secretary to  
15 authorize such county to investigate whether administration and enforce-  
16 ment of the uniform fire prevention and building code and the state  
17 energy conservation construction code by a local government located in  
18 such county complies with the minimum standards promulgated pursuant to  
19 subdivision one of this section. Upon receipt of such notice, the secre-  
20 tary may authorize such county to conduct such investigation and to  
21 provide a written report upon completion of such investigation to the  
22 secretary. In connection with any such investigation, the county shall  
23 have the power to issue subpoenas compelling the testimony of witnesses,  
24 the production of documents, or both, and the power, at the county's  
25 discretion, to conduct one or more hearings. At least ten days written  
26 notice of any such hearing shall be provided to the elective or appoin-  
27 tive chief executive officer or, if there be none, the chairman of the  
28 legislative body of the local government whose administration and

1 enforcement of the uniform code and state energy conservation  
2 construction code is at issue. Upon receipt of the county's report, the  
3 secretary may issue a determination based on such report, conduct  
4 further investigations, or take such other action as the secretary deems  
5 appropriate, and the secretary shall notify the county and the local  
6 government of the actions to be taken by the secretary. Nothing in this  
7 paragraph shall limit or impair the secretary's power to investigate,  
8 issue subpoenas, and conduct hearings as provided in paragraph a of this  
9 subdivision. Nor shall the power of the secretary to investigate, issue  
10 subpoenas, and conduct hearings as provided in paragraph a of this  
11 subdivision be diminished or otherwise affected by reason of a county  
12 submitting, or not submitting, a notice pursuant to this paragraph.

13 4. If the secretary determines that a local government has failed to  
14 administer and enforce the uniform fire prevention and building code  
15 and/or the state energy conservation construction code in accordance  
16 with the minimum standards promulgated pursuant to subdivision one of  
17 this section, the secretary shall take any of the following actions,  
18 either individually or in combination in any sequence:

19 a. The secretary may issue an order compelling compliance by such  
20 local government with the minimum standards [for administration and  
21 enforcement of the uniform code] promulgated pursuant to subdivision one  
22 of this section.

23 b. The secretary may appoint and remove any person deemed qualified by  
24 the secretary as an oversight officer, who shall have the power and  
25 authority to do any or all of the following, at the discretion of the  
26 oversight officer and at the expense of such local government:

1 (i) observe and report on compliance by such local government with the  
2 minimum standards promulgated pursuant to subdivision one of this  
3 section;

4 (ii) direct all or any part of the code enforcement activities of the  
5 local government's code enforcement personnel;

6 (iii) hire, contract for, or otherwise obtain the services of quali-  
7 fied third parties to review building permit applications and plans and  
8 specifications submitted therewith, conduct construction inspections and  
9 periodic fire safety and property maintenance inspections, and perform  
10 other code enforcement activities within the local government;

11 (iv) issue notices of violation, appearance tickets, orders to remedy,  
12 and other instruments related to code violations within the local  
13 government, or direct the local government to do so, and refer such  
14 violations to counsel for the local government or the district attorney  
15 for the county in which the local government is located for appropriate  
16 prosecution; and

17 (v) take any other steps deemed by the oversight officer to be neces-  
18 sary or appropriate to ensure that the uniform code and state energy  
19 conservation construction code are administered and enforced within such  
20 local government in a due and proper manner and in compliance with the  
21 minimum standards promulgated pursuant to subdivision one of this  
22 section. Any person who is appointed as an oversight officer pursuant  
23 to this paragraph shall be deemed to be a state officer under section  
24 two of the public officers law.

25 c. The secretary may ask the attorney general to institute in the name  
26 of the secretary an action or proceeding seeking appropriate legal or  
27 equitable relief to require such local government to administer and  
28 enforce the uniform code and state energy conservation construction code

1 in a due and proper manner and in compliance with the minimum standards  
2 promulgated pursuant to subdivision one of this section, including but  
3 not limited to requiring such local government to take specific remedial  
4 actions, such as establishing and enforcing an effective code enforce-  
5 ment program, conducting fire safety and property maintenance  
6 inspections, increasing the frequency of fire safety and property main-  
7 tenance inspections, and taking enforcement actions that are timely and  
8 responsive to circumstances associated with the property in question  
9 when violations are identified.

10 [c. the] d. The secretary may designate the county in which such local  
11 government is located, or any other local government that adjoins or is  
12 reasonably proximate to such local government, to administer and enforce  
13 the uniform code and state energy conservation construction code in such  
14 local government. In the case of such designation, the provisions of  
15 subdivision five of this section shall apply.

16 [d.] e. The secretary may, in the place and stead of the local govern-  
17 ment, directly or by using the services of any contractors or other  
18 third-party providers as the secretary may deem to be qualified, admin-  
19 ister and enforce the uniform code and state energy conservation  
20 construction code in such local government in accordance with the mini-  
21 mum standards promulgated pursuant to subdivision one of this section.  
22 In such event, the provisions of subdivision five of this section shall  
23 apply.

24 f. The secretary may designate the county in which such local govern-  
25 ment is located, any other local government that adjoins or is reason-  
26 ably proximate to such local government, or the department of state to  
27 perform within such local government such types and classes of code  
28 enforcement activities, such as permit application review and approval,

1 construction inspections, and fire safety and property maintenance  
2 inspections, as the secretary may specify. In the case of such desig-  
3 nation, the provisions of subdivision seven of this section shall apply.

4 5. Where the secretary has designated a county or adjoining or reason-  
5 ably proximate local government to administer and enforce the uniform  
6 fire prevention and building code and state energy conservation  
7 construction code within a local government pursuant to paragraph d of  
8 subdivision four of this section, or has assumed authority for adminis-  
9 tration and enforcement of the uniform fire prevention and building code  
10 and state energy conservation construction code within a local govern-  
11 ment pursuant to [subdivision two or] paragraph [d] e of subdivision  
12 four of this section:

13 a. [Such] The local government [or county government] that is not  
14 administering or enforcing the uniform code and state energy conserva-  
15 tion construction code in accordance with minimum standards shall not  
16 administer and enforce the uniform code or state energy conservation  
17 construction code, and shall not charge or collect fees for such admin-  
18 istration and enforcement.

19 b. [Such] The designated county or local government or the secretary  
20 shall administer and enforce the uniform code within [such] the local  
21 government whose administration and enforcement of the uniform code and  
22 state energy conservation construction code has not met the minimum  
23 standards from and after the date of such designation or assumption.  
24 Such administration and enforcement shall apply the minimum standards  
25 promulgated by the secretary pursuant to subdivision one of this  
26 section. Notwithstanding any other provisions of law, such designated  
27 county or local government or the secretary shall have full power to  
28 administer and enforce the uniform code [in accordance with such] and

1 state energy conservation construction code in the local government  
2 whose administration and enforcement of the uniform code and state ener-  
3 gy conservation construction code has not met the minimum standards,  
4 including the power to charge and collect fees for such administration  
5 and enforcement.

6 c. The secretary shall designate the local government [or county  
7 government] whose administration and enforcement of the uniform code and  
8 state energy conservation construction code did not meet the minimum  
9 standards to resume administration and enforcement of the uniform code  
10 when the secretary is satisfied that such local government [or county]  
11 will provide such administration and enforcement in compliance with the  
12 minimum standards promulgated pursuant to subdivision one of this  
13 section.

14 d. The provisions of subdivisions three and four of this section shall  
15 apply to counties [which have been designated to administer and enforce  
16 the uniform code in such local government] that are responsible for  
17 administration and enforcement of the uniform code and state energy  
18 conservation construction code within a local government pursuant to  
19 subdivision two of this section, to counties that have been designated  
20 to administer and enforce the uniform code and state energy conservation  
21 construction code within a local government pursuant to paragraph d of  
22 subdivision four of this section, and to local governments that have  
23 been designated to administer and enforce the uniform code and state  
24 energy conservation construction code within another local government  
25 pursuant to paragraph d of subdivision four of this section. Where the  
26 provisions of subdivisions three and four of this section are applicable  
27 to a county, references in those subdivisions to a local government  
28 whose administration and enforcement of the uniform code and state ener-

1 gy conservation construction code have been determined by the secretary  
2 to have not met the minimum standards shall be construed as references  
3 to such county.

4 6. Where the secretary has designated a county, another local govern-  
5 ment, or the department to perform specified types and classes of code  
6 enforcement activities within a local government pursuant to paragraph f  
7 of subdivision four of this section:

8 a. The local government whose administration and enforcement of the  
9 uniform code and state energy conservation construction code has not met  
10 the minimum standards shall not perform the types and classes of code  
11 enforcement activities specified in such designation and shall accept  
12 performance of such types and classes of code enforcement activities by  
13 the designee;

14 b. The local government whose administration and enforcement of the  
15 uniform code and state energy conservation construction code has not met  
16 the minimum standards shall reimburse the designee for the costs and  
17 expenses incurred by the designee in performing the designated types and  
18 classes of code enforcement activities; and

19 c. The secretary shall designate the local government whose adminis-  
20 tration and enforcement of the uniform code and state energy conserva-  
21 tion construction code has not met the minimum standards to resume  
22 performance of the designated types and classes of code enforcement  
23 activities when the secretary is satisfied that such local government  
24 will perform such activities in a due and proper manner and will other-  
25 wise provide administration and enforcement of the uniform code and  
26 state energy conservation construction code in compliance with the mini-  
27 mum standards promulgated pursuant to subdivision one of this section.



1 7. a. The term "authority having jurisdiction" as used in this subdi-  
2 vision shall mean a local government or county that is responsible for  
3 administering and enforcing the uniform code and/or the energy code  
4 within such local government; the term "default code enforcement  
5 program" shall mean the code enforcement program established by the  
6 rules and regulations promulgated pursuant to paragraph b of this subdi-  
7 vision; and the term "required features" shall mean the features  
8 required by the rules and regulations promulgated pursuant to subdivi-  
9 sion one of this section to be included in a code enforcement program.

10 b. The secretary is authorized to promulgate, and to amend from time  
11 to time, rules and regulations establishing a default code enforcement  
12 program. Such default code enforcement program shall include provisions  
13 establishing the required features and such other provisions as the  
14 secretary may deem to be appropriate for inclusion in a code enforcement  
15 program. Such default code enforcement program shall also establish fees  
16 to be charged by any authority having jurisdiction that administers and  
17 enforces the uniform code and/or energy code in accordance with the  
18 provisions of the default code enforcement program.

19 c. Any authority having jurisdiction that has not established its own  
20 code enforcement program shall administer and enforce the uniform code  
21 and/or energy code in accordance with the provisions of the default code  
22 enforcement program.

23 d. Any authority having jurisdiction that administers and enforces the  
24 uniform code and/or energy code in accordance with the provisions of the  
25 default code enforcement program pursuant to paragraph c of this subdi-  
26 vision shall, through its chief executive officer, have full power and  
27 authority to designate the public officer or agency authorized to issue  
28 an appearance ticket, and a public officer who, by virtue of office,

1 title or position, is authorized or required to enforce the provisions  
2 of the uniform code and the state energy conservation construction code  
3 and the provisions of the default code enforcement program as fully and  
4 with the same force and effect as such authority having jurisdiction  
5 would have to enforce provisions established by a local law, ordinance,  
6 or regulation enacted or adopted by such authority having jurisdiction.  
7 The designation authorized by this paragraph shall not take effect until  
8 it has been filed with the department of state, and must be maintained  
9 on the website of such authority having jurisdiction unless and until  
10 such authority having jurisdiction passes a local law delegating the  
11 enforcement authority referenced in this paragraph.

12 e. Where an authority having jurisdiction is administering and enforc-  
13 ing the uniform code and/or energy code in accordance with the  
14 provisions of the default code enforcement program pursuant to paragraph  
15 c of this subdivision, any person or entity who knowingly violates any  
16 applicable provision of the default code enforcement program shall be  
17 punishable by a fine of not more than one thousand dollars per day of  
18 violation, or imprisonment not exceeding one year, or both.

19 § 2. Section 382 of the executive law is amended by adding two new  
20 subdivisions 5 and 6 to read as follows:

21 5. Notwithstanding any other provision of law, all fines imposed and  
22 collected for any violation of this section shall be paid at least  
23 monthly into the treasury of the local government in which such  
24 violation occurred, unless: (i) the county is administering and enforc-  
25 ing the uniform fire prevention and building code and state energy  
26 conservation construction code in such local government as provided by  
27 subdivision two or four of section three hundred eighty-one of this  
28 article, in which case such fines and penalties collected in cases aris-

1 ing out of the violation of this section shall be paid at least monthly  
2 into the treasury of the county, (ii) an adjoining or reasonably proxi-  
3 mate local government is administering and enforcing the uniform fire  
4 prevention and building code and state energy conservation construction  
5 code in such local government as provided by subdivision four of section  
6 three hundred eighty-one of this article, in which case such fines and  
7 penalties collected in cases arising out of the violation of this  
8 section shall be paid at least monthly into the treasury of such adjoin-  
9 ing or reasonably proximate local government, or (iii) the secretary is  
10 administering and enforcing the uniform fire prevention and building  
11 code and state energy conservation construction code in such local  
12 government as provided by subdivision two or four of section three  
13 hundred eighty-one of this article, in which case such fines and penal-  
14 ties collected in cases arising out of the violation of this section  
15 shall be paid at least monthly into the general fund established by  
16 section seventy-two of the state finance law. Where two or more local  
17 governments have provided for joint administration and enforcement of  
18 the uniform code, the state energy conservation construction code, or  
19 both, by agreement pursuant to article five-G of the general municipal  
20 law, such local governments may provide in such agreement for a differ-  
21 ent distribution of such fines.

22 6. The civil penalties provided in subdivision four of this section  
23 may be recovered in an appropriate action or proceeding commenced by the  
24 local government, county, or state agency responsible for administration  
25 and enforcement of the uniform code with respect to the building that  
26 was altered in violation of any provision of the uniform code or any  
27 lawful order obtained thereunder, and shall be payable to the treasury

1 of such local government, the treasury of such county, or the general  
2 fund of the state of New York, as applicable.

3 § 3. This act shall take effect immediately.

4 PART WW

5 Section 1. Subdivision 3 of section 2251 of the vehicle and traffic  
6 law, as amended by section 5 of part G of chapter 59 of the laws of  
7 2009, is amended to read as follows:

8 3. Fees. The triennial fee for registration of a vessel shall be:  
9 twenty-two dollars and fifty cents [and a vessel surcharge of three  
10 dollars and seventy-five cents,] if less than sixteen feet in length;  
11 forty-five dollars [and a vessel surcharge of twelve dollars and fifty  
12 cents,] if sixteen feet or over but less than twenty-six feet in length;  
13 seventy-five dollars [and a vessel surcharge of eighteen dollars and  
14 seventy-five cents,] if twenty-six feet or over. [All funds derived from  
15 the collection of the vessel access surcharge pursuant to this subdivi-  
16 sion are to be deposited in a subaccount of the "I love NY waterways"  
17 vessel access account established pursuant to section ninety-seven-nn of  
18 the state finance law. The vessel access surcharge shall not be consid-  
19 ered a registration fee for purposes of section seventy-nine-b of the  
20 navigation law.

21 Notwithstanding any inconsistent provision of this section, the differ-  
22 ence collected between the fees set forth in this subdivision in effect  
23 on and after September first, two thousand nine and the fees set forth  
24 in this subdivision prior to such date shall be deposited to the credit  
25 of the dedicated highway and bridge trust fund. Notwithstanding any  
26 inconsistent provision of this section, the difference collected between

1 the vessel surcharge set forth in this subdivision in effect on and  
2 after September first, two thousand nine and the vessel surcharge set  
3 forth in this subdivision in effect prior to such date shall be deposit-  
4 ed to the credit of the dedicated highway and bridge trust fund.]

5 § 2. Subdivision 2 of section 97-nn of the state finance law, as added  
6 by chapter 524 of the laws of 2008, is amended to read as follows:

7 2. The "I love NY waterways" fund shall consist of [two accounts: (a)]  
8 the "I love NY waterways" boating safety account[; and (b) the "I love  
9 NY waterways" vessel access account. Moneys in each account shall be  
10 kept separate and not commingled with any other moneys of the state].

11 § 3. Subdivision 4 of section 97-nn of the state finance law, as  
12 amended by chapter 524 of laws of 2008, is REPEALED.

13 § 4. This act shall take effect immediately; provided, however, that  
14 sections two and three of this act shall take effect April 1, 2024.

15 PART XX

16 Section 1. Section 15-2115 of the environmental conservation law is  
17 amended to read as follows:

18 § 15-2115. Taxation of real estate.

19 Lands owned by the state and acquired pursuant to the provisions of  
20 title 21 of this article, exclusive of the improvements erected thereon  
21 by the regulating districts, shall be assessed and taxed in the same  
22 manner as state lands subject to taxation pursuant to title 2 of article  
23 5 of the Real Property Tax Law, provided, however, that the aggregate  
24 assessed valuations of such lands in any town shall not be reduced below  
25 the aggregate assessed valuations thereof with the improvements thereon  
26 at the time of their acquisition by the regulating districts, and

1 provided further that in case of a general increase in assessments in  
2 any town the assessed valuations of the lands and improvements at the  
3 time of their acquisition by the regulating districts shall be deemed to  
4 have been increased proportionately with the increase of other real  
5 property in such tax district. [The taxes levied thereon shall be paid  
6 by the river regulating district under whose authority the land was  
7 acquired.]

8 § 2. Section 532 of the real property tax law is amended by adding a  
9 new subdivision (1) to read as follows:

10 (1) lands owned by the state and acquired pursuant to the provisions  
11 of title twenty-one of article fifteen of the environmental conservation  
12 law exclusive of the improvements erected thereon erected by the regu-  
13 lating districts.

14 § 3. This act shall take effect immediately.

15 PART YY

16 Section 1. Subdivision 6 of section 5.09 of the parks, recreation and  
17 historic preservation law is REPEALED.

18 § 2. Section 7.11 of the parks, recreation and historic preservation  
19 law, as amended by chapter 679 of the laws of 1981, is amended to read  
20 as follows:

21 § 7.11 Powers and duties of commissions. Each regional park, recre-  
22 ation and historic preservation commission shall:

23 1. [Review the application of policy and plans of the office to the  
24 park region served by the commission and review and approve the budget  
25 for such region prior to its submission to the commissioner.

1 2. Adopt policies, rules and regulations applicable to its park region  
2 subject to the general policies formulated by the commissioner and  
3 reviewed by the council and in conformity with rules and regulations  
4 adopted by the commissioner.

5 3.] Act as a central advisory agency on all matters affecting parks,  
6 outdoor recreation and historic preservation within the park region it  
7 serves.

8 [4.] 2. Represent and convey to the commissioner and council citizen  
9 viewpoints as to the programs and needs of the park region it serves.

10 [5.] 3. Maintain close liaison with officials of the office having  
11 administrative jurisdiction over the park region which it serves, and  
12 advise such officials on local policy, operational and budgetary  
13 matters.

14 § 3. Section 7.13 of the parks, recreation and historic preservation  
15 law is REPEALED.

16 § 4. This act shall take effect immediately.

17 PART ZZ

18 Section 1. Subsections (e) and (g) of section 7002 of the insurance  
19 law, as amended by chapter 188 of the laws of 2003, are amended to read  
20 as follows:

21 (e) "Industrial insured" means an insured:

22 (1) whose net worth exceeds one hundred million dollars;

23 (2) who is a member of a holding company system whose net worth  
24 exceeds one hundred million dollars;

25 (3) who is the metropolitan transportation authority and its statutory  
26 subsidiaries. When filing an application to form a pure captive insur-

1   ance company the metropolitan transportation authority shall submit  
2   written notice of such filing to the governor, the temporary president  
3   of the senate and the speaker of the assembly; [or]

4    (4) who is the power authority of the state of New York and any statu-  
5   tory subsidiary thereof. When filing an application to form a pure  
6   captive insurance company the power authority shall submit written  
7   notice of such filing to the governor, the temporary president of the  
8   senate and the speaker of the assembly; or

9    (5) who is a city with a population of one million or more. When  
10   filing an application to form a pure captive insurance company, a city  
11   with a population of one million or more shall submit written notice of  
12   such filing to the governor, the temporary president of the senate and  
13   the speaker of the assembly.

14   (g) "Industrial insured group" means any group of unaffiliated indus-  
15   trial insureds that are engaged in similar or related businesses or  
16   activities, however, the metropolitan transportation authority, the  
17   power authority of the state of New York and any statutory subsidiary  
18   thereof and cities with a population of one million or more shall not be  
19   a member of an industrial insured group, and that collectively:

20    (1) own, control or hold with power to vote all of the outstanding  
21   voting shares of stock of a group captive insurance company incorporated  
22   as a stock insurer; or

23    (2) represent one hundred percent of the voting members of a group  
24   captive insurance company organized as a mutual insurer.

25   § 2. Section 1005 of the public authorities law is amended by adding a  
26   new subdivision 28 to read as follows:

27    28. The authority may establish a subsidiary corporation for the  
28   purpose of forming a pure captive insurance company as provided in



1 section seven thousand two of the insurance law. The members of such  
2 subsidiary corporation of the authority shall be the same persons hold-  
3 ing the offices of members of the authority. The employees of any such  
4 subsidiary corporation, except those who are also employees of the  
5 authority, shall not be deemed employees of the authority.

6 § 3. Subdivision (a) of section 1500 of the tax law, as amended by  
7 section 21 of part A of chapter 59 of the laws of 2014, is amended to  
8 read as follows:

9 (a) The term "insurance corporation" includes a corporation, associ-  
10 ation, joint stock company or association, person, society, aggregation  
11 or partnership, by whatever name known, doing an insurance business,  
12 and, notwithstanding the provisions of section fifteen hundred twelve of  
13 this article, shall include (1) a risk retention group as defined in  
14 subsection (n) of section five thousand nine hundred two of the insur-  
15 ance law, (2) the state insurance fund and (3) a corporation, associ-  
16 ation, joint stock company or association, person, society, aggregation  
17 or partnership doing an insurance business as a member of the New York  
18 insurance exchange described in section six thousand two hundred one of  
19 the insurance law. The definition of the "state insurance fund"  
20 contained in this subdivision shall be limited in its effect to the  
21 provisions of this article and the related provisions of this chapter  
22 and shall have no force and effect other than with respect to such  
23 provisions. The term "insurance corporation" shall also include a  
24 captive insurance company doing a captive insurance business, as defined  
25 in subsections (c) and (b), respectively, of section seven thousand two  
26 of the insurance law; provided, however, "insurance corporation" shall  
27 not include the metropolitan transportation authority, the power author-  
28 ity of New York or any statutory subsidiary thereof, or a public benefit

1 corporation or not-for-profit corporation formed by a city with a popu-  
2 lation of one million or more pursuant to subsection (a) of section  
3 seven thousand five of the insurance law, each of which is expressly  
4 exempt from the payment of fees, taxes or assessments, whether state or  
5 local; and provided further "insurance corporation" does not include any  
6 combinable captive insurance company. The term "insurance corporation"  
7 shall also include an unauthorized insurer operating from an office  
8 within the state, pursuant to paragraph five of subsection (b) of  
9 section one thousand one hundred one and subsection (i) of section two  
10 thousand one hundred seventeen of the insurance law. The term "insurance  
11 corporation" also includes a health maintenance organization required to  
12 obtain a certificate of authority under article forty-four of the public  
13 health law.

14 § 4. Subdivision (a) of section 1502-b of the tax law, as amended by  
15 section 22 of part A of chapter 59 of the laws of 2014, is amended to  
16 read as follows:

17 (a) In lieu of the taxes and tax surcharge imposed by sections fifteen  
18 hundred one, fifteen hundred two-a, fifteen hundred five-a, and fifteen  
19 hundred ten of this article, every captive insurance company licensed by  
20 the superintendent of financial services pursuant to the provisions of  
21 article seventy of the insurance law, other than the metropolitan trans-  
22 portation authority, the power authority of New York or any statutory  
23 subsidiary thereof, and a public benefit corporation or not-for-profit  
24 corporation formed by a city with a population of one million or more  
25 pursuant to subsection (a) of section seven thousand five of the insur-  
26 ance law, each of which is expressly exempt from the payment of fees,  
27 taxes or assessments whether state or local, and other than combinable  
28 captive insurance company, shall, for the privilege of exercising its

1 corporate franchise, pay a tax on (1) all gross direct premiums, less  
2 return premiums thereon, written on risks located or resident in this  
3 state and (2) all assumed reinsurance premiums, less return premiums  
4 thereon, written on risks located or resident in this state. The rate of  
5 the tax imposed on gross direct premiums shall be four-tenths of one  
6 percent on all or any part of the first twenty million dollars of premi-  
7 ums, three-tenths of one percent on all or any part of the second twenty  
8 million dollars of premiums, two-tenths of one percent on all or any  
9 part of the third twenty million dollars of premiums, and seventy-five  
10 thousandths of one percent on each dollar of premiums thereafter. The  
11 rate of the tax on assumed reinsurance premiums shall be two hundred  
12 twenty-five thousandths of one percent on all or any part of the first  
13 twenty million dollars of premiums, one hundred and fifty thousandths of  
14 one percent on all or any part of the second twenty million dollars of  
15 premiums, fifty thousandths of one percent on all or any part of the  
16 third twenty million dollars of premiums and twenty-five thousandths of  
17 one percent on each dollar of premiums thereafter. The tax imposed by  
18 this section shall be equal to the greater of (i) the sum of the tax  
19 imposed on gross direct premiums and the tax imposed on assumed reinsur-  
20 ance premiums or (ii) five thousand dollars.

21 § 5. This act shall take effect immediately.

22 PART AAA

23 Section 1. Expenditures of moneys by the New York state energy  
24 research and development authority for services and expenses of the  
25 energy research, development and demonstration program, including  
26 grants, the energy policy and planning program, the zero emissions vehi-

1 cle and electric vehicle rebate program, and the Fuel NY program shall  
2 be subject to the provisions of this section. Notwithstanding the  
3 provisions of subdivision 4-a of section 18-a of the public service law,  
4 all moneys committed or expended in an amount not to exceed \$22,875,000  
5 shall be reimbursed by assessment against gas corporations, as defined  
6 in subdivision 11 of section 2 of the public service law and electric  
7 corporations as defined in subdivision 13 of section 2 of the public  
8 service law, where such gas corporations and electric corporations have  
9 gross revenues from intrastate utility operations in excess of \$500,000  
10 in the preceding calendar year, and the total amount assessed shall be  
11 allocated to each electric corporation and gas corporation in proportion  
12 to its intrastate electricity and gas revenues in the calendar year  
13 2020. Such amounts shall be excluded from the general assessment  
14 provisions of subdivision 2 of section 18-a of the public service law.  
15 The chair of the public service commission shall bill such gas and/or  
16 electric corporations for such amounts on or before August 10, 2022 and  
17 such amounts shall be paid to the New York state energy research and  
18 development authority on or before September 10, 2022. Upon receipt, the  
19 New York state energy research and development authority shall deposit  
20 such funds in the energy research and development operating fund estab-  
21 lished pursuant to section 1859 of the public authorities law. The New  
22 York state energy research and development authority is authorized and  
23 directed to: (1) transfer up to \$4 million to the state general fund for  
24 climate change related services and expenses of the department of envi-  
25 ronmental conservation, \$150,000 to the state general fund for services  
26 and expenses of the department of agriculture and markets, and  
27 \$1,000,000 to the University of Rochester laboratory for laser energet-  
28 ics from the funds received; and (2) commencing in 2016, provide to the

1 chair of the public service commission and the director of the budget  
2 and the chairs and secretaries of the legislative fiscal committees, on  
3 or before August first of each year, an itemized record, certified by  
4 the president and chief executive officer of the authority, or his or  
5 her designee, detailing any and all expenditures and commitments ascrib-  
6 able to moneys received as a result of this assessment by the chair of  
7 the department of public service pursuant to section 18-a of the public  
8 service law. This itemized record shall include an itemized breakdown  
9 of the programs being funded by this section and the amount committed to  
10 each program. The authority shall not commit for any expenditure, any  
11 moneys derived from the assessment provided for in this section, until  
12 the chair of such authority shall have submitted, and the director of  
13 the budget shall have approved, a comprehensive financial plan encom-  
14 passing all moneys available to and all anticipated commitments and  
15 expenditures by such authority from any source for the operations of  
16 such authority. Copies of the approved comprehensive financial plan  
17 shall be immediately submitted by the chair to the chairs and secre-  
18 taries of the legislative fiscal committees. Any such amount not commit-  
19 ted by such authority to contracts or contracts to be awarded or other-  
20 wise expended by the authority during the fiscal year shall be refunded  
21 by such authority on a pro-rata basis to such gas and/or electric corpo-  
22 rations, in a manner to be determined by the department of public  
23 service, and any refund amounts must be explicitly lined out in the  
24 itemized record described above.

25 § 2. This act shall take effect immediately and shall be deemed to  
26 have been in full force and effect on and after April 1, 2022.

1 Section 1. Expenditures of moneys appropriated in a chapter of the  
2 laws of 2022 to the department of agriculture and markets from the  
3 special revenue funds-other/state operations, miscellaneous special  
4 revenue fund-339, public service account shall be subject to the  
5 provisions of this section. Notwithstanding any other provision of law  
6 to the contrary, direct and indirect expenses relating to the department  
7 of agriculture and markets' participation in general ratemaking  
8 proceedings pursuant to section 65 of the public service law or certif-  
9 ication proceedings pursuant to article 7 or 10 of the public service  
10 law, shall be deemed expenses of the department of public service within  
11 the meaning of section 18-a of the public service law. No later than  
12 August 15, 2023, the commissioner of the department of agriculture and  
13 markets shall submit an accounting of such expenses, including, but not  
14 limited to, expenses in the 2022--2023 state fiscal year for personal  
15 and non-personal services and fringe benefits, to the chair of the  
16 public service commission for the chair's review pursuant to the  
17 provisions of section 18-a of the public service law.

18 § 2. Expenditures of moneys appropriated in a chapter of the laws of  
19 2022 to the department of state from the special revenue funds-  
20 other/state operations, miscellaneous special revenue fund-339, public  
21 service account shall be subject to the provisions of this section.  
22 Notwithstanding any other provision of law to the contrary, direct and  
23 indirect expenses relating to the activities of the department of  
24 state's utility intervention unit pursuant to subdivision 4 of section  
25 94-a of the executive law, including, but not limited to participation  
26 in general ratemaking proceedings pursuant to section 65 of the public  
27 service law or certification proceedings pursuant to article 7 or 10 of  
28 the public service law, and expenses related to the activities of the

1 major renewable energy development program established by section 94-c  
2 of the executive law, shall be deemed expenses of the department of  
3 public service within the meaning of section 18-a of the public service  
4 law. No later than August 15, 2023, the secretary of state shall submit  
5 an accounting of such expenses, including, but not limited to, expenses  
6 in the 2022--2023 state fiscal year for personal and non-personal  
7 services and fringe benefits, to the chair of the public service commis-  
8 sion for the chair's review pursuant to the provisions of section 18-a  
9 of the public service law.

10 § 3. Expenditures of moneys appropriated in a chapter of the laws of  
11 2022 to the office of parks, recreation and historic preservation from  
12 the special revenue funds-other/state operations, miscellaneous special  
13 revenue fund-339, public service account shall be subject to the  
14 provisions of this section. Notwithstanding any other provision of law  
15 to the contrary, direct and indirect expenses relating to the office of  
16 parks, recreation and historic preservation's participation in general  
17 ratemaking proceedings pursuant to section 65 of the public service law  
18 or certification proceedings pursuant to article 7 or 10 of the public  
19 service law, shall be deemed expenses of the department of public  
20 service within the meaning of section 18-a of the public service law. No  
21 later than August 15, 2023, the commissioner of the office of parks,  
22 recreation and historic preservation shall submit an accounting of such  
23 expenses, including, but not limited to, expenses in the 2022--2023  
24 state fiscal year for personal and non-personal services and fringe  
25 benefits, to the chair of the public service commission for the chair's  
26 review pursuant to the provisions of section 18-a of the public service  
27 law.

1 § 4. Expenditures of moneys appropriated in a chapter of the laws of  
2 2022 to the department of environmental conservation from the special  
3 revenue funds-other/state operations, environmental conservation special  
4 revenue fund-301, utility environmental regulation account shall be  
5 subject to the provisions of this section. Notwithstanding any other  
6 provision of law to the contrary, direct and indirect expenses relating  
7 to the department of environmental conservation's participation in state  
8 energy policy proceedings, or certification proceedings pursuant to  
9 article 7 or 10 of the public service law, shall be deemed expenses of  
10 the department of public service within the meaning of section 18-a of  
11 the public service law. No later than August 15, 2023, the commissioner  
12 of the department of environmental conservation shall submit an account-  
13 ing of such expenses, including, but not limited to, expenses in the  
14 2022--2023 state fiscal year for personal and non-personal services and  
15 fringe benefits, to the chair of the public service commission for the  
16 chair's review pursuant to the provisions of section 18-a of the public  
17 service law.

18 § 5. Notwithstanding any other law, rule or regulation to the contra-  
19 ry, expenses of the department of health public service education  
20 program incurred pursuant to appropriations from the cable television  
21 account of the state miscellaneous special revenue funds shall be deemed  
22 expenses of the department of public service. No later than August 15,  
23 2023, the commissioner of the department of health shall submit an  
24 accounting of expenses in the 2022--2023 state fiscal year to the chair  
25 of the public service commission for the chair's review pursuant to the  
26 provisions of section 217 of the public service law.

27 § 6. Any expense deemed to be expenses of the department of public  
28 service pursuant to sections one through four of this act shall not be



1 recovered through assessments imposed upon telephone corporations as  
2 defined in subdivision 17 of section 2 of the public service law.

3 § 7. This act shall take effect immediately and shall be deemed to  
4 have been in full force and effect on and after April 1, 2022 and shall  
5 expire and be deemed repealed April 1, 2023.

6 PART CCC

7 Section 1. Subdivision 4 of section 31 of the public service law, as  
8 added by chapter 713 of the laws of 1981, is amended to read as follows:

9 4. In the case of any application for service to a building which is  
10 not supplied with electricity or gas, a utility corporation or munici-  
11 pality shall be obligated to provide service to such a building,  
12 provided however, that the commission may require applicants for elec-  
13 tric service to buildings that are located in excess of one hundred feet  
14 from [gas or] electric transmission lines to pay or agree in writing to  
15 pay material and installation costs relating to the applicant's propor-  
16 tion of the [pipe,] conduit, duct or wire, or other facilities to be  
17 installed. The commission may further require applicants for gas  
18 service, regardless of proximity to gas transportation lines to pay or  
19 agree in writing to pay all material and installation costs relating to  
20 the pipe, conduit, or other facilities to be installed to serve the  
21 applicant. Where electrification is not a practical alternative to gas  
22 service, the commission may require applicants for gas service to pay  
23 material and installation costs relating to the applicant's portion of  
24 the pipe, conduit, or other facilities to be installed in excess of one  
25 hundred feet.

1 § 2. Subdivision 11 of section 2 of the public service law, as amended  
2 by chapter 159 of the laws of 1992, is amended to read as follows:

3 11. The term "gas corporation," when used in this chapter, includes  
4 every corporation, company, association, joint-stock association, part-  
5 nership and person, their lessees, trustees or receivers appointed by  
6 any court whatsoever, owning, operating or managing any gas plant or  
7 geothermal plant (a) except where gas is made or produced and distrib-  
8 uted by the maker on or through private property solely for its own use  
9 or the use of its tenants and not for sale to others, (b) except where  
10 compressed natural gas is sold, distributed or furnished solely as a  
11 fuel for use in motor vehicles, (c) except where manufactured gas is  
12 sold by the producer only for use or resale by a gas corporation and  
13 such gas of the producer and any affiliated producers does not exceed in  
14 any one year thirty per cent of the total gas sold by any purchaser  
15 thereof in the area in which such manufactured gas is resold either as  
16 manufactured gas or as a component of mixed gas, and (d) except where  
17 gas is made or produced solely from one or more alternate energy  
18 production facilities or distributed solely from one or more of such  
19 facilities to users located at or near a project site; provided, howev-  
20 er, that any producer not included within the meaning of "gas corpo-  
21 ration" by reason of exception (c) or (d) shall nevertheless be consid-  
22 ered a gas corporation for the purposes of commission jurisdiction  
23 relating to the safety of the construction, operation, or maintenance of  
24 plants manufacturing pipeline quality gas.

25 § 3. Subdivision 13 of section 2 of the public service law, as amended  
26 by chapter 843 of the laws of 1981, is amended to read as follows:

27 13. The term "electric corporation," when used in this chapter,  
28 includes every corporation, company, association, joint-stock associ-

1 ation, partnership and person, their lessees, trustees or receivers  
2 appointed by any court whatsoever (other than a railroad or street rail-  
3 road corporation generating electricity solely for railroad or street  
4 railroad purposes or for the use of its tenants and not for sale to  
5 others) owning, operating or managing any electric plant or geothermal  
6 plant except where electricity or geothermal energy is generated or  
7 distributed by the producer solely on or through private property for  
8 railroad or street railroad purposes or for its own use or the use of  
9 its tenants and not for sale to others; or except where electricity is  
10 generated by the producer solely from one or more co-generation, small  
11 hydro or alternate energy production facilities or distributed solely  
12 from one or more of such facilities to users located at or near a  
13 project site.

14 § 4. Section 2 of the public service law is amended by adding a new  
15 subdivision 15 to read as follows:

16 15. The term "geothermal plant," when used in this chapter, includes  
17 all real estate, fixtures and personal property operated, owned, used or  
18 to be used for or in connection with or to facilitate the transmission,  
19 distribution, sale or furnishing of geothermal energy to more than one  
20 end user on separately owned properties through shared facilities for  
21 heat or power.

22 § 5. Paragraphs (c) and (d) of subdivision 6 of section 65 of the  
23 public service law, paragraph (c) as amended by chapter 204 of the laws  
24 of 2010 and paragraph (d) as amended by chapter 388 of the laws of 2011,  
25 are amended and a new paragraph (e) is added to read as follows:

26 (c) for a remote meter reading device upon the request and consent of  
27 the customer; [or]

1 (d) for installation of capital improvements and fixtures to promote  
2 energy efficiency upon the request and consent of the customer, includ-  
3 ing but not limited to the performance of qualified energy efficiency  
4 services for customers participating in green jobs-green New York  
5 on-bill recovery pursuant to section sixty-six-m of this article[.]; or  
6 (e) for the provision of geothermal service.  
7 § 6. This act shall take effect immediately.

8 PART DDD

9 Section 1. Paragraph (a) of subdivision 17 of section 1005 of the  
10 public authorities law, as amended by chapter 494 of the laws of 2011,  
11 is amended to read as follows:

12 (a) As deemed feasible and advisable by the trustees, to finance and  
13 design, develop, construct, implement, provide and administer energy-re-  
14 lated projects, programs and services for any public entity, any inde-  
15 pendent not-for-profit institution of higher education within the state,  
16 any general hospital located in the state, and any recipient of the  
17 economic development power, expansion power, replacement power, preser-  
18 vation power, high load factor power, municipal distribution agency  
19 power, power for jobs, and recharge New York power programs administered  
20 by the authority. In establishing and providing high performance and  
21 sustainable building programs and services authorized by this subdivi-  
22 sion, the authority is authorized to consult standards, guidelines,  
23 rating systems, and/or criteria established or adopted by other organ-  
24 izations, including but not limited to the United States green building  
25 council under its leadership in energy and environmental design (LEED)  
26 programs, the green building initiative's green globes rating system,

1 and the American National Standards Institute. The source of any financ-  
2 ing and/or loans provided by the authority for the purposes of this  
3 subdivision may be the proceeds of notes issued pursuant to section one  
4 thousand nine-a of this title, the proceeds of bonds issued pursuant to  
5 section one thousand ten of this title, or any other available authority  
6 funds.

7 § 2. Paragraph (b) of subdivision 17 of section 1005 of the public  
8 authorities law is amended by adding a new subparagraph 3-a to read as  
9 follows:

10 (3-a) "General hospital" has the same meaning ascribed to such term in  
11 subdivision ten of section twenty-eight hundred one of the public health  
12 law.

13 § 3. This act shall take effect immediately.

14 PART EEE

15 Section 1. This act shall be known and may be cited as the "advanced  
16 building codes, appliance and equipment efficiency standards, and build-  
17 ing benchmarking act of 2022".

18 § 2. Subdivision 2 of section 3-101 of the energy law, as amended by  
19 chapter 253 of the laws of 2013, is amended to read as follows:

20 2. to encourage conservation of energy and to promote the clean energy  
21 and climate agenda, including but not limited to greenhouse gas  
22 reduction, set forth within chapter one hundred six of the laws of two  
23 thousand nineteen, also known as the New York state climate leadership  
24 and community protection act, in the construction and operation of new  
25 commercial, industrial, agricultural and residential buildings, and in  
26 the rehabilitation of existing structures, through heating, cooling,

1 ventilation, lighting, insulation and design techniques and the use of  
2 energy audits and life-cycle costing analysis;

3 § 3. Subdivisions 3 and 9 of section 11-102 of the energy law, as  
4 added by chapter 560 of the laws of 2010, are amended, subdivisions 11,  
5 12, 13, 14, and 15 are renumbered to be subdivisions 12, 13, 14, 15, and  
6 16, and a new subdivision 11 is added to read as follows:

7 3. ["ASHRAE 90.1-2007." ANSI/ASHRAE/IESNA] "ASHRAE 90.1."  
8 ANSI/ASHRAE/IES Standard [90.1-2007] 90.1, entitled "Energy [Standards]  
9 Standard for Buildings Except Low-Rise Residential Buildings," published  
10 by American Society of Heating, Refrigerating and Air-Conditioning Engi-  
11 neers, Inc.

12 9. "Historic building." Any building or structure that is one or more  
13 of the following: (a) listed, or certified as eligible for listing, on  
14 the national register of historic places or on the state register of  
15 historic places, (b) [determined by the commissioner of parks, recre-  
16 ation and historic preservation to be eligible for listing on the state  
17 register of historic places] designated as historic under applicable  
18 state or local law, or (c) [determined by the commissioner of parks,  
19 recreation and historic preservation to be a contributing building to an  
20 historic district that is listed or eligible for listing on the state or  
21 national registers of historic places, or (d) otherwise defined as an  
22 historic building in regulations adopted by the state fire prevention  
23 and building code council] certified as a contributing resource within a  
24 national register-listed, state register-listed, or locally designated  
25 historic district.

26 11. "Life-cycle cost." An estimate of the total cost of acquisition,  
27 operation, maintenance, and construction of any system within or related  
28 to a structure over the design life of the structure. "Life-cycle cost"

1 includes, but is not limited to, the cost of fuel, materials, machinery,  
2 ancillary devices, labor, service, replacement, and repairs.

3 § 4. Paragraph (b) of subdivision 1 and subdivisions 2 and 3 of  
4 section 11-103 of the energy law, paragraph (b) of subdivision 1 as  
5 added and subdivision 2 as amended by chapter 560 of the laws of 2010  
6 and subdivision 3 as amended by chapter 292 of the laws of 1998, are  
7 amended to read as follows:

8 (b) The code shall apply to the construction of any new building. The  
9 code shall also apply to an addition to, and alteration of, any existing  
10 building or building system; provided, however, that the code shall not  
11 be interpreted to require any unaltered portion of the existing building  
12 or building system to comply with the code. The code shall [not apply to  
13 the following provided that the energy use of the building is not  
14 increased:

15 (1) storm windows installed over existing fenestration;

16 (2) glass only replacements in an existing sash and frame;

17 (3) existing ceiling, wall or floor cavities exposed during  
18 construction provided that these cavities are filled with insulation;

19 (4) construction where the existing roof, wall or floor cavity is not  
20 exposed;

21 (5) reroofing for roofs where neither the sheathing nor the insulation  
22 is exposed; roofs without insulation in the cavity and where the sheath-  
23 ing or insulation is exposed during reroofing shall be insulated either  
24 above or below the sheathing;

25 (6) replacement of existing doors that separate conditioned space from  
26 the exterior shall not require the installation of a vestibule or  
27 revolving door, provided, however, that an existing vestibule that sepa-  
28 rates such conditioned space from the exterior shall not be removed;

1 (7) alterations that replace less than fifty percent of the luminaires  
2 in a space, provided that such alterations do not increase the installed  
3 interior lighting power;

4 (8) alterations that replace only the bulb and ballast within the  
5 existing luminaires in a space provided that the alteration does not  
6 increase the installed interior lighting power; and

7 (9) any other exception] be subject to such other exceptions as may be  
8 adopted by the state fire prevention and building code council provided  
9 that such [exception will] exceptions shall not prevent the attainment  
10 of the compliance goals set forth in section 410(2)(c) of the American  
11 Recovery and Reinvestment Act of 2009.

12 2. (a) The state fire prevention and building code council is author-  
13 ized, from time to time as it deems appropriate and consistent with the  
14 purposes of this article, to review and amend the code, or adopt a new  
15 code, through rules and regulations provided that the code remains cost  
16 effective with respect to building construction in the state. In deter-  
17 mining whether the code remains cost effective, the code council shall  
18 consider [whether the cost of materials and their installation to meet  
19 its standards would be equal to or less than the present value of energy  
20 savings that could be expected over a ten year period in the building in  
21 which such materials are installed] (i) whether complying with the code  
22 would reduce or maintain overall life-cycle costs under a life-cycle  
23 cost analysis performed under methodology as established by the New York  
24 state energy research and development authority from time to time, and  
25 (ii) secondary or societal effects, such as reductions in greenhouse gas  
26 emissions. The methodology for assessing cost-effectiveness, including  
27 secondary or societal effects, shall be developed through an open and  
28 transparent public process. For residential buildings, the code shall



1 meet or exceed the then most recently published International Energy  
2 Conservation Code, or achieve equivalent or greater energy savings; and  
3 for commercial buildings, the code shall meet or exceed the then most  
4 recently published ASHRAE [90.1-2007] 90.1, or achieve equivalent or  
5 greater energy savings.

6 (b) When adopting the first amended version of the code next following  
7 the effective date of the chapter of the laws of two thousand twenty-two  
8 that added this paragraph, and any subsequent codes, the state fire  
9 prevention and building code council shall use its best efforts to adopt  
10 provisions for residential buildings that achieve energy savings greater  
11 than energy savings achieved by the then most recently published Inter-  
12 national Energy Conservation Code and to meet the goals of the New York  
13 state climate leadership and community protection act pursuant to chap-  
14 ter one hundred six of the laws of two thousand nineteen and to adopt  
15 provisions for commercial buildings that achieve energy savings greater  
16 than energy savings achieved by the then most recently published ASHRAE  
17 90.1 and to meet the goals of the New York state climate leadership and  
18 community protection act pursuant to chapter one hundred six of the laws  
19 of two thousand nineteen, both at levels recommended by the New York  
20 state energy research and development authority, provided that the state  
21 fire prevention and building code council determines that such advanced  
22 energy savings can be achieved while still meeting the cost effective-  
23 ness considerations contemplated by this subdivision.

24 3. Notwithstanding any other provision of law, the state fire  
25 prevention and building code council in accordance with the mandate  
26 under this article shall have exclusive authority among state agencies  
27 to promulgate a construction code incorporating energy conservation  
28 features and clean energy features, including but not limited to green-

1 house gas reduction. Any other code, rule or regulation heretofore  
2 promulgated or enacted by any other state agency, incorporating specific  
3 energy conservation and clean energy requirements applicable to the  
4 construction of any building, shall be superseded by the code promulgat-  
5 ed pursuant to this section. The New York state energy research and  
6 development authority shall provide meaningful opportunities for public  
7 comment from all segments of the population that will be impacted by  
8 the promulgated codes, rules, or regulations, including persons living  
9 in disadvantaged communities as identified by the climate justice work-  
10 ing group established under section 75-0111 of the environmental conser-  
11 vation law.

12 § 5. Subdivision 5 of section 11-104 of the energy law, as amended by  
13 chapter 560 of the laws of 2010, is amended and a new subdivision 6 is  
14 added to read as follows:

15 5. The [code shall exempt from such uniform standards and requirements  
16 any historic building as defined in section 11-102 of this article]  
17 state fire prevention and building code council, in consultation with  
18 the commissioner of the department of parks, recreation, and historic  
19 preservation, is authorized to provide exemptions to such uniform stand-  
20 ards and requirements for historic buildings as defined in section  
21 11-102 of this article, to the extent that the uniform standards and  
22 requirements would threaten, degrade, or destroy the historic form,  
23 fabric, or function of such historic buildings.

24 6. To the fullest extent feasible, the code shall require new  
25 construction statewide to have zero onsite greenhouse gas emissions no  
26 later than the year two thousand twenty-seven to help achieve the  
27 state's clean energy and climate agenda, including but not limited to  
28 greenhouse gas reduction, set forth within chapter one hundred six of

1 the laws of two thousand nineteen, also known as the New York state  
2 climate leadership and community protection act, and as further identi-  
3 fied by the New York state climate action council established pursuant  
4 to section 75-0103 of the environmental conservation law.

5 § 6. The article heading of article 16 of the energy law, as added by  
6 chapter 431 of the laws of 2005, is amended to read as follows:

7 APPLIANCE AND EQUIPMENT [ENERGY] EFFICIENCY STANDARDS

8 § 7. Subdivision 4-a of section 16-102 of the energy law, as added by  
9 chapter 222 of the laws of 2010, is amended to read as follows:

10 4-a. ["Bottle-type water dispenser" means a water dispenser that uses  
11 a bottle or reservoir as the source of potable water.] The following  
12 definitions refer to water coolers:

13 (a) "Bottle-type" means a water dispenser that uses a bottle or reser-  
14 voir as the source of potable water.

15 (b) "Water cooler" means a freestanding device that consumes energy to  
16 cool and/or heat potable water.

17 (c) "Cold only units" means units that dispense cold water only.

18 (d) "Hot and cold units" means units that dispense both hot and cold  
19 water. Some units may also offer room-temperature water.

20 (e) "Cook and cold units" means units that dispense both cold and  
21 room-temperature water.

22 (f) "Point of use (POU)" means the water cooler is connected to a  
23 pressurized water source.

24 (g) "Conversion-type" means a unit that ships as either bottle-type or  
25 POU and includes a conversion kit intended to convert the water cooler  
26 from a bottle-type unit to a POU unit or to convert a POU unit to a  
27 bottle-type unit.

1 (h) "Storage-type" means thermally conditioned water is stored in a  
2 tank in the water cooler and is available instantaneously.

3 (i) "On demand" means the water cooler heats water as it is requested,  
4 which typically takes a few minutes to deliver.

5 § 8. Subdivision 11 of section 16-102 of the energy law, as added by  
6 chapter 431 of the laws of 2005, is amended to read as follows:

7 11. "Consumer audio and video product" means [televisions,] a mains-  
8 connected product that amplifies audio, offers optical, disc player  
9 functionality, and/or receives and plays audio and/or video content.  
10 Examples of consumer audio and video products include compact audio  
11 products, digital versatile disc players, digital versatile disc record-  
12 ers, [and] digital television adapters and streaming media players.  
13 Televisions are specifically excluded from consumer audio and video  
14 products.

15 § 9. Subdivision 18 of section 16-102 of the energy law, as added by  
16 chapter 431 of the laws of 2005, is amended to read as follows:

17 18. ["Energy efficiency performance standards"] "Efficiency standard"  
18 means [performance standards which prescribe a minimum level of energy  
19 efficiency determined in accordance with test procedures prescribed by  
20 the secretary in consultation with the president] a standard that  
21 defines performance metrics and/or defines prescriptive design require-  
22 ments in order to reduce energy consumption, reduce water consumption,  
23 reduce greenhouse gas emissions, and/or increase demand flexibility  
24 associated with the regulated product category.

25 § 10. Subdivisions 27-a and 27-b of section 16-102 of the energy law,  
26 as added by chapter 222 of the laws of 2010, are amended to read as  
27 follows:

1 27-a. "Portable electric spa" means a factory-built electric spa or  
2 hot tub, [supplied with equipment for heating and circulating water]  
3 which may or may not include any combination of integral controls, water  
4 heating or water circulating equipment.

5 27-b. "Portable light fixture" means a light fixture which has a flex-  
6 ible cord and an attachment plug for connection to a nominal one hundred  
7 twenty-volt, fifteen- or twenty-ampere branch circuit; which can be  
8 relocated by the user without any rewiring; [and] which is typically  
9 controlled with a switch located on the light fixture itself or on the  
10 power cord; and which are intended for use in accordance with the  
11 national electrical code, ANSI/NFPA 70-2002. "Portable light fixture"  
12 does not include direct plug-in nightlights; sun and heat lamps; aquari-  
13 um lamps; medical and dental lights; portable electric hand lamps; signs  
14 and commercial advertising displays; photographic lamps; germicidal  
15 lamps; [metal halide lamp fixtures; torchiere lighting fixtures] illumi-  
16 nated vanity mirrors; lava lamps not providing general or task illumi-  
17 nation; industrial work lights rated for use with a lamp providing  
18 greater than seven thousand lumens; portable lamp fixtures for marine  
19 use or for use in hazardous locations as defined in the national elec-  
20 trical code, ANSI/NFPA 70; or decorative lighting outfits or electric  
21 candles and candelabras without lampshades that are covered by the stan-  
22 dard for safety of seasonal and holiday decorative products, UL 588.

23 § 11. Subdivision 29-a of section 16-102 of the energy law, as added  
24 by chapter 222 of the laws of 2010, is amended to read as follows:

25 29-a. "[Residential] Replacement dedicated-purpose pool pump motor"  
26 means [a product which is designed or used to circulate and filter resi-  
27 dential swimming pool water in order to maintain clarity and sanitation

1 and which consists in part of a motor and an impeller] an electric motor  
2 that:

3 (a) is single-phase or polyphase;

4 (b) has a dedicated purpose pool pump motor total horsepower of less  
5 than or equal to five horsepower;

6 (c) is marketed for use as a replacement motor in self-priming pool  
7 filter pump, non-self-priming pool filter pump or pressure cleaner  
8 booster pump applications; and

9 (d) excludes polyphase replacement dedicated-purpose pool pump motors  
10 capable of operating without a drive, and is sold or offered for sale  
11 without a drive that converts single-phase power to polyphase power.

12 § 12. Subdivision 33 of section 16-102 of the energy law, as added by  
13 chapter 431 of the laws of 2005, is amended to read as follows:

14 33. "Television (TV)" means [a commercially available electronic prod-  
15 uct consisting of a tuner/receiver and a monitor encased in a single  
16 housing, which is] an analog or digital device primarily designed to  
17 receive and display [an analog or digital video television signal broad-  
18 cast by an antenna, satellite, cable, or broadband source] terrestrial,  
19 satellite, cable, Internet Protocol TV (IPTV), or other broadcast or  
20 recorded transmissions of analog or digital video and audio signals. TVs  
21 include combination TVs, television monitors, component TVs, and any  
22 unit that is marketed to the consumer as a TV. "Television" does not  
23 include [multifunction TVs which have VCR, DVD, DVR, or EPG functions]  
24 computer monitors.

25 § 13. Section 16-102 of the energy law is amended by adding thirty-  
26 eight new subdivisions 18-a, 18-b, 21-c, 21-d, 38, 39, 40, 41, 41-a, 42,  
27 42-a, 43, 43-a, 44, 45, 46, 46-a, 47, 48, 49, 50, 51, 52, 53, 54, 55,  
28 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66 and 67 to read as follows:

1 18-a. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide,  
2 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other  
3 substance emitted into the air that may be reasonably anticipated to  
4 cause or contribute to anthropogenic climate change.

5 18-b. "Demand flexibility" means the capability to schedule, shift, or  
6 curtail the electrical demand of a load-serving entity's customer  
7 through direct action by the customer or through action by a third  
8 party, the load-serving entity, or a grid balancing authority, with the  
9 customer's consent.

10 21-c. "Duv" means a metric that quantifies the distance between the  
11 chromaticity of a given light source and a blackbody radiator of equal  
12 correlated color temperature (CCT) on a CIE 1976 (u, v) chromatic  
13 diagram demonstrating how different two light sources of the same color  
14 temperature appear.

15 21-d. "Light Emitting Diode (LED) lamp" means a lamp capable of  
16 producing light with Duv between -0.012 and 0.012, and that has an E12,  
17 E17, E26, or GU-24 base, including LED lamps that are designed for  
18 retrofit within existing recessed can housings that contain one of the  
19 preceding bases. LED lamp does not include a lamp with a brightness of  
20 more than two thousand six hundred lumens or a lamp that cannot produce  
21 light with a correlated color temperature between two thousand two  
22 hundred Kelvin and seven thousand Kelvin.

23 38. The following definitions refer to air compressors:

24 (a) "Air compressor" means a compressor designed to compress air that  
25 has an inlet open to the atmosphere or other source of air, and is made  
26 up of a compression element (bare compressor), driver or drivers mechan-  
27 ical equipment to drive the compressor element, and any ancillary equip-  
28 ment.

1 (b) "Compressor" means a machine or apparatus that converts different  
2 types of energy into the potential energy of gas pressure for displace-  
3 ment and compression of gaseous media to any higher-pressure values  
4 above atmospheric pressure and has a pressure ratio at full-load operat-  
5 ing pressure greater than 1.3.

6 39. The following definitions refer to air purifiers:

7 (a) "Air purifier", also known as "room air cleaner", means an elec-  
8 tric, cord-connected, portable appliance with the primary function of  
9 removing particulate matter from the air and which can be moved from  
10 room to room.

11 (b) "Industrial air purifier" means an indoor air cleaning device  
12 manufactured, advertised, marketed, labeled, and used solely for indus-  
13 trial use that are marketed solely through industrial supply outlets or  
14 businesses and prominently labeled as "Solely for industrial use. Poten-  
15 tial health hazard: emits ozone."

16 40. "Commercial dishwasher" means a machine designed to clean and  
17 sanitize plates, pots, pans, glasses, cups, bowls, utensils, and trays  
18 by applying sprays of detergent solution (with or without blasting media  
19 granules) and a sanitizing rinse and is not a "compact dishwasher" or  
20 "standard dishwasher" (capacity less than eight place settings plus six  
21 serving pieces as specified in ANSI/AHAM DW-1 using the test load speci-  
22 fied in section 2.7 of appendix C in subpart B of 10 CFR 430.2).

23 41. "Commercial fryer" means an appliance for non-residential use,  
24 including a cooking vessel, in which oil is placed to such a depth that  
25 the cooking food is essentially supported by displacement of the cooking  
26 fluid rather than by the bottom of the vessel. Heat is delivered to the  
27 cooking fluid by means of an immersed electric element of band-wrapped  
28 vessel (electric fryers) or by heat transfer from gas burners through



1 either the walls of the fryer or through tubes passing through the cook-  
2 ing fluid (gas fryers).

3 41-a. "Commercial oven" means a chamber designed for heating, roast-  
4 ing, or baking food by conduction, convection, radiation, and/or elec-  
5 tromagnetic energy.

6 42. "Commercial steam cooker" also known as "compartment steamer",  
7 means a device for non-residential use with one or more food-steaming  
8 compartments in which the energy in the steam is transferred to the food  
9 by direct contact. Models may include countertop models, wall-mounted  
10 models, and floor models mounted on a stand, pedestal, or cabinet-style  
11 base.

12 42-a. "Commercial hot food holding cabinet" means a heated, fully  
13 enclosed compartment, with one or more solid or partial glass doors,  
14 that is designed to maintain the temperature of hot food that has been  
15 cooked in a separate appliance. "Commercial hot food holding cabinet"  
16 does not include heated glass merchandising cabinets, drawer warmers or  
17 cook-and-hold appliances.

18 43. "Computer" means a device that performs logical operations and  
19 processes data. A computer includes both stationary and portable units  
20 and includes a desktop computer, a portable all-in-one, a notebook  
21 computer, a mobile gaming system, a high-expandability computer, a  
22 small-scale server, a thin client, and a workstation. Although a comput-  
23 er is capable of using input devices and displays, such devices are not  
24 required to be included with the computer when the computer is shipped.  
25 A computer is composed of, at a minimum, (a) a central processing unit  
26 (CPU) to perform operations or, if no CPU is present, then the device  
27 must function as a client gateway to a server, and the server acts as a  
28 computational CPU; (b) the ability to support user input devices such as

1 a keyboard, mouse, or touch pad; and (c) an integrated display screen or  
2 the ability to support an external display screen to output information.  
3 The term "computer" does not include a tablet, a game console, a tele-  
4 vision, a device with an integrated and primary display that has a  
5 screen size of twenty square inches or less, a server other than a  
6 small-scale server, or an industrial computer.

7 43-a. "Computer monitor" means an analog or digital device of size  
8 greater than or equal to seventeen inches and less than or equal to  
9 sixty-one inches, that has a pixel density of greater than five thousand  
10 pixels per square inch, and that is designed primarily for the display  
11 of computer-generated signals for viewing by one person in a desk-based  
12 environment. A computer monitor is composed of a display screen and  
13 associated electronics. A computer monitor does not include, (a)  
14 displays with integrated or replaceable batteries designed to support  
15 primary operation without AC mains or external DC power (e.g. electronic  
16 readers, mobile phones, portable tablets, battery-powered digital  
17 picture frames); or (b) a television or signage display.

18 44. "General service lamp" shall include the following definitions:

19 (a) "Compact fluorescent lamp (CFL)" means an integrated or non-inte-  
20 grated single-base, low-pressure mercury, electric-discharge source in  
21 which a fluorescing coating transforms some of the ultraviolet energy  
22 generated by the mercury discharge into light; this term shall not  
23 include circline or U-shaped lamps.

24 (b) "General service incandescent lamp" means a standard incandescent  
25 or halogen type lamp that is intended for general service applications,  
26 has a medium screw base, has a lumen range of not less than three  
27 hundred ten lumens and not more than two thousand six hundred lumens, or  
28 in the case of a modified spectrum lamp, not less than two hundred thir-

1 ty-two lumens and not more than one thousand nine hundred fifty lumens,  
2 and is capable of being operated at a voltage range at least partially  
3 within one hundred ten and one hundred thirty volts; provided, however,  
4 that this definition shall not apply to the following incandescent  
5 lamps:

6 (i) Appliance lamps;

7 (ii) Black light lamps;

8 (iii) Bug lamps;

9 (iv) Colored lamps;

10 (v) G shape lamps (as defined in ANSI C78.20 and C79.1-2002) with a  
11 diameter of five inches or more;

12 (vi) Infrared lamps;

13 (vii) Left-hand thread lamps;

14 (viii) Marine lamps;

15 (ix) Marine signal service lamps;

16 (x) Mine service lamps;

17 (xi) Plant light lamps;

18 (xii) Reflector lamps;

19 (xiii) Sign service lamps;

20 (xiv) Silver bowl lamps;

21 (xv) Showcase lamps;

22 (xvi) Rough service lamps;

23 (xvii) Shatter-resistant lamps (including shatter-proof lamps and  
24 shatter-protected lamps);

25 (xviii) 3-way incandescent lamps;

26 (xix) Vibration service lamps;

27 (xx) AB, BA, CA, F, G16-1/2, G-25, G30, S, or M-14 lamps (as defined  
28 in ANSI C79.1-2002 and ANSI C78.20) of forty watts or less;

1 (xxi) T shape lamps (as defined in ANSI C78.20 and ANSI C79.1-2002)  
2 and that uses not more than forty watts or has a length of more than ten  
3 inches; and

4 (xxii) Traffic signal lamps.

5 (c) "General service lamp" means a lamp that has an ANSI base, is able  
6 to operate at a voltage of twelve volts or twenty-four volts, at or  
7 between one hundred to one hundred thirty volts, at or between two  
8 hundred twenty to two hundred forty volts, or of two hundred seventy-  
9 seven volts for integrated lamps, or is able to operate at any voltage  
10 for non-integrated lamps, has an initial lumen output of greater than or  
11 equal to three hundred ten lumens (or two hundred thirty-two lumens for  
12 modified spectrum general service incandescent lamps) and less than or  
13 equal to three thousand three hundred lumens, is not a light fixture, is  
14 not an LED downlight retrofit kit, and is used in general lighting  
15 applications. General service lamps shall include, but not be limited  
16 to, general service incandescent lamps, incandescent reflector lamps,  
17 compact fluorescent lamps, general service light emitting diode lamps,  
18 and general service organic light emitting diode lamps. General service  
19 lamps shall not include:

20 (i) Appliance lamps;

21 (ii) Black light lamps;

22 (iii) Bug lamps;

23 (iv) Colored lamps;

24 (v) G shape lamps with a diameter of five inches or more as defined in  
25 ANSI C79.1-2002;

26 (vi) General service fluorescent lamps;

27 (vii) High intensity discharge lamps;

28 (viii) Infrared lamps;

1 (ix) J, JC, JCD, JCS, JCV, JCX, JD, JS, and JT shape lamps that do not  
2 have Edison screw bases;

3 (x) Lamps that have a wedge base or prefocus base;

4 (xi) Left-hand thread lamps;

5 (xii) Marine lamps;

6 (xiii) Marine signal service lamps;

7 (xiv) Mine service lamps;

8 (xv) MR shape lamps that have a first number symbol equal to sixteen  
9 (diameter equal to two inches) as defined in ANSI C79.1-2002, operate at  
10 twelve volts and have a lumen output greater than or equal to 800;

11 (xvi) Other fluorescent lamps;

12 (xvii) Plant light lamps;

13 (xviii) R20 short lamps;

14 (xix) Reflector lamps that have a first number symbol less than  
15 sixteen (diameter less than two inches) as defined in ANSI C79.1-2002  
16 and that do not have E26/E24, E26d, E26/50x39, E26/53x39, E29/28,  
17 E29/53x39, E39, E39d, EP39, or EX39 bases;

18 (xx) S shape or G shape lamps that have a first number symbol less  
19 than or equal to 12.5 (diameter less than or equal to 1.5625 inches) as  
20 defined in ANSI C79.1-2002;

21 (xxi) Sign service lamps;

22 (xxii) Silver bowl lamps;

23 (xxiii) Showcase lamps;

24 (xxiv) Specialty MR lamps;

25 (xxv) T shape lamps that have a first number symbol less than or equal  
26 to 8 (diameter less than or equal to one inch) as defined in ANSI  
27 C79.1-2002, nominal overall length less than twelve inches, and that are  
28 not compact fluorescent lamps; and

1 (xxvi) Traffic signal lamps.

2 (d) "General service light-emitting diode (LED) lamp" means an inte-  
3 grated or non-integrated LED lamp designed for use in general lighting  
4 applications and that uses light-emitting diodes as the primary source  
5 of light.

6 (e) "General service organic light-emitting diode (OLED) lamp" means a  
7 thin-film light-emitting device that typically consists of a series of  
8 organic layers between two electrical contacts (electrodes).

9 (f) "Incandescent reflector lamp" or "reflector lamp" means any lamp  
10 in which light is produced by a filament heated to incandescence by an  
11 electric current, which: contains an inner reflective coating on the  
12 outer bulb to direct the light; is not colored; is not designed for  
13 rough or vibration service applications; is not an R20 short lamp; has  
14 an R, PAR, ER, BR, BPAR, or similar bulb shapes with an E26 medium screw  
15 base; has a rated voltage or voltage range that lies at least partially  
16 in the range of one hundred fifteen and one hundred thirty volts; has a  
17 diameter that exceeds 2.25 inches; and has a rated wattage that is forty  
18 watts or higher.

19 45. "Federally exempt fluorescent lamp" means any linear lamps  
20 excluded from the definition of general service fluorescent lamps in 10  
21 CFR 430.32(n). Federally exempt fluorescent lamps include high-CRI line-  
22 ar fluorescent lamps, impact-resistant linear fluorescent lamps, cold-  
23 temperature linear fluorescent lamps, and less than four-foot linear  
24 fluorescent lamps.

25 46. The following definitions refer to portable air conditioners:

26 (a) "Portable air conditioner" means a portable encased assembly,  
27 other than a packaged terminal air conditioner, room air conditioner, or  
28 dehumidifier, that delivers cooled, conditioned air to an enclosed

1 space, and is powered by single-phase electric current. Such portable  
2 air conditioner includes a source of refrigeration and may include addi-  
3 tional means for air circulation and heating and may be a single-duct or  
4 a dual-duct portable air conditioner.

5 (b) "Single-duct portable air conditioner" means a portable air condi-  
6 tioner that draws all of the condenser inlet air from the conditioned  
7 space without the means of a duct and discharges the condenser outlet  
8 air outside the conditioned space through a single-duct attached to an  
9 adjustable window bracket.

10 (c) "Dual-duct portable air conditioner" means a portable air condi-  
11 tioner that draws some or all of the condenser inlet air from outside  
12 the conditioned space through a duct attached to an adjustable window  
13 bracket, may draw additional condenser inlet air from the conditioned  
14 space, and discharges the condenser outlet air outside the conditioned  
15 space by means of a separate duct attached to an adjustable window  
16 bracket.

17 46-a. "Residential ventilating fan" means a fan with the purpose to  
18 actively supply air to or remove air from the inside of a residence.  
19 This includes ceiling and wall-mounted fans or remotely mounted in-line  
20 fans designed to be used in a bathroom or utility room, supply fans  
21 designed to provide air to indoor space and kitchen range hoods. Supply  
22 fans may also be designed to filter incoming air.

23 47. "Telephone" means an electronic product whose primary purpose is  
24 to transmit and receive sound over a distance using a voice or data  
25 network.

26 48. The following definitions refer to faucets and showerheads:

1 (a) "Faucet" means a lavatory faucet, kitchen faucet, metering faucet,  
2 public lavatory faucet, or replacement aerator for a lavatory, public  
3 lavatory or kitchen faucet.

4 (b) "Public lavatory faucet" means a fitting intended to be installed  
5 in nonresidential bathrooms that are exposed to walk-in traffic.

6 (c) "Metering faucet" means a faucet that, when turned on, will gradu-  
7 ally shut itself off over a period of several seconds.

8 (d) "Replacement aerator" means an aerator sold as a replacement,  
9 separate from the faucet to which it is intended to be attached.

10 (e) "Showerhead" means a device through which water is discharged for  
11 a shower bath and includes a hand-held showerhead but does not include a  
12 safety shower showerhead.

13 (f) "Hand-held showerhead" means a showerhead that can be held or  
14 fixed in place for the purpose of spraying water onto a bather and that  
15 is connected to a flexible hose.

16 49. The following definitions refer to urinals and water closets:

17 (a) "Plumbing fixture" means an exchangeable device, which connects to  
18 a plumbing system to deliver and drain away water and waste.

19 (b) "Urinal" means a plumbing fixture that receives only liquid body  
20 waste and, conveys the waste through a trap into a drainage system.

21 (c) "Water closet" means a plumbing fixture having a water-containing  
22 receptor that receives liquid and solid body waste through an exposed  
23 integral trap into a drainage system.

24 (d) "Dual-flush effective flush volume" means the average flush volume  
25 of two reduced flushes and one full flush.

26 (e) "Dual-flush water closet" means a water closet incorporating a  
27 feature that allows the user to flush the water closet with either a  
28 reduced or a full volume of water.



1 (f) "Trough-type urinal" means a urinal designed for simultaneous use  
2 by two or more persons.

3 50. The following definitions refer to spray sprinkler bodies:

4 (a) "Pressure regulator" means a device that maintains constant oper-  
5 ating pressure immediately downstream from the device, given higher  
6 pressure upstream.

7 (b) "Spray sprinkler body" means the exterior case or shell of a  
8 sprinkler incorporating a means of connection to the piping system  
9 designed to convey water to a nozzle or orifice.

10 51. "Uninterruptable power supply" means a battery charger consisting  
11 of a combination of convertors, switches and energy storage devices  
12 (such as batteries), constituting a power system for maintaining conti-  
13 nunity of load power in case of input power failure.

14 52. "Commercial battery charger system (BCS)" or "state-regulated BCS"  
15 means a battery charger coupled with its batteries or battery chargers  
16 coupled with their batteries, which together are referred to as state-  
17 regulated battery charger systems. This term covers all rechargeable  
18 batteries or devices incorporating a rechargeable battery and the char-  
19 gers used with them. Battery charger systems include, but are not  
20 limited to:

21 (a) electronic devices with a battery that are normally charged from  
22 AC line voltage or DC input voltage through an internal or external  
23 power supply and a dedicated battery charger;

24 (b) the battery and battery charger components of devices that are  
25 designed to run on battery power during part or all of their operations;

26 (c) dedicated battery systems primarily designed for electrical or  
27 emergency backup; and

1 (d) devices whose primary function is to charge batteries, along with  
2 the batteries they are designed to charge. These units include chargers  
3 for power tool batteries and chargers for automotive, AA, AAA, C, D, or  
4 9V rechargeable batteries, as well as chargers for batteries used in  
5 larger industrial motive equipment and a la carte chargers.

6 The charging circuitry of battery charger systems may or may not be  
7 located within the housing of the end-use device itself. In many cases,  
8 the battery may be charged with a dedicated external charger and power  
9 supply combination that is separate from the device that runs on power  
10 from the battery. State-regulated battery charger systems do not include  
11 federally regulated battery chargers that are covered under standards in  
12 10 C.F.R. section 430.32(z).

13 53. "Gas fireplace" means a decorative gas fireplace or a heating gas  
14 fireplace.

15 (a) "Decorative gas fireplace" means a vented fireplace, including  
16 appliances that are freestanding, recessed, zero clearance, or a gas  
17 fireplace insert, that is fueled by natural gas or propane, is marked  
18 for decorative use only, and is not equipped with a thermostat or  
19 intended for use as a heater.

20 (b) "Heating gas fireplace" means a vented fireplace, including  
21 appliances that are freestanding, recessed, zero clearance, or a gas  
22 fireplace insert, that is fueled by natural gas or propane and is not a  
23 decorative fireplace

24 54. "Manufactured home" has the meaning ascribed to that term by  
25 subdivision seven of section six hundred one of the executive law.

26 55. "Recreational vehicle" means a van or utility vehicle used for  
27 recreational purposes.

1 56. "Uniform code" means the New York state uniform fire prevention  
2 and building code adopted pursuant to article eighteen of the executive  
3 law.

4 57. "Energy code" means the New York state energy conservation  
5 construction code adopted pursuant to article eleven of this chapter.

6 58. "Electric vehicle supply equipment (EVSE)" means equipment that  
7 supplies electricity in an appropriate form to storage devices, includ-  
8 ing batteries and super capacitors, that are part of electric vehi-  
9 cles. Such term shall include equipment that performs this function and  
10 equipment that is embedded in electric vehicles.

11 59. "Electric vehicle" means an on-road vehicle that draws electricity  
12 for propulsion from a traction battery with a least five kilowatt-hours  
13 (kWh) of capacity, and uses an external source of energy to recharge the  
14 battery. Such term shall include a plug-in hybrid electric vehicle  
15 (PHEV) with a second source of energy for propulsion, and a battery  
16 electric vehicle (BEV), which is powered solely by externally supplied  
17 electricity stored on-board such electric vehicle.

18 60. "Commercial clothes dryer" means a clothes dryer designed to dry  
19 fabrics in a tumble-type drum with forced air circulation and is  
20 designed for use in:

21 (a) Applications in which the occupants of more than one household  
22 will be using the clothes dryer, including multi-family housing common  
23 areas and coin laundries; or

24 (b) Other commercial applications.

25 61. "Commercial and industrial fans and blowers" means a rotary-bladed  
26 machine used to convert power to air power, with a brake horsepower  
27 greater than or equal to either one kilowatt or one horsepower, and an

1 air horsepower less than or equal to one hundred fifty, and used for  
2 commercial and industrial purposes.

3 62. "Imaging equipment" means copiers, printers, scanners, fax  
4 machines, and multifunction devices used both in homes and businesses.

5 63. "Landscape irrigation controller" means a device intended to  
6 remotely control valves to operate an irrigation system for landscapes,  
7 which may consist of grass, shrubs, trees and/or other vegetation. This  
8 term shall not include devices that are typically sold separately and  
9 used primarily for other purposes, such as a network router, and may be  
10 used incidentally for a landscape irrigation controller. This term shall  
11 not include battery powered hose-end timers or devices used primarily in  
12 agricultural applications.

13 64. "Outdoor lighting" means electrical lighting used to illuminate  
14 outdoor areas, including parking lots, streetlights, highways and area  
15 luminaires.

16 65. "Plug-in luminous signs" means a self-contained, luminous sign  
17 unit that plugs into 120V AC building mains power and is intended for  
18 indoor use only. Signs may be intended for use in commercial outlets in  
19 business establishments or in residences.

20 66. "Small network equipment" means a device whose primary function is  
21 to pass internet protocol (IP) traffic among various network interfaces  
22 or ports intended for use in residential and small business settings.

23 67. "Tub spout diverters" means the following definitions:

24 (a) A bath and shower diverter whose diverter mechanism is located in  
25 the tub spout; and/or

26 (b) Bath and shower diverter means a device used to direct the flow of  
27 water either toward a tub spout or toward a secondary outlet intended  
28 for showering purposes, including a showerhead or body spray.

1 § 14. Section 16-104 of the energy law, as added by chapter 431 of the  
2 laws of 2005, subdivision 1 as amended by chapter 222 of the laws of  
3 2010, is amended to read as follows:

4 § 16-104. Applicability, conduct prohibited. 1. The provisions of  
5 this article apply to the establishment of, testing for compliance with,  
6 certification of compliance with, and enforcement of efficiency stand-  
7 ards for the following new products which are sold, or offered for sale,  
8 leased or offered for lease, rented or offered for rent or installed or  
9 offered to install in New York state, unless preempting federal appli-  
10 ance standards are in effect: (a) automatic commercial ice cube  
11 machines; (b) ceiling fan light kits; (c) commercial pre-rinse spray  
12 valves; (d) commercial refrigerators, freezers and refrigerator-freez-  
13 ers; (e) consumer audio and video products and televisions; (f) illumi-  
14 nated exit signs; (g) incandescent reflector lamps; (h) very large  
15 commercial packaged air-conditioning and heating equipment; (i) metal  
16 halide lamp fixtures; (j) pedestrian traffic signal modules; (k) power  
17 supplies; (l) torchiere lighting fixtures; (m) unit heaters; (n) vehicu-  
18 lar traffic signal modules; (o) portable light fixtures; (p) bottle-type  
19 water dispensers; (q) commercial hot food holding cabinets; (r) portable  
20 electric spas; [and] (s) [residential] replacement dedicated-purpose  
21 pool [pumps] pump motors; (t) air compressors; (u) air purifiers; (v)  
22 commercial dishwashers; (w) commercial fryers; (x) commercial steam  
23 cookers; (y) computers and computer monitors; (z) general service lamps;  
24 (aa) federally exempt fluorescent lamps; (bb) portable air conditioners;  
25 (cc) residential ventilating fans; (dd) telephones; (ee) faucets; (ff)  
26 showerheads; (gg) urinals; (hh) water closets; (ii) sprinkler bodies;  
27 (jj) uninterruptable power supplies; (kk) light emitting diode lamps;  
28 (ll) electric vehicle supply equipment; (mm) commercial battery charger

1 systems; (nn) commercial ovens; (oo) commercial clothes dryers; (pp)  
2 commercial and industrial fans and blowers; (qq) imaging equipment; (rr)  
3 landscape irrigation controllers; (ss) outdoor lighting; (tt) plug-in  
4 luminous signs; (uu) small network equipment; (vv) tub spout diverters;  
5 (ww) commercial hot food holding cabinets; (xx) gas fireplaces; (yy)  
6 products for which efficiency standards shall have been established  
7 pursuant to paragraph (b) or (c) of subdivision one of section 16-106 of  
8 this article; and (zz) products that are subject to any federal effi-  
9 ciency standard referred to in section 16-105 of this article that shall  
10 have been adopted in this state pursuant to such section 16-105.

11 2. No person shall sell[, ] or offer for sale, lease or offer to lease,  
12 or rent or offer to rent, or install or offer to install in New York  
13 state any new product of the types enumerated in paragraphs (a) through  
14 (xx) of subdivision one of this section, or any [of the] new [products  
15 identified] product for which efficiency standards shall have been  
16 established pursuant to paragraph (b) or (c) of subdivision [four] one  
17 of section 16-106 of this article, [unless: (a) the product meets mini-  
18 mum energy performance standards adopted pursuant to this article upon  
19 the effective date of such standards; and, if required by regulations  
20 promulgated] or any new product that is subject to any federal efficien-  
21 cy standard that shall have been adopted in this state pursuant to  
22 [this] section[, (b) the manufacturer of such product certifies that the  
23 product meets said minimum energy performance standards.] 16-105 of this  
24 article, unless:

25 (a) the product meets the efficiency standards applicable to such  
26 product as of the date of manufacture of such product or as of such  
27 other date as may be determined in accordance with the regulation estab-  
28 lishing the standard for such product; and

1 (b) if required by regulations adopted pursuant to this article, the  
2 manufacturer of such product certifies that the product meets said effi-  
3 ciency standards. As used within this subdivision, reference to any new  
4 product means any individual product subject to the requirements of this  
5 article.

6 3. The prohibitions contained in [subdivisions one and] subdivision  
7 two of this section shall not apply to:

8 (a) products manufactured in the state and sold outside the state;

9 (b) products manufactured outside the state and sold at wholesale  
10 inside the state for final retail sale outside the state;

11 (c) products installed in [mobile] manufactured homes at the time of  
12 construction; [or]

13 (d) products designed expressly for installation and use in recre-  
14 ational vehicles[.]; or

15 (e) urinals and water closets designed and marketed exclusively for  
16 use at prisons or mental health care facilities.

17 § 15. The energy law is amended by adding a new section 16-105 to read  
18 as follows:

19 § 16-105. Adoption of certain federal efficiency standards. 1. The  
20 federal efficiency standard established in 10CFR Parts 430 and 431, as  
21 in effect on January first, two thousand eighteen shall be applicable to  
22 products which are subject to such federal efficiency standards and  
23 which are sold, offered for sale, or installed in New York state. So  
24 long as such federal efficiency standards remain in effect as federal  
25 efficiency standards, they shall be enforced as provided by federal law.

26 2. If any federal efficiency standard referred to in subdivision one  
27 of this section is withdrawn, repealed, voided, or otherwise ceases to  
28 remain in effect as a federal efficiency standard:

1 (a) such efficiency standard shall be deemed to be continued in this  
2 state and shall be deemed to be an efficiency standard adopted pursuant  
3 to this article;

4 (b) the president shall file with the secretary a written description  
5 of such efficiency standard, the terms and conditions of such efficiency  
6 standard, and the product or products that are subject to such efficien-  
7 cy standard, such description to be in a format consistent with the  
8 regulations adopted pursuant to this article and in form acceptable to  
9 the secretary, together with a certificate, in form acceptable to the  
10 secretary, signed and dated by the president and certifying that such  
11 efficiency standard is no longer in effect as a federal efficiency stan-  
12 dard, that such efficiency standard continues in effect in this state  
13 pursuant to this section, and that such efficiency standard is adopted  
14 pursuant to this section;

15 (c) the secretary shall cause such written description and certif-  
16 ication to be published in the state register, and shall cause the offi-  
17 cial compilation of codes, rules and regulations of the state of New  
18 York to include such written description;

19 (d) the president shall be authorized to adopt regulations establish-  
20 ing procedures for testing the energy reduction, water conservation,  
21 greenhouse gas reduction, and/or increased demand flexibility associated  
22 with such product. In adopting the flexible demand appliance standards,  
23 the New York state energy research and development authority shall  
24 consider the National Institute of Standards and Technology's reliabil-  
25 ity and cybersecurity protocols, relevant New York cybersecurity laws,  
26 regulations, and advisories, or other cybersecurity protocols that are  
27 equally or more protective, and shall adopt, at a minimum, the North



1 American Electric Reliability Corporation's Critical Infrastructure  
2 Protection standards;

3 (e) the president shall be authorized to adopt regulations establish-  
4 ing procedures for manufacturers of such product to certify that such  
5 product meets such efficiency standard, if the president determines that  
6 such manufacturer's certifications should be required; and

7 (f) the president shall be authorized to adopt regulations amending  
8 such efficiency standard from time to time, including regulations that  
9 repeal such efficiency standard or increase the stringency of such effi-  
10 ciency standard.

11 3. The actions to be taken pursuant to paragraphs (b) and (c) of  
12 subdivision two of this section to confirm that a federal efficiency  
13 standard that shall have been withdrawn, repealed, voided, or that  
14 otherwise shall have ceased to remain in effect as a federal efficiency  
15 standard, continues to be applicable in this state, and is adopted  
16 pursuant to this section, shall be exempt from the provisions of the  
17 state administrative procedure act, and the certification to be filed  
18 pursuant to paragraph (c) of subdivision two of this section shall so  
19 state.

20 4. This section shall not apply to any federal efficiency standard set  
21 aside by a court upon the petition of a person who will be adversely  
22 affected, as provided in 42 U.S.C. § 6306(b).

23 § 16. Section 16-106 of the energy law, as added by chapter 431 of the  
24 laws of 2005, paragraph (c) of subdivision 2 as added by chapter 222 of  
25 the laws of 2010 and subdivision 4 as amended by chapter 69 of the laws  
26 of 2020, is amended to read as follows:

27 § 16-106. [Administration of article] Powers and duties of the presi-  
28 dent and the secretary. 1. The [secretary, in consultation with the]

1 president[,] in consultation with the secretary shall have and be enti-  
2 tled to exercise the following powers and duties:

3 (a) To [establish energy] adopt regulations establishing efficiency  
4 [performance] standards for the products listed in paragraphs (a)  
5 through (xx) of subdivision one of section 16-104 of this article,  
6 including but not limited to, establishing [energy] efficiency [perform-  
7 ance] standards for power supplies in the active mode and no-load mode  
8 or other such products while in the active mode and in the standby-pas-  
9 sive-mode[.

10 (b) To promulgate regulations to achieve the purposes of this article  
11 provided however that no energy efficiency performance standard shall  
12 become effective for a product less than one hundred eighty days after  
13 it shall become final, provided, however, that no standard adopted  
14 pursuant to this article shall go into effect if federal government  
15 energy efficiency performance standards regarding such product preempt  
16 state standards unless preemption has been waived pursuant to federal  
17 law;

18 (c) To administer and enforce the provisions of this article and any  
19 rule or regulation promulgated thereunder or order issued pursuant ther-  
20 eto;

21 (d) To order, pursuant to section 16-104 of this article, the immedi-  
22 ate cessation of any distribution, sale or offer for sale, import or  
23 installation of any product for which the secretary, in consultation  
24 with the president, determines that the certification of such product  
25 listed in subdivision one of section 16-104 of this article was achieved  
26 in violation of section 16-108 of this article];

27 (b) To adopt regulations establishing efficiency standards for  
28 products other than motor vehicles not specifically listed in paragraphs

1 (a) through (xx) of subdivision one of section 16-104 of this article,  
2 provided that the president determines that establishing such efficiency  
3 standards would serve to promote energy reduction, water conservation,  
4 greenhouse gas reduction, and/or increased demand flexibility associated  
5 with the regulated product categories in this state. Any regulation  
6 adopted pursuant to this paragraph may include provisions establishing  
7 procedures for testing the efficiency of the covered products and  
8 provisions establishing procedures for manufacturers of such product to  
9 certify that such products meet the efficiency standards, if the presi-  
10 dent determines that such manufacturer's certifications should be  
11 required;

12 (c) To review efficiency standards as adopted from time to time by  
13 other states for products other than motor vehicles not listed in para-  
14 graphs (a) through (xx) of subdivision one of section 16-104 of this  
15 article, and to adopt regulations establishing efficiency standards  
16 similar to those adopted by any other state for such products, provided  
17 that the president determines that establishing such efficiency stand-  
18 ards would serve to promote energy reduction, water conservation, green-  
19 house gas reduction, and/or increased demand flexibility associated with  
20 the regulated product categories in this state. Any regulation adopted  
21 pursuant to this paragraph may include provisions establishing proce-  
22 dures for testing the efficiency of the covered products and provisions  
23 establishing procedures for manufacturers of such product to certify  
24 that such products meet the efficiency standards, if the president  
25 determines that such manufacturer's certifications should be required;

26 (d) To adopt regulations to achieve the purposes of this article  
27 through an open and transparent process to provide meaningful opportu-  
28 nities for public comment from all segments of the population that

1 will be impacted by the promulgated codes, rules, or regulations,  
2 including persons living in disadvantaged communities as identified by  
3 the climate justice working group established in section 75-0111 of the  
4 environmental conservation law;

5 (e) To conduct investigations, test, and obtain data with respect to  
6 research experiments and demonstrations, and to collect and disseminate  
7 information regarding the purposes to be achieved pursuant to this arti-  
8 cle;

9 (f) To accept grants or funds for purposes of administration and  
10 enforcement of this article. Notwithstanding any other provision of law  
11 to the contrary, the president is hereby authorized to accept grants or  
12 funds, including funds directed through negotiated settlements or  
13 consent orders pursuant to this article, and is authorized to establish  
14 the appliance standards administration account to be administered by the  
15 New York state energy research and development authority, in consulta-  
16 tion with the secretary, and maintained in a segregated account in the  
17 custody of the commissioner of taxation and finance. All funds accepted  
18 by the president for the purposes of this article shall be deposited in  
19 the efficiency standards administration account established by the New  
20 York state energy research and development authority and maintained in a  
21 segregated account in the custody of the commissioner of taxation and  
22 finance. All expenditures from the efficiency standards administration  
23 account pursuant to this article shall be made by the New York state  
24 energy research and development authority to carry out studies, investi-  
25 gations, research, expenses to provide for expert witness, consultant,  
26 enforcement, administrative and legal fees, including disbursements to  
27 the department of state to support enforcement activities authorized by  
28 the secretary pursuant to this section, and other related expenses

1 pursuant to this article. All deposits made to the efficiency standards  
2 administration account made by the New York state energy research and  
3 development authority, all funds maintained in the efficiency standards  
4 administration account, and disbursements therefrom, made pursuant to  
5 this article shall be subject to an annual independent audit as part of  
6 such authority's audited financial statements, and such authority shall  
7 prepare an annual report summarizing efficiency standards administration  
8 account balance and activities for each fiscal year ending March thir-  
9 ty-first and provide such report to the secretary no later than ninety  
10 days after commencement of such fiscal year;

11 (g) [To impose a fine and/or impose injunctive relief for any  
12 violation of this article after notice and an opportunity to be heard;

13 (h) The secretary and the president shall consult with the appropriate  
14 federal agencies, including, but not limited to, the federal department  
15 of energy, industry and other potentially affected parties in carrying  
16 out the provisions of this article] To consult with the appropriate  
17 federal agencies, including, but not limited to, the federal department  
18 of energy, the federal department of industry and other potentially  
19 affected parties in carrying out the provisions of this article; and

20 (h) To conduct investigations, in consultation with the secretary, to  
21 determine if products covered by standards adopted pursuant to this  
22 article comply with such standards; to conduct tests to determine if  
23 products covered by standards adopted pursuant to this article comply  
24 with such standards; to prepare written reports of the results of such  
25 investigations and tests; to provide such reports to the secretary; in  
26 consultation with the secretary, to negotiate settlement agreements with  
27 any person that violates the provisions of subdivision two of section  
28 16-104 of this article, or fails to perform any duty imposed by this

1 article, or violates or fails to comply with any rule, regulation,  
2 determination, or order adopted, made, or issued by the president or the  
3 secretary pursuant to this article, pursuant to which such person shall  
4 agree to cease such violation and to pay such civil penalty as may be  
5 specified in such agreement, the terms of which will be incorporated  
6 into a consent order signed by such person, the president, and the  
7 secretary; to consult with the secretary in connection with determi-  
8 nations made by the secretary pursuant to paragraph (b) of subdivision  
9 five of this section; and to cooperate with the secretary in enforcement  
10 proceedings conducted by the secretary pursuant to this article.

11 1-a. Notwithstanding any other provision of this article, no efficien-  
12 cy standard adopted pursuant to paragraph (a) of subdivision one of this  
13 section shall become effective less than one hundred eighty days after  
14 publication of the notice of adoption of such standard in the state  
15 register; no efficiency standard adopted pursuant to paragraph (b) or  
16 (c) of subdivision one of this section shall become effective less than  
17 one year after publication of the notice of adoption of such efficiency  
18 standard in the state register; no amendment of any efficiency standard  
19 adopted pursuant to this article or of any efficiency standard continued  
20 in this state pursuant to section 16-105 of this article shall become  
21 effective less than one hundred eighty days after publication of the  
22 notice of adoption of such amendment in the state register; and no new  
23 or amended efficiency standard, or water conservation standard adopted  
24 pursuant to this article shall go into effect if federal government  
25 efficiency standards regarding such product preempt state standards  
26 unless preemption has been waived pursuant to federal law.

27 2. (a) On or before [June thirtieth] January first, two thousand [six]  
28 twenty-three, the [secretary, in consultation with the] president, in

1 consultation with the secretary, shall adopt regulations in accordance  
2 with the provisions of this article establishing:

3 (i) [energy] efficiency [performance] standards for new products of  
4 the types [set forth] referred to in paragraphs (a) through [(n)] (f)  
5 and paragraphs (h) through (y), paragraphs (aa) through (jj) and para-  
6 graphs (mm) through (xx) of subdivision one of section 16-104 of this  
7 article[, with the exception of such paragraph (g) (incandescent reflec-  
8 tor lamps)];

9 (ii) procedures for testing the [energy] efficiency of the new  
10 products [covered by] of the types referred to in paragraphs (a) through  
11 [(n)] (f) and paragraphs (h) through (xx) of subdivision one of section  
12 16-104 of this article;

13 (iii) procedures for manufacturers to certify that new products  
14 [covered under] of the types referred to in paragraphs (a) through (f)  
15 and paragraphs (h) through (xx) of subdivision one of section 16-104 of  
16 this article meet the [energy] efficiency standards to be [promulgated  
17 under this article] adopted pursuant to this article, if the president  
18 determines that such manufacturer's certifications should be required;  
19 and

20 (iv) such further matters as are necessary to insure the proper imple-  
21 mentation and enforcement of the provisions of this article.

22 (b) With respect to [incandescent reflector lamps, included] the types  
23 of products referred to in [paragraph] paragraphs (g), (z) or (kk) of  
24 subdivision one of section 16-104 of this article (incandescent reflec-  
25 tor lamps, general service lamps, and light emitting diode lamps), the  
26 [secretary, in consultation with the] president[,] shall conduct a study  
27 by December thirty-first, two thousand twenty-two to determine whether  
28 an [energy] efficiency [performance] standard for such [product]

1 products should be established, taking into account factors including  
2 the potential impact on electricity usage, product availability and  
3 consumer and environmental benefits. If [it is determined] the president  
4 determines based on this study that such a standard would reduce energy  
5 use and would not be preempted by the federal law, the [secretary, in  
6 consultation with the] president[,], shall adopt regulations in accord-  
7 ance with the provisions of this article establishing [energy perform-  
8 ance] efficiency standards for such [product on or before January first,  
9 two thousand eight] products.

10 [(b) With respect to the products defined in subdivision seven of  
11 section 16-102 of this article (very large commercial package air condi-  
12 tioning and heating equipment), subdivision nine of section 16-102 of  
13 this article (commercial refrigerators, freezers and refrigerator-freez-  
14 ers), subdivision twenty-three of section 16-102 of this article (metal  
15 halide lamp fixtures) and subdivision three of section 16-102 of this  
16 article ( automatic commercial ice-cube makers), the secretary shall  
17 issue regulations pursuant to paragraph a of this subdivision establish-  
18 ing energy efficiency performance standards for such products at the  
19 following levels and with the following compliance dates:

20 (i) very large commercial package air conditioning and heating equip-  
21 ment. Each very large commercial package air conditioning and heating  
22 equipment sold, offered for sale or installed in New York state on or  
23 after January first, two thousand ten shall, when tested according to  
24 the test standard specified in Air-Conditioning and Refrigeration Insti-  
25 tute standard 340/360-2004, meet the following standards:

26 (A) The minimum energy efficiency ratio of air-cooled central air  
27 conditioners at or above two hundred forty thousand BTU per hour (cool-



1 ing capacity) and less than seven hundred sixty thousand BTU per hour  
2 (cooling capacity) shall be

3 (I) 10.0 for equipment with no heating or electric resistance heating  
4 and;

5 (II) 9.8 for equipment with all other heating system types that are  
6 integrated into the equipment (at a standard rating of ninety-five  
7 degrees Fahrenheit dB).

8 (B) the minimum energy efficiency ratio of air-cooled central air  
9 conditioner heat pumps at or above two hundred forty thousand BTU per  
10 hour (cooling capacity) and less than seven hundred sixty thousand BTU  
11 per hour (cooling capacity) shall be

12 (I) 9.5 for equipment with no heating or electric resistance heating;  
13 and

14 (II) 9.3 for equipment with all other heating system types that are  
15 integrated into the equipment (at a standard rating of ninety-five  
16 degrees Fahrenheit dB).

17 (C) the minimum coefficient of performance in the heating mode of  
18 air-cooled central air conditioning heat pumps at or above two hundred  
19 forty thousand BTU per hour (cooling capacity) and less than seven  
20 hundred sixty thousand BTU per hour (cooling capacity) shall be 3.2 (at  
21 a high temperature rating of forty-seven degrees Fahrenheit dB);

22 (ii) commercial refrigerators and freezers. (A) Each commercial  
23 refrigerator, freezer, and refrigerator-freezer with a self-contained  
24 condensing unit designed for holding temperature applications sold,  
25 offered for sale or installed in New York state on or after January  
26 first, two thousand ten shall have a daily energy consumption (in kilo-  
27 watt hours per day) not to exceed:

28 (I) refrigerators with solid doors  $0.10 V + 2.04$

1 (II) refrigerators with transparent doors 0.12 V + 3.34

2 (III) freezers with solid doors 0.40 V + 1.38

3 (IV) freezers with transparent doors 0.75 V + 4.10

4 (V) refrigerators/freezers with solid doors the greater of:

5 0.27AV-0.71 or 0.70.

6 (B) Each commercial refrigerator with a self-contained condensing unit  
7 designed for pull-down temperature applications sold, offered for sale  
8 or installed in New York state on or after January first, two thousand  
9 ten shall have a daily energy consumption (in kilowatt hours per day)  
10 not to exceed: refrigerators with transparent doors 0.126 V + 3.51.

11 (iii) metal halide lamp fixtures. Each metal halide lamp fixture that  
12 is sold, offered for sale or installed in New York state on or after  
13 January first, two thousand eight and that operates a lamp in a vertical  
14 position (including fixtures that operate lamps rated for use within  
15 fifteen degrees of vertical) and that is capable of operating lamps  
16 rated equal to or greater than one hundred fifty Watts and less than or  
17 equal to five hundred Watts shall not contain a probe start metal-halide  
18 ballast.

19 (iv) automatic commercial ice-cube maker. Each automatic commercial  
20 ice-cube maker, that produces cube-type ice with capacities between  
21 fifty and two thousand five hundred pounds per twenty-four hour period  
22 sold, offered for sale or installed in New York state on or after Janu-  
23 ary first, two thousand ten, when tested according to the test standard  
24 specified in air-conditioning and refrigeration institute standard 810-  
25 2003, as in effect on January first, two thousand five, shall meet the  
26 following standard levels:

1 (A) H means the harvest rate in pounds per twenty-four hours. For  
2 water-cooled equipment, water use is for the condenser only and does not  
3 include potable water used to make ice.

4 (B) For ice making head water-cooled equipment the maximum condenser  
5 water use in gal/one hundred pounds of ice shall be  $200-0.022H$  and the  
6 maximum energy use with a harvest rate of:

7 (I)  $< 500$  shall be  $7.8-0.0055H$ ;

8 (II)  $500$  and  $< 1,436$  shall be  $5.58-0.0044H$

9 (III)  $1,436$  and  $< 2,500$  shall be  $4.0$

10 (C) For ice making head air-cooled equipment the maximum energy use  
11 with a harvest rate of:

12 (I)  $< 450$  shall be  $10.26-0.0086H$ ;

13 (II)  $450$  and  $< 2,500$  shall be  $6.89-0.0011H$

14 (D) For remote condensing but not remote compressor air-cooled equip-  
15 ment the maximum energy use with a harvest rate of:

16 (I)  $< 1,000$  shall be  $8.85 - 0.0038H$ ;

17 (II)  $1,000$  and  $< 2,500$  shall be  $5.10$

18 (E) For remote condensing and remote compressor air-cooled equipment  
19 the maximum energy use with a harvest rate of:

20 (I)  $< 934$  lbs shall be  $8.85 - 0.0038H$ ;

21 (II)  $934$  and  $< 2,500$  shall be  $5.3$

22 (F) For self-contained water-cooled equipment the maximum condenser  
23 water use in gal/100 lbs of Ice shall be  $191 - 0.0315H$  and the maximum  
24 energy use with a harvest rate of:

25 (I)  $< 200$  shall be  $11.4 - 0.019H$ ;

26 (II)  $200$  and  $< 2,500$  shall be  $7.6$

27 (G) For self-contained air-cooled equipment the maximum energy use  
28 with a harvest rate of:

1 (I) < 175 shall be 18.0 - 0.0469H

2 (II) 175 and < 2,500 shall be 9.8

3 (c) On or before December thirty-first, two thousand ten, the secre-  
4 tary, in consultation with the president, shall adopt regulations in  
5 accordance with the provisions of this article establishing: (i) energy  
6 efficiency performance standards for new products of the types set forth  
7 in paragraphs (o) through (s) of subdivision one of section 16-104 of  
8 this article; (ii) procedures for testing the energy efficiency of the  
9 products covered by paragraphs (o) through (s) of subdivision one of  
10 section 16-104 of this article; (iii) procedures for manufacturers to  
11 certify that products covered by paragraphs (o) through (s) of subdivi-  
12 sion one of section 16-104 of this article meet the energy efficiency  
13 standards promulgated under this article; and (iv) such further matters  
14 as are necessary to insure the proper implementation and enforcement of  
15 the provisions of this article with respect to the products covered by  
16 paragraphs (o) through (s) of subdivision one of section 16-104 of this  
17 article.]

18 3. Subsequent to adopting regulations pursuant to subdivisions one and  
19 two of this section, the [secretary, in consultation with the] presi-  
20 dent, in consultation with the secretary, may amend such regulations,  
21 including increasing the stringency of the [energy] efficiency [perform-  
22 ance] standards[, provided however that no energy efficiency performance  
23 standard shall become effective for a product less than one hundred  
24 eighty days after it shall become final].

25 4. By March fifteenth of two thousand twenty-one, the secretary and  
26 the president shall produce a report to the governor, the speaker of the  
27 assembly, the temporary president of the senate, the chair of the assem-  
28 bly committee on energy and the chair of the senate committee on energy

1 and telecommunications on the status of regulations establishing [ener-  
2 gy] efficiency [performance] standards pursuant to this article, which  
3 shall indicate for each product enumerated in subdivision one of section  
4 16-104 of this article the status of the implementation of [performance]  
5 efficiency standards. The report shall also set forth the estimated  
6 potential annual reductions in energy use and potential utility bill  
7 savings resulting from adopted [performance] efficiency standards for  
8 the years two thousand twenty-five and two thousand thirty-five and the  
9 potential cumulative reductions in energy use through the year two thou-  
10 sand thirty-five. Such report shall be updated by March fifteenth, two  
11 thousand thirty and a copy shall be posted by March fifteenth, two thou-  
12 sand thirty on the websites of the authority and the department of  
13 state.

14 5. (a) In addition to all other powers and authority given to the  
15 secretary by this article, the secretary shall have and be entitled to  
16 exercise the following powers and duties:

17 (i) To request the president to conduct investigations to determine if  
18 products covered by efficiency standards adopted pursuant to this arti-  
19 cle comply with such efficiency standards; to consult with the president  
20 in connection with the president's performance of such investigations;  
21 to request the president to conduct tests to determine if products  
22 covered by efficiency standards adopted pursuant to this article comply  
23 with such efficiency standards; and to request the president's cooper-  
24 ation in connection with enforcement proceedings conducted by the secre-  
25 tary pursuant to this article;

26 (ii) To order the immediate cessation of any distribution, sale or  
27 offer for sale, lease or offer to lease, rent or offer to rent, import,  
28 or offer to import, or installation or offer of installation of any

1 product listed in paragraphs (a) through (xx) of subdivision one of  
2 section 16-104 of this article, or of any product for which efficiency  
3 standards shall have been established pursuant to paragraph (b) or (c)  
4 of subdivision one of this section, or any product that is subject to a  
5 federal efficiency standard that shall have been continued in this state  
6 pursuant to section 16-105 of this article, if the secretary, in consul-  
7 tation with the president, determines that such product does not meet  
8 the applicable efficiency standard or if such product does not satisfy  
9 the testing procedures or manufacturer's certification procedures  
10 adopted pursuant to the regulations authorized by this article;

11 (iii) To accept grants or funds for purposes of administration and  
12 enforcement of this article;

13 (iv) To impose, after notice and an opportunity to be heard, civil  
14 penalties and/or injunctive relief for any violation of this article or  
15 any regulation adopted pursuant to this article. Any penalties collected  
16 by the secretary under this section shall be placed in the account  
17 established under section ninety-seven-ww of the state finance law,  
18 relating to the consumer protection account; and

19 (v) To adopt such rules and regulations as the secretary may deem  
20 necessary or appropriate for the purpose of carrying out the powers and  
21 duties granted to the secretary by this article.

22 (b) The secretary may exercise the powers and authority granted to the  
23 secretary by this subdivision, or by any other provision of this arti-  
24 cle, through the consumer protection division established by the secre-  
25 tary pursuant to section ninety-four-a of the executive law or through  
26 such other divisions, officers, or employees of the department of state  
27 as the secretary may designate from time to time.

1 § 17. The energy law is amended by adding a new section 16-107 to read  
2 as follows:

3 § 16-107. Subpoenas, information and document production, enforcement  
4 procedures, referrals. 1. (a) In addition to all other powers provided  
5 by this article, the secretary or his or her designee shall have the  
6 power and authority to subpoena any person doing business in this state  
7 and bring such person before such officer or person in the department of  
8 state as may be designated in such subpoena, and to administer an oath  
9 to and take testimony of any person or cause any person's deposition to  
10 be taken.

11 (b) In addition to all other powers provided by this article, the  
12 president or his or her designee shall have the power and authority to  
13 subpoena any person in this state to compel testimony, the protection of  
14 documents, or both, and bring such person before such officer or person  
15 in the authority as may be designated in such subpoena, and to adminis-  
16 ter an oath to and take testimony of any person or cause any person's  
17 deposition to be taken.

18 (c) A subpoena issued under this subdivision shall be regulated by the  
19 civil practice law and rules, and is in addition to and not in limita-  
20 tion of the power to make information and document requests under subdivi-  
21 vision two of this section.

22 2. Any person that sells or offers for sale, leases or offers for  
23 lease, rents or offers for rent, or installs or offers to install, manu-  
24 factures or tests in New York state any new product of a type listed in  
25 paragraphs (a) through (xx) of subdivision one of section 16-104 of this  
26 article, or any new product for which efficiency standards shall have  
27 been established pursuant to paragraph (b) or (c) of subdivision one of  
28 section 16-106 of this article, or any product that is subject to feder-

1 al efficiency standards that shall have been continued in this state  
2 pursuant to section 16-105 of this article, shall be obliged, on the  
3 request of the secretary or his or her designee, or the request of the  
4 president or his or her designee, to supply the secretary and/or the  
5 president with such information and documentation as may be required  
6 concerning such person's business, business practices, or business meth-  
7 ods, or proposed business practices or methods. The obligations  
8 contained in this subdivision shall not apply to any person that sells  
9 or offers for sale, leases or offers for lease, rents or offers for  
10 rent, or installs or offers to install only products described in subdi-  
11 vision three of section 16-104 of this article. The power to make infor-  
12 mation and document requests is in addition to and not in limitation of  
13 the power to issue subpoenas.

14 3. A subpoena may be issued pursuant to subdivision one of this  
15 section, and a request for information and documentation may be made  
16 pursuant to subdivision two of this section, at any time and in any  
17 situation, without regard to whether such subpoena or request is or is  
18 not issued or made in connection with an investigation conducted by the  
19 president or an enforcement proceeding conducted by the secretary.

20 4. The secretary shall, before ordering the immediate cessation of any  
21 distribution, sale or offer for sale, lease or offer to lease, rent or  
22 offer to rent, import or offer to import, or installation or offer of  
23 installation of any product, or imposing any civil penalty, injunctive  
24 relief, or other relief pursuant to this article upon any person who is  
25 alleged to be in violation of any provision of this article or of any  
26 regulation adopted pursuant to this article, and at least ten days prior  
27 to the date set for the hearing, notify in writing and shall afford such  
28 person an opportunity to be heard in person or by counsel in reference



1 thereto. Such written notice may be served by delivery of same  
2 personally, or by mailing same by certified mail to the last known busi-  
3 ness address of such person, or by any method authorized by the civil  
4 practice law and rules. The hearing on such charges shall be at such  
5 time and place as the department of state shall prescribe. A hearing  
6 held by this subdivision shall be held pursuant to the state administra-  
7 tive procedure act, and any applicable regulations adopted by the secre-  
8 tary.

9 5. A final action of the secretary in imposing a civil penalty, or  
10 other order, may be subject to review by a proceeding instituted under  
11 article seventy-eight of the civil practice law and rules at the  
12 instance of the person aggrieved. Final actions that may be subject to  
13 judicial review under article seventy-eight of the civil practice law  
14 and rules include:

15 (a) a determination that a person is in violation of any provision of  
16 this article or of any regulation adopted under this article;

17 (b) an order directing the immediate cessation of the sale or offer  
18 for sale, installation or offer to install, lease or offer to lease,  
19 rent or offer to rent, or import any product in violation of any  
20 provision of this article or of any regulation adopted under this arti-  
21 cle;

22 (c) an order granting or imposing any other type of injunctive relief;  
23 and

24 (d) the imposition of a civil penalty, excluding any consent order,  
25 any determination made in a consent order and any civil penalty and/or  
26 injunctive relief imposed by a consent order.

27 6. In addition to all other powers provided by this article, the  
28 secretary and the president, are authorized, individually or jointly, to

1 refer the results of any investigation conducted by the president pursu-  
2 ant to this article to the attorney general and to request the attorney  
3 general to institute, in the name of the secretary and/or the president,  
4 an action or proceeding to enforce the provisions of this article. The  
5 attorney general shall, at the request of the secretary or president, or  
6 may, on his or her own initiative, institute proceedings to enforce the  
7 provisions of this article including the imposition of civil penalties  
8 or injunctive relief. Nothing in this subdivision shall limit or impair  
9 the power and authority of the secretary to conduct enforcement  
10 proceedings, to issue orders pursuant to paragraph (b) of subdivision  
11 five of section 16-106 of this article, and to impose penalties pursuant  
12 to section 16-108 of this article.

13 § 18. Section 16-108 of the energy law, as added by chapter 431 of the  
14 laws of 2005, is amended to read as follows:

15 § 16-108. Violations, civil liability. 1. Any person who issues:

16 (a) a certification that a product listed in paragraphs (a) through  
17 (xx) of subdivision one of section 16-104 of this article complies with  
18 the [energy] efficiency standards for such product established by or  
19 pursuant to this article[,];

20 (b) a certification that a product not listed in paragraphs (a)  
21 through (xx) of subdivision one of section 16-104 of this article  
22 complies with efficiency standards for such product established pursuant  
23 to paragraph (b) or (c) of subdivision one of section 16-104 of this  
24 article; or

25 (c) a certification that a product that is subject to federal effi-  
26 ciency standards that shall have been continued in this state pursuant  
27 to section 16-105 of this article complies with such efficiency stand-  
28 ards, knowing that such product does not comply with [those] such effi-

1 ciency standards, shall be liable for a civil penalty of not more than  
2 ten thousand dollars for each such product certified and an additional  
3 penalty of not more than ten thousand dollars for each day during which  
4 such violation continues.

5 2. Any person who violates the provisions of subdivision two of  
6 section 16-104 of this article, or [who] fails to perform any duty  
7 imposed by this article, or [who] violates or fails to comply with any  
8 rule, regulation, determination, or order [of] adopted, made, or issued  
9 by the president or the secretary [of state promulgated] pursuant to  
10 this article, shall be liable for a civil penalty of not more than five  
11 hundred dollars for each such violation and an additional civil penalty  
12 of not more than one hundred dollars for each day during which such  
13 violation continues, and, in addition thereto, such person may be  
14 enjoined from continuing such violation.

15 3. [The secretary may cause an investigation to be made of complaints  
16 received concerning violations of this article and may refer the results  
17 of such investigations to the attorney general. The attorney general  
18 shall, at the request of the secretary, or may, on his own initiative,  
19 institute proceedings to enforce the provisions of this article.

20 4.] An action or cause of action for the recovery of a penalty under  
21 this section may be settled or compromised in an amount to be approved  
22 by the secretary either before or after proceedings are brought to  
23 recover such penalties and prior to the entry for judgment therefor.

24 § 19. The energy law is amended by adding a new section 16-109 to read  
25 as follows:

26 § 16-109. Conflicts with other laws. Nothing in this article or in  
27 any regulation adopted pursuant to this article shall limit, impair, or  
28 supersede the provisions of subdivision one of section three hundred

1 eighty-three of the executive law or the provisions of subdivision three  
2 of section 11-103 of this chapter.

3 § 20. Subparagraphs 14 and 15 of paragraph (a) of subdivision 3 of  
4 section 94-a of the executive law, as added by section 21 of part A of  
5 chapter 62 of the laws of 2011, are amended and a new subparagraph 16 is  
6 added to read as follows:

7 (14) cooperate with and assist consumers in class actions in proper  
8 cases; [and]

9 (15) create an internet website or webpage pursuant to section three  
10 hundred ninety-c of the general business law[.], as added by chapter  
11 five hundred nine of the laws of two thousand seven; and

12 (16) exercise such powers and duties granted to the secretary by arti-  
13 cle sixteen of the energy law as the secretary may direct, including,  
14 but not limited to: consult with such president of the New York state  
15 energy research and development authority in connection with investi-  
16 gations conducted by such president pursuant to article sixteen of the  
17 energy law; make determinations relating to compliance by products with  
18 the standards adopted pursuant to article sixteen of the energy law;  
19 order the immediate cessation of any distribution, sale or offer for  
20 sale, import, or installation of any product that does not meet such  
21 standards; and impose civil penalties as contemplated by article sixteen  
22 of the energy law.

23 § 21. The opening paragraph and paragraphs a and c of subdivision 1  
24 and subdivision 3 of section 374 of the executive law, the opening para-  
25 graph of subdivision 1 as amended by chapter 309 of the laws of 1996,  
26 paragraph a of subdivision 1 as amended by section 96 of subpart B of  
27 part C of chapter 62 of the laws of 2011 and as further amended by  
28 section 104 of part A of chapter 62 of the laws of 2011, paragraph c of

1 subdivision 1 as amended by chapter 920 of the laws of 1985, and subdivi-  
2 vision 3 as added by chapter 707 of the laws of 1981, are amended to  
3 read as follows:

4 There is hereby created and established in the department of state a  
5 council, to be known as the state fire prevention and building code  
6 council. Such council shall consist of the secretary of state, as  
7 [chairman] chair, the state fire administrator, the president of the New  
8 York state energy research and development authority, the commissioner  
9 of the department of environmental conservation and fifteen other  
10 members to be appointed as follows:

11 a. Two members, to be appointed by the governor, from among the  
12 commissioners of [the departments of economic development, corrections  
13 and community supervision, education, health, labor, mental health and  
14 social services, office of general services, division of housing and  
15 community renewal,] economic development; corrections and community  
16 supervision; education; health; labor; mental health; general services;  
17 housing and community renewal; parks, recreation and historic preserva-  
18 tion; and temporary and disability assistance; and the superintendent of  
19 financial services.

20 c. Seven members, to be appointed by the governor with the advice and  
21 consent of the senate, one of whom shall be a fire service official, one  
22 of whom shall be a registered architect, one of whom shall be a profes-  
23 sional engineer, one of whom shall be a code enforcement official, one  
24 of whom shall represent builders, one of whom shall represent trade  
25 unions, and one of whom shall be a person with a disability as defined  
26 in section two hundred ninety-two of this chapter who would directly  
27 benefit from the provisions of [article thirteen of] the state uniform  
28 fire prevention and building code relating to accessibility. The regis-

1 tered architect and professional engineer shall be duly licensed to  
2 practice their respective professions in the state of New York. After  
3 the certification of code enforcement personnel pursuant to this chapter  
4 shall have begun said code enforcement official shall be so certified.

5 3. (a) The council shall meet at least quarterly at the call of the  
6 chairman. Additional meetings may be called upon at least five [days]  
7 days' notice by the chairman or by petition of five members of the coun-  
8 cil.

9 (b) Notwithstanding the provisions of any other law to the contrary, a  
10 majority, but no fewer than seven, of the members of the council then in  
11 office, gathered together in the presence of each other or through the  
12 use of videoconferencing, at a meeting duly held at a time fixed by law  
13 or by any by-law duly adopted by the council, or at any meeting duly  
14 held upon reasonable notice to all members of the council then in  
15 office, or at any duly adjourned meeting of such meeting, shall consti-  
16 tute a quorum, and a majority, but no fewer than seven, of the members  
17 of the council then in office may perform and exercise any power,  
18 authority, or duty of the council at any such meeting or adjourned meet-  
19 ing.

20 § 22. Subdivision 2 of section 97-www of the state finance law, as  
21 amended by section 53 of part A of chapter 62 of the laws of 2011, is  
22 amended to read as follows:

23 2. Such account shall consist of all penalties received by the depart-  
24 ment of state pursuant to section three hundred ninety-nine-z of the  
25 general business law, section 16-106 of the energy law and any addi-  
26 tional monies appropriated, credited or transferred to such account by  
27 the Legislature. Any interest earned by the investment of monies in such

1 account shall be added to such account, become part of such account, and  
2 be used for the purposes of such account.

3 § 23. A building code or other requirement applicable to commercial  
4 or residential buildings or construction may not prohibit the use of a  
5 substance authorized pursuant to 42 U.S.C. 7671k. Substances under  
6 review but not yet listed by the United States Environmental Protection  
7 Agency pursuant to 42 U.S.C. 7671k may be allowed for use provided that  
8 such substance and the refrigeration or air conditioning system or other  
9 equipment or products utilizing such substance are designed, installed,  
10 and used in accordance with nationally recognized published standards  
11 that protect building occupant safety and reduce fire risks.

12 § 24. Section 17-101 of the energy law is amended by adding twenty new  
13 subdivisions 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20,  
14 21, 22, 23 and 24 to read as follows:

15 5. "Authority" means the New York state energy research and develop-  
16 ment authority.

17 6. "Benchmark" means inputting and submitting the total energy and  
18 water consumed for a property for the previous calendar year and other  
19 descriptive information for such property as required by the benchmark-  
20 ing tool. Total energy and water consumption shall not include separate-  
21 ly metered uses that are not integral to building operations, such as  
22 broadcast antennas, as determined by the president.

23 7. "Benchmarking information" means information generated by the  
24 benchmarking tool and descriptive information about the physical proper-  
25 ty and its ownership, management, and operational characteristics.

26 8. "Public benchmarking information" means information generated by  
27 the benchmarking tool and descriptive information about the physical  
28 property and its operational characteristics that is disclosed to the

1 public. The public benchmarking information shall include, but shall not  
2 be limited to:

3 (a) descriptive information, including property address; primary use  
4 type; gross floor area as defined by the benchmarking tool glossary;

5 (b) output information, including site and source energy use intensi-  
6 ty; weather normalized site and source energy use intensity; total annu-  
7 al greenhouse gas emissions; water use per gross square foot; the Energy  
8 Star score, where available;

9 (c) compliance or noncompliance with this law; and

10 (d) a comparison of the annual summary statistics across calendar  
11 years for all years since annual reporting and disclosure has been  
12 required for the covered property.

13 9. "Benchmarking submission" means a subset of:

14 (a) information input into the benchmarking tool; and

15 (b) benchmarking information generated by the benchmarking tool, as  
16 determined by the president.

17 10. "Benchmarking tool" means the portfolio manager or any similar  
18 tool may as determined by the president to be reasonably comparable, and  
19 any additional tools specified in regulations adopted by the president.

20 11. "Building energy benchmarking" means the process of measuring a  
21 building's energy use, tracking that use over time, and comparing  
22 performance to similar buildings nationwide.

23 12. "Covered property" means: on and after the first day of January,  
24 two thousand twenty-three, any property that has one or more buildings  
25 that together exceed twenty-five thousand gross square feet in total  
26 combined floor area.

27 13. "Energy" means electricity, natural gas, steam, hot or chilled  
28 water, fuel oil, kerosene, propane, or other fuel product for use in a



1 building, or on-site electricity generation, including renewable and  
2 storage technologies for purposes of providing heating, cooling, light-  
3 ing, water heating, or for powering or fueling other end-uses in the  
4 building and related facilities.

5 14. "Energy Star score" means the one through one hundred (1-100)  
6 numeric rating generated by the Energy Star portfolio manager tool.

7 15. "Energy use intensity" means the kBtUs (one thousand British Ther-  
8 mal Units) used per square foot of gross floor area.

9 16. "Exempt municipality" means a municipality with a benchmarking  
10 requirement in effect that meets or exceeds the benchmarking rules  
11 established by the authority.

12 17. "Gross floor area" means the total number of enclosed square feet  
13 measured between the exterior surfaces of the fixed walls within any  
14 structure used or intended for supporting or sheltering any use or occu-  
15 pancy.

16 18. "Owner" means:

17 (a) an individual or entity possessing title to a covered property;

18 (b) the net lessee in the case of a property subject to a triple net  
19 lease;

20 (c) the board of managers in the case of a condominium;

21 (d) the board of directors in the case of a cooperative apartment  
22 corporation;

23 (e) an agent authorized to act on behalf of any of the above; or

24 (f) the entity in physical possession of the property or having bene-  
25 ficial use and occupancy of the property in the case of a covered prop-  
26 erty with title possessed by a state entity solely for purposes of  
27 securing bonds, notes or other obligations issued by such state entity,  
28 in which case, the state entity will not also be deemed the owner here-

1 under. For the purpose of this subparagraph, a "state entity" shall mean  
2 any state agency, state authority or subsidiary of a state authority.

3 19. "Portfolio manager" means the Energy Star portfolio manager, the  
4 internet-based tool developed and maintained by the United States Envi-  
5 ronmental Protection Agency to track and assess the relative energy  
6 performance of buildings nationwide, or successor.

7 20. "President" means the president of the authority.

8 21. "Qualified benchmarker" means an individual or entity that  
9 possesses a benchmarking certification or other credential or creden-  
10 tials approved by the president.

11 22. "Qualifying financial distress" means:

12 (a) the covered property is the subject of a qualified tax lien sale  
13 or public auction due to property tax arrearages;

14 (b) the covered property is controlled by a court appointed receiver;

15 (c) a foreclosure action has commenced on the covered property during  
16 the calendar year for which benchmarking is required;

17 (d) title to the covered property was transferred by deed in lieu of  
18 foreclosure or by a referee's deed in foreclosure during the calendar  
19 year for which benchmarking is required;

20 (e) the owner of a covered property has commenced a bankruptcy filing;  
21 or

22 (f) other situations as authorized by the president or the president's  
23 designee.

24 23. "Tenant" means a person or entity occupying or holding possession  
25 of a building, part of a building or premises pursuant to a rental  
26 agreement.

27 24. "Utility" means an entity that distributes and sells energy to  
28 covered properties.

1 § 25. The energy law is amended by adding a new section 17-107 to read  
2 as follows:

3 § 17-107. Benchmarking applicability and submission. 1. No later than  
4 the first day of May, two thousand twenty-three, and no later than the  
5 first day of May of every year thereafter, each owner shall ensure that  
6 such owner's covered properties shall be benchmarked for the previous  
7 calendar year and the benchmarking submission shall be provided to the  
8 authority as directed by the president.

9 2. The president or the president's designee may temporarily exempt  
10 from the benchmarking requirement the owner of a covered property that  
11 submits documentation establishing, to the satisfaction of the president  
12 or the president's designee, any of the following:

13 (a) the covered property has characteristics that make benchmarking  
14 impracticable, including buildings that do not fit any of the property  
15 types, definitions or use details listed in the portfolio manager;

16 (b) the covered property had average physical occupancy of less than  
17 fifty percent throughout the calendar year for which benchmarking is  
18 required;

19 (c) the covered property is a new construction and the covered proper-  
20 ty's certificate of occupancy or temporary certificate of occupancy was  
21 issued during the calendar year for which benchmarking is required;

22 (d) the covered property experienced qualifying financial distress  
23 during the year for which benchmarking is required; or

24 (e) the covered property has been issued a full demolition permit for  
25 the prior calendar year, provided that demolition work has commenced,  
26 some energy-related systems have been compromised and legal occupancy is  
27 no longer possible prior to the first day of May of the year in which  
28 the benchmarking report is due.

1 3. The president or the president's designee may exempt from the  
2 benchmarking requirement the owners of all covered properties located  
3 within an exempt municipality that comply with the municipality's bench-  
4 marking requirement.

5 4. The president or the president's designee may exempt from the  
6 benchmarking requirement related to water the owner of a covered proper-  
7 ty in jurisdictions where whole building water use data is not available  
8 in increments required by the benchmarking tool or as defined by the  
9 president or the president's designee.

10 5. The president or the president's designee may grant an extension of  
11 time if the owner of the covered property demonstrates, to the satisfac-  
12 tion of the president or the president's designee, that despite good  
13 faith efforts, the owner could not satisfy the requirements of this  
14 article by the imposed deadlines.

15 6. The president or the president's designee may require that data be  
16 validated by a qualified benchmarker or that benchmarking be performed  
17 by a qualified benchmarker.

18 § 26. The energy law is amended by adding a new section 17-108 to read  
19 as follows:

20 § 17-108. Benchmarking notification and posting. 1. Between September  
21 first and December thirty-first of each year, the authority shall notify  
22 owners of their obligation to benchmark pursuant to section 17-107 of  
23 this article.

24 2. By December first of each year, the authority shall post the list  
25 of the addresses of covered properties on the authority's website.

26 § 27. The energy law is amended by adding a new section 17-109 to read  
27 as follows:

1 § 17-109. Disclosure, analysis, and publication of benchmarking infor-  
2 mation. 1. No later than the thirty-first day of December, two thousand  
3 twenty-three and by the fifteenth day of September of each year there-  
4 after, the authority shall publish public benchmarking information  
5 regarding all covered properties for the previous calendar year; except  
6 that public benchmarking information regarding a covered property for  
7 such property's first year of required compliance, other than whether or  
8 not the property complied, shall not be published by the authority.

9 2. In addition to the publishing of public benchmarking information  
10 required by subdivision one of this section, the authority shall annual-  
11 ly publish:

12 (a) summary statistics and trend analyses regarding energy consumption  
13 for covered properties derived from aggregation of benchmarking informa-  
14 tion; and

15 (b) information regarding how each covered property compares with  
16 comparable covered properties in New York State, and how each covered  
17 property's performance has changed over time.

18 3. No later than the thirty-first day of December, two thousand twen-  
19 ty-two, and no later than the fifteenth day of September of each year  
20 thereafter, each exempted municipality shall make available to the  
21 authority, in a form as required by the authority, any benchmarking  
22 information possessed by such municipality.

23 4. Any analysis or possession of information concerning covered prop-  
24 erties by the authority is subject to rules regarding personal, private  
25 or sensitive information as defined by the New York state office of  
26 information technology services and article six of the public officers  
27 law.

1 5. The authority may provide an owner or manager of a covered property  
2 with benchmarking information related to such covered building that is  
3 not public benchmarking information.

4 6. Nothing in this section should be construed to supersede sections  
5 eighty-four through section ninety of the public officers law, except  
6 with respect to the authority's publishing of public benchmarking infor-  
7 mation as required in this section.

8 § 28. The energy law is amended by adding a new section 17-110 to read  
9 as follows:

10 § 17-110. Maintenance of benchmarking records. 1. Owners shall main-  
11 tain records sufficient to provide for the reporting of public bench-  
12 marking information to the authority. Such records shall be preserved  
13 for a period of at least three years. At the request of the president  
14 such records shall be made available for inspection and audit.

15 2. At the time legal title of any covered property is transferred, the  
16 buyer and seller shall arrange for the seller to provide to the buyer,  
17 at or before closing, all information necessary for the buyer to report  
18 benchmarking information for the entire year in a timely manner.

19 § 29. The energy law is amended by adding a new section 17-111 to read  
20 as follows:

21 § 17-111. Benchmarking enforcement and administration. 1. The presi-  
22 dent may promulgate rules and regulations necessary for the adminis-  
23 tration and enforcement of the requirements of this article.

24 2. It shall be unlawful for any entity or person to fail to comply  
25 with the requirements of this article or any rule or regulation promul-  
26 gated by the authority of this article or to misrepresent any material  
27 fact in a document required to be prepared or disclosed pursuant to this

1 article or any rule or regulation promulgated by the authority of this  
2 article.

3 3. Any person or entity who violates the benchmarking provisions of  
4 this article, not including sections 17-103 and 17-105 of this article,  
5 shall be subject to a civil penalty not to exceed five thousand dollars  
6 per violation.

7 4. The attorney general may bring an action to recover the civil  
8 penalties provided by subdivision three of this section and for such  
9 other relief as may be deemed necessary.

10 § 30. This act shall take effect immediately; provided, however, that  
11 sections six through twenty and section twenty-two of this act shall  
12 take effect on the one hundred eightieth day after it shall have become  
13 a law; provided, however, that the amendments to subdivision 4 of  
14 section 16-106 of the energy law made by section sixteen of this act  
15 shall not affect the repeal of such subdivision and shall be deemed  
16 repealed therewith. Effective immediately, the addition, amendment,  
17 and/or repeal of any rule or regulation necessary for the timely imple-  
18 mentation of this act on or before its effective date are hereby author-  
19 ized to be made and completed on or before such effective date.

20 PART FFF

21 Section 1. Section 1005 of the public authorities law is amended by  
22 adding a new subdivision 29 to read as follows:

23 29. Notwithstanding any other provision of law, the authority is  
24 further authorized, as deemed feasible and advisable by the trustees, to  
25 lease or otherwise dispose of interests in excess capacity in the  
26 authority's broadband technologies and infrastructure to other instru-

1 mentalities of the state to support broadband and other initiatives of  
2 the state.

3 § 2. This act shall take effect immediately and shall be deemed to  
4 have been in full force and effect on and after April 1, 2022.

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

14 § 3. This act shall take effect immediately; provided, however, that  
15 the applicable effective date of Parts A through FFF of this act shall  
16 be as specifically set forth in the last section of such Parts.