

STATE OF NEW YORK

S. 8308--C

A. 8808--C

SENATE - ASSEMBLY

January 17, 2024

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend part PP of chapter 54 of the laws of 2016 amending the public authorities law and the general municipal law relating to the New York transit authority and the metropolitan transportation authority, in relation to extending provisions of law relating to certain tax increment financing provisions (Part A); intentionally omitted (Part B); intentionally omitted (Part C); intentionally omitted (Part D); to amend part I of chapter 413 of the laws of 1999, relating to providing for mass transportation payments, in relation to the amount of payments in the Capital District Transportation District and adding Warren County to such District (Part E); 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 F); to amend part U1 of 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 part B of 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 G); intentionally omitted (Part H); intentionally omitted (Part

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

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I); to amend part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, in relation to the effectiveness thereof (Part J); to amend the transportation law and the vehicle and traffic law, in relation to enacting the stretch limousine passenger safety act; and providing for the repeal of certain provisions upon expiration thereof (Part K); to amend the executive law, the criminal procedure law, the retirement and social security law and the tax law, in relation to creating the Waterfront Commission Act; and to repeal chapter 882 of the laws of 1953 relating to waterfront employment and air freight industry regulation (Part L); to amend part DDD of chapter 55 of the laws of 2021 amending the public authorities law relating to the clean energy resources development and incentives program, in relation to the effectiveness thereof; and to amend the public authorities law, in relation to renewable energy generation projects and qualified energy storage systems (Part M); in relation to authorizing the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY program, as well as climate change related expenses of the department of environmental conservation from an assessment on gas and electric corporations (Part N); to amend the public service law, the eminent domain procedure law, the energy law, the environmental conservation law, the public authorities law, and the labor law, in relation to transferring the functions of the office of renewable energy siting to the department of public service and accelerating the permitting of electric utility transmission facilities; to repeal certain provisions of the executive law and the public service law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part O); intentionally omitted (Part P); 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 expiration thereof (Part Q); intentionally omitted (Part R); to amend the environmental conservation law, in relation to authorizing state assistance payments toward climate smart community projects of up to eighty percent to municipalities that meet criteria relating to financial hardship or disadvantaged communities (Part S); to amend the environmental conservation law, in relation to air quality control program fees and ozone non-attainment fee programs; to amend the state finance law, in relation to establishing the air quality improvement fund; and to repeal certain provisions of the environmental conservation law and the state finance law relating thereto (Part T); intentionally omitted (Part U); 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 V); to amend the public authorities law, in relation to the Battery Park city authority (Part W); to amend the economic development law, in relation to increasing the cap on grants to entrepreneurship assistance centers (Part X); to amend chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure trust fund, in relation to the effectiveness thereof (Part Y); to amend the New York state urban

development corporation act, in relation to extending the authority of the New York state urban development corporation to administer the empire state economic development fund (Part Z); 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 AA); 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 BB); intentionally omitted (Part CC); intentionally omitted (Part DD); to amend the insurance law, in relation to cost sharing for covered prescription insulin drugs (Part EE); intentionally omitted (Part FF); intentionally omitted (Part GG); intentionally omitted (Part HH); intentionally omitted (Part II); intentionally omitted (Part JJ); to amend part WW of chapter 56 of the laws of 2022 amending the public officers law relating to permitting videoconferencing and remote participation in public meetings under certain circumstances, in relation to extending the provisions thereof (Part KK); to amend the insurance law, in relation to reinsurance, distribution for life insurers, and assessments; and to amend the tax law, in relation to the credit relating to life and health insurance guaranty corporation assessments (Part LL); to amend the civil rights law, in relation to privacy rights involving digitization (Subpart A); and to amend the election law, in relation to digitization in political communications (Subpart B)(Part MM); to amend the insurance law, in relation to rates for livery insurance (Part NN); to amend the New York state urban development corporation act, in relation to internships for the regional economic development partnership program (Part OO); to amend the tax law, in relation to establishing a sales tax exemption for residential energy storage; and providing for the repeal of such provisions upon expiration thereof (Part PP); in relation to directing the New York state energy research and development authority to conduct a highway and depot charging needs evaluation (Part QQ); in relation to authorizing the state to consent to binding arbitration with respect to certain contracts, agreements or instruments adopted by the Gateway Development Commission (Part RR); to amend the public authorities law, in relation to establishing a local authorities searchable subsidy and economic development benefits database (Subpart A); and to amend the public authorities law, in relation to the applicability of open meetings and freedom of information laws to certain state and local authorities (Subpart B) (Part SS); and to amend the economic development law and the urban development corporation act, in relation to establishing the New York state empire artificial intelligence research program and the empire AI consortium; and in relation to the plan of operation and financial oversight of the empire AI consortium; and providing for the repeal of certain provisions upon expiration thereof (Subpart A); and in relation to authorizing the state university of New York at Buffalo to lease a portion of lands to the empire AI consortium to create and launch a state-of-the-art artificial intelligence computing center (Subpart B) (Part TT)

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 2024-2025 state fiscal
 4 year. Each component is wholly contained within a Part identified as
 5 Parts A through TT. 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. Section 3 of part PP of chapter 54 of the laws of 2016
 15 amending the public authorities law and the general municipal law relat-
 16 ing to the New York transit authority and the metropolitan transporta-
 17 tion authority, as amended by section 1 of part C of chapter 58 of the
 18 laws of 2023, is amended to read as follows:

19 § 3. This act shall take effect immediately; provided that the amend-
 20 ments to subdivision 1 of section 119-r of the general municipal law
 21 made by section two of this act shall expire and be deemed repealed
 22 April 1, [~~2024~~ 2025], and provided further that such repeal shall not
 23 affect the validity or duration of any contract entered into before that
 24 date pursuant to paragraph f of such subdivision.

25 § 2. This act shall take effect immediately.

26 PART B

27 Intentionally Omitted

28 PART C

29 Intentionally Omitted

30 PART D

31 Intentionally Omitted

32 PART E

33 Section 1. Section 1 of part I of chapter 413 of the laws of 1999,
 34 relating to providing for mass transportation payments, as amended by
 35 section 1 of part E of chapter 58 of the laws of 2022, is amended to
 36 read as follows:

37 Section 1. Notwithstanding any other law, rule or regulation to the
 38 contrary, payment of mass transportation operating assistance pursuant
 39 to section 18-b of the transportation law shall be subject to the
 40 provisions contained herein and the amounts made available therefor by
 41 appropriation.

42 In establishing service and usage formulas for distribution of mass
 43 transportation operating assistance, the commissioner of transportation

1 may combine and/or take into consideration those formulas used to
 2 distribute mass transportation operating assistance payments authorized
 3 by separate appropriations in order to facilitate program administration
 4 and to ensure an orderly distribution of such funds.

5 To improve the predictability in the level of funding for those
 6 systems receiving operating assistance payments under service and usage
 7 formulas, the commissioner of transportation is authorized with the
 8 approval of the director of the budget, to provide service payments
 9 based on service and usage statistics of the preceding year.

10 In the case of a service payment made, pursuant to section 18-b of the
 11 transportation law, to a regional transportation authority on account of
 12 mass transportation services provided to more than one county (consider-
 13 ing the city of New York to be one county), the respective shares of the
 14 matching payments required to be made by a county to any such authority
 15 shall be as follows:

	Percentage of Matching Payment	

In the Metropolitan Commuter Transportation District:		
New York City	6.40	
Dutchess	1.30	
Nassau	39.60	
Orange	0.50	
Putnam	1.30	
Rockland	0.10	
Suffolk	25.70	
Westchester	25.10	
In the Capital District Trans- portation District:		
Albany	55.27	<u>54.05</u>
Rensselaer	22.96	<u>22.45</u>
Saratoga	4.04	<u>3.95</u>
Schenectady	16.26	<u>15.90</u>
Montgomery	1.47	<u>1.44</u>
<u>Warren</u>	<u>2.21</u>	
In the Central New York Re- gional Transportation Dis- trict:		
Cayuga	5.11	
Onondaga	75.83	
Oswego	2.85	
Oneida	16.21	
In the Rochester-Genesee Re- gional Transportation Dis- trict:		
Genesee	1.36	
Livingston90	
Monroe	90.14	
Wayne98	
Wyoming51	
Seneca64	
Orleans77	
Ontario	4.69	

1	In the Niagara Frontier Trans-	
2	portation District: Erie	89.20
3	Niagara	10.80

4 Notwithstanding any other inconsistent provisions of section 18-b of
5 the transportation law or any other law, any moneys provided to a public
6 benefit corporation constituting a transportation authority or to other
7 public transportation systems in payment of state operating assistance
8 or such lesser amount as the authority or public transportation system
9 shall make application for, shall be paid by the commissioner of trans-
10 portation to such authority or public transportation system in lieu, and
11 in full satisfaction, of any amounts which the authority would otherwise
12 be entitled to receive under section 18-b of the transportation law.

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

23 Payments may be made in quarterly installments as provided in subdivi-
24 sion 2 of section 18-b of the transportation law or in such other manner
25 and at such other times as the commissioner of transportation, with the
26 approval of the director of the budget, may provide; and where payment
27 is not made in the manner provided by such subdivision 2, the matching
28 payments required of any city, county, Indian tribe or intercity bus
29 company shall be made within 30 days of the payment of state operating
30 assistance pursuant to this section or on such other basis as may be
31 agreed upon by the commissioner of transportation, the director of the
32 budget, and the chief executive officer of such city, county, Indian
33 tribe or intercity bus company.

34 The commissioner of transportation shall be required to annually eval-
35 uate the operating and financial performance of each major public trans-
36 portation system. Where the commissioner's evaluation process has iden-
37 tified a problem related to system performance, the commissioner may
38 request the system to develop plans to address the performance deficien-
39 cies. The commissioner of transportation may withhold future state oper-
40 ating assistance payments to public transportation systems or private
41 operators that do not provide such operating, financial, or other infor-
42 mation as may be required by the commissioner to conduct the evaluation
43 process.

44 Payments shall be made contingent upon compliance with regulations
45 deemed necessary and appropriate, as prescribed by the commissioner of
46 transportation and approved by the director of the budget, which shall
47 promote the economy, efficiency, utility, effectiveness, and coordinated
48 service delivery of public transportation systems. The chief executive
49 officer of each public transportation system receiving a payment shall
50 certify to the commissioner of transportation, in addition to informa-
51 tion required by section 18-b of the transportation law, such other
52 information as the commissioner of transportation shall determine is
53 necessary to determine compliance and carry out the purposes herein.

54 Counties, municipalities or Indian tribes that propose to allocate
55 service payments to operators on a basis other than the amount earned by

1 the service payment formula shall be required to describe the proposed
2 method of distributing governmental operating aid and submit it one
3 month prior to the start of the operator's fiscal year to the commis-
4 sioner of transportation in writing for review and approval prior to the
5 distribution of state aid. The commissioner of transportation shall only
6 approve alternate distribution methods which are consistent with the
7 transportation needs of the people to be served and ensure that the
8 system of private operators does not exceed established maximum service
9 payment limits. Copies of such approvals shall be submitted to the
10 chairpersons of the senate finance and assembly ways and means commit-
11 tees.

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

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

34 In the event that an audit of a public transportation system or
35 private operator receiving funds discloses the existence of an overpay-
36 ment of state operating assistance, regardless of whether such an over-
37 payment results from an audit of revenue passengers and the actual
38 number of revenue vehicle miles statistics, or an audit of private oper-
39 ators in cases where more than a reasonable return based on equity or
40 operating revenues and expenses has resulted, the commissioner of trans-
41 portation, in addition to recovering the amount of state operating
42 assistance overpaid, shall also recover interest, as defined by the
43 department of taxation and finance, on the amount of the overpayment.

44 Notwithstanding any other law, rule or regulation to the contrary,
45 whenever the commissioner of transportation is notified by the comp-
46 troller that the amount of revenues available for payment from an
47 account is less than the total amount of money for which the public mass
48 transportation systems are eligible pursuant to the provisions of
49 section 88-a of the state finance law and any appropriations enacted for
50 these purposes, the commissioner of transportation shall establish a
51 maximum payment limit which is proportionally lower than the amounts set
52 forth in appropriations.

53 Notwithstanding paragraphs (b) of subdivisions 5 and 7 of section 88-a
54 of the state finance law and any other general or special law, payments
55 may be made in quarterly installments or in such other manner and at

1 such other times as the commissioner of transportation, with the
 2 approval of the director of the budget may prescribe.
 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, 2024.

5 PART F

6 Section 1. Section 5 of chapter 751 of the laws of 2005, amending the
 7 insurance law and the vehicle and traffic law relating to establishing
 8 the accident prevention course internet technology pilot program, as
 9 amended by section 1 of part O of chapter 58 of the laws of 2022, is
 10 amended to read as follows:

11 § 5. This act shall take effect on the one hundred eightieth day after
 12 it shall have become a law and shall expire and be deemed repealed April
 13 1, [~~2024~~] 2026; provided that any rules and regulations necessary to
 14 implement the provisions of this act on its effective date are author-
 15 ized and directed to be completed on or before such date.

16 § 2. This act shall take effect immediately.

17 PART G

18 Section 1. Section 13 of part U1 of chapter 62 of the laws of 2003,
 19 amending the vehicle and traffic law and other laws relating to increas-
 20 ing certain motor vehicle transaction fees, as amended by section 1 of
 21 part P of chapter 58 of the laws of 2022, is amended to read as follows:

22 § 13. This act shall take effect immediately; provided however that
 23 sections one through seven of this act, the amendments to subdivision 2
 24 of section 205 of the tax law made by section eight of this act, and
 25 section nine of this act shall expire and be deemed repealed on April 1,
 26 [~~2024~~] 2026; provided further, however, that the provisions of section
 27 eleven of this act shall take effect April 1, 2004 and shall expire and
 28 be deemed repealed on April 1, [~~2024~~] 2026.

29 § 2. Section 2 of part B of chapter 84 of the laws of 2002, amending
 30 the state finance law relating to the costs of the department of motor
 31 vehicles, as amended by section 2 of part P of chapter 58 of the laws of
 32 2022, is amended to read as follows:

33 § 2. This act shall take effect April 1, 2002; provided, however, if
 34 this act shall become a law after such date it shall take effect imme-
 35 diately and shall be deemed to have been in full force and effect on and
 36 after April 1, 2002; provided further, however, that this act shall
 37 expire and be deemed repealed on April 1, [~~2024~~] 2026.

38 § 3. This act shall take effect immediately.

39 PART H

40 Intentionally Omitted

41 PART I

42 Intentionally Omitted

43 PART J

1 Section 1. Section 3 of part FF of chapter 55 of the laws of 2017,
2 relating to motor vehicles equipped with autonomous vehicle technology,
3 as amended by section 1 of part J of chapter 58 of the laws of 2023, is
4 amended to read as follows:

5 § 3. This act shall take effect April 1, 2017; provided, however, that
6 section one of this act shall expire and be deemed repealed April 1,
7 [~~2024~~] 2026.

8 § 2. This act shall take effect immediately and shall be deemed to
9 have been in full force and effect on and after April 1, 2024.

10

PART K

11 Section 1. Short title. This act shall be known and may be cited as
12 the "stretch limousine passenger safety act".

13 § 2. Subdivision 9 of section 138 of the transportation law, as
14 amended by chapter 12 of the laws of 2020, is amended to read as
15 follows:

16 9. To maintain and annually update its website to provide information
17 with regard to each bus operator or motor carrier under subparagraphs
18 (ii) and (vi) of paragraph a of subdivision two of section one hundred
19 forty of this article requiring department operating authority that
20 includes the bus operator's or motor carrier's name, number of
21 inspections, number of out of service orders, operator identification
22 number, location and region of operation including place of address,
23 percentile to which an operator or motor carrier falls with respect to
24 out of service defects, the number or percentage of out of service
25 defects where pursuant to the commissioner's regulations no inspection
26 certificate shall be issued until the defect is repaired and a re-in-
27 spection is conducted, and the number of serious physical injury or
28 fatal crashes involving a for-hire vehicle requiring operating authority
29 pursuant to this article, and a link to access publicly available infor-
30 mation on safety fitness standards and motor carrier safety and perform-
31 ance data maintained by the federal motor carrier safety administration
32 of the United States department of transportation pursuant to part three
33 hundred eighty-five of title forty-nine of the code of federal regu-
34 lations.

35 § 3. Subparagraph (iii) of paragraph (b) of subdivision 10 of section
36 138 of the transportation law, as added by chapter 5 of the laws of
37 2020, is amended to read as follows:

38 (iii) In consultation and cooperation with the commissioner of motor
39 vehicles, the commissioner shall report on safety issues reported to
40 such website, and toll-free hotline and related investigations summariz-
41 ing (A) the total number of safety issue reports received and the type
42 of safety issues reported; (B) the total number of safety issue reports
43 received and the type of safety issues reported where the commissioner
44 or the commissioner of motor vehicles, as applicable, verified the
45 information provided; (C) enforcement actions and other responses taken
46 by the commissioner or the commissioner of motor vehicles, as applica-
47 ble, to safety issue reports received where the commissioner or the
48 commissioner of motor vehicles, as applicable, has verified such infor-
49 mation; and (D) the length of time between the receipt of safety issue
50 reports from such website, or hotline and enforcement action or other
51 response by the commissioner or the commissioner of motor vehicles, as
52 applicable. Such report shall be made publicly available on the depart-
53 ment's website in a searchable format, [~~and~~] shall be published no less
54 than once annually, and shall compare the previous three years of report

1 data to the extent applicable. Such report may also be included within
2 the department's annual report submitted pursuant to subdivision thir-
3 teen of section fourteen of this chapter.

4 § 4. Subparagraph (i) of paragraph b of subdivision 9 of section 140
5 of the transportation law, as amended by chapter 9 of the laws of 2020,
6 is amended and a new subparagraph (i-a) is added to read as follows:

7 (i) Whenever an altered motor vehicle commonly referred to as a
8 "stretch limousine" has failed an inspection and been placed out-of-ser-
9 vice, the commissioner may direct a police officer or [~~his or her~~]
10 of such commissioner to immediately secure possession of the number
11 plates of such vehicle and return the same to the commissioner of motor
12 vehicles. The commissioner shall notify the commissioner of motor vehi-
13 cles to that effect, and the commissioner of motor vehicles shall there-
14 upon suspend the registration of such vehicle until such time as the
15 commissioner gives notice that the out-of-service defect has been satis-
16 factorily adjusted. Provided, however, that the commissioner shall give
17 notice and an opportunity to be heard within not more than thirty days
18 of the suspension. Failure of the holder or of any person possessing
19 such plates to deliver to the commissioner or [~~his or her~~] agent of such
20 commissioner who requests the same pursuant to this paragraph shall be a
21 misdemeanor. The commissioner of motor vehicles shall have the authority
22 to deny a registration or renewal application to any other person for
23 the same vehicle where it has been determined that such registrant's
24 intent has been to evade the purposes of this paragraph and where the
25 commissioner of motor vehicles has reasonable grounds to believe that
26 such registration or renewal will have the effect of defeating the
27 purposes of this paragraph. The procedure on any such suspension shall
28 be the same as in the case of a suspension under the vehicle and traffic
29 law. [~~Operation of such motor vehicle while under suspension as~~
30 ~~provided in this subdivision shall constitute a class A misdemeanor.~~]

31 (i-a) No person, corporation, limited liability company or business
32 entity, joint stock association, partnership, or any officer or agent
33 thereof, shall operate or knowingly allow, require, permit or authorize
34 any person to operate a motor vehicle while under suspension as provided
35 in this subdivision. A violation of this subparagraph shall constitute a
36 class A misdemeanor punishable by a fine of not less than five thousand
37 dollars nor more than twenty-five thousand dollars in addition to any
38 other penalties provided by law.

39 § 5. Section 375 of the vehicle and traffic law is amended by adding a
40 new subdivision 55 to read as follows:

41 55. Stretch limousine roll-over protection devices and anti-intru-
42 sion bars. (a) Every stretch limousine registered in this state shall
43 be equipped with roll-over protection devices and anti-intrusion bars
44 within no later than one year of the date upon which the national high-
45 way traffic safety administration promulgates final regulations estab-
46 lishing standards for commercial roll-over protection devices and anti-
47 intrusion bars.

48 (b) For the purposes of this subdivision "stretch limousine" shall
49 mean an altered motor vehicle having a seating capacity of nine or more
50 passengers, including the driver, commonly referred to as a "stretch
51 limousine" and which is used in the business of transporting passengers
52 for compensation.

53 § 6. Section 375 of the vehicle and traffic law is amended by adding a
54 new subdivision 56 to read as follows:

55 56. Stretch limousine additional equipment requirements. (a) Every
56 stretch limousine registered in this state shall be equipped with an

1 accessible window break tool and an operational fire extinguisher, and
2 the driver and passenger partition of every such stretch limousine shall
3 be accessible to reach an emergency egress from such vehicle if other
4 forms of egress such as a roof hatch are not available in such stretch
5 limousine.

6 (b) For the purposes of this subdivision:

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

11 (ii) "Window break tool" shall mean a tool that can be used to open
12 the windows of a stretch limousine in the event of an emergency.

13 § 7. Section 375 of the vehicle and traffic law is amended by adding a
14 new subdivision 57 to read as follows:

15 57. Stretch limousine age and mileage parameters. (a) It shall be
16 unlawful to operate or cause to be operated a stretch limousine regis-
17 tered in this state on any public highway or private road open to public
18 motor vehicle traffic if the vehicle is more than ten years old or the
19 cumulative mileage registered on the vehicle's odometer exceeds three
20 hundred fifty thousand miles, whichever occurs first.

21 (b) For the purposes of this subdivision, "stretch limousine" shall
22 mean an altered motor vehicle having a seating capacity of nine or more
23 passengers, including the driver, commonly referred to as a "stretch
24 limousine" and which is used in the business of transporting passengers
25 for compensation.

26 (c)(i) A stretch limousine with an odometer reading that differs from
27 the number of miles the stretch limousine has actually traveled or that
28 has had a prior history involving the disconnection or malfunctioning of
29 an odometer or which appears to the commissioner to have an inaccurate
30 odometer reading based on prior inspection records, will be assigned an
31 imputed mileage for each month from the last reliable odometer recording
32 through the date of inspection, as provided in subparagraph (ii) of this
33 paragraph. A motor carrier may seek review of the determination to
34 assign imputed mileage as provided pursuant to article six of the trans-
35 portation law and rules and regulations promulgated thereunder.

36 (ii) The imputed mileage shall be calculated by adding the mileage of
37 the stretch limousine recorded at the two most recent stretch limousine
38 inspections, including roadside inspections conducted by the commis-
39 sioner of transportation or division of state police, whichever is more
40 recent, and dividing that sum by twenty-four. The quotient is the imput-
41 ed monthly mileage.

42 (iii) Unless otherwise provided by the commissioner of transportation,
43 a stretch limousine may not be operated or caused to be operated to
44 transport passengers for compensation or continue transporting passen-
45 gers for compensation if a reliable baseline odometer reading cannot be
46 ascertained.

47 (iv) A motor carrier or operator who knows or has reason to believe
48 that the odometer reading of a limousine differs from the number of
49 miles the stretch limousine has actually traveled shall disclose that
50 status to the commissioner or the department of transportation imme-
51 diately.

52 § 8. Section 509-g of the vehicle and traffic law is amended by adding
53 a new subdivision 7 to read as follows:

54 7. In addition to the other provisions of this section, in the event
55 the commissioner authorizes or requires the pre-trip safety briefings
56 required pursuant to subdivision nine of section five hundred nine-m of

1 this article to be live and in-person, all motor carriers shall conduct
2 a regular observation of the proficiency of each driver who operates
3 altered motor vehicles commonly referred to as "stretch limousines"
4 directed or operated by such motor carrier, designed to carry nine or
5 more passengers including the driver pursuant to operating authority
6 issued by the commissioner of transportation, in providing such pre-
7 trip safety briefings.

8 § 9. Section 509-m of the vehicle and traffic law is amended by adding
9 a new subdivision 9 to read as follows:

10 9. In coordination with the commissioner of transportation and the
11 superintendent of state police, establish and regularly update the form
12 and content of a pre-trip safety briefing for motor carriers that oper-
13 ate altered motor vehicles commonly referred to as "stretch limousines",
14 designed to carry nine or more passengers including the driver pursuant
15 to operating authority issued by the commissioner of transportation,
16 which motor carriers shall provide to passengers prior to transporting
17 such passengers for hire in such stretch limousines.

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

27 § 11. This act shall take effect immediately; provided, however,
28 sections two, three, four, eight and nine of this act shall take effect
29 one year after it shall have become a law; provided further, however,
30 section seven of this act shall take effect two years after it shall
31 have become a law; provided further, however, section six of this act
32 shall take effect on the one hundred eightieth day after it shall have
33 become a law; provided further, however, that sections five and six of
34 this act shall be deemed repealed if any federal agency determines in
35 writing that this act would render New York state ineligible for the
36 receipt of federal funds or any court of competent jurisdiction finally
37 determines that this act would render New York state out of compliance
38 with federal law or regulation; provided that the commissioner of motor
39 vehicles or the commissioner of transportation shall notify the legisla-
40 tive bill drafting commission upon the occurrence of any federal agency
41 determining in writing that this act would render New York state ineli-
42 gible for the receipt of federal funds or any court of competent juris-
43 diction finally determines that this act would render New York state out
44 of compliance with federal law or regulation in order that the commis-
45 sion may maintain an accurate and timely effective data base of the
46 official text of the laws of the state of New York in furtherance of
47 effectuating the provisions of section 44 of the legislative law and
48 section 70-b of the public officers law. Effective immediately, the
49 addition, amendment and/or repeal of any rule or regulation necessary
50 for the implementation of this act on its effective date are authorized
51 to be made and completed on or before such effective date.

52 PART L

53 Section 1. Chapter 882 of the laws of 1953 relating to waterfront
54 employment and air freight industry regulation is REPEALED.

1 § 2. The executive law is amended by adding a new article 19-I to read
2 as follows:

3 ARTICLE 19-I
4 WATERFRONT COMMISSION ACT

5 Section 534. Short title.

6 534-a. Legislative findings and declarations.

7 534-b. Definitions.

8 534-c. New York waterfront commission established.

9 534-d. General powers of the commission.

10 534-e. Designation as agent of the state.

11 534-f. Pier superintendents and hiring agents.

12 534-g. Stevedores.

13 534-h. Prohibition of public loading.

14 534-i. Longshore workers' register.

15 534-j. List of qualified longshore workers' for employment as
16 checkers.

17 534-k. Regularization of longshore workers' employment.

18 534-l. Suspension or acceptance of applications for inclusion in
19 the longshore workers' register; exceptions.

20 534-m. Security officers.

21 534-n. Hearings, determinations and review.

22 534-o. Employment information centers.

23 534-p. Implementation of telecommunications hiring system for
24 longshore workers and checkers; registration of tele-
25 communications system controller.

26 534-q. Construction of act.

27 534-r. Certain solicitations prohibited; prohibition against the
28 holding of union position by officers, agents or
29 employees who have been convicted of certain crimes
30 and offenses.

31 534-s. General violations; prosecutions; penalties.

32 534-t. Denial of applications.

33 534-u. Revocation of licenses and registrations.

34 534-v. Refusal to answer question, immunity; prosecution.

35 534-w. Annual preparation of a budget request and assessments.

36 534-x. Payment of assessment.

37 534-y. Transfer of officers, employees.

38 534-z. Annual report.

39 § 534. Short title. This article shall be known and may be cited as
40 the "waterfront commission act".

41 § 534-a. Legislative findings and declarations. 1. The state of New
42 York hereby finds and declares that:

43 In 1953, the conditions under which waterfront labor was employed
44 within the port of New York district were depressing and degrading to
45 such labor, resulting from the lack of any systematic method of hiring,
46 the lack of adequate information as to the availability of employment,
47 corrupt and discriminatory hiring practices, criminal practices, and
48 coercion of employees or employers. Now, it continues to be in the best
49 interest of the state to regulate activities within the port of New York
50 district in this state to prevent such conditions and to prevent circum-
51 stances that result in waterfront laborers suffering from irregularity
52 of employment, fear and insecurity, inadequate earnings, an unduly high
53 accident rate, subjection to borrowing at usurious rates of interest,
54 exploitation and extortion as the price of securing employment, a loss
55 of respect for the law, and destruction of the dignity of an important
56 segment of American labor, and to prevent a direct encouragement of

1 crime which imposes a levy of greatly increased costs on food, fuel and
2 other necessities handled in and through the port of New York district
3 in this state.

4 It is in the best interest of the state to ensure that the function of
5 loading and unloading trucks and other land vehicles at piers and other
6 waterfront terminals should be performed, as in every other major Ameri-
7 can port, without the abuses of the public loader system, and by the
8 carriers of freight by water, stevedores and operators of such piers and
9 other waterfront terminals or the operators of such trucks or other land
10 vehicles. Therefore, it is in the best interest of the state to regu-
11 late the occupations of longshore workers, stevedores, pier superinten-
12 dents, hiring agents, and security officers, who are affected with a
13 public interest, which is an exercise of the police power of this state.
14 It is further in the best interest of the state to ensure that the meth-
15 od of employment of longshore workers and security officers be conducted
16 through employment information centers to prevent grave injury to the
17 welfare of waterfront laborers and of the people at large and to ensure
18 the preservation of the fundamental rights and liberties of labor, the
19 economic stability of the port of New York district in this state, and
20 the advancement of law enforcement therein.

21 Although law enforcement's efforts against traditional organized crime
22 influence have been successful, such influence remains a significant
23 threat in the New York metropolitan area, particularly in the port.
24 Continued oversight is essential to ensure fair and nondiscriminatory
25 hiring practices, to eliminate labor racketeering and the victimization
26 of legitimate union members and port businesses, and to prevent organ-
27 ized crime figures from directly operating at the critical points of
28 interstate and international shipping.

29 To preserve the safety and welfare of the state, it is the intent of
30 this act to prevent and eradicate mismanagement, abuse of labor, coer-
31 cion, corruption, prevalence of organized crime and other criminal
32 activity, to exclude or remove from the port workforce individuals who
33 were convicted of serious crimes or who associate with organized crime
34 in violation of this act, to overcome discrimination and other unfair
35 hiring practices, and to extirpate corruption and racketeering in the
36 port of New York district in this state.

37 § 534-b. Definitions. As used in this article, the following terms
38 shall have the following meanings:

39 1. "Act" shall mean this article and rules or regulations lawfully
40 promulgated thereunder and shall include any amendments or supplements
41 to this article to implement the purposes thereof.

42 2. "Bi-state commission" shall mean the Waterfront Commission of New
43 York Harbor established by the state of New York pursuant to P.L. 1953,
44 c.882 (NY Unconsol. Ch.307, s.1) and by the state of New Jersey pursuant
45 to its agreement thereto under P.L.1953, c.202 (C.32:23-1 et seq.).

46 3. "Carrier of freight by water" shall mean any person who may be
47 engaged or who may hold oneself out as willing to be engaged, whether as
48 a common carrier, as a contract carrier or otherwise (except for
49 carriage of liquid cargoes in bulk in tank vessels designed for use
50 exclusively in such service or carriage by barge of bulk cargoes
51 consisting of only a single commodity loaded or carried without wrappers
52 or containers and delivered by the carrier without transportation mark
53 or count) in the carriage of freight by water between any point in the
54 port of New York district and a point outside said district.

1 4. "Container" shall mean any receptacle, box, carton or crate which
2 is specifically designed and constructed so that it may be repeatedly
3 used for the carriage of freight by a carrier of freight by water.

4 5. "Checker" shall mean a longshore worker who is employed to engage
5 in direct and immediate checking of waterborne freight or of the custo-
6 dial accounting therefor or in the recording or tabulation of the hours
7 worked at piers or other waterfront terminals by natural persons
8 employed by carriers of freight by water or stevedores.

9 6. "Commission" shall mean the New York waterfront commission estab-
10 lished by section five hundred thirty-four-c of this article.

11 7. "Career offender" shall mean a person whose behavior is pursued in
12 an occupational manner or context for the purpose of economic gain
13 utilizing such methods as are deemed criminal violations against the
14 public policy of the state of New York.

15 8. "Career offender cartel" shall mean a number of career offenders
16 acting in concert, and may include what is commonly referred to as an
17 organized crime group.

18 9. "Court of the United States" shall mean all courts enumerated in
19 section four hundred fifty-one of title twenty-eight of the United
20 States Code and the courts-martial of the armed forces of the United
21 States.

22 10. "Freight" shall mean freight which has been, or will be, carried
23 by or consigned for carriage by a carrier of freight by water.

24 11. "Hiring agent" shall mean any natural person, who on behalf of a
25 carrier of freight by water or a stevedore or any other person shall
26 select any longshore worker for employment.

27 12. "Longshore worker" shall mean: (a) a natural person, other than a
28 hiring agent, who is employed for work at a pier or other waterfront
29 terminal, either by a carrier of freight by water or by a stevedore to:

30 (1) physically move waterborne freight on vessels berthed at piers, on
31 piers or at other waterfront terminals; or

32 (2) engage in direct and immediate checking of any such freight or of
33 the custodial accounting therefor or in the recording or tabulation of
34 the hours worked at piers or other waterfront terminals by natural
35 persons employed by carriers of freight by water or stevedores; or

36 (3) supervise directly and immediately others who are employed as in
37 subparagraph one of this paragraph; or

38 (4) physically perform labor or services incidental to the movement of
39 waterborne freight on vessels berthed at piers, on piers or at other
40 waterfront terminals, including, but not limited to, cargo repair
41 personnel, coopers, general maintenance personnel, mechanical and
42 miscellaneous workers, horse and cattle fitters, grain ceilers and
43 marine carpenters; or

44 (b) a natural person, other than a hiring agent, who is employed for
45 work at a pier or other waterfront terminal by any person to:

46 (1) physically move waterborne freight to or from a barge, lighter or
47 railroad car for transfer to or from a vessel of a carrier of freight by
48 water which is, shall be, or shall have been berthed at the same pier or
49 other waterfront terminal; or

50 (2) perform labor or services involving, or incidental to, the move-
51 ment of freight at a waterfront terminal as defined in subdivision
52 fifteen of this section.

53 13. "Longshore workers' register" shall mean the register of eligible
54 longshore workers compiled and maintained by the commission pursuant to
55 section five hundred thirty-four-i of this article.

1 14. "Marine terminal" shall mean an area which includes piers, which
2 is used primarily for the moving, warehousing, distributing or packing
3 of waterborne freight or freight to or from such piers, and which,
4 inclusive of such piers, is under common ownership or control.

5 15. "Other waterfront terminal" shall include:

6 (a) any warehouse, depot or other terminal (other than a pier) which
7 is located within one thousand yards of any pier in the port of New York
8 district in this state and which is used for waterborne freight in whole
9 or substantial part; or

10 (b) any warehouse, depot or other terminal (other than a pier), wheth-
11 er enclosed or open, which is located in a marine terminal in the port
12 of New York district in this state and any part of which is used by any
13 person to perform labor or services involving, or incidental to, the
14 movement of waterborne freight or freight.

15 16. "Person" shall mean not only a natural person but also any part-
16 nership, joint venture, association, corporation or any other legal
17 entity but shall not include the United States, any state or territory
18 thereof or any department, division, board, commission or authority of
19 one or more of the foregoing.

20 17. "Pier" shall include any wharf, pier, dock or quay.

21 18. "Pier superintendent" shall mean any natural person other than a
22 longshore worker who is employed for work at a pier or other waterfront
23 terminal by a carrier of freight by water or a stevedore and whose work
24 at such pier or other waterfront terminal includes the supervision,
25 directly or indirectly, of the work of longshore workers.

26 19. "Port of New York district" shall mean the district created by
27 article II of the compact dated April thirtieth, nineteen hundred twen-
28 ty-one, between the states of New York and New Jersey, authorized by
29 chapter one hundred fifty-four of the laws of New York of nineteen
30 hundred twenty-one and chapter one hundred fifty-one of the laws of New
31 Jersey of nineteen hundred twenty-one.

32 20. "Security officer" shall include any security officer, gate
33 person, rounds person, detective, guard, guardian or protector of prop-
34 erty employed by the operator of any pier or other waterfront terminal
35 or by a carrier of freight by water to perform services in such capacity
36 on any pier or other waterfront terminal.

37 21. The term "select any longshore worker for employment" in the defi-
38 nition of a hiring agent in this section shall include selection of a
39 person for the commencement or continuation of employment as a longshore
40 worker, or the denial or termination of employment as a longshore work-
41 er.

42 22. "Stevedore" shall mean:

43 (a) a contractor (not including an employee) engaged for compensation
44 pursuant to a contract or arrangement with a carrier of freight by
45 water, in moving waterborne freight carried or consigned for carriage by
46 such carrier on vessels of such carrier berthed at piers, on piers at
47 which such vessels are berthed or at other waterfront terminals; or

48 (b) a contractor engaged for compensation pursuant to a contract or
49 arrangement with the United States, any state or territory thereof, or
50 any department, division, board, commission or authority of one or more
51 of the foregoing, in moving freight carried or consigned for carriage
52 between any point in the port of New York district and a point outside
53 said district on vessels of such a public agency berthed at piers, on
54 piers at which such vessels are berthed or at other waterfront termi-
55 nals; or

1 (c) a contractor (not including an employee) engaged for compensation
2 pursuant to a contract or arrangement with any person to perform labor
3 or services incidental to the movement of waterborne freight on vessels
4 berthed at piers, on piers or at other waterfront terminals, including,
5 but not limited to, cargo storage, cargo repairing, coopering, general
6 maintenance, mechanical and miscellaneous work, horse and cattle
7 fitting, grain ceiling, and marine carpentry; or

8 (d) a contractor (not including an employee) engaged for compensation
9 pursuant to a contract or arrangement with any other person to perform
10 labor or services involving, or incidental to, the movement of freight
11 into or out of containers (which have been or which will be carried by a
12 carrier of freight by water) on vessels berthed at piers, on piers or at
13 other waterfront terminals.

14 23. "Terrorist group" shall mean a group associated, affiliated or
15 funded in whole or in part by a terrorist organization designated by the
16 secretary of state in accordance with section two hundred nineteen of
17 the immigration and nationality act, as amended from time to time, or
18 any other organization which assists, funds or engages in acts of
19 terrorism as defined in the laws of the United States, or of the state
20 of New York, including, but not limited to, subdivision one of section
21 490.05 of the penal law.

22 24. "Waterborne freight" shall mean freight carried by or consigned
23 for carriage by carriers of freight by water, and shall also include
24 freight described in subdivision fifteen and paragraphs (b) and (d) of
25 subdivision twenty-two of this section, and ships' stores, baggage and
26 mail carried by or consigned for carriage by carriers of freight by
27 water.

28 25. "Witness" shall mean any person whose testimony is desired in any
29 investigation, interview or other proceeding conducted by the commission
30 pursuant to the provisions of section five hundred thirty-four of this
31 article.

32 § 534-c. New York waterfront commission established. 1. There is here-
33 by created the New York waterfront commission, which shall be in the
34 executive department of this state and may request, receive, and utilize
35 facilities, resources and data of any department, division, board,
36 bureau, commission, agency or public authority of the state or any poli-
37 tical subdivision thereof as it may reasonably request to carry out
38 properly its powers and duties.

39 2. The commission shall consist of the commissioner appointed by the
40 governor with the advice and consent of the senate, and shall receive
41 compensation to be fixed by the governor of this state. The term of
42 office of such commissioner shall be for three years; provided, however,
43 that a commissioner serving on the bi-state commission at the time of
44 its dissolution on the seventeenth of July two thousand twenty-three who
45 was appointed by the governor of New York to such position, may serve as
46 acting commissioner of the New York waterfront commission until such
47 time as a commissioner is appointed by the governor, with the advice and
48 consent of the senate, pursuant to this subdivision. A commissioner
49 shall hold office until that commissioner's successor has been appointed
50 and qualified. Vacancies in office shall be filled for the balance of
51 the unexpired term in the same manner as original appointments.

52 3. A commissioner may, by written instrument filed in the office of
53 the commission, designate any officer or employee of the commission to
54 act in that commissioner's place. A vacancy in the office of a commis-
55 sioner shall not impair such designation until the vacancy shall have
56 been filled.

1 § 534-d. General powers of the commission. In addition to the powers
2 and duties elsewhere prescribed herein, the commission shall have the
3 power:

4 1. To have a seal and alter the same at pleasure.

5 2. To determine the location, size and suitability of accommodations
6 necessary and desirable for the establishment and maintenance of the
7 employment information centers provided in section five hundred thirty-
8 four-o of this article and for administrative offices for the commis-
9 sion.

10 3. To administer and enforce the provisions of this act.

11 4. To promulgate and enforce such rules and regulations as the commis-
12 sion may deem necessary to effectuate the purposes of this act or to
13 prevent the circumvention or evasion thereof. As used in this act,
14 "regulations" include those rules and regulations of the bi-state
15 commission which shall continue in effect as the rules and regulations
16 of the commission until amended, supplemented, or rescinded by the
17 commission pursuant to the state administrative procedure act. Previ-
18 ously promulgated regulations inconsistent with the provisions of this
19 act shall be deemed void. No later than one hundred eighty days after
20 this act shall have become law, the commission shall commence review of
21 its regulations in order to recommend necessary changes. In its review,
22 the commission shall consult with relevant employers and labor organiza-
23 tions.

24 5. To appoint such officers, agents and employees as it may deem
25 necessary, prescribe their powers, duties and qualifications and fix
26 their compensation and retain and employ counsel and private consultants
27 on a contract basis or otherwise, within the limits provided by appro-
28 riation.

29 6. By its commissioner and its properly designated officers, agents
30 and employees, to administer oaths and issue subpoenas to compel the
31 attendance of witnesses and the giving of testimony and the production
32 of other evidence.

33 7. To have for its commissioner and its properly designated officers,
34 agents and employees, full and free access, ingress and egress to and
35 from all vessels, piers and other waterfront terminals or other places
36 in the port of New York district in this state, for the purposes of
37 making inspection or enforcing the provisions of this act; and no person
38 shall obstruct or in any way interfere with any such commissioner, offi-
39 cer, employee or agent in the making of such inspection, or in the
40 enforcement of the provisions of this act or in the performance of any
41 other power or duty under this act.

42 8. To recover possession of any suspended or revoked license issued
43 under this act.

44 9. To make investigations, collect and compile information concerning
45 waterfront practices generally within the port of New York district in
46 this state and upon all matters relating to the accomplishment of the
47 objectives of this act.

48 10. To advise and consult with representatives of labor and industry
49 and with public officials and agencies concerned with the effectuation
50 of the purposes of this act, upon all matters which the commission may
51 desire, including but not limited to the form and substance of rules and
52 regulations, the administration of the act, maintenance of the longshore
53 workers' register, and issuance and revocation of licenses.

54 11. To make annual and other reports to the governor and legislature.

55 12. To cooperate with and receive from any department, division,
56 bureau, board, commission, or agency of this state, or of any county or

1 municipality thereof, such assistance and data as will enable it properly
2 to carry out its powers and duties hereunder; and to request any such
3 department, division, bureau, board, commission, or agency, with the
4 consent thereof, to execute such of its functions and powers, as the
5 public interest may require.

6 13. To designate officers, employees and agents who may exercise the
7 powers and duties of the commission except the power to make rules and
8 regulations. Notwithstanding any other provision of law, the officers,
9 employees and agents of the commission established by this act may be
10 appointed or employed without regard to their state of residence.

11 14. To issue temporary permits and permit temporary registrations
12 under such terms and conditions as the commission may prescribe which
13 shall be valid for a period to be fixed by the commission not in excess
14 of six months.

15 15. To require any applicant for a license or registration or any
16 prospective licensee to furnish such facts and evidence as the commis-
17 sion may deem appropriate to enable it to ascertain whether the license
18 or registration should be granted.

19 16. In any case in which the commission has the power to revoke or
20 suspend any stevedore license the commission shall also have the power
21 to impose as an alternative to such revocation or suspension, a penalty,
22 which the licensee may elect to pay to the commission in lieu of the
23 revocation or suspension. The maximum penalty shall be five thousand
24 dollars for each separate offense. The commission may, for good cause
25 shown, abate all or part of such penalty.

26 17. To designate any officer, agent or employee of the commission to
27 be an investigator who shall be vested with all the powers of a peace or
28 police officer of the state of New York.

29 18. To confer immunity, in the manner prescribed by subdivision one of
30 section five hundred thirty-four-v of this article.

31 19. To require any applicant for registration as a longshore worker,
32 any applicant for registration as a checker or any applicant for regis-
33 tration as a telecommunications system controller and any person who is
34 sponsored for a license as a pier superintendent or hiring agent, any
35 person who is an individual owner of an applicant stevedore or any
36 persons who are individual partners of an applicant stevedore, or any
37 officers, directors or stockholders owning five percent or more of any
38 of the stock of an applicant corporate stevedore or any applicant for a
39 license as a security officer or any other category of applicant for
40 registration or licensing within the commission's jurisdiction to be
41 fingerprinted by the commission at the cost and expense of the appli-
42 cant.

43 20. To exchange fingerprint data with and receive state criminal
44 history record information from the division of criminal justice
45 services and federal criminal history record information from the feder-
46 al bureau of investigation for use in making the determinations required
47 by this act.

48 21. Notwithstanding any other provision of law to the contrary, to
49 require any applicant for employment or employee of the commission to be
50 fingerprinted and to exchange fingerprint data with and receive state
51 criminal history record information from the division of criminal
52 justice services and federal criminal history information from the
53 federal bureau of investigation for use in the hiring or retention of
54 such person.

55 22. To cooperate with a similar entity established in the state of New
56 Jersey, to exchange information on any matter pertinent to the purposes

1 of this act, and to, in its discretion, enter into reciprocal agreements
2 for the accomplishment of such purposes, including but not limited to
3 the following objectives:

4 (a) To give reciprocal effect to any approval, revocation, suspension
5 or reprimand with respect to any licensee, and any inclusion in, or
6 reprimand or removal from a longshore workers' register;

7 (b) To provide that any act or omission by a licensee or registrant in
8 either state which would be a basis for disciplinary action against such
9 licensee or registrant if it occurred in the state in which the license
10 was issued or the person registered shall be the basis for disciplinary
11 action in both states; and

12 (c) To provide that longshore workers registered in either state, who
13 perform work or who apply for work at an employment information center
14 within the other state, shall be deemed to have performed work or to
15 have applied for work in the state in which they are registered.

16 § 534-e. Designation as agent of the state. 1. The commission is here-
17 by designated on its own behalf or as agent of the state of New York, as
18 provided by the act of Congress of the United States, effective June
19 sixth, one thousand nine hundred and thirty-three, entitled "An act to
20 provide for the establishment of a national employment system and for
21 co-operation with the States in the promotion of such system and for
22 other purposes," as amended, for the purpose of obtaining such benefits
23 of such act of Congress as are necessary or appropriate to the estab-
24 lishment and operation of employment information centers authorized by
25 this act.

26 2. The commission shall have all powers necessary to cooperate with
27 appropriate officers or agencies of this state or the United States, to
28 take such steps, to formulate such plans, and to execute such projects
29 (including but not limited to the establishment and operation of employ-
30 ment information centers) as may be necessary to obtain such benefits
31 for the operations of the commission in accomplishing the purposes of
32 this act.

33 3. Any officer or agency designated by this state pursuant to said act
34 of June sixth, nineteen hundred thirty-three, as amended, is authorized
35 and empowered, upon the request of the commission and subject to its
36 direction, to exercise the powers and duties conferred upon the commis-
37 sion by the provisions of this section.

38 § 534-f. Pier superintendents and hiring agents. 1. No person shall
39 act as a pier superintendent or as a hiring agent within the port of New
40 York district in this state without first having obtained from the
41 commission or previously, from the bi-state commission, a license to act
42 as such pier superintendent or hiring agent, as the case may be, and no
43 person shall employ or engage another person to act as a pier super-
44 intendent or hiring agent who is not so licensed.

45 2. A license to act as a pier superintendent or hiring agent shall be
46 issued only upon the written application, under oath, of the person
47 proposing to employ or engage another person to act as such pier super-
48 intendent or hiring agent, verified by the prospective licensee as to
49 the matters concerning that person, and shall state the following:

50 (a) The full name and business address of the applicant;

51 (b) The full name, residence, business address (if any), place and
52 date of birth and social security number of the prospective licensee;

53 (c) The present and previous occupations of the prospective licensee,
54 including the places where the person was employed and the names of the
55 person's employers;

1 (d) Such further facts and evidence as may be required by the commis-
2 sion to ascertain the character, integrity and identity of the prospec-
3 tive licensee; and

4 (e) That if a license is issued to the prospective licensee, the
5 applicant will employ such licensee as pier superintendent or hiring
6 agent, as the case may be.

7 3. No such license shall be granted:

8 (a) Unless the commission shall be satisfied that the prospective
9 licensee possesses good character and integrity;

10 (b) If the prospective licensee has, without subsequent pardon, been
11 convicted by a court of the United States, or any state or territory
12 thereof, of the commission of, or the attempt or conspiracy to commit,
13 treason, murder, manslaughter or any crime punishable by death or impri-
14 sonment for a term exceeding three hundred sixty-four days or any of the
15 following misdemeanors or offenses: illegally using, carrying or
16 possessing a pistol or other dangerous weapon; making or possessing
17 burglar's instruments; buying or receiving stolen property; unlawful
18 entry of a building; aiding an escape from prison; unlawfully possess-
19 ing, possessing with intent to distribute, sale or distribution of a
20 controlled dangerous substance (controlled substance) or a controlled
21 dangerous substance analog; and violation of this act. Any such
22 prospective licensee ineligible for a license by reason of any such
23 conviction may submit satisfactory evidence to the commission that such
24 person has for a period of not less than five years, measured as herein-
25 after provided, and up to the time of application, so acted in a manner
26 as to warrant the grant of such license, in which event the commission
27 may, in its discretion, issue an order removing such ineligibility. The
28 aforesaid period of five years shall be measured either from the date of
29 payment of any fine imposed upon such person or the suspension of
30 sentence or from the date of the person's unrevoked release from custody
31 by parole, commutation or termination of sentence;

32 (c) If the prospective licensee knowingly or willfully advocates the
33 desirability of overthrowing or destroying the government of the United
34 States by force or violence or shall be a member of a group which advo-
35 cates such desirability, knowing the purposes of such group include such
36 advocacy.

37 4. When the application shall have been examined and such further
38 inquiry and investigation made as the commission shall deem proper and
39 when the commission shall be satisfied therefrom that the prospective
40 licensee possesses the qualifications and requirements prescribed in
41 this section, the commission shall issue and deliver to the prospective
42 licensee a license to act as pier superintendent or hiring agent for the
43 applicant, as the case may be, and shall inform the applicant of this
44 action. The commission may issue a temporary permit to any prospective
45 licensee for a license under the provisions of this article pending
46 final action on an application made for such a license. Any such permit
47 shall be valid for a period not in excess of six months.

48 5. No person shall be licensed to act as a pier superintendent or
49 hiring agent for more than one employer, except at a single pier or
50 other waterfront terminal, but nothing in this section shall be
51 construed to limit in any way the number of pier superintendents or
52 hiring agents any employer may employ.

53 6. A license granted pursuant to this section shall continue through
54 the duration of the licensee's employment by the employer who shall have
55 applied for the person's license.

1 7. Any license issued pursuant to this section may be revoked or
2 suspended for such period as the commission deems in the public interest
3 or the licensee thereunder may be reprimanded for any of the following
4 offenses:

5 (a) Conviction of a crime or act by the licensee or other cause which
6 would require or permit the person's disqualification from receiving a
7 license upon original application;

8 (b) Fraud, deceit or misrepresentation in securing the license, or in
9 the conduct of the licensed activity;

10 (c) Violation of any of the provisions of this act;

11 (d) Criminal possession of a controlled substance or criminal sale of
12 a controlled substance;

13 (e) Employing, hiring or procuring any person in violation of this act
14 or inducing or otherwise aiding or abetting any person to violate the
15 terms of this act;

16 (f) Paying, giving, causing to be paid or given or offering to pay or
17 give to any person any valuable consideration to induce such other
18 person to violate any provision of this act or to induce any public
19 officer, agent or employee to fail to perform the person's duty here-
20 under;

21 (g) Consorting with known criminals for an unlawful purpose, provided,
22 however, that consorting without unlawful purpose shall be insufficient
23 grounds for revocation or suspension;

24 (h) Transfer or surrender of possession of the license to any person
25 either temporarily or permanently without satisfactory explanation;

26 (i) False impersonation of another licensee under this act;

27 (j) Receipt or solicitation of anything of value from any person other
28 than the licensee's employer as consideration for the selection or
29 retention for employment of any longshore worker;

30 (k) Coercion of a longshore worker to make purchases from or to
31 utilize the services of any person;

32 (l) Lending any money to or borrowing any money from a longshore work-
33 er for which there is a charge of interest or other consideration; and

34 (m) Membership in a labor organization which represents longshore
35 workers or security officers; but nothing in this section shall be
36 deemed to prohibit pier superintendents or hiring agents from being
37 represented by a labor organization or organizations which do not also
38 represent longshore workers or security officers. The American Feder-
39 ation of Labor and Congress of Industrial Organizations and any other
40 similar federation, congress or other organization of national or inter-
41 national occupational or industrial labor organizations shall not be
42 considered an organization which represents longshore workers or securi-
43 ty officers within the meaning of this section although one of the
44 federated or constituent labor organizations thereof may represent long-
45 shore workers or security officers.

46 8. Any applicant for pier superintendent or hiring agent ineligible
47 for a license by reason of the provisions of paragraph (b) of subdivi-
48 sion three of this section may petition for and the commission may issue
49 an order removing the ineligibility. A petition for an order to remove
50 ineligibility may be made to the commission before or after the hearing
51 required by section five hundred thirty-four-n of this article.

52 § 534-g. Stevedores. 1. No person shall act as a stevedore within the
53 port of New York district in this state without having first obtained a
54 license from the commission or previously, from the bi-state commission,
55 and no person shall employ a stevedore to perform services as such with-

1 in the port of New York district in this state unless the stevedore is
2 so licensed.

3 2. Any person intending to act as a stevedore within the port of New
4 York district in this state shall file in the office of the commission a
5 written application for a license to engage in such occupation, duly
6 signed and verified as follows:

7 (a) If the applicant is a natural person, the application shall be
8 signed and verified by such person and if the applicant is a partner-
9 ship, the application shall be signed and verified by each natural
10 person composing or intending to compose such partnership. The applica-
11 tion shall state the full name, age, residence, business address, if
12 any, present and previous occupations of each natural person so signing
13 the same, and any other facts and evidence as may be required by the
14 commission to ascertain the character, integrity and identity of each
15 natural person so signing such application.

16 (b) If the applicant is a corporation, the application shall be signed
17 and verified by the president, secretary and treasurer thereof, and
18 shall specify the name of the corporation, the date and place of its
19 incorporation, the location of its principal place of business, the
20 names and addresses of, and the amount of the stock held by stockholders
21 owning five percent or more of any of the stock thereof, and of all
22 officers, including all members of the board of directors. The require-
23 ments of paragraph (a) of this subdivision as to a natural person who is
24 a member of a partnership, and such requirements as may be specified in
25 rules and regulations promulgated by the commission, shall apply to each
26 such officer or stockholder and their successors in office or interest.

27 (c) In the event of the death, resignation or removal of any officer,
28 and in the event of any change in the list of stockholders who shall own
29 five percent or more of the stock of the corporation, the secretary of
30 such corporation shall forthwith give notice of that fact in writing to
31 the commission certified by said secretary.

32 3. No such license shall be granted:

33 (a) If any person whose signature or name appears in the application
34 is not the real party in interest required by subdivision two of this
35 section to sign or to be identified in the application or if the person
36 so signing or named in the application is an undisclosed agent or trus-
37 tee for any such real party in interest;

38 (b) Unless the commission shall be satisfied that the applicant and
39 all members, officers and stockholders required by subdivision two of
40 this section to sign or be identified in the application for license
41 possess good character and integrity;

42 (c) Unless the applicant is either a natural person, partnership or
43 corporation;

44 (d) Unless the applicant shall be a party to a contract then in force
45 or which will take effect upon the issuance of a license, with a carrier
46 of freight by water for the loading and unloading by the applicant of
47 one or more vessels of such carrier at a pier within the port of New
48 York district in this state;

49 (e) If the applicant or any member, officer or stockholder required by
50 subdivision two of this section to sign or be identified in the applica-
51 tion for license has, without subsequent pardon, been convicted by a
52 court of the United States or any state or territory thereof of the
53 commission of, or the attempt or conspiracy to commit, treason, murder,
54 manslaughter or any crime punishable by death or imprisonment for a term
55 exceeding one year or any of the misdemeanors or offenses described in
56 paragraph (b) of subdivision three of section five hundred thirty-four-f

1 of this article. Any applicant ineligible for a license by reason of
2 any such conviction may submit satisfactory evidence to the commission
3 that the person whose conviction was the basis of ineligibility has for
4 a period of not less than five years, measured as hereinafter provided
5 and up to the time of application, so acted in a manner as to warrant
6 the grant of such license, in which event the commission may, in its
7 discretion issue an order removing such ineligibility. The aforesaid
8 period of five years shall be measured either from the date of payment
9 of any fine imposed upon such person or the suspension of sentence or
10 from the date of the person's unrevoked release from custody by parole,
11 commutation or termination of the person's sentence;

12 (f) If the applicant has paid, given, caused to have been paid or
13 given or offered to pay or give to any officer or employee of any carri-
14 er of freight by water any valuable consideration for an improper or
15 unlawful purpose or to induce such person to procure the employment of
16 the applicant by such carrier for the performance of stevedoring
17 services;

18 (g) If the applicant has paid, given, caused to be paid or given or
19 offered to pay or give to any officer or representative of a labor
20 organization any valuable consideration for an improper or unlawful
21 purpose or to induce such officer or representative to subordinate the
22 interests of such labor organization or its members in the management of
23 the affairs of such labor organization to the interests of the appli-
24 cant.

25 (h) If the applicant has paid, given, caused to have been paid or
26 given or offered to pay or give to any agent of any carrier of freight
27 by water any valuable consideration for an improper or unlawful purpose
28 or, without the knowledge and consent of such carrier, to induce such
29 agent to procure the employment of the applicant by such carrier or its
30 agent for the performance of stevedoring services.

31 4. When the application shall have been examined and such further
32 inquiry and investigation made as the commission shall deem proper and
33 when the commission shall be satisfied therefrom that the applicant
34 possesses the qualifications and requirements prescribed in this
35 section, the commission shall issue and deliver a license to such appli-
36 cant. The commission may issue a temporary permit to any applicant for
37 a license under the provisions of this section pending final action on
38 an application made for such a license. Any such permit shall be valid
39 for a period not in excess of six months.

40 5. A stevedore's license granted pursuant to this section shall be for
41 a term of five years or fraction of such five year period, and shall
42 expire on the first day of December. In the event of the death of the
43 licensee, if a natural person, or its termination or dissolution by
44 reason of a death of a partner, if a partnership, or if the licensee
45 shall cease to be a party to any contract of the type required by para-
46 graph (d) of subdivision three of this section, the license shall termi-
47 nate ninety days after such event or upon its expiration date, whichever
48 shall be sooner. A license may be renewed by the commission for succes-
49 sive five year periods upon fulfilling the same requirements as are set
50 forth in this section for an original application for a stevedore's
51 license.

52 6. Any license issued pursuant to this section may be revoked or
53 suspended for such period as the commission deems in the public interest
54 or the licensee thereunder may be reprimanded for any of the following
55 offenses on the part of the licensee or of any person required by subdi-

1 vision two of this section to sign or be identified in an original
2 application for a license;

3 (a) Conviction of a crime or other cause which would permit or require
4 disqualification of the licensee from receiving a license upon original
5 application;

6 (b) Fraud, deceit or misrepresentation in securing the license or in
7 the conduct of the licensed activity;

8 (c) Failure by the licensee to maintain a complete set of books and
9 records containing a true and accurate account of the licensee's
10 receipts and disbursements arising out of the licensee's activities
11 within the port of New York district in this state;

12 (d) Failure to keep said books and records available during business
13 hours for inspection by the commission and its duly designated represen-
14 tatives until the expiration of the fifth calendar year following the
15 calendar year during which occurred the transactions recorded therein;

16 (e) Any other offense described in paragraphs (c), (d), (e), (f), (g),
17 (h) and (i) of subdivision seven of section five hundred thirty-four-f
18 of this article.

19 § 534-h. Prohibition of public loading. 1. It is unlawful for any
20 person to load or unload waterborne freight onto or from vehicles other
21 than railroad cars at piers or at other waterfront terminals within the
22 port of New York district in this state, for a fee or other compen-
23 sation, other than the following persons and their employees:

24 (a) Carriers of freight by water, but only at piers at which their
25 vessels are berthed;

26 (b) Other carriers of freight (including but not limited to railroads
27 and truckers), but only in connection with freight transported or to be
28 transported by such carriers;

29 (c) Operators of piers or other waterfront terminals (including rail-
30 roads, truck terminal operators, warehouse workers and other persons),
31 but only at piers or other waterfront terminals operated by them;

32 (d) Shippers or consignees of freight, but only in connection with
33 freight shipped by such shipper or consigned to such consignee;

34 (e) Stevedores licensed under section five hundred thirty-four-g of
35 this article, whether or not such waterborne freight has been or is to
36 be transported by a carrier of freight by water with which such steve-
37 dore shall have a contract of the type prescribed by paragraph (d) of
38 subdivision three of section five hundred thirty-four-g of this article.

39 2. Nothing in this section contained shall be deemed to permit any
40 such loading or unloading of any waterborne freight at any place by any
41 such person by means of any independent contractor, or any other agent
42 other than an employee, unless such independent contractor is a person
43 permitted by this section to load or unload such freight at such place
44 in the person's own right.

45 § 534-i. Longshore workers' register. 1. The commission shall maintain
46 a longshore workers' register in which shall be included all qualified
47 longshore workers eligible, as provided, for employment as such in the
48 port of New York district in this state. No person shall act as a long-
49 shore worker within the port of New York district in this state unless
50 at the time such person is included in the longshore workers' register,
51 and no person shall employ another to work as a longshore worker within
52 the port of New York district in this state unless at the time such
53 other person is included in the longshore workers' register.

54 2. Any person applying for inclusion in the longshore workers' regis-
55 ter shall file at such place and in such manner as the commission shall
56 designate a written statement, signed and verified by such person,

1 setting forth the person's full name, residence address, social securi-
2 ty number, and such further facts and evidence as the commission may
3 prescribe to establish the identity of such person and the person's
4 criminal record, if any.

5 3. The commission may in its discretion deny application for inclusion
6 in the longshore workers' register by a person:

7 (a) Who has been convicted by a court of the United States or any
8 state or territory thereof, without subsequent pardon, of treason,
9 murder, manslaughter or of any crime punishable by death or imprisonment
10 for a term exceeding three hundred sixty-four days or of any of the
11 misdemeanors or offenses described in paragraph (b) of subdivision three
12 of section five hundred thirty-four-f of this article or of attempt or
13 conspiracy to commit any of such crimes;

14 (b) Who knowingly or willingly advocates the desirability of over-
15 throwing or destroying the government of the United States by force or
16 violence or who shall be a member of a group which advocates such desir-
17 ability knowing the purposes of such group include such advocacy;

18 (c) Whose presence at the piers or other waterfront terminals in the
19 port of New York district in this state is found by the commission on
20 the basis of the facts and evidence before it, to constitute a danger to
21 the public peace or safety.

22 4. Unless the commission shall determine to exclude the applicant from
23 the longshore workers' register on a ground set forth in subdivision
24 three of this section it shall include such person in the longshore
25 workers' register. The commission shall issue a determination within
26 thirty days of receipt of the application provided, however, that this
27 time requirement shall not apply for any period of delay caused or
28 requested by the applicant. If the commission cannot make a determi-
29 nation within that time, it shall notify the applicant that the applica-
30 tion is still under review. The commission may permit temporary regis-
31 tration of any applicant under the provisions of this section pending
32 final action on an application made for such registration. Any such
33 temporary registration shall be valid for a period not in excess of six
34 months.

35 5. The commission shall have power to reprimand any longshore worker
36 registered under this section or to remove that person from the long-
37 shore workers' register for such period as it deems in the public inter-
38 est for any of the following offenses:

39 (a) Conviction of a crime or other cause which would permit disquali-
40 fication of such person from inclusion in the longshore workers' regis-
41 ter upon original application;

42 (b) Fraud, deceit or misrepresentation in securing inclusion in the
43 longshore workers' register;

44 (c) Transfer or surrender of possession to any person either temporar-
45 ily or permanently of any card or other means of identification issued
46 by the commission as evidence of inclusion in the longshore workers'
47 register, without satisfactory explanation;

48 (d) False impersonation of another longshore worker registered under
49 this section or of another person licensed under this act;

50 (e) Willful commission of or willful attempt to commit at or on a
51 waterfront terminal or adjacent highway any act of physical injury to
52 any other person or of willful damage to or misappropriation of any
53 other person's property, unless justified or excused by law; and

54 (f) Any other offense described in paragraphs (c), (d), (e), and (f)
55 of subdivision seven of section five hundred thirty-four-f of this arti-
56 cle.

1 6. Whenever, as a result of legislative amendments to this act or of a
2 ruling by the commission, registration as a longshore worker is required
3 for any person to continue employment, such person shall be registered
4 as a longshore worker without regard to the provisions of section five
5 hundred thirty-four-1 of this article, provided, however, that such
6 person satisfies all the other requirements of this act for registration
7 as a longshore worker.

8 7. The commission shall have the right to recover possession of any
9 card or other means of identification issued as evidence of inclusion in
10 the longshore workers' register if the holder thereof has been removed
11 from the longshore workers' register.

12 8. Nothing contained in this article shall be construed to limit in
13 any way any rights of labor reserved by section five hundred thirty-
14 four-q of this article.

15 § 534-j. List of qualified longshore workers for employment as check-
16 ers. 1. The commission shall maintain within the longshore workers'
17 register a list of all qualified longshore workers eligible, as provided
18 in this section, for employment as checkers in the port of New York
19 district in this state. No person shall act as a checker within the
20 port of New York district in this state unless at the time such person
21 is included in the longshore workers' register as a checker, and no
22 person shall employ another to work as a checker within the port of New
23 York district in this state unless at the time such other person is
24 included in the longshore workers' register as a checker.

25 2. Any person applying for inclusion in the longshore workers' regis-
26 ter as a checker shall file at any such place and in such manner as the
27 commission shall designate a written statement, signed and verified by
28 such person, setting forth the following:

29 (a) The full name, residence, place and date of birth and social secu-
30 urity number of the applicant;

31 (b) The present and previous occupations of the applicant, including
32 the places where such person was employed and the names of that person's
33 employers;

34 (c) Such further facts and evidence as may be required by the commis-
35 sion to ascertain the character, integrity and identity of the appli-
36 cant.

37 3. No person shall be included in the longshore workers' register as a
38 checker:

39 (a) Unless the commission shall be satisfied that the applicant
40 possesses good character and integrity;

41 (b) If the applicant has, without subsequent pardon, been convicted
42 by a court of the United States or any state or territory thereof, of
43 the commission of, or the attempt or conspiracy to commit, treason,
44 murder, manslaughter or any crime punishable by death or imprisonment
45 for a term exceeding three hundred sixty-four days or any of the follow-
46 ing misdemeanors or offenses: illegally using, carrying or possessing a
47 pistol or another dangerous weapon; making or possessing burglar's
48 instruments; buying or receiving stolen property; unlawful entry of a
49 building; aiding an escape from prison; unlawfully possessing, possess-
50 ing with intent to distribute, sale or distribution of a controlled
51 dangerous substance (controlled substance) or a controlled dangerous
52 substance analog (controlled substance analog); petty larceny, where the
53 evidence shows the property was stolen from a vessel, pier or other
54 waterfront terminal; and violation of the act. Any such applicant ineli-
55 gible for inclusion in the longshore workers' register as a checker by
56 reason of any such conviction may submit satisfactory evidence to the

1 commission that the person has for a period of not less than five years,
2 measured as provided in this section, and up to the time of applica-
3 tion, so acted in a manner as to warrant inclusion in the longshore
4 workers' register as a checker, in which event the commission may, in
5 its discretion, issue an order removing such ineligibility. The afore-
6 said period of five years shall be measured either from the date of
7 payment of any fine imposed upon such person or the suspension of
8 sentence or from the date of such person's unrevoked release from
9 custody by parole, commutation or termination of such person's sentence;

10 (c) If the applicant knowingly or willfully advocates the desirability
11 of overthrowing or destroying the government of the United States by
12 force or violence or shall be a member of a group which advocates such
13 desirability, knowing the purposes of such group include such advocacy.

14 4. When the application shall have been examined and such further
15 inquiry and investigation made as the commission shall deem proper and
16 when the commission shall be satisfied therefrom that the applicant
17 possesses the qualifications and requirements prescribed by this
18 section, the commission shall include the applicant in the longshore
19 workers' register as a checker. The commission may permit temporary
20 registration as a checker to any applicant under this section pending
21 final action on an application made for such registration, under such
22 terms and conditions as the commission may prescribe, which shall be
23 valid for a period to be fixed by the commission, not in excess of six
24 months.

25 5. The commission shall have power to reprimand any checker registered
26 under this section or to remove such person from the longshore workers'
27 register as a checker for such period of time as it deems in the public
28 interest for any of the following offenses:

29 (a) Conviction of a crime or other cause which would permit disquali-
30 fication of such person from inclusion in the longshore workers' regis-
31 ter as a checker upon original application;

32 (b) Fraud, deceit or misrepresentation in securing inclusion in the
33 longshore workers' register as a checker or in the conduct of the regis-
34 tered activity;

35 (c) Violation of any of the provisions of this act;

36 (d) Criminal possession of a controlled substance or criminal sale of
37 a controlled substance;

38 (e) Inducing or otherwise aiding or abetting any person to violate the
39 terms of this act;

40 (f) Paying, giving, causing to be paid or given or offering to pay or
41 give to any person any valuable consideration to induce such other
42 person to violate any provision of this act or to induce any public
43 officer, agent or employee to fail to perform the person's duty under
44 this act;

45 (g) Consorting with known criminals for an unlawful purpose, provided,
46 however, that consorting without unlawful purpose shall be insufficient
47 grounds for reprimand;

48 (h) Transfer or surrender of possession to any person either temporar-
49 ily or permanently of any card or other means of identification issued
50 by the commission as evidence of inclusion in the workers' register
51 without satisfactory explanation;

52 (i) False impersonation of another longshore worker or of another
53 person licensed under this act.

54 6. The commission shall have the right to recover possession of any
55 card or other means of identification issued as evidence of inclusion in
56 the longshore workers' register as a checker in the event that the hold-

1 er thereof has been removed from the longshore workers' register as a
2 checker.

3 7. Any applicant ineligible for inclusion in the longshore workers'
4 register as a checker by reason of the provisions of paragraph (b) of
5 subdivision three of this section may petition for and the commission
6 may issue an order removing the ineligibility. A petition for an order
7 to remove ineligibility may be made to the commission before or after
8 the hearing required by section five hundred thirty-four-n of this arti-
9 cle.

10 8. Nothing contained in this section shall be construed to limit in
11 any way any rights of labor reserved by section five hundred thirty-
12 four-q of this article.

13 § 534-k. Regularization of longshore workers' employment. 1. The
14 commission shall, at regular intervals, remove from the longshore work-
15 ers' register any person who shall have been registered for at least
16 nine months and who shall have failed during the preceding six calendar
17 months either to have worked as a longshore worker in the port of New
18 York district or to have applied for employment as a longshore worker at
19 an employment information center in the port of New York district for
20 such minimum number of days as shall have been established by the
21 commission pursuant to subdivision two of this section.

22 2. On or before each succeeding first day of June or December, the
23 commission shall, for the purposes of subdivision one of this section,
24 establish for the six-month period beginning on each such date a minimum
25 number of days and the distribution of such days during such period.

26 3. In establishing any such minimum number of days or period, the
27 commission shall observe the following standards:

28 (a) To encourage as far as practicable the regularization of the
29 employment of longshore workers;

30 (b) To bring the number of eligible longshore workers more closely
31 into balance with the demand for longshore workers' services within the
32 port of New York district in this state without reducing the number of
33 eligible longshore workers below that necessary to meet the requirements
34 of longshore workers in the port of New York district in this state;

35 (c) To eliminate oppressive, unlawful, discriminatory, and corrupt
36 hiring practices affecting longshore workers and waterborne commerce in
37 the port of New York district in this state; and

38 (d) To eliminate unlawful practices injurious to waterfront labor.

39 4. A longshore worker who has been removed from the longshore workers'
40 register pursuant to this section may seek reinstatement upon fulfilling
41 the same requirements as for initial inclusion in the longshore workers'
42 register, but not before the expiration of one year from the date of
43 removal, except that immediate reinstatement shall be made upon proper
44 showing that the registrant's failure to work or apply for work the
45 minimum number of days above described was caused by the fact that the
46 registrant was engaged in the military service of the United States or
47 was incapacitated by ill health, physical injury, or other good cause.

48 5. Notwithstanding any other provision of this article, the commission
49 shall at any time have the power to register longshore workers on a
50 temporary basis to meet special or emergency needs.

51 6. Notwithstanding any other provisions of this section, the commis-
52 sion shall have the power to remove from the longshore workers' register
53 any person (including those persons registered as longshore workers for
54 less than nine months) who shall have failed to have worked as a long-
55 shore worker in the port of New York district for such minimum number of
56 days during a period of time as shall have been established by the

1 commission. In administering this section, the commission, in its
2 discretion, may count applications for employment as a longshore worker
3 at an employment information center established under section five
4 hundred thirty-four-o of this article as constituting actual work as a
5 longshore worker, provided, however, that the commission shall count as
6 actual work the compensation received by any longshore worker pursuant
7 to the guaranteed wage provisions of any collective bargaining agreement
8 relating to longshore workers. Prior to the commencement of any period
9 of time established by the commission pursuant to this section, the
10 commission shall establish for such period the minimum number of days of
11 work required and the distribution of such days during such period and
12 shall also determine whether or not application for employment as a
13 longshore worker shall be counted as constituting actual work as a long-
14 shore worker. The commission may classify longshore workers according to
15 length of service as a longshore worker and such other criteria as may
16 be reasonable and necessary to carry out the provisions of this act. The
17 commission shall have the power to vary the requirements of this section
18 with respect to their application to the various classifications of
19 longshore workers. In administering this section, the commission shall
20 observe the standards set forth in section five hundred thirty-four-l of
21 this article. Nothing in this section shall be construed to modify,
22 limit or restrict in any way any of the rights protected by section five
23 hundred thirty-four-q of this article.

24 § 534-l. Suspension or acceptance of applications for inclusion in the
25 longshore workers' register; exceptions. 1. The commission shall have
26 the power to make determinations to suspend the acceptance of applica-
27 tions for inclusion in the longshore workers' register for such periods
28 of time as the commission may from time to time establish and, after any
29 such period of suspension, the commission shall have the power to make
30 determinations to accept applications for such period of time as the
31 commission may establish or in such number as the commission may deter-
32 mine, or both. Such determinations to suspend or accept applications
33 shall be made by the commission: (a) on its own initiative when it
34 determines that continued acceptance of applications for inclusion in
35 the longshore workers' register will violate the standards set forth in
36 subdivision two of this section; or (b) upon the joint recommendation in
37 writing of stevedores and other employers of longshore workers in the
38 port of New York district in this state, acting through their represen-
39 tative for the purpose of collective bargaining with a labor organiza-
40 tion representing such longshore workers in such district and such labor
41 organization; or (c) upon the petition in writing of a stevedore or
42 another employer of longshore workers in the port of New York district
43 in this state which does not have a representative for the purpose of
44 collective bargaining with a labor organization representing such long-
45 shore workers. The commission shall have the power to accept or reject
46 such joint recommendation or petition. All joint recommendations or
47 petitions filed for the acceptance of applications with the commission
48 for inclusion in the longshore workers' register shall include:

49 (i) the number of employees requested;

50 (ii) the category or categories of employees requested;

51 (iii) a detailed statement setting forth the reasons for such joint
52 recommendation or petition;

53 (iv) in cases where a joint recommendation is made under this section,
54 the collective bargaining representative of stevedores and other employ-
55 ers of longshore workers in the port of New York district in this state
56 and the labor organization representing such longshore workers shall

1 provide the allocation of the number of persons to be sponsored by each
2 employer of longshore workers in the port of New York district in this
3 state; and

4 (v) any other information requested by the commission.

5 2. In administering the provisions of this section, the commission
6 shall observe the following standards:

7 (a) To encourage as far as practicable the regularization of the
8 employment of longshore workers;

9 (b) To bring the number of eligible longshore workers into balance
10 with the demand for longshore workers' services within the port of New
11 York district in this state without reducing the number of eligible
12 longshore workers below that necessary to meet the requirements of long-
13 shore workers in the port of New York district in this state;

14 (c) To encourage the mobility and full utilization of the existing
15 work force of longshore workers;

16 (d) To protect the job security of the existing work force of long-
17 shore workers by considering the wages and employment benefits of
18 prospective registrants;

19 (e) To eliminate oppressive, unlawful, discriminatory, and corrupt
20 hiring practices injurious to waterfront labor and waterborne commerce
21 in the port of New York district in this state, including, but not
22 limited to, those oppressive, unlawful, discriminatory, and corrupt
23 hiring practices that may result from either a surplus or shortage of
24 waterfront labor;

25 (f) To consider the effect of technological change and automation and
26 such other economic data and facts as are relevant to a proper determi-
27 nation; and

28 (g) To protect the public interest of this state.

29 3. (a) In observing the foregoing standards and before determining to
30 suspend or accept applications for inclusion in the longshore workers'
31 register, the commission shall consult with and consider the views of,
32 including any statistical data or other factual information concerning
33 the size of the longshore workers' register submitted by, carriers of
34 freight by water, stevedores, waterfront terminal owners and operators,
35 any labor organization representing employees registered by the commis-
36 sion, and any other person whose interests may be affected by the size
37 of the longshore workers' register. The commission shall publish on its
38 website the justification for any determination to suspend applications
39 for inclusion in the longshore workers' register, and shall notify the
40 governor and the legislature of such suspension, within ten days of such
41 action.

42 (b) Any recommendation or petition granted hereunder shall be subject
43 to such terms and conditions as the commission may prescribe consistent
44 with the provisions of this act or any regulations promulgated thereof.

45 4. Any determination by the commission pursuant to this section to
46 suspend or accept applications for inclusion in the longshore workers'
47 register shall be made upon a record, shall not become effective until
48 five days after notice thereof to the collective bargaining represen-
49 tative of stevedores and other employers of longshore workers in the
50 port of New York district in this state and to the labor organization
51 representing such longshore workers and/or the petitioning stevedore or
52 other employer of longshore workers in the port of New York district in
53 this state and shall be subject to judicial review for being arbitrary,
54 capricious, and an abuse of discretion in a proceeding jointly insti-
55 tuted by such representative and such labor organization and/or by the
56 petitioning stevedore or other employer of longshore workers in the port

1 of New York district in this state. Such judicial review proceeding may
2 be instituted in the manner provided by the law of this state for review
3 of the final decision or action of administrative agencies of this
4 state, provided, however, that such proceeding shall be decided directly
5 by the appellate division as the court of first instance (to which the
6 proceeding shall be transferred by order of transfer by the supreme
7 court in the state of New York by notice of appeal from the commission's
8 determination) and provided further that notwithstanding any other
9 provision of law in this state no court shall have power to stay the
10 commission's determination prior to final judicial decision for more
11 than fifteen days. In the event that the court enters a final order
12 setting aside the determination by the commission to accept applications
13 for inclusion in the longshore workers' register, the registration of
14 any longshore workers included in the longshore workers' register as a
15 result of such determination by the commission shall be cancelled.

16 5. This section shall apply, notwithstanding any other provision of
17 this act, provided however, such section shall not in any way limit or
18 restrict the provisions of this subdivision empowering the commission to
19 register longshore workers on a temporary basis to meet special or emer-
20 gency needs or the provisions of subdivision four of section five
21 hundred thirty-four-k of this article relating to the immediate rein-
22 statement of persons removed from the longshore workers' register pursu-
23 ant to this section.

24 6. Upon the granting of any joint recommendation or petition under
25 this section for the acceptance of applications for inclusion in the
26 longshore workers' register, the commission shall accept applications
27 upon written sponsorship from the prospective employer of longshore
28 workers. The sponsoring employer shall furnish the commission with the
29 name, address and such other identifying or category information as the
30 commission may prescribe for any person so sponsored. The sponsoring
31 employer shall certify that the selection of the persons so sponsored
32 was made in a fair and non-discriminatory basis in accordance with the
33 requirements of the laws of the United States and the state of New York
34 dealing with equal employment opportunities. Notwithstanding any of the
35 foregoing, where the commission determines to accept applications for
36 inclusion in the longshore workers' register on its own initiative, such
37 acceptance shall be accomplished in such manner deemed appropriate by
38 the commission.

39 7. Notwithstanding any other provision of this article, the commission
40 may include in the longshore workers' register under such terms and
41 conditions as the commission may prescribe:

42 (a) a person issued registration on a temporary basis to meet special
43 or emergency needs who is still so registered by the commission; and

44 (b) a person defined as a longshore worker in subparagraph four of
45 paragraph (a), or paragraph (b) of subdivision twelve of section five
46 hundred thirty-four-b of this article who is employed by a stevedore
47 defined in paragraph (c) or (d) of subdivision twenty-two of section
48 five hundred thirty-four-b of this article and whose employment is not
49 subject to the guaranteed annual income provisions of any collective
50 bargaining agreement relating to longshore workers.

51 8. The commission may include in the longshore workers' register,
52 under such terms and conditions as the commission may prescribe, persons
53 issued registration on a temporary basis as a longshore worker or a
54 checker to meet special or emergency needs and who are still so regis-
55 tered by the commission upon the enactment of this act.

1 9. Nothing in this section shall be construed to modify, limit or
2 restrict in any way any of the rights protected by section five hundred
3 thirty-four-q of this article.

4 § 534-m. Security officer. 1. No person shall act as a security offi-
5 cer within the port of New York district in this state without first
6 having obtained a license from the commission or previously, from the
7 bi-state commission, and no person shall employ a security officer who
8 is not so licensed.

9 2. A license to act as a security officer shall be issued only upon
10 written application, duly verified, which shall state the following:

11 (a) The full name, residence, business address (if any), place and
12 date of birth and social security number of the applicant;

13 (b) The present and previous occupations of the applicant, including
14 the places where the person was employed and the names of the person's
15 employers;

16 (c) The citizenship of the applicant and, if the person is a natural-
17 ized citizen of the United States, the court and date of naturalization;
18 and

19 (d) Such further facts and evidence as may be required by the commis-
20 sion to ascertain the character, integrity and identity of the appli-
21 cant.

22 3. No such license shall be granted:

23 (a) Unless the commission shall be satisfied that the applicant
24 possesses good character and integrity;

25 (b) If the applicant has, without subsequent pardon, been convicted by
26 a court of the United States or of any state or territory thereof of the
27 commission of, or the attempt or conspiracy to commit, treason, murder,
28 manslaughter or any crime punishable by death or imprisonment for a term
29 exceeding one year or any of the misdemeanors or offenses described in
30 paragraph (b) of subdivision three of section five hundred thirty-four-f
31 of this article;

32 (c) Unless the applicant shall meet such reasonable standards of phys-
33 ical and mental fitness for the discharge of a security officer's duties
34 as may from time to time be established by the commission;

35 (d) If the applicant shall be a member of any labor organization which
36 represents longshore workers or pier superintendents or hiring agents;
37 but nothing in this section shall be deemed to prohibit security offi-
38 cers from being represented by a labor organization or organizations
39 which do not also represent longshore workers or pier superintendents or
40 hiring agents. The American Federation of Labor and Congress of Indus-
41 trial Organizations and any other similar federation, congress or other
42 organization of national or international occupational or industrial
43 labor organizations shall not be considered an organization which
44 represents longshore workers or pier superintendents or hiring agents
45 within the meaning of this section although one of the federated or
46 constituent labor organizations thereof may represent longshore workers
47 or pier superintendents or hiring agents;

48 (e) If the applicant knowingly or willfully advocates the desirability
49 of overthrowing or destroying the government of the United States by
50 force or violence or shall be a member of a group which advocates such
51 desirability, knowing the purposes of such group include such advocacy.

52 4. When the application shall have been examined and such further
53 inquiry and investigation made as the commission shall deem proper and
54 when the commission shall be satisfied therefrom that the applicant
55 possesses the qualifications and requirements prescribed by this section
56 and regulations issued pursuant thereto, the commission shall issue and

1 deliver a license to the applicant. The commission may issue a temporary
2 permit to any applicant for a license under the provisions of this
3 section pending final action on an application made for such a license.
4 Any such permit shall be valid for a period not in excess of six months.

5 5. A license granted pursuant to this section shall continue for a
6 term of three years. A license may be renewed by the commission for
7 successive three-year periods upon fulfilling the same requirements as
8 set forth in this section for an original application.

9 6. Notwithstanding any provision set forth in this section, a license
10 to act as a security officer shall continue and need not be renewed,
11 provided the licensee shall, as required by the commission:

12 (a) Submit to a medical examination and meet the physical and mental
13 fitness standards established by the commission pursuant to paragraph
14 (c) of subdivision three of this section;

15 (b) Complete a refresher course of training; and

16 (c) Submit supplementary personal history information.

17 7. Any license issued pursuant to this section may be revoked or
18 suspended for such period as the commission deems in the public interest
19 or the licensee thereunder may be reprimanded for any of the following
20 offenses:

21 (a) Conviction of a crime or other cause which would permit or require
22 the person's disqualification from receiving a license upon original
23 application;

24 (b) Fraud, deceit or misrepresentation in securing the license; and

25 (c) Any other offense described in paragraphs (c), (d), (e), (f), (g),
26 (h), and (i) of subdivision seven of section five hundred thirty-four-f
27 of this article.

28 8. The commission shall, at regular intervals, cancel the license or
29 temporary permit of a security officer who shall have failed during the
30 preceding twelve months to have worked as a security officer in the port
31 of New York district a minimum number of hours as shall have been estab-
32 lished by the commission, except that immediate restoration of such
33 license or temporary permit shall be made upon proper showing that the
34 failure to so work was caused by the fact that the licensee or permittee
35 was engaged in the military service of the United States or was incapac-
36 itated by ill health, physical injury or other good cause.

37 9. Any applicant for security officer ineligible for a license by
38 reason of the provisions of paragraph (b) of subdivision three of this
39 section may petition for and the commission may issue an order removing
40 the ineligibility. A petition for an order to remove ineligibility may
41 be made to the commission before or after the hearing required by
42 section five hundred thirty-four-n of this article.

43 § 534-n. Hearings, determinations and review. 1. The commission shall
44 not deny any application for a license or registration without giving
45 the applicant or prospective licensee reasonable prior notice and an
46 opportunity to be heard by the commission.

47 2. Any application for a license or for inclusion in the longshore
48 workers' register, and any license issued or registration made, may be
49 denied, revoked, or suspended only in the manner prescribed in this
50 section.

51 3. The commission may on its own initiative or on complaint of any
52 person, including any public official or agency, institute proceedings
53 to revoke or suspend any license or registration after a hearing at
54 which the licensee or registrant and any person making such complaint
55 shall be given an opportunity to be heard, provided that any order of
56 the commission revoking or suspending any license or registration shall

1 not become effective until fifteen days subsequent to the serving of
2 notice thereof upon the licensee or registrant unless in the opinion of
3 the commission the continuance of the license or registration for such
4 period would be inimical to the public peace or safety. Such hearings
5 shall be held in such manner and upon such notice as may be prescribed
6 by the rules of the commission, but such notice shall be of not less
7 than ten days and shall state the nature of the complaint.

8 4. Pending the determination of such hearing pursuant to subdivision
9 three of this section, the commission may temporarily suspend a permit,
10 license or registration until further order of the commission if in the
11 opinion of the commission the continuance of the permit, license or
12 registration for such period is inimical to the public peace or safety.

13 (a) The commission may temporarily suspend a permit, license or regis-
14 tration pursuant to the provisions of this subdivision until further
15 order of the commission or final disposition of the underlying case,
16 only where the permittee, licensee or registrant has been indicted for,
17 or otherwise charged with, a crime which is equivalent to a felony in
18 the state of New York or any crime punishable by death or imprisonment
19 for a term exceeding three hundred sixty-four days or only where the
20 permittee or licensee is a security officer who is charged by the
21 commission pursuant to this section with misappropriating any other
22 person's property at or on a pier or other waterfront terminal.

23 (b) In the case of a permittee, licensee or registrant who has been
24 indicted for, or otherwise charged with, a crime, the temporary suspen-
25 sion shall terminate immediately upon acquittal or upon dismissal of the
26 criminal charge, unless in the opinion of the commission the continuance
27 of any such permit, license or registration is inimical to the public
28 peace or safety.

29 (c) A person whose permit, license or registration has been temporar-
30 ily suspended may, at any time, demand that the commission conduct a
31 hearing as provided for in this section. Within sixty days of such
32 demand, the commission shall commence the hearing and, within thirty
33 days of receipt of the administrative judge's report and recommendation,
34 the commission shall render a final determination thereon; provided,
35 however, that these time requirements, shall not apply for any period of
36 delay caused or requested by the permittee, licensee or registrant. Upon
37 failure of the commission to commence a hearing or render a determi-
38 nation within the time limits prescribed herein, the temporary suspen-
39 sion of the licensee or registrant shall immediately terminate. Notwith-
40 standing any other provision of this subdivision, if a federal, state,
41 or local law enforcement agency or prosecutor's office shall request the
42 suspension or deferment of any hearing on the ground that such a hearing
43 would obstruct or prejudice an investigation or prosecution, the commis-
44 sion may in its discretion, postpone or defer such hearing for a time
45 certain or indefinitely. Any action by the commission to postpone a
46 hearing shall be subject to immediate judicial review as provided in
47 subdivision seven of this section.

48 (d) The commission may in addition, within its discretion, bar any
49 permittee, licensee or registrant whose license or registration has been
50 suspended pursuant to this section, from any employment by a licensed
51 stevedore or a carrier of freight by water during the period of such
52 suspension, if the alleged crime that forms the basis of such suspension
53 involves the possession with intent to distribute, sale, or distribution
54 of a controlled dangerous substance (controlled substance), or
55 controlled dangerous substance analog (controlled substance analog),
56 racketeering or theft from a pier or waterfront terminal.

1 5. The commission, or such officer, employee or agent of the commis-
2 sion as may be designated by the commission for such purpose, shall have
3 the power to issue subpoenas to compel the attendance of witnesses and
4 the giving of testimony or production of other evidence and to adminis-
5 ter oaths in connection with any such hearing. It shall be the duty of
6 the commission or of any officer, employee or agent of the commission
7 designated by the commission for such purpose to issue subpoenas at the
8 request of and upon behalf of the licensee, registrant or applicant.
9 The commission or such person conducting the hearing shall not be bound
10 by common law or statutory rules of evidence or by technical or formal
11 rules of procedure in the conduct of such hearing.

12 6. Upon the conclusion of the hearing, the commission shall take such
13 action upon such findings and determination as it deems proper and shall
14 execute an order carrying such findings into effect. The action in the
15 case of an application for a license or registration shall be the grant-
16 ing or denial thereof. The action in the case of a licensee shall be
17 revocation of the license or suspension thereof for a fixed period or
18 reprimand or a dismissal of the charges. The action in the case of a
19 registered longshore worker shall be dismissal of the charges, reprimand
20 or removal from the longshore workers' register for a fixed period or
21 permanently.

22 7. The action of the commission in denying any application for a
23 license or in refusing to include any person in the longshore workers'
24 register under this act or in suspending or revoking such license or
25 removing any person from the longshore workers' register or in repri-
26 manding a licensee or registrant shall be subject to judicial review by
27 a proceeding instituted in this state at the instance of the applicant,
28 licensee or registrant in the manner provided by state law for review of
29 the final decision or action of an agency of this state provided, howev-
30 er, that notwithstanding any other provision of law the court shall have
31 power to stay for not more than thirty days an order of the commission
32 suspending or revoking a license or removing a longshore worker from the
33 longshore workers' register.

34 8. At hearings conducted by the commission pursuant to this section,
35 applicants, prospective licensees, licensees and registrants shall have
36 the right to be accompanied and represented by counsel.

37 9. After the conclusion of a hearing but prior to the making of an
38 order by the commission, a hearing may, upon petition and in the
39 discretion of the hearing officer, be reopened for the presentation of
40 additional evidence. Such petition to reopen the hearing shall state in
41 detail the nature of the additional evidence, together with the reasons
42 for the failure to submit such evidence prior to the conclusion of the
43 hearing. The commission may upon its own motion and upon reasonable
44 notice reopen a hearing for the presentation of additional evidence.
45 Upon petition, after the making of an order of the commission, rehearing
46 may be granted in the discretion of the commission. Such a petition for
47 rehearing shall state in detail the grounds upon which the petition is
48 based and shall separately set forth each error of law and fact alleged
49 to have been made by the commission in its determination, together with
50 the facts and arguments in support thereof. Such petition shall be filed
51 with the commission not later than thirty days after service of such
52 order, unless the commission for good cause shown shall otherwise
53 direct. The commission may upon its own motion grant a rehearing after
54 the making of an order.

55 § 534-o. Employment information centers. 1. The commission shall
56 establish and maintain one or more employment information centers within

1 the port of New York district in this state at such locations as it may
2 determine. No person shall, directly or indirectly, hire any person for
3 work as a longshore worker or security officer within the port of New
4 York district in this state, except through such particular employment
5 information center or centers as may be prescribed by the commission.
6 No person shall accept any employment as a longshore worker or security
7 officer within the port of New York district in this state, except
8 through such an employment information center. At each such employment
9 information center the commission shall keep and exhibit the longshore
10 workers' register and any other records it shall determine to the end
11 that longshore workers and security officers shall have the maximum
12 information as to available employment as such at any time within the
13 port of New York district in this state and to the end that employers
14 shall have an adequate opportunity to fill their requirements of regis-
15 tered longshore workers and security officers at all times.

16 2. Every employer of longshore workers or security officers within the
17 port of New York district in this state shall furnish such information
18 as may be required by the rules and regulations prescribed by the
19 commission with regard to the name of each person hired as a longshore
20 worker or security officer, the time and place of hiring, the time,
21 place and hours of work, and the compensation therefor.

22 § 534-p. Implementation of telecommunications hiring system for long-
23 shore workers and checkers; registration of telecommunications system
24 controller. 1. The commission may designate one of the employment infor-
25 mation centers it is authorized to establish and maintain under section
26 five hundred thirty-four-o of this article for the implementation of a
27 telecommunications hiring system through which longshore workers and
28 checkers may be hired and accept employment without any personal appear-
29 ance at said center. Any such telecommunications hiring system shall
30 incorporate hiring and seniority agreements between the employers of
31 longshore workers and checkers and the labor organization representing
32 longshore workers and checkers in the port of New York district in this
33 state, provided said agreements are not in conflict with the provisions
34 of the article.

35 2. The commission shall permit employees of the association represent-
36 ing employers of longshore workers and checkers and of the labor organ-
37 ization representing longshore workers and checkers in the port of New
38 York district in this state, or of a joint board of such association and
39 labor organization, to participate in the operation of said telecommuni-
40 cations hiring system, provided that any such employee is registered by
41 the commission as a "telecommunications system controller" in accord-
42 ance with the provisions, standards and grounds set forth in the act
43 with respect to the registration of checkers. No person shall act as a
44 "telecommunications system controller" unless that person is so regis-
45 tered. Any application for such registration and any registration made
46 or issued may be denied, revoked, or suspended, as the case may be, only
47 in the manner prescribed in section five hundred thirty-four-n of this
48 article. Any and all such participation in the operation of said tele-
49 communications hiring system shall be monitored by the commission.

50 3. Any and all records, documents, tapes, discs and other data
51 compiled, collected or maintained by said association of employers,
52 labor organization and joint board of such association and labor organ-
53 ization pertaining to the telecommunications hiring system shall be
54 available for inspection, investigation and duplication by the commis-
55 sion.

1 § 534-g. Construction of act. 1. This act is not designed and shall
2 not be construed to limit in any way any rights granted or derived from
3 any other statute or any rule of law for employees to organize in labor
4 organizations, to bargain collectively and to act in any other way indi-
5 vidually, collectively, and through labor organizations or other repre-
6 sentatives of their own choosing. Without limiting the generality of
7 the foregoing, nothing contained in this act shall be construed to limit
8 in any way the right of employees to strike.

9 2. This act is not designed and shall not be construed to limit in any
10 way any rights of longshore workers, hiring agents, pier superintendents
11 or security officers or their employers to bargain collectively and
12 agree upon any method for the selection of such employees by way of
13 seniority, experience, regular gangs or otherwise, provided that such
14 employees shall be licensed or registered hereunder and such longshore
15 workers and security officers shall be hired only through the employment
16 information centers established hereunder and that all other provisions
17 of this act be observed.

18 § 534-r. Certain solicitations prohibited; prohibition against the
19 holding of union position by officers, agents or employees who have been
20 convicted of certain crimes and offenses. 1. No person shall solicit,
21 collect or receive any dues, assessments, levies, fines or contrib-
22 utions, or other charges within the state for or on behalf of any labor
23 organization which represents employees registered or licensed pursuant
24 to the provisions of this article or which derives its charter from a
25 labor organization representing one hundred or more of such registered
26 or licensed employees, if any officer, agent or employee of such labor
27 organization, or of a welfare fund or trust administered partially or
28 entirely by such labor organization or by trustees or other persons
29 designated by such labor organization, has been convicted by a court of
30 the United States, or any state or territory thereof, of a felony, any
31 misdemeanor involving moral turpitude or any crime or offense enumerated
32 in paragraph (b) of subdivision three of section five hundred thirty-
33 four-j of this article, unless such person has been subsequently
34 pardoned therefor by the governor or other appropriate authority of the
35 state or jurisdiction in which such conviction was had or has received a
36 certificate of good conduct from the board of parole pursuant to the
37 provisions of this chapter to remove the disability. No person so
38 convicted shall serve as an officer, agent or employee of such labor
39 organization, welfare fund or trust unless such person has been so
40 pardoned or has received a certificate of good conduct. No person,
41 including such labor organization, welfare fund or trust, shall knowing-
42 ly permit such convicted person to assume or hold any office, agency, or
43 employment in violation of this section.

44 2. As used in this section, the term "labor organization" shall mean
45 and include any organization which exists and is constituted for the
46 purpose in whole or in part of collective bargaining, or of dealing with
47 employers concerning grievances, terms and conditions of employment, or
48 of other mutual aid or protection; but it shall not include a feder-
49 ation or congress of labor organizations organized on a national or
50 international basis even though one of its constituent labor organiza-
51 tions may represent persons so registered or licensed.

52 3. Any person who shall violate this section shall be guilty of a
53 misdemeanor punishable by a fine of not more than five hundred dollars
54 or imprisonment for not more than three hundred sixty-four days, or
55 both.

1 4. If upon application to the commission by an employee who has been
2 convicted of a crime or offense specified in subdivision one of this
3 section the commission, in its discretion, determines in an order that
4 it would not be contrary to the purposes and objectives of this act for
5 such employee to work in a particular employment for a labor organiza-
6 tion, welfare fund or trust within the meaning of subdivision two of
7 this section, the provisions of subdivision two of this section shall
8 not apply to the particular employment of such employee with respect to
9 such conviction or convictions as are specified in the commission's
10 order. This section is applicable only to those employees who for wages
11 or salary perform manual, mechanical, or physical work of a routine or
12 clerical nature at the premises of the labor organization, welfare fund
13 or trust by which they are employed.

14 5. No person who has been convicted of a crime or offense specified in
15 subdivision one of this section shall directly or indirectly serve as an
16 officer, agent or employee of a labor organization, welfare fund or
17 trust unless such person has been subsequently pardoned for such crime
18 or offense by the governor or other appropriate authority of the state
19 or jurisdiction in which such conviction was had or has received a
20 certificate of good conduct or other relief from disabilities arising
21 from the fact of conviction from a board of parole or similar authority
22 or has received pursuant to subdivision one of this section an order of
23 exception from the commission. No person, including a labor organiza-
24 tion, welfare fund or trust within the meaning of subdivision one of
25 this section, shall knowingly permit any other person to assume or hold
26 any office, agency or employment in violation of this section.

27 6. The commission may maintain a civil action against any person,
28 labor organization, welfare fund or trust or officers thereof to compel
29 compliance with this section, or to prevent any violations, the aiding
30 and abetting thereof, or any attempt or conspiracy to violate this
31 section, either by mandamus, injunction or action and upon a proper
32 showing a temporary restraining order or other appropriate temporary
33 order shall be granted ex parte and without bond pending final hearing
34 and determination. Nothing in this section shall be construed to modify,
35 limit or restrict in any way the provisions of subdivision one of this
36 section.

37 § 534-s. General violations; prosecutions; penalties. 1. The failure
38 of any witness, when duly subpoenaed to attend, give testimony or
39 produce other evidence, whether or not at a hearing, shall be punishable
40 by the supreme court in New York in the same manner as said failure is
41 punishable by such court in a case therein pending.

42 2. Any person who, having been duly sworn or affirmed as a witness in
43 any such hearing, shall willfully give false testimony or who shall
44 willfully make or file any false or fraudulent report or statement
45 required by this article to be made or filed under oath, shall be guilty
46 of a misdemeanor, punishable by a fine of not more than one thousand
47 dollars or imprisonment for not more than three hundred sixty-four days,
48 or both.

49 3. Any person who, having been duly sworn or affirmed as a witness in
50 any investigation, interview or other proceeding conducted by the
51 commission pursuant to the provisions of this article, shall willfully
52 give false testimony shall be guilty of a misdemeanor, punishable by a
53 fine of not more than one thousand dollars or imprisonment for not more
54 than three hundred sixty-four days, or both.

55 4. The commission may maintain a civil action on behalf of the state
56 against any person who violates or attempts or conspires to violate this

1 section or who fails, omits, or neglects to obey, observe, or comply
2 with any order or direction of the commission, to recover a judgment for
3 a money penalty not exceeding five hundred dollars for each and every
4 offense. Every violation of any such provision, order or direction,
5 shall be a separate and distinct offense, and, in case of a continuing
6 violation, every day's continuance shall be and be deemed to be a sepa-
7 rate and distinct offense. Any such action may be compromised or
8 discontinued on application of the commission upon such terms as the
9 court may approve and a judgment may be rendered for an amount less than
10 the amount demanded in the complaint as justice may require.

11 5. The commission may maintain a civil action against any person to
12 compel compliance with any of the provisions of this act or to prevent
13 violations, attempts or conspiracies to violate any such provisions, or
14 interference, attempts or conspiracies to interfere with or impede the
15 enforcement of any such provisions or the exercise performance of any
16 power or duty thereunder, either by mandamus, injunction or action.

17 6. Any person who violates or attempts or conspires to violate any
18 other provision of this article shall be guilty of a misdemeanor,
19 punishable by a fine of not more than five hundred dollars or by impri-
20 sonment for not more than three hundred sixty-four days, or both.

21 7. Any person who interferes with or impedes the orderly registration
22 of longshore workers pursuant to this act or who conspires to or
23 attempts to interfere with or impede such registration shall be guilty
24 of a misdemeanor, punishable by a fine of not more than five hundred
25 dollars or by imprisonment for not more than three hundred sixty-four
26 days, or both.

27 8. Any person who directly or indirectly inflicts or threatens to
28 inflict any injury, damage, harm or loss or in any other manner prac-
29 tices intimidation upon or against any person in order to induce or
30 compel such person or any other person to refrain from registering
31 pursuant to this act shall be guilty of a misdemeanor, punishable by a
32 fine of not more than five hundred dollars or by imprisonment for not
33 more than three hundred sixty-four days, or both.

34 9. Any person who shall violate any of the provisions of this article
35 or of section five hundred thirty-four-x of this article for which no
36 other penalty is prescribed shall be guilty of a misdemeanor, punisha-
37 ble by a fine of not more than five hundred dollars or by imprisonment
38 for not more than three hundred sixty-four days, or both.

39 10. No person shall, without a satisfactory explanation, loiter upon
40 any vessel, dock, wharf, pier, bulkhead, terminal, warehouse, or other
41 waterfront facility or within five hundred feet thereof in that portion
42 of the port of New York district within the state of New York.

43 11. Any person who, without justification or excuse in law, directly
44 or indirectly intimidates or inflicts any injury, damage, harm, loss or
45 economic reprisal upon any person licensed or registered by the commis-
46 sion, or any other person, or attempts, conspires or threatens so to
47 do, in order to interfere with, impede or influence such licensed or
48 registered person in the performance or discharge of the person's duties
49 or obligations shall be punishable as provided in subdivision three of
50 section five hundred thirty-four-r of this article.

51 12. In any prosecution under this act, it shall be sufficient to prove
52 only a single act or a single holding out or attempt prohibited by law,
53 without having to prove a general course of conduct, in order to prove a
54 violation.

1 § 534-t. Denial of applications. In addition to the grounds elsewhere
2 set forth in this article, the commission may deny an application for a
3 license or registration for any of the following:

4 1. Conviction by a court of the United States or any state or territo-
5 ry thereof of coercion;

6 2. Conviction by any such court, after having been previously
7 convicted by any such court of any crime or of the offenses set forth in
8 this article, of a misdemeanor or any of the following offenses:
9 assault, malicious injury to property, malicious mischief, unlawful
10 taking of a motor vehicle, corruption of employees or possession of
11 lottery or number slips;

12 3. Fraud, deceit or misrepresentation in connection with any applica-
13 tion or petition submitted to, or any interview, hearing or proceeding
14 conducted by the commission;

15 4. Violation of any provision of this act or commission of any offense
16 under this article;

17 5. Refusal on the part of any applicant, or prospective licensee, or
18 of any member, officer or stockholder required by subdivision two of
19 section five hundred thirty-four-g of this article to sign or be identi-
20 fied in an application for a stevedore license, to answer any material
21 question or produce any material evidence in connection with the
22 person's application or any application made on the person's behalf for
23 a license or registration pursuant to this article;

24 6. Association with a person who has been identified by a federal,
25 state, or local law enforcement agency as a member or associate of an
26 organized crime group, a terrorist group, or a career offender cartel,
27 or who is a career offender, under circumstances where such association
28 creates a reasonable belief that the participation of the applicant in
29 any activity required to be licensed under this article would be inimi-
30 cal to the policies of this article, provided, however, that associ-
31 ation without the requisite showing of inimicality as set forth herein
32 shall be insufficient grounds for denial; or

33 7. Conviction of a racketeering activity or knowing association with a
34 person who has been convicted of a racketeering activity by a court of
35 the United States or any state or territory thereof under circumstances
36 where such association creates a reasonable belief that the partici-
37 ipation of the applicant in any activity required to be licensed under
38 this article would be inimical to the policies of this article,
39 provided, however, that association without the requisite showing of
40 inimicality as set forth herein shall be insufficient grounds for
41 denial.

42 § 534-u. Revocation of licenses and registrations. In addition to the
43 grounds elsewhere set forth in this article, any license or registration
44 issued or made pursuant thereto may be revoked or suspended for such
45 period as the commission deems in the public interest or the licensee or
46 registrant may be reprimanded, for:

47 1. Conviction of any crime or offense in relation to gambling if the
48 crime or offense was committed at or on a pier or other waterfront
49 terminal or within five hundred feet thereof;

50 2. Willful commission of, or willful attempt to commit at or on a
51 waterfront terminal or adjacent highway, any act of physical injury to
52 any other person or of willful damage to or misappropriation of any
53 other person's property, unless justified or excused by law;

54 3. Receipt or solicitation of anything of value from any person other
55 than a licensee's or registrant's employer as consideration for the
56 selection or retention for employment of such licensee or registrant;

1 4. Coercion of a licensee or registrant to make purchases from or to
2 utilize the services of any person;

3 5. Refusal to answer any material question or produce any evidence
4 lawfully required to be answered or produced at any investigation,
5 interview or other proceeding conducted by the commission pursuant to
6 the provisions of this act, or, if such refusal is accompanied by a
7 valid plea of privilege against self-incrimination, refusal to obey an
8 order to answer such question or produce such evidence made by the
9 commission pursuant to the provisions of subdivision one of section five
10 hundred thirty-four-v of this article;

11 6. Association with a person who has been identified by a federal,
12 state, or local law enforcement agency as a member or associate of an
13 organized crime group, a terrorist group, or a career offender cartel,
14 or who is a career offender, under circumstances where such association
15 creates a reasonable belief that the participation of the applicant in
16 any activity required to be licensed under this act would be inimical to
17 the policies of this article, provided however that association without
18 the requisite showing of inimicality as set forth herein shall be insuf-
19 ficient grounds for revocation; or

20 7. Conviction of a racketeering activity or knowing association with a
21 person who has been convicted of a racketeering activity by a court of
22 the United States or any state or territory thereof under circumstances
23 where such association creates a reasonable belief that the partic-
24 ipation of the applicant in any activity required to be licensed under
25 this act would be inimical to the policies of this article, provided,
26 however, that association without the requisite showing of inimicality
27 as set forth herein shall be insufficient grounds for revocation.

28 § 534-v. Refusal to answer question, immunity; prosecution. 1. In any
29 investigation, interview or other proceeding conducted under oath by the
30 commission or any duly authorized officer, employee or agent thereof, if
31 a person refuses to answer a question or produce evidence of any other
32 kind on the ground that the person may be incriminated thereby, and,
33 notwithstanding such refusal, an order is made upon twenty-four hours'
34 prior written notice to the attorney general of the state of New York,
35 and to the appropriate district attorney or prosecutor having an offi-
36 cial interest therein, by the commissioner or by the commissioner's
37 designees appointed pursuant to the provisions of subdivision three of
38 section five hundred thirty-four-c of this article, that such person
39 answer the question or produce the evidence, such person shall comply
40 with the order. If such person complies with the order, and if, but for
41 this subdivision, would have been privileged to withhold the answer
42 given or the evidence produced by the person, then immunity shall be
43 conferred upon the person, as provided for in this section. "Immunity"
44 as used in this subdivision means that such person shall not be prose-
45 cuted or subjected to any penalty or forfeiture for or on account of any
46 transaction, matter or thing concerning which, in accordance with the
47 order by the commission or the commissioner's designees appointed pursu-
48 ant to the provisions of subdivision three of section five hundred thir-
49 ty-four-c of this article, such person gave answer or produced evidence,
50 and that no such answer given or evidence produced shall be received
51 against the person upon any criminal proceeding. But the person may
52 nevertheless be prosecuted or subjected to penalty or forfeiture for any
53 perjury or contempt committed in answering, or failing to answer, or in
54 producing or failing to produce evidence, in accordance with the order,
55 and any such answer given or evidence produced shall be admissible
56 against the person upon any criminal proceeding concerning such perjury

1 or contempt. Immunity shall not be conferred upon any person except in
2 accordance with the provisions of this subdivision. If, after compli-
3 ance with the provisions of this subdivision, a person is ordered to
4 answer a question or produce evidence of any other kind and complies
5 with such order, and it is thereafter determined that the attorney
6 general or appropriate district attorney or prosecutor having an offi-
7 cial interest therein not notified, such failure or neglect shall not
8 deprive such person of any immunity otherwise properly conferred upon
9 the person.

10 2. If a person, in obedience to a subpoena directing the person to
11 attend and testify, comes into this state from another state, the person
12 shall not, while in this state pursuant to such subpoena, be subject to
13 arrest or the service of process, civil or criminal, in connection with
14 matters which arose before the person's entrance into this state under
15 the subpoena.

16 § 534-w. Annual preparation of a budget request and assessments. 1.
17 The commission shall annually submit a budget request, which shall be
18 submitted to the director of the budget in such form as the director may
19 require.

20 2. After taking into account such funds as may be available, the
21 balance of the commission's budgeted expenses shall be assessed upon
22 employers of persons registered or licensed under this act. Each such
23 employer shall pay an assessment computed upon the gross payroll
24 payments made by such employer to longshore workers, pier superinten-
25 dents, hiring agents and security officers for work or labor performed
26 within the port of New York district in this state, at a rate, not in
27 excess of two per cent, computed by the commission in the following
28 manner: the commission shall annually estimate the gross payroll
29 payments to be made by employers subject to assessment and shall compute
30 a rate thereon which will yield revenues sufficient to finance the
31 commission's budget for each year. Such budget to be assessed upon
32 employers may include a reasonable amount not to exceed ten percent of
33 the total of all other items of expenditure contained therein, which
34 shall be allocated to an applicable fund balance to be held in the
35 commission's employers assessment account.

36 3. The commission may provide by regulation for the collection and
37 auditing of assessments. Such assessments shall be payable pursuant to
38 such provisions for administration, collection and enforcement as the
39 state may provide by legislation. In addition to any other sanction
40 provided by law, the commission may revoke or suspend any license held
41 by any person under this article, or the person's privilege of employing
42 persons registered or licensed hereunder, for non-payment of any assess-
43 ment when due.

44 4. The assessment pursuant to this section shall be in lieu of any
45 other charge for the issuance of licenses to stevedores, pier super-
46 intendents, hiring agents and security officers or for the registration
47 of longshore workers or the use of an employment information center.
48 The commission shall establish reasonable procedures for the consider-
49 ation of protests by affected employers concerning the estimates and
50 computation of the rate of assessment.

51 § 534-x. Payment of assessment. 1. Every person subject to the
52 payment of any assessment under the provisions of section five hundred
53 thirty-four-w of this article shall file on or before the fifteenth day
54 of the first month of each calendar quarter-year a separate return,
55 together with the payment of the assessment due, for the preceding
56 calendar quarter-year during which any payroll payments were made to

1 longshore workers, pier superintendents, hiring agents or security offi-
2 cers for work performed as such within the port of New York district in
3 this state. Returns covering the amount of assessment payable shall be
4 filed with the commission on forms to be furnished for such purpose and
5 shall contain such data, information or matter as the commission may
6 require to be included therein. The commission may grant a reasonable
7 extension of time for filing returns, or for the payment of assessment,
8 whenever good cause exists. Every return shall have annexed thereto a
9 certification to the effect that the statements contained therein are
10 true.

11 2. Every person subject to the payment of assessment hereunder shall
12 keep an accurate record of that person's employment of longshore work-
13 ers, pier superintendents, hiring agents or security officers, which
14 shall show the amount of compensation paid and such other information as
15 the commission may require. Such records shall be preserved for a peri-
16 od of three years and be open for inspection at reasonable times. The
17 commission may consent to the destruction of any such records at any
18 time after said period or may require that they be kept longer, but not
19 in excess of six years.

20 3. (a) The commission shall audit and determine the amount of assess-
21 ment due from the return filed and such other information as is avail-
22 able to it. Whenever a deficiency in payment of the assessment is
23 determined the commission shall give notice of any such determination to
24 the person liable therefor. Such determination shall finally and conclu-
25 sively fix the amount due, unless the person against whom it is assessed
26 shall, within thirty days after the giving of notice of such determi-
27 nation, apply in writing to the commission for a hearing, or unless the
28 commission on its own motion shall reduce the same. After such hearing,
29 the commission shall give notice of its decision to the person liable
30 therefor. A determination of the commission under this section shall be
31 subject to judicial review, if application for such review is made with-
32 in thirty days after the giving of notice of such decision. Any deter-
33 mination under this section shall be made within five years from the
34 time the return was filed and if no return was filed such determination
35 may be made at any time.

36 (b) Any notice authorized or required under this section may be given
37 by mailing the same to the person for whom it is intended at the last
38 address given by that person to the commission, or in the last return
39 filed by that person with the commission under this section, or, if no
40 return has been filed then to such address as may be obtainable. The
41 mailing of such notice shall be presumptive evidence of the receipt of
42 same by the person to whom addressed. Any period of time, which is
43 determined according to the provisions of this section, for the giving
44 of notice shall commence to run from the date of mailing of such notice.

45 4. Whenever any person shall fail to pay, within the time limited
46 herein, any assessment which the person is required to pay to the
47 commission under the provisions of this section the commission may
48 enforce payment of such fee by civil action for the amount of such
49 assessment with interest and penalties.

50 5. The employment by a nonresident of a longshore worker, or a
51 licensed pier superintendent, hiring agent or security officer in this
52 state or the designation by a nonresident of a longshore worker, pier
53 superintendent, hiring agent or security officer to perform work in this
54 state shall be deemed equivalent to an appointment by such nonresident
55 of the secretary of state to be the nonresident's true and lawful attor-
56 ney upon whom may be served the process in any action or proceeding

1 against the nonresident growing out of any liability for assessments,
2 penalties or interest, and a consent that any such process against the
3 nonresident which is so served shall be of the same legal force and
4 validity as if served personally within the state and within the terri-
5 torial jurisdiction of the court from which the process issues. Service
6 of process within this state shall be made by either:

7 (a) personally delivering to and leaving with the secretary of state
8 duplicate copies thereof at the office of the department of state, in
9 which event the secretary of state shall forthwith send by registered
10 mail one of such copies to the person at the last address designated by
11 the person to the commission for any purpose under this section or in
12 the last return filed by the person under this section with the commis-
13 sion or as shown on the records of the commission, or if no return has
14 been filed, at the person's last known office address within or outside
15 of the state; or

16 (b) personally delivering to and leaving with the secretary of state a
17 copy thereof at the office of the department of state and by delivering
18 a copy thereof to the person, personally outside of the state. Proof of
19 such personal service outside of the state shall be filed with the
20 clerk of the court in which the process is pending within thirty days
21 after such service and such service shall be complete ten days after
22 proof thereof is filed.

23 6. Whenever the commission shall determine that any moneys received as
24 assessments were paid in error, it may cause the same to be refunded,
25 provided an application therefor is filed with the commission within two
26 years from the time the erroneous payment was made.

27 7. In addition to any other powers authorized hereunder, the commis-
28 sion shall have power to promulgate reasonable rules and regulations to
29 effectuate the purposes of this section.

30 8. Any person who shall willfully fail to pay any assessment due here-
31 under, shall be assessed interest at a rate of one percent per month on
32 the amount due and unpaid and penalties of five percent of the amount
33 due for each thirty days or part thereof that the assessment remains
34 unpaid. The commission, may, for good cause shown, abate all or part of
35 such penalty.

36 9. Any person who shall willfully furnish false or fraudulent informa-
37 tion or shall willfully fail to furnish pertinent information, as
38 required, with respect to the amount of assessment due, shall be guilty
39 of a misdemeanor, punishable by a fine of not more than one thousand
40 dollars, or imprisonment for not more than three hundred sixty-four
41 days, or both.

42 10. All funds of the commission received as payment of any assessment
43 or penalty under this section shall be deposited with the comptroller.
44 The comptroller may require that all such deposits be secured by obli-
45 gations of the United States or of the state of New York of a market
46 value equal at all times to the amount of the deposits, and all banks
47 and trust companies are authorized to give such security for such
48 deposits.

49 11. The commission shall reimburse the state for any funds advanced to
50 the commission exclusive of sums appropriated pursuant to section five
51 hundred thirty-four-w of this article.

52 § 534-y. Transfer of officers, employees. 1. Any officer or employee
53 in the state, county or municipal civil service in either state who
54 shall transfer to service with the commission may be given one or more
55 leaves of absence without pay and may, before the expiration of
56 such leave or leaves of absence, and without further examination or

1 qualification, return to the person's former position or be certified
2 by the appropriate civil service agency for retransfer to a compa-
3 rable position in such state, county, or municipal civil service if
4 such a position is then available.

5 2. The commission may, by agreement with any federal agency from which
6 any officer or employee may transfer to service with the commission,
7 make similar provision for the retransfer of such officer or employee to
8 such federal agency.

9 3. Any officer or employee in the state, county or municipal service
10 in New York state who shall transfer to service with the commission and
11 who is a member of the New York state and local retirement system,
12 shall continue to have all rights, privileges, obligations and status
13 with respect to such system as provided under the retirement and social
14 security law.

15 § 534-z. Annual report. 1. The commission shall submit an annual
16 report to the governor, the speaker of the assembly, and the temporary
17 president of the senate on or before the first day of September of each
18 year detailing the previous fiscal year. The commission shall post such
19 report on its website upon the submission to the officials outlined in
20 this section.

21 2. Such report shall include, but not be limited to:

22 (a) the status of waterfront practices and operations covered by this
23 act;

24 (b) any legislative recommendations in furtherance of the purposes of
25 this act;

26 (c) a detailed fiscal summary, including but not limited to: (i) the
27 financial condition of the commission at the end of such preceding
28 fiscal year; (ii) a detailed list of any bonds entered into by the
29 commission; and (iii) revenues received by the commission, including
30 employer assessments pursuant to section five hundred thirty-four-d of
31 this article;

32 (d) an overview of waterfront labor in the port of New York district
33 in this state, including but not limited to: (i) the total number of
34 pier superintendents, hiring agents, security officers, and stevedores
35 by title; (ii) the number of pier superintendent, hiring agent, security
36 officer, and stevedore applications received by title; (iii) the number
37 of pier superintendent, hiring agent, security officer and stevedore
38 licenses issued by title; (iv) the number of pier superintendent, hiring
39 agent, security officer, and stevedore applications denied, respective-
40 ly, and the reasons for such denial by title; (v) the number of licenses
41 revoked and the reasons for such revocation by title; (vi) the average
42 length of time for the commission to issue a determination on pier
43 superintendent, hiring agent, security officer and stevedore applica-
44 tions by title; (vii) the total number of longshore workers in the long-
45 shore workers' register; (viii) the number of longshore worker applica-
46 tions received; (ix) the number of longshore worker registrations
47 issued; (x) the number of longshore worker applications denied and the
48 reasons for such denial; (xi) the number of longshore workers removed
49 from the register and reasons therefor; and (xii) the average length of
50 time for the commission to issue a determination on longshore worker
51 applications;

52 (e) a detailed summary of commission operations including, but not
53 limited to: (i) the number and allocated percentage of sworn investi-
54 gators employed by the commission; (ii) the number and allocated
55 percentage of administrative staff who solely performed administrative
56 work during the preceding fiscal year; (iii) the number and allocated

1 percentage of staff which performed work related to the hiring and back-
2 grounding of the port workforce; (iv) the number of cases or actions
3 conducted by the commission during the preceding fiscal year; and (v) a
4 summary of the commission's accomplishments; and

5 (f) any other information relating to the purposes of this act.

6 3. Nothing in this section shall be read to require the disclosure of
7 personally identifiable information pertaining to any applicant nor the
8 disclosure of any information regarding ongoing criminal investigations.

9 § 3. Paragraphs (h) and (k) of subdivision 34 of section 1.20 of the
10 criminal procedure law, as amended by chapter 187 of the laws of 2023,
11 are amended to read as follows:

12 (h) An investigator employed by the New York Waterfront Commission or
13 a commission created by an interstate compact [~~, or by section six of~~
14 ~~chapter eight hundred eighty-two of the laws of nineteen hundred fifty-~~
15 ~~three, constituting the waterfront commission act, as amended,~~] who is,
16 to a substantial extent, engaged in the enforcement of the criminal laws
17 of this state;

18 (k) A sworn officer of the New York Waterfront Commission or a police
19 force of a public authority created by an interstate compact [~~, or by~~
20 ~~section six of chapter eight hundred eighty-two of the laws of nineteen~~
21 ~~hundred fifty-three, constituting the waterfront commission act, as~~
22 ~~amended,~~] where such force is certified in accordance with paragraph (d)
23 of subdivision one of section eight hundred forty-six-h of the executive
24 law;

25 § 4. Subdivision 34 of section 2.10 of the criminal procedure law, as
26 added by chapter 843 of the laws of 1980, is amended to read as follows:

27 34. New York Waterfront [and airport] investigators, pursuant to
28 [~~subdivision four of section ninety-nine hundred six of the unconsol-~~
29 ~~idated laws] article nineteen-I of the executive law; provided, however,
30 that nothing in this subdivision shall be deemed to authorize such offi-
31 cer to carry, possess, repair or dispose of a firearm unless the appro-
32 priate license therefor has been issued pursuant to section 400.00 of
33 the penal law.~~

34 § 5. Paragraph k of subdivision 11 of section 302 of the retirement
35 and social security law, as added by chapter 187 of the laws of 2023, is
36 amended to read as follows:

37 k. Service as an investigator or sworn officer of the New York Water-
38 front Commission or the waterfront commission of New York harbor [~~or the~~
39 ~~commission created by section six of chapter eight hundred eighty-two of~~
40 ~~the laws of nineteen hundred fifty-three, constituting the waterfront~~
41 ~~commission act, as amended]~~.

42 § 6. Subdivision a and subparagraph (ii) of paragraph 1 of subdivision
43 c of section 381-b of the retirement and social security law, as amended
44 by chapter 187 of the laws of 2023, are amended to read as follows:

45 a. Membership. Every member or officer of the division of state police
46 in the executive department who enters or re-enters service in the divi-
47 sion on or after April first, nineteen hundred sixty-nine, and every
48 investigator or sworn officer employed by the commission created by
49 section six of chapter eight hundred eighty-two of the laws of nineteen
50 hundred fifty-three, constituting the waterfront commission act, as
51 amended, on or after July first, two thousand twenty-three, and every
52 investigator or sworn officer employed by the New York Waterfront
53 Commission in the executive department shall be covered by the
54 provisions of this section, and every member or officer of the division
55 of state police in the executive department in such service on such date
56 may elect to be covered by the provisions of this section by filing an

1 election therefor with the comptroller on or before March thirty-first,
2 nineteen hundred seventy-two. To be effective, such election must be
3 duly executed and acknowledged on a form prepared by the comptroller for
4 that purpose.

5 (ii) for service rendered as an investigator or sworn officer of the
6 waterfront commission of New York harbor, [~~and~~] for service rendered as
7 an investigator or sworn officer of the New York Waterfront Commission,
8 for service rendered as an investigator-trainee of the waterfront
9 commission of New York harbor, and for service rendered as an investiga-
10 tor-trainee of the New York Waterfront Commission, that was creditable
11 under subdivision w of section three hundred eighty-four-d of this arti-
12 cle; and

13 § 7. Subdivision w of section 384-d of the retirement and social secu-
14 rity law, as added by chapter 407 of the laws of 2000, is amended to
15 read as follows:

16 w. Notwithstanding any other provision of law to the contrary, any
17 member of the New York state and local police and fire retirement system
18 who was a member of the New York state and local employees' retirement
19 system while employed as an investigator-trainee, Waterfront Commission
20 of New York Harbor or the New York Waterfront Commission, which [~~is~~] are
21 not deemed to be police service, who [~~is~~] are employed by the New York
22 Waterfront Commission [~~of New York Harbor~~], which is an employer elect-
23 ing to participate in the optional twenty year retirement plan pursuant
24 to this section shall be deemed to have provided police service while so
25 employed by the Waterfront Commission of New York Harbor or the New York
26 Waterfront Commission and shall receive creditable service in the New
27 York state and local police and fire retirement system for prior credit-
28 able service in the New York state and local employees' retirement
29 system earned while employed as an investigator-trainee and shall have
30 the period of such prior service credit counted as police service for
31 the purpose of determining the amount of their pension and retirement
32 allowance and period of service needed for retirement.

33 § 8. Paragraph (c) of subdivision 1 of section 5 of the tax law, as
34 added by chapter 295 of the laws of 1987, is amended to read as follows:

35 (c) "State agency" shall mean the state of New York, any department,
36 board, bureau, commission, division, office, council or agency thereof,
37 a public authority or a public benefit corporation. "State agency" shall
38 also include the New York Waterfront Commission.

39 § 8-a. Paragraph (c) of subdivision 1 of section 5 of the tax law, as
40 amended by chapter 170 of the laws of 1994, is amended to read as
41 follows:

42 (c) "Covered agency" shall mean the state of New York, any county of
43 the state of New York, any department, board, bureau, commission, divi-
44 sion, office, council or agency of the state or any such county, a
45 public authority, a public benefit corporation, the port authority of
46 New York and New Jersey or the waterfront commission of New York harbor.
47 When a county is wholly included within a city, then the term "county"
48 shall be read to include the city. "Covered agency" shall also include
49 the New York Waterfront Commission.

50 § 9. Paragraph 8 of subdivision (c) of section 1105 of the tax law, as
51 added by chapter 190 of the laws of 1990, is amended to read as follows:

52 (8) Protective and detective services, including, but not limited to,
53 all services provided by or through alarm or protective systems of every
54 nature, including, but not limited to, protection against burglary,
55 theft, fire, water damage or any malfunction of industrial processes or
56 any other malfunction of or damage to property or injury to persons,

1 detective agencies, armored car services and guard, patrol and [~~watch-~~
2 ~~man~~] security services of every nature other than the performance of
3 such services by a [~~port-watchman~~] security officer licensed by the New
4 York Waterfront Commission or the waterfront commission of New York
5 harbor, whether or not tangible personal property is transferred in
6 conjunction therewith.

7 § 10. This act shall take effect June 30, 2024; provided that section
8 eight-a of this act shall take effect upon the enactment into law by the
9 state of New Jersey of legislation having an identical effect with this
10 act in accordance with chapter 598 of the laws of 1988, but if the state
11 of New Jersey shall have already enacted such legislation, this act
12 shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would create the New York Waterfront Commission and revise the Retirement and Social Security Law to make permanent the changes of Chapter 187 Laws of 2023, which added the titles of investigator and sworn officer employed by the Waterfront Commission Act, to the definition of membership in Section 381-b including making such service creditable under RSSL §381-b, and further expand creditable service to include service as an investigator-trainee.

If this bill is enacted during the 2024 Legislative Session, we do not anticipate any additional cost to the State of New York or the participating employers in the New York State and Local Police and Fire Retirement System.

To the extent that new members gain coverage under Section 381-b of the RSSL, we anticipate a contribution of 26.4% of salary paid to newly eligible members for the fiscal year ending March 31, 2025. In future years, this cost will vary but is expected to average 20.6% of salary annually.

The exact number of current members as well as future members who could be affected by this legislation cannot be readily determined.

Summary of relevant resources:

Membership data as of March 31, 2023 was used in measuring the impact of the proposed change, the same data used in the April 1, 2023 actuarial valuation. Distributions and other statistics can be found in the 2023 Report of the Actuary and the 2023 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2023 Annual Report to the Comptroller on Actuarial Assumptions, and the Codes, Rules and Regulations of the State of New York: Audit and Control.

The Market Assets and GASB Disclosures are found in the March 31, 2023 New York State and Local Retirement System Financial Statements and Supplementary Information.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

This fiscal note does not constitute a legal opinion on the viability of the proposed change nor is it intended to serve as a substitute for the professional judgment of an attorney.

This estimate, dated January 13, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-082, prepared by the Actuary for the New York State and Local Retirement System.

1 Section 1. Section 2 of part DDD of chapter 55 of the laws of 2021
2 amending the public authorities law relating to the clean energy
3 resources development and incentives program, is amended to read as
4 follows:

5 § 2. This act shall take effect immediately and shall expire and be
6 deemed repealed [~~three years after such date~~] April 19, 2030; provided
7 however, that the amendments to section 1902 of the public authorities
8 law made by section one of this act shall not affect the repeal of such
9 section and shall be deemed repealed therewith.

10 § 2. The opening paragraph of paragraph (a) and paragraph (b) of
11 subdivision 1 of section 1902 of the public authorities law, as added by
12 section 6 of part JJJ of chapter 58 of the laws of 2020, are amended to
13 read as follows:

14 Locate, identify and assess sites within the state that appear suit-
15 able for the development of build-ready sites with a priority given to
16 dormant electric generating sites, and preference to previously devel-
17 oped sites~~[-]~~, provided that land used in agricultural production as
18 defined by the department of agriculture and markets, with additional
19 consideration for land within an agricultural district or land that
20 contains mineral soil groups 1-4, shall not be deemed suitable for
21 the development of a build-ready site except when necessary for genera-
22 tor lead lines and other equipment needed for interconnection of
23 projects to the electric system. Such assessment may include but need
24 not be limited to the following considerations:

25 (b) (i) In making such assessment the authority shall give priority to
26 previously developed sites, existing or abandoned commercial sites,
27 including without limitation brownfields, landfills, former commercial
28 or industrial sites, dormant electric generating sites, or otherwise
29 underutilized sites; and

30 (ii) the authority may establish a renewable energy generation project
31 in furtherance of an agrivoltaic project, where "agrivoltaic project"
32 shall mean the simultaneous use of areas of land for both solar power
33 generation and agriculture, specific to the practice of such dual-use
34 solar energy project, where any of the previously developed sites listed
35 in subparagraph (i) of this paragraph is reclaimed as farmland.

36 § 3. Section 1900 of the public authorities law, as added by section 6
37 of part JJJ of chapter 58 of the laws of 2020, is amended to read as
38 follows:

39 § 1900. Statement of legislative intent. It is the intent of the
40 legislature in enacting this title to empower the New York state energy
41 research and development authority to establish effective programs and
42 other mechanisms to: (1) foster and encourage the orderly and expedient
43 siting and development of renewable energy facilities and qualified
44 energy storage systems, particularly at sites which are difficult to
45 develop, consistent with applicable law for the purpose of enabling the
46 state to meet CLCPA targets as defined in subdivision [~~two of section~~
47 ~~ninety-four e of the executive law~~] one of section one hundred thirty-
48 seven of article eight of the public service law; (2) incentivize the
49 re-use of previously developed sites for renewable energy facilities and
50 qualified energy storage systems to protect the value of taxable land,
51 capitalize on existing infrastructure; (3) support the provision of
52 benefits to communities that host renewable energy facilities and quali-
53 fied energy storage systems; and (4) protect environmental justice areas
54 from adverse environmental impacts.

1 § 4. Subdivisions 5 and 8 of section 1901 of the public authorities
2 law, as added by section 6 of part JJJ of chapter 58 of the laws of
3 2020, are amended and a new subdivision 9 is added to read as follows:

4 5. "Host community" shall mean any municipality within which a major
5 renewable energy facility or qualified energy storage system, or any
6 portion thereof, has been proposed for development.

7 8. "Build-ready site" shall mean a site for which the authority has
8 secured permits, property interests, agreements and/or other authori-
9 zations necessary to offer such site for further development,
10 construction and operation of a renewable energy facility, with or with-
11 out a paired qualified energy storage system, or a stand-alone qualified
12 energy storage system, in accordance with the other provisions of this
13 title.

14 9. "Qualified energy storage system" shall have the same meaning as
15 qualified energy storage system defined in section seventy-four of the
16 public service law.

17 § 5. Subdivisions 3 and 6 of section 1902 of the public authorities
18 law, as added by section 6 of part JJJ of chapter 58 of the laws of
19 2020, are amended to read as follows:

20 3. Establish procedures and protocols for the purpose of establishment
21 and transfer of build-ready sites which shall include, at a minimum: (a)
22 written notice at the earliest practicable time to a municipality in
23 which a potential build-ready site has been identified, provided howev-
24 er, that the authority shall not deem any site for qualified energy
25 storage systems suitable without first consulting any municipalities
26 with jurisdiction over the potential build-ready site and obtaining
27 their approval; and (b) a preliminary screening process to determine, in
28 consultation with the department of environmental conservation, whether
29 the potential build-ready site is located in or near an environmental
30 justice area and whether an environmental justice area would be adverse-
31 ly affected by development of a build-ready site;

32 6. Establish one or more programs pursuant to which property owners
33 and communities would receive incentives to host major renewable energy
34 facilities or qualified energy storage systems developed for the purpose
35 of advancing the state policies embodied in this article. Such program
36 may include without limitation, and notwithstanding any other provision
37 of law to the contrary, provisions for the authority to negotiate and
38 enter into agreements with property owners and host communities provid-
39 ing for incentives, including a payment in lieu of taxes, the transfer
40 of the authority's interests in such agreements to developers to whom
41 build-ready sites are transferred, and the provision of information and
42 guidance to stakeholders concerning incentives. The authority shall
43 maintain a record of such programs and incentives, and shall publish
44 such record on the authority's website;

45 § 6. This act shall take effect immediately; provided, however, that
46 the amendments to sections 1900, 1901 and 1902 of the public authorities
47 law made by sections two, three, four and five of this act shall not
48 affect the expiration and repeal of such sections and shall expire and
49 be deemed repealed therewith; provided, however, if this act shall
50 become a law after such date, it shall take effect immediately and shall
51 be deemed to have been in full force and effect on and after April 1,
52 2024.

1 Section 1. Expenditures of moneys by the New York state energy
2 research and development authority for services and expenses of the
3 energy research, development and demonstration program, including
4 grants, the energy policy and planning program, and the Fuel NY program
5 shall be subject to the provisions of this section. Notwithstanding the
6 provisions of subdivision 4-a of section 18-a of the public service law,
7 all moneys committed or expended in an amount not to exceed \$28,725,000
8 shall be reimbursed by assessment against gas corporations, as defined
9 in subdivision 11 of section 2 of the public service law and electric
10 corporations as defined in subdivision 13 of section 2 of the public
11 service law, where such gas corporations and electric corporations have
12 gross revenues from intrastate utility operations in excess of \$500,000
13 in the preceding calendar year, and the total amount assessed shall be
14 allocated to each electric corporation and gas corporation in proportion
15 to its intrastate electricity and gas revenues in the calendar year
16 2022. Such amounts shall be excluded from the general assessment
17 provisions of subdivision 2 of section 18-a of the public service law.
18 The chair of the public service commission shall bill such gas and/or
19 electric corporations for such amounts on or before August 10, 2024 and
20 such amounts shall be paid to the New York state energy research and
21 development authority on or before September 10, 2024. Upon receipt,
22 the New York state energy research and development authority shall
23 deposit such funds in the energy research and development operating fund
24 established pursuant to section 1859 of the public authorities law. The
25 New York state energy research and development authority is authorized
26 and directed to: (1) transfer up to \$4 million to the state general fund
27 for climate change related services and expenses of the department of
28 environmental conservation from the funds received; and (2) commencing
29 in 2016, provide to the chair of the public service commission and the
30 director of the budget and the chairs and secretaries of the legislative
31 fiscal committees, on or before August first of each year, an itemized
32 record, certified by the president and chief executive officer of the
33 authority, or his or her designee, detailing any and all expenditures
34 and commitments ascribable to moneys received as a result of this
35 assessment by the chair of the department of public service pursuant to
36 section 18-a of the public service law. This itemized record shall
37 include an itemized breakdown of the programs being funded by this
38 section and the amount committed to each program. The authority shall
39 not commit for any expenditure, any moneys derived from the assessment
40 provided for in this section, until the chair of such authority shall
41 have submitted, and the director of the budget shall have approved, a
42 comprehensive financial plan encompassing all moneys available to and
43 all anticipated commitments and expenditures by such authority from any
44 source for the operations of such authority. Copies of the approved
45 comprehensive financial plan shall be immediately submitted by the chair
46 to the chairs and secretaries of the legislative fiscal committees. Any
47 such amount not committed by such authority to contracts or contracts to
48 be awarded or otherwise expended by the authority during the fiscal year
49 shall be refunded by such authority on a pro-rata basis to such gas
50 and/or electric corporations, in a manner to be determined by the
51 department of public service, and any refund amounts must be explicitly
52 lined out in the itemized record described above.

53 § 2. This act shall take effect immediately and shall be deemed to
54 have been in full force and effect on and after April 1, 2024.

1 Section 1. Short title, legislative findings and declaration. This act
2 shall be known and may be cited as the "renewable action through project
3 interconnection and deployment (RAPID) act". The legislature hereby
4 finds and declares that:

5 1. To timely achieve the renewable energy and greenhouse gas reduction
6 targets established pursuant to the climate leadership and community
7 protection act ("CLCPA"), while contemporaneously maintaining the reli-
8 ability of the state's electric transmission system, action is needed to
9 consolidate and expedite the environmental review and permitting of
10 major renewable energy facilities and major electric utility trans-
11 mission facilities.

12 2. Since enactment of the CLCPA, it has become apparent that the
13 State's bulk and local transmission facilities need to be significantly
14 upgraded to deliver renewable energy to load. These significant
15 upgrades in the bulk and local transmission system must be undertaken in
16 an expedited timeframe consistent with the timeframe to achieve the
17 CLCPA targets.

18 3. In the context of achieving the CLCPA targets, a public policy
19 purpose would be served and the interests of the people of the state of
20 New York would be advanced by transferring the Office of Renewable Ener-
21 gy Siting ("ORES"), currently under the auspices of the Department of
22 State, to the Department of Public Service ("DPS") and providing such
23 office with additional responsibilities for the review and permitting of
24 major electric transmission facilities as set forth in this act.

25 4. The legislature finds that such a transfer would combine the long-
26 standing expertise of DPS related to transmission siting, planning and
27 compliance with environmental and reliability standards with ORES's
28 expertise related to the siting of renewable energy resources and, in so
29 doing, create synergies, and otherwise provide for more efficient siting
30 of major renewable energy and transmission facilities.

31 § 2. Section 94-c of the executive law is REPEALED.

32 § 3. Transfer of Office of Renewable Energy Siting. ORES, an office
33 established in the Department of State by the Accelerated Renewable
34 Energy Growth and Community Benefit Act, enacted under part JJJ of chap-
35 ter 58 of the laws of 2020, is hereby transferred to and established
36 within the DPS, and shall continue to have all existing functions,
37 powers, duties and obligations of ORES together with the new additional
38 functions, powers, duties and obligations set forth in this act.

39 § 4. Continuity of existing functions, powers, duties and obli-
40 gations. All of the existing functions, powers, obligations, and duties
41 granted to ORES by section 94-c of the executive law now repealed, are
42 hereby transferred, and shall be deemed to and held to constitute the
43 continuation of such functions, powers, duties and obligations of ORES,
44 and not a different agency, authority, department or office. All appli-
45 cations pending before ORES on the effective date of this act shall be
46 considered and treated as applications filed pursuant to this act as of
47 the date of filing of such applications.

48 § 5. Transfer of employees. 1. Upon the transfer of such functions,
49 powers, duties and obligations pursuant to this act, provision shall be
50 made for the transfer of all employees of ORES situated within the
51 department of state into DPS pursuant to subdivision 2 of section 70 of
52 the civil service law. Employees so transferred shall be transferred
53 without further examination or qualification to the same or similar
54 titles, shall remain in the same collective bargaining units and shall
55 retain their respective civil service classifications, status and rights

1 pursuant to their collective bargaining units and collective bargaining
2 agreements.

3 2. All employees hired after the effective date of this act shall,
4 consistent with the provisions of article 14 of the civil service law,
5 be classified in the same bargaining units. Employees other than manage-
6 ment or confidential persons as defined in article 14 of the civil
7 service law serving positions in newly created titles shall be assigned
8 to the appropriate bargaining unit. Nothing contained herein shall be
9 construed to affect:

10 (a) the rights of employees pursuant to a collective bargaining agree-
11 ment; or

12 (b) the representational relationships among employee organizations or
13 the bargaining relationships between the state and an employee organiza-
14 tion.

15 § 6. Transfer of records. All records, including but not limited to,
16 books, papers, and property of ORES shall be transferred and delivered
17 to DPS.

18 § 7. Transfer and continuation of regulations; conforming changes.
19 Notwithstanding any inconsistent provision of the state administrative
20 procedure act: all rules and regulations of ORES adopted at 19 NYCRR
21 part 900 in force at the time of the transfer of ORES to DPS shall
22 continue in full force and effect as rules and regulations of the
23 department until duly modified or abrogated by such department; 19 NYCRR
24 part 900 shall be and hereby is transferred to 16 NYCRR Chapter XI, with
25 such conforming changes as shall be required to reflect the transfer and
26 relocation of ORES to DPS as provided in this act, and shall continue in
27 full force and effect. Provided, however, that such conforming changes
28 are limited to such substitutions of numbering, names, titles, cita-
29 tions, and other non-substantive amendments that are necessary only to
30 effectuate the transfer and relocation of ORES to DPS, the changes may
31 be filed with the secretary of state without the need for additional
32 proceedings under the state administrative procedure act or section
33 101-a of the executive law, and shall continue in full force and effect
34 and be excluded from review for all purposes under the state environ-
35 mental quality review act, and shall not be subject to review or other-
36 wise actionable under article 78 of the civil practice law and rules.

37 § 8. Promulgation of rules and regulations. ORES, in consultation with
38 DPS, shall be authorized to promulgate regulations subject to the
39 approval of regulations by the public service commission on an emergency
40 basis to ensure the implementation of this act.

41 § 9. The public service law is amended by adding a new section 3-c to
42 read as follows:

43 § 3-c. Office of renewable energy siting and electric transmission.

44 1. Definitions. For the purposes of this section, the following terms
45 shall have the following meanings:

46 (a) "Executive director" or "director" shall mean the executive direc-
47 tor of the office of renewable energy siting and electric transmission.

48 (b) "ORES" and "office" shall mean the office of renewable energy
49 siting and electric transmission established pursuant to this section.

50 (c) "Siting permit" shall mean the major renewable energy facility
51 siting permit or major electric transmission facility permit issued by
52 the executive director pursuant to article VIII of this chapter, and the
53 rules and regulations promulgated by ORES and approved by the commis-
54 sion.

1 2. General powers and responsibilities. (a) There is hereby estab-
2 lished in the department an office of renewable energy siting and elec-
3 tric transmission.

4 (b) ORES shall accept applications and evaluate, issue, amend, and
5 approve the assignment and/or transfer of siting permits pursuant to
6 article VIII of this chapter. ORES shall exercise its authority by and
7 through the executive director.

8 (c) ORES, by and through the executive director, shall be authorized
9 to conduct hearings and dispute resolution proceedings, issue permits,
10 and adopt, subject to the approval of the public service commission,
11 such rules, regulations and procedures as may be necessary, or any
12 amendments or modifications thereto, convenient, or desirable to effec-
13 tuate the purposes of this section and article VIII of this chapter.

14 (d) ORES shall, among other things, continue unimpeded the work of the
15 office of renewable energy siting established under the former section
16 ninety-four-c of the executive law. All permits issued by the former
17 office of renewable energy siting, established pursuant to former
18 section ninety-four-c of the executive law, and all certificates of
19 environmental compatibility and public need issued by the commission
20 pursuant to article VII of this chapter shall be considered for all
21 legal purposes to be permits issued by ORES.

22 (e) All final siting permits issued by ORES or heretofore issued by
23 the office of renewable energy siting established pursuant to the former
24 section ninety-four-c of the executive law are hereby enforceable by
25 ORES and the department pursuant to section twenty-four, section twen-
26 ty-five, and section twenty-six of this article as if issued by the
27 commission, except that such permits issued to combination gas and elec-
28 tric corporations are also enforceable by ORES and the department pursu-
29 ant to section twenty-five-a of this article. ORES and the department
30 shall monitor, enforce, and administer compliance with any terms and
31 conditions set forth in a siting permit issued pursuant to article VIII
32 of this chapter and in doing so may use and rely on authority provided
33 to the commission otherwise available under this chapter. Notwithstand-
34 ing any other provision of law to the contrary, the holder of a certifi-
35 cate or permit issued under article VIII of this chapter, or a prede-
36 cessor statute thereto, for a major renewable energy facility with an
37 electric generating capacity between twenty-five and eighty megawatts or
38 that otherwise opts into article VIII of this chapter is subject to
39 enforcement by ORES or the department pursuant to sections twenty-four,
40 twenty-five and twenty-six of this article.

41 (f) At the request of ORES, all other state agencies and authorities
42 are hereby authorized to provide support and render services to the
43 office within their respective functions.

44 § 10. Continuity of existing functions, powers, duties, and obli-
45 gations. All of the existing functions, powers, duties, and obligations
46 of the farmland protection working group, and duties granted to the
47 farmland protections working group by section 94-c of the executive law
48 now repealed, are hereby transferred, and shall be deemed and be held to
49 constitute the continuation of such functions, powers, duties, and
50 obligations of the farmland protection working group and not to a
51 different agency, authority, department or office.

52 § 11. Articles 8 of the public service law, as added by chapter 708 of
53 the laws of 1978 and as added by chapter 385 of the laws of 1972, are
54 REPEALED and a new article 8 is added to read as follows:

ARTICLE VIII
SITING OF RENEWABLE ENERGY AND ELECTRIC TRANSMISSION

Section 136. Purpose.

137. Definitions.

138. General provisions related to establishing standards related to siting major renewable energy facilities.

139. General provisions related to establishing standards related to siting major electric transmission facilities.

140. Applicability related to siting major renewable energy facilities.

141. Applicability related to siting major electric transmission facilities.

142. Application, notice, and review relating to major renewable energy facility siting.

143. Application, notice, and review relating to major electric transmission facility siting.

144. Powers of municipalities and state agencies and authorities.

145. Fees; local agency account.

146. Judicial review.

147. Farmland protection working group.

148. Reports of the office of renewable energy siting and electric transmission.

§ 136. Purpose. It is the purpose of this article to consolidate the environmental review, permitting, and siting in this state of major renewable energy facilities and major electric transmission facilities subject to this article, and to provide ORES as a single forum for the coordinated and timely review of such projects to meet the state's renewable energy goals and ensure the reliability of the electric transmission system, while also ensuring the protection of the environment and consideration of all pertinent social, economic and environmental factors in the decision to permit such projects as more specifically provided in this article.

§ 137. Definitions. Where used in this article, the following terms shall have the following meanings:

1. "CLCPA targets" shall mean the public policies established in the climate leadership and community protection act enacted in chapter one hundred six of the laws of two thousand nineteen, including but not limited to the requirement that a minimum of seventy percent of the statewide electric generation be produced by renewable energy systems by two thousand thirty, that by the year two thousand forty the statewide electrical demand system will generate zero emissions, and the procurement of at least nine gigawatts of offshore wind electricity generation by two thousand thirty-five, six gigawatts of photovoltaic solar generation by two thousand twenty-five and to support three gigawatts of statewide energy storage capacity by two thousand thirty.

2. "Dormant electric generating site" shall mean a site at which one or more electric generating facilities produced electricity but has permanently ceased operating.

3. "Major electric transmission facility" means an electric transmission line of a design capacity of one hundred twenty-five kilovolts or more extending a distance of one mile or more, or of one hundred kilovolts or more and less than one hundred twenty-five kilovolts, extending a distance of ten miles or more, including associated equipment, but shall not include any such transmission line located wholly

1 underground in a city with a population in excess of one hundred twenty-five thousand or a primary transmission line approved by the federal
2 energy regulatory commission in connection with a hydro-electric facility.
3

4
5 4. "Major renewable energy facility" means any renewable energy
6 system, as such term is defined in section sixty-six-p of this chapter,
7 with a nameplate generating capacity of twenty-five thousand kilowatts
8 or more, and any co-located system storing energy generated from
9 such a renewable energy system prior to delivering it to the bulk
10 transmission system, including all associated appurtenances to electric
11 plants, including electric transmission facilities less than ten miles
12 in length in order to provide access to load and to integrate such
13 facilities into the state's bulk electric transmission system.

14 5. "Landowner" means the holder of any right, title, or interest in
15 real property subject to a proposed site or right of way as identified
16 from the most recent tax roll of the appropriate municipality.

17 6. "Local agency" means any local agency, board, district, commission
18 or governing body, including any city, county, and other political
19 subdivision of the state.

20 7. "Local agency account" or "account" shall mean the account estab-
21 lished in subdivision seven of section ninety-four-c of the executive
22 law now repealed and continued in section one hundred forty-five of this
23 article.

24 8. "Municipality" shall mean a county, city, town, or village.

25 9. "Right-of-way" shall mean:

26 (a) real property that is used or authorized to be used for electric
27 utility purposes; or

28 (b) real property owned or controlled by or under the jurisdiction of
29 the state, a distribution utility, or a state public authority including
30 by means of ownership, lease or easement, that is used or authorized to
31 be used for transportation or canal purposes.

32 10. "ORES" shall mean the office of renewable energy siting and elec-
33 tric transmission established pursuant to section three-c of this chap-
34 ter.

35 11. "Executive director" or "director" shall mean the executive direc-
36 tor of the office of renewable energy siting and electric transmission.

37 12. "Major renewable energy facility siting permit" shall mean the
38 siting permit issued to a major renewable energy facility by the execu-
39 tive director pursuant to this article, and the rules and regulations
40 promulgated by ORES and the department and approved by the commission.

41 13. "Major electric transmission facility siting permit" shall mean
42 the siting permit issued to a major electric transmission facility by
43 the executive director pursuant to this article, and the rules and regu-
44 lations promulgated by ORES and the department.

45 § 138. General provisions related to establishing standards related to
46 siting major renewable energy facilities. 1. (a) ORES shall be author-
47 ized to establish and amend, subject to the approval of the commission,
48 a set of uniform standards and conditions for the siting, design,
49 construction and operation of each type of major renewable energy facil-
50 ity subject to this article relevant to issues that are common for
51 particular classes and categories of major renewable energy facilities,
52 in consultation with other offices within the department, the New York
53 state energy research and development authority, the department of envi-
54 ronmental conservation, the department of agriculture and markets, and
55 other relevant state agencies and authorities with subject matter exper-
56 tise.

1 (b) The uniform standards and conditions established pursuant to this
2 subdivision shall be designed to avoid or minimize, to the maximum
3 extent practicable, any potential significant adverse environmental
4 impacts related to the siting, design, construction and operation of a
5 major renewable energy facility. Such uniform standards and conditions
6 shall apply to those environmental impacts ORES determines are common to
7 each type of major renewable energy facility.

8 (c) In its review of an application for a permit to develop a major-
9 renewable energy facility, ORES, in consultation with the department of
10 environmental conservation, shall identify those site-specific adverse
11 environmental impacts, if any, that may be caused or contributed to by a
12 specific proposed major renewable energy facility and are unable to be
13 addressed by the uniform standards and conditions. ORES shall draft, in
14 consultation with the department of environmental conservation, site-
15 specific permit terms and conditions for such impacts, including
16 provisions for the avoidance or mitigation thereof, taking into account
17 the CLCPA targets and the environmental benefits of the proposed major
18 renewable energy facility; provided, however, that ORES shall require
19 that the application of uniform standards and conditions and site-spe-
20 specific conditions shall achieve a net conservation benefit to any
21 impacted endangered and threatened species.

22 2. To the extent that adverse environmental impacts are not completely
23 addressed by uniform standards and conditions and site-specific major
24 renewable energy facility siting permit conditions proposed by ORES, and
25 ORES determines that mitigation of such impacts may be achieved by off-
26 site mitigation, ORES may require payment of a fee by the applicant to
27 achieve such off-site mitigation. If ORES determines, in consultation
28 with the department of environmental conservation, that mitigation of
29 impacts to endangered or threatened species that achieves a net conser-
30 vation benefit can be achieved by off-site mitigation, the amount to be
31 paid for such off-site mitigation shall be set forth in the final major
32 renewable energy facility siting permit. ORES may require payment of
33 funds sufficient to implement such off-site mitigation into the endan-
34 gered and threatened species mitigation bank fund established pursuant
35 to section ninety-nine-hh of the state finance law.

36 3. ORES, in consultation with the department, shall promulgate rules
37 and regulations with respect to all necessary requirements to implement
38 the siting permit program established in this article and promulgate
39 modifications to such rules and regulations as it deems necessary;
40 provided that ORES shall promulgate regulations requiring the service of
41 applications on affected municipalities and political subdivisions
42 simultaneously with submission of an application. Any such rules and
43 regulations, or any amendments or modifications thereto, shall be
44 subject to the approval of the public service commission before they
45 become effective.

46 4. The uniform standards and conditions established pursuant to this
47 section shall be designed to avoid, minimize, or mitigate to the maximum
48 extent practicable, potential significant adverse impacts to land used
49 in agricultural production, with additional consideration for land with-
50 in an agricultural district or land that contains mineral soil groups
51 1-4. The provisions of this subdivision shall not apply in the consid-
52 eration of any permits for siting, design, construction, or operation of
53 a major renewable energy facility for which a completed application has
54 been received by the office of renewable energy siting and electric
55 transmissions prior to the adoption of amended uniform standards and
56 conditions consistent with this subdivision.

1 5. The office of renewable energy siting and electric transmission
2 pursuant to section three-c of this chapter, in consultation with the
3 department, shall post, maintain, and regularly update on its website a
4 statewide map with the location, approximate acreage, and generation
5 capacity of each approved and proposed facility pursuant to this article
6 or renewable electric generating facility pursuant to article ten of
7 this chapter for which permitted, complete, or incomplete applications
8 or notices of intent have been received by such office or the public
9 service commission. Such statewide map may include any additional infor-
10 mation such office deems necessary. The information required pursuant to
11 this subdivision shall be updated upon the completion of each new or
12 updated application for a proposed facility.

13 § 139. General provisions related to establishing standards related to
14 siting major electric transmission facilities. 1. (a) Within twelve
15 months of the effective date of this section, ORES shall, subject to the
16 approval of the commission, in consultation with other offices within
17 the department, the New York state energy research and development
18 authority, the department of environmental conservation, the department
19 of agriculture and markets, and other agencies with subject matter
20 expertise, establish a set of uniform standards and conditions for the
21 siting, design, construction, and operation of major electric trans-
22 mission facilities subject to this article relevant to issues that are
23 common to such projects. Prior to adoption of uniform standards and
24 conditions, the office of renewable energy siting and electric trans-
25 missions shall hold four public hearings in different regions of the
26 state to solicit comment from municipal, or political subdivisions, and
27 the public on proposed uniform standards and conditions to avoid, mini-
28 imize or mitigate potential adverse environmental impacts from the
29 siting, design, construction and operation of a major electric trans-
30 mission facility.

31 (b) The uniform standards and conditions established pursuant to this
32 section shall be designed to avoid or minimize, to the maximum extent
33 practicable, any potential significant adverse environmental impacts
34 related to the siting, design, construction, and operation of a major
35 electric transmission facility. Such uniform standards and conditions
36 shall apply to those environmental impacts ORES determines are common to
37 major electric transmission facilities.

38 (c) The uniform standards and conditions established pursuant to this
39 section shall be designed to avoid, minimize, or mitigate to the maximum
40 extent practicable, potential significant adverse impacts to land used
41 in agricultural production, with additional consideration for land with-
42 in an agricultural district or land that contain mineral soil groups 1-4
43 as defined by the department of agriculture and markets.

44 (d) In its review of an application for a major electric transmission
45 facility siting permit to develop a major electric transmission facili-
46 ty, ORES, in consultation with the department of environmental conserva-
47 tion, shall identify those adverse site-specific environmental impacts,
48 if any, that may be caused or contributed to by a specific proposed
49 major electric transmission facility and are unable to be addressed by
50 the uniform standards and conditions. ORES shall draft in consultation
51 with the department of environmental conservation site-specific major
52 electric transmission facility siting permit terms and conditions for
53 such impacts, including provisions for the avoidance or mitigation ther-
54 eof, taking into account the CLCPA targets, the environmental benefits
55 of, and public need for the proposed major electric transmission facili-
56 ty; provided, however, that ORES shall require that the application of

1 uniform standards and conditions and site-specific conditions shall
2 achieve a net conservation benefit to any impacted endangered and
3 threatened species.

4 (e) Upon the establishment of uniform standards and conditions
5 required by this section and the promulgation of regulations specifying
6 the content of an application for a major electric transmission facility
7 siting permit, an application for a major electric transmission facility
8 siting permit shall only be made pursuant to this article.

9 2. To the extent that adverse environmental impacts are not completely
10 addressed by uniform standards and conditions and site-specific major
11 electric transmission facility siting permit conditions proposed by
12 ORES, and ORES determines that mitigation of such impacts may be
13 achieved by off-site mitigation, ORES may require payment of a fee by
14 the applicant to achieve such off-site mitigation. If ORES determines,
15 in consultation with the department of environmental conservation, that
16 mitigation of impacts to endangered or threatened species that achieves
17 a net conservation benefit can be achieved by off-site mitigation, the
18 amount to be paid for such off-site mitigation shall be set forth in the
19 final major electric transmission facility siting permit. ORES may
20 require payment of funds sufficient to implement such off-site miti-
21 gation into the endangered and threatened species mitigation bank fund
22 established pursuant to section ninety-nine-hh of the state finance law.

23 3. ORES shall identify and make public the basis of the public need
24 for a major electric transmission facility in a written finding and
25 shall grant permits to such projects that demonstrate a qualified public
26 need, so long as the adverse environmental impacts of the facility are
27 identified and addressed by the uniform standards and conditions promul-
28 gated pursuant to this article and any site-specific permit conditions
29 applied to the facility. The written finding of a basis of a public
30 need for a major electric transmission facility shall, at a minimum,
31 include whether the proposed project conforms to plans relating to the
32 expansion or upgrade of the electric power grid and interconnected util-
33 ity systems or was included or considered in the power grid study
34 required pursuant to section seven of part JJJ of chapter fifty-eight of
35 the laws of two thousand twenty for a major electric transmission facil-
36 ity. Notwithstanding any other provision of this article to the contra-
37 ry, ORES shall only grant major electric transmission facility siting
38 permits to such projects that: (i) demonstrate a qualified public need;
39 (ii) are in the public and ratepayer interest; and (iii) identify and
40 address the adverse environmental impacts of the facility pursuant to
41 the uniform standards and conditions promulgated pursuant to this arti-
42 cle and any site-specific major electric transmission facility siting
43 permit conditions, or otherwise mitigated as provided in this article.

44 4. ORES, in consultation with the department, shall promulgate rules
45 and regulations with respect to all necessary requirements to implement
46 the siting permit program established in this article and promulgate
47 modifications to such rules and regulations as it deems necessary;
48 provided that ORES shall promulgate regulations requiring the service of
49 applications on affected municipalities and political subdivisions
50 simultaneously with submission of an application. Any such rules and
51 regulations, or any amendments or modifications thereto, shall be
52 subject to the approval of the commission before they become effective.

53 5. The office of renewable energy siting and electric transmission
54 shall include within its regulations a framework to ensure potentially
55 affected state- and federally-recognized indigenous nations are informed

1 and consulted with, as appropriate, when a facility is proposed within
2 the ancestral territories of such nations.

3 6. After the effective date of this section, any person intending to
4 construct a major electric transmission facility excluded from this
5 section pursuant to paragraph (c) of subdivision five of section one
6 hundred forty-one of this article may elect to become subject to the
7 provisions of this section by filing an application for a siting
8 permit pursuant to the regulations of ORES governing such applications.

9 § 140. Applicability related to siting major renewable energy facili-
10 ties. 1. No person shall commence the preparation of a site for, or
11 begin the construction of, a major renewable energy facility in the
12 state, or increase the capacity of an existing major renewable energy
13 facility, without having first obtained a major renewable energy facili-
14 ty siting permit pursuant to this article. Any major renewable energy
15 facility subject to this article with respect to which a siting permit
16 is issued shall not thereafter be built, maintained, or operated except
17 in conformity with such major renewable energy facility siting permit
18 and any terms, limitations, or conditions contained therein, provided
19 that nothing in this subdivision shall exempt such facility from compli-
20 ance with federal laws and regulations.

21 2. A major renewable energy facility siting permit issued by ORES may
22 be transferred or assigned, subject to the prior written approval of the
23 office of renewable energy siting and electric transmissions, to a
24 person that agrees to comply with the terms, limitations and conditions
25 contained in such major renewable energy facility siting permit.

26 3. ORES or a permittee may initiate an amendment to a major renewable
27 energy facility siting permit under this section. An amendment initiated
28 by ORES or a permittee that is likely to result in any material increase
29 in any adverse environmental impact or involves a substantial change to
30 the terms or conditions of a major renewable energy facility siting
31 permit shall comply with the public notice and hearing requirements of
32 this section.

33 4. Any hearings or dispute resolution proceedings initiated under this
34 article or pursuant to rules or regulations promulgated pursuant to this
35 section may be conducted by the executive director of ORES or any person
36 to whom the executive director shall delegate the power and authority to
37 conduct such hearings or proceedings in the name of ORES at any time and
38 place.

39 5. This section shall not apply:

40 (a) to normal repairs, maintenance, replacements, non-material modifi-
41 cations and improvements of a major renewable energy facility subject to
42 this article, whenever built, which are performed in the ordinary course
43 of business and which do not constitute a violation of any applicable
44 existing permit; and

45 (b) to a major renewable energy facility if, on or before the effec-
46 tive date of this article, an application has been made or granted for a
47 license, permit, certificate, consent or approval from any federal,
48 state or local commission, agency, board or regulatory body.

49 § 141. Applicability related to siting major electric transmission
50 facilities. 1. Except as provided in paragraph (b) of subdivision five
51 of this section, no person shall commence the preparation of a site for,
52 or begin the construction of, a major electric transmission facility in
53 the state without having first obtained a siting permit pursuant to this
54 article. Any major electric transmission facility subject to this arti-
55 cle with respect to which a siting permit is issued shall not thereafter
56 be built, maintained, or operated except in conformity with such siting

1 permit and any terms, limitations, or conditions contained therein,
2 provided that nothing in this subdivision shall exempt such facility
3 from compliance with federal laws and regulations.

4 2. A major electric transmission facility siting permit issued by ORES
5 may be transferred or assigned, subject to the prior written approval of
6 the office of renewable energy siting and electric transmissions, to a
7 person that agrees to comply with the terms, limitations and conditions
8 contained in such siting major electric transmission facility permit.

9 3. ORES or a permittee may initiate an amendment to a major electric
10 transmission facility siting permit under this section. An amendment
11 initiated by ORES or a permittee that is likely to result in any materi-
12 al increase in any adverse environmental impact or involves a substan-
13 tial change to the terms or conditions of a major electric transmission
14 facility siting permit shall comply with the public notice and hearing
15 requirements of this section.

16 4. Any hearings or dispute resolution proceedings initiated under this
17 article or pursuant to rules or regulations promulgated pursuant to this
18 section may be conducted by the executive director of ORES or any person
19 to whom the executive director shall delegate the power and authority to
20 conduct such hearings or proceedings in the name of ORES at any time and
21 place.

22 5. This section shall not apply:

23 (a) to any major electric transmission facility over which any agency
24 or department of the federal government has exclusive jurisdiction, or
25 has jurisdiction concurrent with that of the state and has exercised
26 such jurisdiction, to the exclusion of regulation of the facility by the
27 state; provided, however, that nothing herein shall be construed to
28 expand federal jurisdiction;

29 (b) to normal repairs, maintenance, replacements, non-material modifi-
30 cations and improvements of a major electric transmission facility
31 subject to this article, whenever built, which are performed in the
32 ordinary course of business and which do not constitute a violation of
33 any applicable existing permit; and

34 (c) to a major electric transmission facility for which an application
35 pursuant to article VII of this chapter and its implementing regulations
36 is submitted on or before the establishment of the uniform standards and
37 conditions required pursuant to subdivision one of section one hundred
38 forty-one of this article.

39 6. After the effective date of this section, any person intending to
40 construct a major electric transmission facility excluded from this
41 section pursuant to paragraph (c) of subdivision five of this section
42 may elect to become subject to the provisions of this section by filing
43 an application for a major electric transmission facility siting permit
44 pursuant to the regulations of ORES governing such applications.

45 § 142. Application, notice, and review relating to major renewable
46 energy facility siting. 1. Notwithstanding any law to the contrary,
47 ORES shall, within sixty days of its receipt of an application for a
48 siting permit with respect to a major renewable energy facility subject
49 to this article determine whether the application is complete and notify
50 the applicant of its determination. If ORES does not deem the applica-
51 tion complete, ORES shall set forth in writing delivered to the appli-
52 cant the reasons why it has determined the application to be incomplete.
53 If ORES fails to make a determination within the foregoing sixty-day
54 time period, the application shall be deemed complete; provided, howev-
55 er, that the applicant may consent to an extension of the sixty-day time
56 period for determining application completeness. Provided, further,

1 that no application may be complete without proof of consultation with
2 the municipality or political subdivision where the project is proposed
3 to be located, or an agency thereof, prior to submission of an applica-
4 tion to ORES, related to procedural and substantive requirements of
5 local law.

6 2. No later than sixty days following the date upon which an applica-
7 tion has been deemed complete, and following consultation with any rele-
8 vant state agency or authority, ORES shall publish for public comment
9 draft permit conditions prepared by the office, which comment period
10 shall be for a minimum of sixty days from public notice thereof, or
11 notice of intent to deny with reasons thereof. Such public notice shall
12 include, but shall not be limited to: (i) written notice to the munici-
13 palities or political subdivisions in which such project is proposed to
14 be located; (ii) publication in a newspaper or in electronic form,
15 having general circulation in such municipalities or political subdivi-
16 sions; (iii) posting the notice on the office of renewable energy siting
17 and electric transmissions and the department's website; and (iv) writ-
18 ten notice to each member of the legislature through whose district the
19 facility proposed in the application would be located.

20 3. For any municipality, political subdivision or an agency thereof
21 that has received notice of the filing of an application, pursuant to
22 regulations promulgated in accordance with this article, the munici-
23 pality or political subdivision or agency thereof shall within the time-
24 frames established by this subdivision submit a statement to ORES indi-
25 cating whether the proposed project is designed to be sited, constructed
26 and operated in compliance with applicable local laws and regulations,
27 if any, concerning the environment, or public health and safety. In the
28 event that a municipality, political subdivision or an agency thereof
29 submits a statement to ORES that the proposed project is not designed to
30 be sited, constructed or operated in compliance with local laws and
31 regulations and ORES determines not to hold an adjudicatory hearing on
32 the application, ORES shall hold a non-adjudicatory public hearing in or
33 near one or more of the affected municipalities or political subdivi-
34 sions. In any such adjudicatory hearing, ORES or the department, shall
35 designate members of its staff to represent the public interest, includ-
36 ing with respect to the application of local and state laws.

37 4. If public comments on a draft permit condition published by ORES
38 pursuant to this section, including comments provided by a municipality
39 or political subdivision or agency thereof, landowners, or members of
40 the public, raise a substantive and significant issue, as defined in
41 regulations adopted pursuant to this article, that requires adjudi-
42 cation, ORES shall promptly fix a date for an adjudicatory hearing to
43 hear arguments and consider evidence with respect thereto.

44 5. Following the expiration of the public comment period set forth in
45 this section, and following the conclusion of a hearing undertaken
46 pursuant to subdivision four of this section, ORES shall, in the case of
47 a public comment period, issue a written summary of public comments and
48 an assessment of comments received, and in the case of an adjudicatory
49 hearing, the executive director or any person to whom the executive
50 director has delegated such authority shall issue a final written hear-
51 ing report. A final siting permit may only be issued if ORES makes a
52 finding that the proposed project, together with any applicable uniform
53 and site-specific standards and conditions, would comply with applicable
54 laws and regulations. In making a final siting permit determination with
55 respect to a major renewable energy facility, ORES may elect not to
56 apply, in whole or in part, any local law or ordinance that would other-

1 wise be applicable if it makes a finding that, as applied to the
2 proposed facility, it is unreasonably burdensome in view of the CLCPA
3 targets, and the environmental benefits.

4 6. Notwithstanding any other deadline made applicable by this section,
5 ORES shall make a final decision on a major renewable energy facility
6 siting permit within one year from the date the application was deemed
7 complete, or within six months from the date the application was deemed
8 complete if such application relates to a major renewable energy facili-
9 ty that is proposed to be sited on an existing or abandoned commercial
10 use, including without limitation, brownfields, landfills, former
11 commercial or industrial sites, dormant electric generating sites, and
12 abandoned or otherwise underutilized sites, as further defined by the
13 regulations promulgated by or in effect under this article. Unless ORES
14 and the applicant have agreed to an extension and if a final siting
15 permit decision has not been made by ORES within such time period, then
16 such siting permit shall be deemed to have been automatically granted
17 for all purposes set forth in this article and all uniform conditions or
18 site specific permit conditions issued for public comment shall consti-
19 tute enforceable provisions of the siting permit; provided, however, any
20 portion of which is to be located on the land of a landowner for which
21 the applicant lacks an existing right-of-way agreement or valid and
22 enforceable lease or easement for use of such relevant property, no such
23 permit shall be automatically granted. The final siting permit related
24 to a major renewable energy facility shall include a provision requiring
25 the permittee to provide a host community benefit, which may be a host
26 community benefit as determined by the commission pursuant to section
27 eight of part JJJ of chapter fifty-eight of the laws of two thousand
28 twenty or such other project as determined by ORES or as subsequently
29 agreed to between the applicant and the host community.

30 § 143. Application, notice, and review relating to major electric
31 transmission facility siting. 1. Notwithstanding any law to the contra-
32 ry, ORES shall, within one hundred twenty days after its receipt of an
33 application for a siting permit with respect to a major electric trans-
34 mission facility, determine whether the application is complete and
35 notify the applicant of its determination. If ORES does not deem the
36 application complete, it shall set forth in writing delivered to the
37 applicant the reasons why it has determined the application to be incom-
38 plete. If ORES fails to make a determination within the foregoing one
39 hundred twenty day time period, the application shall be deemed
40 complete; provided, however, that the applicant may consent to an exten-
41 sion of the one hundred twenty day time period for determining applica-
42 tion completeness. Provided, further, that no application may be
43 complete without proof of consultation with the municipality or poli-
44 tical subdivision where the project is proposed to be located, or an
45 agency thereof, prior to submission of an application to ORES, related
46 to procedural and substantive requirements of local law.

47 2. In addition to addressing uniform standards and conditions, the
48 application for a siting permit with respect to a major electric trans-
49 mission facility shall include, in such form as ORES may prescribe, the
50 following information: (i) the location of the site or right-of-way;
51 (ii) a description of the transmission facility to be built thereon;
52 (iii) a summary of any studies which have been made of the environmental
53 impact of the project, and a description of such studies; (iv) a state-
54 ment explaining the public need for the facility; (v) copies of any
55 studies of the electrical performance and system impacts of the facility
56 performed by the state grid operator pursuant to its tariff; (vi) such

1 other information as the applicant may consider relevant or ORES may by
2 regulation require; and (vii) a description of any reasonable alterna-
3 tive location or locations for the proposed facility, a description of
4 the comparative merits and detriments of each location submitted, and a
5 statement of the reasons why the primary proposed location is best suit-
6 ed for the facility.

7 3. To the greatest extent practicable, each landowner of land on which
8 any portion of such proposed facility is to be located shall be served
9 by first class mail with a notice that such landowner's property may be
10 impacted by a project and an explanation of how to file with ORES a
11 notice of intent to be a party in the permit application proceedings and
12 the timeframe for filing such application.

13 4. No later than sixty days following the date upon which an applica-
14 tion has been deemed complete, and following consultation with any rele-
15 vant state agency or authority, ORES shall publish for public comment
16 draft permit conditions prepared by the office of renewable energy
17 siting and electric transmissions, which comment period shall be for a
18 minimum of sixty days from public notice thereof. Such public notice
19 shall include, but shall not be limited to: (i) written notice to the
20 municipalities and political subdivisions, in which the major electric
21 utility transmission is proposed to be located and to landowners noti-
22 fied of the application pursuant to subdivision three of this section;
23 (ii) publication in a newspaper or in electronic form, having general
24 circulation in such municipalities or political subdivisions; (iii)
25 posting on the office's and the department's website; and (iv) written
26 notice to each member of the legislature through whose district the
27 facility or any alternate proposed in the application would pass and in
28 the event that such facility or any portion thereof is located within
29 the Adirondack Park or Tug Hill, the Adirondack Park Agency and Tug Hill
30 commission respectively.

31 5. For any municipality, political subdivision or an agency thereof
32 that has received notice of the filing of an application, pursuant to
33 regulations promulgated in accordance with this section or otherwise in
34 effect on the effective date of this article, the municipality or poli-
35 tical subdivision or agency thereof shall within the timeframes estab-
36 lished by this act submit a statement to ORES indicating whether the
37 proposed facility is designed to be sited, constructed and operated in
38 compliance with applicable local laws and regulations, if any, concern-
39 ing the environment, or public health and safety. In the event that a
40 municipality, political subdivision or an agency thereof submits a
41 statement to ORES that the proposed facility is not designed to be
42 sited, constructed or operated in compliance with local laws and regu-
43 lations and ORES determines not to hold an adjudicatory hearing on the
44 application, ORES shall hold a non-adjudicatory public hearing in the
45 affected municipality or political subdivision.

46 6. If public comments on a draft permit condition published by ORES
47 pursuant to this section, including comments provided by a municipality
48 or political subdivision or agency thereof, landowners, or members of
49 the public, raise a substantive and significant issue, as defined in
50 regulations adopted pursuant to this article, that requires adjudi-
51 cation, ORES shall promptly fix a date for an adjudicatory hearing to
52 hear arguments and consider evidence with respect thereto; provided,
53 however, that with respect to an application for a siting permit for a
54 major electric transmission facility, any portion of which is to be
55 located on the land of a landowner for which the applicant lacks a
56 right-of-way agreement, ORES shall provide such landowner with an oppor-

1 tunity to challenge the explanation for the public need given in such
2 application. In any such adjudicatory hearing, ORES or the department,
3 shall designate members of its staff to represent the public interest,
4 including with respect to the application of local and state laws.

5 7. Following the expiration of the public comment period set forth in
6 this section, and following the conclusion of a hearing undertaken
7 pursuant to subdivision six of this section, ORES shall, in the case of
8 a public comment period, issue a written summary of public comments and
9 an assessment of comments received, and in the case of an adjudicatory
10 hearing, the executive officer or any person to whom the executive
11 director has delegated such authority shall issue a final written hear-
12 ing report. A final siting permit may only be issued if ORES makes a
13 finding that the proposed project, together with any applicable uniform
14 and site-specific standards and conditions, would comply with applicable
15 laws and regulations. In making a final siting permit determination with
16 respect to a major renewable energy facility or a major electric trans-
17 mission facility, ORES may elect not to apply, in whole or in part, any
18 local law or ordinance that would otherwise be applicable if it makes a
19 finding that, as applied to the proposed facility, it is unreasonably
20 burdensome in view of the CLCPA targets, the environmental benefits, and
21 in the case of a transmission facility, the public need for the proposed
22 project.

23 8. Notwithstanding any other deadline made applicable by this section,
24 ORES shall make a final decision on a siting permit within one year from
25 the date the application was deemed complete. Unless ORES and the
26 applicant have agreed to an extension and if a final siting permit deci-
27 sion has not been made by ORES within such time period, then such siting
28 permit shall be deemed to have been automatically granted for all
29 purposes set forth in this article and all uniform conditions or site
30 specific permit conditions issued for public comment shall constitute
31 enforceable provisions of the siting permit; provided, however, that
32 with respect to a final siting permit decision related to a major elec-
33 tric transmission facility, any portion of which is to be located on the
34 land of a landowner for which the applicant lacks an existing right-of-
35 way agreement and in which ORES has not made a public need determi-
36 nation, no such permit shall be automatically granted.

37 9. For a major electric transmission facility that would be
38 constructed substantially within existing rights-of-way that possess
39 existing major electric transmission infrastructure, the office of
40 renewable energy siting and electric transmission may include within
41 its regulations a framework that relieves certain requirements of this
42 article, provided that such relief is reasonable and does not impair any
43 rights of municipalities established under this article or limit
44 requirements relating to public notice or the finding of public need.

45 § 144. Powers of municipalities and state agencies and authorities. 1.
46 Applicants shall, prior to filing an application, conduct meetings with
47 the respective chief executive officer of all municipalities in which
48 the proposed major renewable generation facility or major electric tran-
49 smission facility will be located. The applicant shall provide as part
50 of the application presentation materials and a summary of questions
51 raised, and responses provided during such meetings with municipalities.
52 In the event the applicant is unable to secure a meeting with a relevant
53 municipality the application shall contain a detailed explanation of all
54 of the applicant's best efforts and reasonable attempts to secure such
55 meeting, including, but not limited to, written communications between
56 the applicant and the municipality.

1 2. Notwithstanding any other provision of law, including without limi-
2 tation article eight of the environmental conservation law and article
3 VII of this chapter, no other state agency, department or authority, or
4 any municipality or political subdivision or any agency thereof may,
5 except as expressly authorized under this article or the rules and regu-
6 lations promulgated under this article, require any approval, consent,
7 permit, certificate, contract, agreement, or other condition for the
8 development, design, construction, operation, or decommissioning of a
9 major renewable energy facility or a major electric transmission facili-
10 ty with respect to which an application for a siting permit has been
11 filed, provided in the case of a municipality, political subdivision or
12 an agency thereof, such entity has received notice of the filing of the
13 application therefor. Notwithstanding the foregoing, the department of
14 environmental conservation shall be the permitting agency for permits
15 issued pursuant to federally delegated or federally approved programs.

16 3. This section shall not impair or abrogate any federal, state or
17 local labor laws or any otherwise applicable state law for the
18 protection of employees engaged in the construction and operation of a
19 major renewable energy facility or major electric transmission facility.

20 4. ORES and the department shall monitor, enforce and administer
21 compliance with any terms and conditions set forth in a siting permit
22 issued pursuant to this article and in doing so may use and rely on
23 authority otherwise available under this chapter.

24 § 145. Fees; local agency account. 1. Each application for a siting
25 permit shall be accompanied by a fee in an amount equal to the follow-
26 ing:

27 (a) for a major renewable energy facility, one thousand dollars for
28 each thousand kilowatts of capacity of the proposed major renewable
29 energy facility;

30 (b) for a major electric transmission facility of one hundred twenty-
31 five kilovolts or more extending a distance of over one hundred miles,
32 four hundred fifty thousand dollars;

33 (c) for a major electric transmission facility of one hundred twenty-
34 five kilovolts or more extending a distance of over fifty miles to one
35 hundred miles, three hundred fifty thousand dollars;

36 (d) for a major electric transmission facility requiring a new right-
37 of-way and one hundred twenty-five kilovolts or more extending a
38 distance of ten miles to fifty miles, one hundred thousand dollars; and

39 (e) for a major electric transmission facility utilizing an existing
40 right-of-way and one hundred twenty-five kilovolts or more extending a
41 distance of ten miles to fifty miles, fifty thousand dollars.

42 2. Such fee is to be deposited in an account to be known as the local
43 agency account established by subdivision seven of former section nine-
44 ty-four-c of the executive law for the benefit of local agencies and
45 community intervenors by the New York state energy research and develop-
46 ment authority and maintained in a segregated account in the custody of
47 the commissioner of taxation and finance. ORES, in consultation with the
48 department, may update the fee periodically solely to account for
49 inflation. The proceeds of such account shall be disbursed by the office
50 of renewable energy siting and electric transmissions, in accordance
51 with eligibility and procedures established by the rules and regulations
52 promulgated by ORES or the department pursuant to this article or in
53 effect as of the effective date of this article, for the participation
54 of local agencies and community intervenors in public comment periods or
55 hearing procedures established by this article, including the rules and
56 regulations promulgated hereto; provided that fees must be disbursed for

1 municipalities, political subdivisions or an agency thereof, to deter-
2 mine whether a proposed project is designed to be sited, constructed and
3 operated in compliance with the applicable local laws and regulations.

4 3. All funds so held by the New York state energy research and devel-
5 opment authority shall be subject to an annual independent audit as part
6 of such authority's audited financial statements, and such authority
7 shall prepare an annual report summarizing account balances and activ-
8 ities for each fiscal year ending March thirty-first and provide such
9 report to the office of renewable energy siting and electric trans-
10 missions no later than ninety days after commencement of such fiscal
11 year and post on the authority's website.

12 4. To the extent an applicant submitted intervenor funds pursuant to
13 article VII or X of this chapter and has now filed an application for a
14 siting permit pursuant to this article, any amounts held in an interve-
15 nor account established pursuant to articles VII and X of this chapter
16 for that project shall be applied to the intervenor account established
17 by this section.

18 5. In addition to the fees established pursuant to this section, ORES
19 or the department, pursuant to regulations adopted pursuant to this
20 article, may assess a fee on applicants for the purpose of recovering
21 costs incurred by the office of renewable energy siting and electric
22 transmissions; provided, however, that public utilities that are subject
23 to section eighteen-a of this chapter shall not be assessed a fee for
24 such costs.

25 § 146. Judicial review. 1. Any party aggrieved by the issuance or
26 denial of a siting permit under this article may seek judicial review of
27 such decision as provided in this section.

28 2. A judicial proceeding shall be brought in the third department of
29 the appellate division of the supreme court of the state of New York.
30 Such proceeding shall be initiated by the filing of a petition in such
31 court within ninety days after the issuance of a final decision by ORES
32 together with proof of service of a demand on ORES to file with said
33 court a copy of a written transcript of the record of the proceeding and
34 a copy of ORES's decision and opinion. ORES's copy of said transcript,
35 decision and opinion, shall be available at all reasonable times to all
36 parties for examination without cost. Upon receipt of such petition and
37 demand ORES shall forthwith deliver to the court a copy of the record
38 and a copy of ORES's decision and opinion. Thereupon, the court shall
39 have jurisdiction of the proceeding and shall have the power to grant
40 such relief as it deems just and proper, and to make and enter an order
41 enforcing, modifying and enforcing as so modified, remanding for further
42 specific evidence or findings or setting aside in whole or in part such
43 decision. The appeal shall be heard on the record, without requirement
44 of reproduction, and upon briefs to the court. The findings of fact on
45 which such decision is based shall be conclusive if supported by
46 substantial evidence on the record considered as a whole and matters of
47 judicial notice set forth in the opinion. The jurisdiction of the appel-
48 late division of the supreme court shall be exclusive and its judgment
49 and order shall be final, subject to review by the court of appeals in
50 the same manner and form and with the same effect as provided for
51 appeals in a special proceeding. All such proceedings shall be heard and
52 determined by the appellate division of the supreme court and by the
53 court of appeals as expeditiously as possible and with lawful precedence
54 over all other matters.

55 3. The grounds for and scope of review of the court shall be limited
56 to whether the decision and opinion of ORES are:

1 (a) In conformity with the constitution, laws and regulations of the
2 state and the United States;

3 (b) Supported by substantial evidence in the record and matters of
4 judicial notice properly considered and applied in the opinion;

5 (c) Within the statutory jurisdiction or authority of ORES and the
6 department;

7 (d) Made in accordance with procedures set forth in this section or
8 established by rule or regulation pursuant to this article;

9 (e) Arbitrary, capricious or an abuse of discretion; or

10 (f) Made pursuant to a process that afforded meaningful involvement of
11 citizens affected by the facility or project regardless of age, race,
12 color, national origin and income.

13 4. Except as herein provided article seventy-eight of the civil prac-
14 tice law and rules shall apply to appeals taken hereunder.

15 § 147. Farmland protection working group. 1. There is hereby created
16 in the executive department a farmland protection working group consist-
17 ing of appropriate stakeholders, including but not limited to:

18 (a) the commissioner of the department of agriculture and markets;

19 (b) the commissioner of the department of environmental conservation;

20 (c) the executive director of ORES;

21 (d) the chief executive officer of the department of public service;

22 (e) the president of the New York state energy research and develop-
23 ment authority;

24 (f) local government officials or representatives from municipal
25 organizations representing towns, villages, and counties; and

26 (g) representatives from at least two county agricultural and farmland
27 protection boards.

28 2. The working group shall, no later than one year after the effective
29 date of this article, recommend strategies to encourage and facilitate
30 input from municipalities in the siting process of major renewable ener-
31 gy facilities and major electric transmission facilities and to develop
32 recommendations that include approaches to recognize the value of viable
33 agricultural land and methods to minimize adverse impacts to any such
34 land resulting from the siting of major renewable energy facilities and
35 major electric transmission facilities.

36 3. The working group, on call of the commissioner of the department of
37 agriculture and markets, shall meet at least three times each year and
38 at such other times as may be necessary.

39 § 148. Reports of the office of renewable energy siting and electric
40 transmissions. No later than one year after the effective date of this
41 article and annually thereafter, the office of renewable energy siting
42 and electric transmissions shall submit to the governor, the tempo-
43 rary president of the senate and the speaker of the assembly, a report
44 on the activities of such office. The report shall, without limitation,
45 include:

46 1. the number of applications received and permits approved by such
47 office for each type of major renewable energy facility or major elec-
48 tric transmission facility;

49 2. description of the project of each permit granted by such office
50 for the preceding year including scale, location and capacity;

51 3. average time taken to make a decision on an application;

52 4. the number of cases that require dispute resolution or judicial
53 review;

54 5. the executive director's evaluation of overall public need for
55 major renewable generation facilities and major electric transmission
56 facilities;

1 6. the potential adverse environmental impacts of the facility are
2 identified and addressed by the uniform standards and conditions
3 promulgated pursuant to this article;

4 7. the number and description of projects where site-specific permit
5 conditions were applied to the facility or where off-site mitigation was
6 needed; and

7 8. total fees collected by such office and any fees collected specif-
8 ically for off-site mitigation.

9 § 12. The public service law is amended by adding a new section 174 to
10 read as follows:

11 § 174. Major steam electric generating facilities certificates. Any
12 certificate of environmental compatibility and public need issued to a
13 major steam electric generating facility under the former article VIII
14 of this chapter shall be treated for purposes of compliance and enforce-
15 ment as if such certificate was issued under this article.

16 § 13. Subdivision (B) of section 206 of the eminent domain procedure
17 law is amended to read as follows:

18 (B) pursuant to article VII [~~or article VIII~~] of the public service
19 law it obtained a certificate of environmental compatibility and public
20 need or pursuant to article VIII of the public service law it obtained a
21 siting permit with respect to a major electric transmission facility or;

22 § 14. Subparagraph (g) of paragraph 3 of subdivision (B) of section
23 402 of the eminent domain procedure law is amended to read as follows:

24 (g) if the property is to be used for the construction of a major
25 utility transmission facility, as defined in section one hundred twenty
26 of the public service law [~~, or major steam electric generating facility~~
27 ~~as defined in section one hundred forty of such law~~] with respect to
28 which a certificate of environmental compatibility and public need has
29 been issued under such law, a statement that such certificate relating
30 to such property has been issued and is in force, or if the property is
31 to be used for the construction of a major electric transmission facil-
32 ity, as defined under article VIII of the public service law, with
33 respect to which a major electric transmission facility siting permit
34 has been issued under such law, a statement that such permit relating to
35 such property has been issued and is in force.

36 § 15. Subdivision 7 of section 6-106 of the energy law, as added by
37 chapter 433 of the laws of 2009, is amended to read as follows:

38 7. Any person who participated in the state energy planning proceeding
39 or any person who sought an amendment of the state energy plan pursuant
40 to subdivision six of this section, may obtain, pursuant to article
41 seventy-eight of the civil practice law and rules, judicial review of
42 the board's decision adopting a plan, or any amendment thereto, or of
43 the board's decision not to amend such plan pursuant to subdivision six
44 of this section. Any such special proceeding shall be brought in the
45 appellate division of the supreme court of the state of New York for the
46 third judicial department. Such proceeding shall be initiated by the
47 filing of a petition in such court within thirty days after the issuance
48 of a decision by the board. The proceeding shall have a lawful prefer-
49 ence over any other matter, shall be heard on an expedited basis and
50 shall be completed in all respects, including any subsequent appeal,
51 within one hundred eighty days of the filing of the petition. Where more
52 than one such petition is filed, the court may provide for consolidation
53 of the proceedings. Notwithstanding the provisions of [~~article~~] articles
54 seven and eight of the public service law, the procedure set forth in
55 this section shall constitute the exclusive means for seeking judicial
56 review of any element of the plan.

1 § 16. Paragraph (b) of subdivision 5 of section 8-0111 of the environ-
2 mental conservation law, as amended by section 1 of part BBB of chapter
3 55 of the laws of 2021, is amended to read as follows:

4 (b) Actions subject to the provisions requiring a certificate of envi-
5 ronmental compatibility and public need in articles seven[~~7~~] and ten
6 [~~and the former article eight~~] of the public service law or requiring a
7 major renewable energy facility or a major electric transmission facili-
8 ty siting permit under [~~section ninety-four-e of the executive law~~]
9 article eight of the public service law; or

10 § 17. Paragraph (d) of subdivision 2 of section 49-0307 of the envi-
11 ronmental conservation law, as added by chapter 292 of the laws of 1984,
12 is amended to read as follows:

13 (d) where land subject to a conservation easement or an interest in
14 such land is required for a major utility transmission facility which
15 has received a certificate of environmental compatibility and public
16 need pursuant to article seven of the public service law [~~or is required~~
17 ~~for a major steam electric generating facility which has received a~~
18 ~~certificate of environmental compatibility and public need pursuant to~~
19 ~~article eight of the public service law~~] or a major electric trans-
20 mission facility which has received a siting permit pursuant to article
21 VIII of the public service law, upon the filing of such certificate or
22 permit in a manner prescribed for recording a conveyance of real proper-
23 ty pursuant to section two hundred ninety-one of the real property law
24 or any other applicable provision of law.

25 § 18. Paragraph (e) of subdivision 3 of section 49-0307 of the envi-
26 ronmental conservation law, as amended by chapter 388 of the laws of
27 2011, is amended to read as follows:

28 (e) where land subject to a conservation easement or an interest in
29 such land is required for a major utility transmission facility which
30 has received a certificate of environmental compatibility and public
31 need pursuant to article seven of the public service law [~~or is required~~
32 ~~for a major steam electric generating facility which has received a~~
33 ~~certificate of environmental compatibility and public need pursuant to~~
34 ~~the former article eight of the public service law~~], a major electric
35 transmission facility which has received a siting permit pursuant to
36 article VIII of the public service law, or a major electric generating
37 facility or repowering project which has received a certificate of envi-
38 ronmental compatibility and public need pursuant to article ten of the
39 public service law, upon the filing of such certificate or permit in a
40 manner prescribed for recording a conveyance of real property pursuant
41 to section two hundred ninety-one of the real property law or any other
42 applicable provision of law, provided that such certificate or permit
43 contains a finding that the public interest in the conservation and
44 protection of the natural resources, open spaces and scenic beauty of
45 the Adirondack or Catskill parks has been considered.

46 § 19. Paragraph (p) of subdivision 27-a of section 1005 of the public
47 authorities law, as added by section 1 of part QQ of chapter 56 of the
48 laws of 2023, is amended to read as follows:

49 (p) Nothing in this subdivision or subdivision twenty-seven-b of this
50 section, shall be construed as exempting the authority, its subsid-
51 iaries, or any renewable energy generating projects undertaken pursuant
52 to this section from the requirements of [~~section ninety-four-e of the~~
53 ~~executive law~~] article VIII of the public service law respecting any
54 renewable energy system developed by the authority or an authority
55 subsidiary after the effective date of this subdivision that meets the
56 definition of "major renewable energy facility" as defined in [~~section~~

1 ~~ninety-four e of the executive law and section eight of part JJJ of~~
2 ~~chapter fifty eight of the laws of two thousand twenty]~~ article VIII of
3 the public service law, as it relates to host community benefits, and
4 section 11-0535-c of the environmental conservation law as it relates to
5 an endangered and threatened species mitigation bank fund.

6 § 20. Section 1014 of the public authorities law, as amended by chap-
7 ter 388 of the laws of 2011, is amended to read as follows:

8 § 1014. Public service law not applicable to authority; inconsistent
9 provisions in other acts superseded. The rates, services and practices
10 relating to the generation, transmission, distribution and sale by the
11 authority, of power to be generated from the projects authorized by this
12 title shall not be subject to the provisions of the public service law
13 nor to regulation by, nor the jurisdiction of the department of public
14 service. Except to the extent article seven of the public service law
15 applies to the siting and operation of a major utility transmission
16 facility as defined therein, article VIII of the public service law
17 applies to the siting and operation of a major electric generation
18 facility or a major electric transmission facility as defined therein,
19 and article ten of the public service law applies to the siting of a
20 major electric generating facility as defined therein, and except to the
21 extent section eighteen-a of the public service law provides for assess-
22 ment of the authority for certain costs relating thereto, the provisions
23 of the public service law and of the environmental conservation law and
24 every other law relating to the department of public service or the
25 public service commission or to the environmental conservation depart-
26 ment or to the functions, powers or duties assigned to the division of
27 water power and control by chapter six hundred nineteen of the laws of
28 nineteen hundred twenty-six, shall so far as is necessary to make this
29 title effective in accordance with its terms and purposes be deemed to
30 be superseded, and wherever any provision of law shall be found in
31 conflict with the provisions of this title or inconsistent with the
32 purposes thereof, it shall be deemed to be superseded, modified or
33 repealed as the case may require.

34 § 21. Subdivision 1 of section 1020-s of the public authorities law,
35 as amended by chapter 681 of the laws of 2021, is amended to read as
36 follows:

37 1. The rates, services and practices relating to the electricity
38 generated by facilities owned or operated by the authority shall not be
39 subject to the provisions of the public service law or to regulation by,
40 or the jurisdiction of, the public service commission, except to the
41 extent (a) article seven of the public service law applies to the siting
42 and operation of a major utility transmission facility as defined there-
43 in, (b) article VIII of the public service law applies to the siting and
44 operation of a major electric generation facility or a major electric
45 transmission facility as defined therein, (c) article ten of such law
46 applies to the siting of a generating facility as defined therein, [~~e~~]
47 (d) section eighteen-a of such law provides for assessment for certain
48 costs, property or operations, [~~d~~] (e) to the extent that the depart-
49 ment of public service reviews and makes recommendations with respect to
50 the operations and provision of services of, and rates and budgets
51 established by, the authority pursuant to section three-b of such law,
52 [~~e~~] (f) that section seventy-four of the public service law applies to
53 qualified energy storage systems within the authority's jurisdiction,
54 and [~~f~~] (g) that section seventy-four-b of the public service law
55 applies to Long Island community choice aggregation programs.

1 § 22. Paragraph (b) of subdivision 1 of section 1020-ii of the public
2 authorities law, as amended by chapter 201 of the laws of 2019, is
3 amended to read as follows:

4 (b) "utility transmission facility" means any electric transmission
5 line operating at sixty-five kilovolts or higher in the service area,
6 including associated equipment. It shall not include any transmission
7 line which is an in-kind replacement or which is located wholly under-
8 ground. This section also shall not apply to any major [~~utility~~] elec-
9 tric transmission facility subject to the jurisdiction of article seven
10 of the public service law; and

11 § 23. Paragraph c of subdivision 8 of section 1020-c of the public
12 authorities law, as amended by chapter 388 of the laws of 2011, is
13 amended to read as follows:

14 c. [~~Article~~] Articles seven and eight of the public service law shall
15 apply to the authority's siting and operation of a major electric trans-
16 mission facility as therein defined and article ten of the public
17 service law shall apply to the authority's siting and operation of a
18 major electric generating facility as therein defined.

19 § 24. Subdivision 4 of section 18-a of the public service law, as
20 amended by chapter 447 of the laws of 1972, is amended to read as
21 follows:

22 4. In the case of the power authority of the state of New York, the
23 [~~chairman~~] chairperson of the department shall ascertain from time to
24 time, but not less than once in each fiscal year, all direct and indi-
25 rect costs of investigating requests by the power authority of the state
26 of New York to establish new, major [~~utility~~] electric transmission
27 facilities [~~as defined in article seven of this chapter~~] and major
28 renewable energy facilities or to establish new, major [~~steam~~] electric
29 generating facilities [~~as defined in article eight of this chapter~~]. The
30 [~~chairman~~] chairperson shall for each such investigation assess such
31 costs against the power authority of the state of New York. Bills for
32 such an investigation may be rendered from time to time, but not less
33 than once in each fiscal year, and the amount of such bills shall be
34 paid by the power authority of the state of New York to the department
35 within thirty days from the date of rendition.

36 § 25. Subdivision 2 of section 160 of the public service law, as added
37 by chapter 388 of the laws of 2011, is amended to read as follows:

38 2. "Major electric generating facility" means an electric generating
39 facility with a nameplate generating capacity of twenty-five thousand
40 kilowatts or more, including interconnection electric transmission lines
41 that are not subject to review under article VIII of this chapter and
42 fuel gas transmission lines that are not subject to review under article
43 seven of this chapter.

44 § 26. Paragraph (e) of subdivision 4 of section 162 of the public
45 service law, as added by section 3 of part JJJ of chapter 58 of the laws
46 of 2020, is amended to read as follows:

47 (e) To a major renewable energy facility as such term is defined in
48 [~~section ninety-four e of the executive law~~] article VIII of this chap-
49 ter; provided, however, that any person intending to construct a major
50 renewable energy facility, that has a draft pre-application public
51 involvement program plan pursuant to section one hundred sixty-three of
52 this article and the regulations implementing this article, which is
53 pending with the siting board as of the effective date of this paragraph
54 may remain subject to the provisions of this article or, may, by written
55 notice to the secretary of the commission, elect to become subject to

1 the provisions of [~~section ninety four e of the executive law~~] article
2 VIII of this chapter.

3 § 27. Subdivision 3 of section 11-103 of the energy law, as amended by
4 chapter 374 of the laws of 2022, is amended to read as follows:

5 3. Notwithstanding any other provision of law, the state fire
6 prevention and building code council in accordance with the mandate
7 under this article shall have exclusive authority among state agencies
8 to promulgate a construction code incorporating energy conservation
9 features and clean energy features applicable to the construction of any
10 building, including but not limited to greenhouse gas reduction. Any
11 other code, rule or regulation heretofore promulgated or enacted by any
12 other state agency, incorporating specific energy conservation and clean
13 energy requirements applicable to the construction of any building,
14 shall be superseded by the code promulgated pursuant to this section.
15 Notwithstanding the foregoing, nothing in this section shall be deemed
16 to expand the powers of the council to include matters that are exclu-
17 sively within the statutory jurisdiction of the public service commis-
18 sion, the department of environmental conservation, [~~the office of~~
19 ~~renewable energy siting~~] or another state entity.

20 § 28. Paragraph (d) of subdivision 27-a of section 1005 of the public
21 authorities law, as added by section 1 of part QQ of chapter 56 of the
22 laws of 2023, is amended to read as follows:

23 (d) No later than one hundred eighty days after the effective date of
24 this subdivision, and annually thereafter, the authority shall confer
25 with the New York state energy research and development authority, [~~the~~
26 ~~office of renewable energy siting,~~] the department of public service,
27 climate and resiliency experts, labor organizations, and environmental
28 justice and community organizations concerning the state's progress on
29 meeting the renewable energy goals established by the climate leadership
30 and community protection act. When exercising the authority provided for
31 in paragraph (a) of this subdivision, the information developed through
32 such conferral shall be used to identify projects to help ensure that
33 the state meets its goals under the climate leadership and community
34 protection act. Any conferral provided for in this paragraph shall
35 include consideration of the timing of projects in the interconnection
36 queue of the federally designated electric bulk system operator for New
37 York state, taking into account both capacity factors or planned
38 projects and the interconnection queue's historical completion rate. A
39 report on the information developed through such conferral shall be
40 published and made accessible on the website of the authority.

41 § 29. Subparagraph (i) of paragraph (e) of subdivision 27-a of section
42 1005 of the public authorities law, as added by section 1 of part QQ of
43 chapter 56 of the laws of 2023, is amended to read as follows:

44 (i) Beginning in two thousand twenty-five, and biennially thereafter
45 until two thousand thirty-three, the authority, in consultation with the
46 New York state energy research and development authority, [~~the office of~~
47 ~~renewable energy siting,~~] the department of public service, and the
48 federally designated electric bulk system operator for New York state,
49 shall develop and publish biennially a renewable energy generation stra-
50 tegic plan ("strategic plan") that identifies the renewable energy
51 generating priorities based on the provisions of paragraph (a) of this
52 subdivision for the two-year period covered by the plan as further
53 provided for in this paragraph.

54 § 30. The public service commission shall commence a proceeding within
55 ninety days of the effective date of this act to review the cause and
56 extent of any delays to interconnection of distributed energy resources.

1 This proceeding shall consider metrics related to the timely intercon-
2 nection of distributed generation resources into the distribution system
3 owned by an electric corporation, as well as revenue adjustments related
4 to such metrics.

5 § 31. Subdivisions 1 and 3 of section 224-d of the labor law, subdivi-
6 sion 1 as separately amended by chapters 372 and 375 of the laws of 2022
7 and subdivision 3 as added by section 2 of part AA of chapter 56 of the
8 laws of 2021, are amended to read as follows:

9 1. For purposes of this section, a "covered renewable energy system"
10 means (a) a renewable energy system, as such term is defined in section
11 sixty-six-p of the public service law, with a capacity of one or more
12 megawatts alternating current and which involves the procurement of
13 renewable energy credits by a public entity, or a company or corporation
14 provided in subdivisions twenty-three and twenty-four of section two of
15 the public service law, or a third party acting on behalf and for the
16 benefit of a public entity; ~~or~~ (b) any "thermal energy network" as
17 defined by subdivision twenty-nine of section two of the public service
18 law; (c) any offshore wind supply chain project, including but not
19 limited to port infrastructure, primary component manufacturing,
20 finished component manufacturing, subassembly manufacturing, subcompo-
21 nent manufacturing, or raw material producers, or a combination thereof
22 receiving direct funding from the New York state energy research and
23 development authority pursuant to an award under a New York state energy
24 research and development authority solicitation; or (d) a "major utility
25 transmission facility" as such term is defined by section one hundred
26 twenty of the public service law.

27 3. For purposes of this section, a covered renewable energy system
28 shall exclude construction work performed under a pre-hire collective
29 bargaining agreement between an owner or contractor and a bona fide
30 building and construction trade labor organization which has established
31 itself, and/or its affiliates, as the collective bargaining represen-
32 tative for all persons who will perform work on such a project, and
33 which provides that only contractors and subcontractors who sign a pre-
34 negotiated agreement with the labor organization can perform work on
35 such a project[~~, or construction work performed under a labor peace~~
36 ~~agreement, project labor agreement, or any other construction work~~
37 ~~performed under an enforceable agreement between an owner or contractor~~
38 ~~and a bona fide building and construction trade labor organization]~~
39 provided, however, this subdivision shall not apply to any covered
40 renewable energy systems defined in paragraph (d) of subdivision one of
41 this section.

42 § 32. Subdivision 3 and paragraph (a) of subdivision 4 of section 66-r
43 of the public service law, as added by section 2-a of part AA of chapter
44 56 of the laws of 2021, are amended and a new subdivision 1-a is added
45 to read as follows:

46 1-a. For the purposes of this section, an "other covered project"
47 means: (a) any "thermal energy network" as defined by subdivision twen-
48 ty-nine of section two of this chapter; (b) any offshore wind supply
49 chain project, including but not limited to port infrastructure, primary
50 component manufacturing, finished component manufacturing, subassembly
51 manufacturing, subcomponent manufacturing, or raw material producers, or
52 a combination thereof receiving direct funding from the New York state
53 energy research and development authority pursuant to an award under a
54 New York state energy research and development authority solicitation;
55 or (c) a "major utility transmission facility" as such term is defined

1 by section one hundred twenty of this chapter or "major electric trans-
2 mission facility" as defined by article VIII of this chapter.

3 3. The commission shall require that the owner of the covered renewa-
4 ble energy system or other covered project, or a third party acting on
5 the owner's behalf, as an ongoing condition of any renewable energy
6 credits agreement with a public entity, shall stipulate to the fiscal
7 officer that it will enter into [a] labor peace [~~agreement~~] agreements
8 with [~~at least one~~] any bona fide labor [~~organization~~] organizations
9 that either [~~where such bona fide labor organization is~~] are actively
10 representing employees providing necessary operations and maintenance
11 services for the renewable energy system at the time of such agreement
12 or [~~upon~~] provides notice [~~by a bona fide labor organization~~] that it
13 is attempting to represent any employees in any titles who provide, or
14 who will provide, necessary operations and maintenance services for the
15 renewable energy system employed in the state; provided, however, this
16 subdivision shall not apply to any covered projects defined in paragraph
17 (c) of subdivision one-a of this section. The maintenance of such a
18 labor peace agreement, or agreements, which cover all classes of oper-
19 ations and maintenance employees, shall be an ongoing material condition
20 of any continuation of payments under a renewable energy credits agree-
21 ment. For purposes of this section "labor peace agreement" means an
22 agreement between an entity and labor organization that, at a minimum,
23 protects the state's proprietary interests by prohibiting labor organ-
24 izations and members from engaging in picketing, work stoppages,
25 boycotts, and any other economic interference with the relevant renewa-
26 ble energy system. "Renewable energy credits agreement" shall mean any
27 public entity contract that provides production-based payments to a
28 renewable energy project as defined in this section.

29 (a) Any public entity, in each contract for construction, recon-
30 struction, alteration, repair, improvement or maintenance of a covered
31 renewable energy system which involves the procurement of a renewable
32 energy credits agreement by a public entity, or a third party acting on
33 behalf and for the benefit of a public entity, the "public work" for the
34 purposes of this subdivision, shall ensure that such contract shall
35 contain a provision that the iron and [~~structural~~] steel used or
36 supplied in the performance of the contract or any subcontract thereto
37 [~~and that is permanently incorporated into the public work,~~] shall be
38 produced or made in whole or substantial part in the United States, its
39 territories or possessions. In the case of [~~a structural~~] an iron or
40 [~~structural~~] steel product all manufacturing must take place in the
41 United States, from the initial melting stage through the application of
42 coatings, except metallurgical processes involving the refinement of
43 steel additives. [~~For the purposes of this subdivision, "permanently~~
44 ~~incorporated" shall mean an iron or steel product that is required to~~
45 ~~remain in place at the end of the project contract, in a fixed location,~~
46 ~~affixed to the public work to which it was incorporated. Iron and steel~~
47 ~~products that are capable of being moved from one location to another~~
48 ~~are not permanently incorporated into a public work.~~]

49 § 33. Section 11-0535-c of the environmental conservation law is
50 amended by adding a new subdivision 6 to read as follows:

51 6. The commissioner shall annually report to the department of public
52 service, the governor, the temporary president of the senate and the
53 speaker of the assembly on the status of the fund and all monies added
54 to and expended from the fund.

55 § 34. This act shall take effect immediately and sections one, two,
56 three, four, five, six, seven, eight, nine, ten, eleven, twelve, thir-

1 teen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty,
 2 twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-
 3 six, twenty-seven, twenty-eight, twenty-nine, thirty and thirty-three of
 4 this act shall expire December 31, 2040 when upon such date this act
 5 shall be deemed repealed; provided, that the amendments to paragraph (e)
 6 of subdivision 4 of section 162 of the public service law made by
 7 section twenty-six of this act shall not affect the repeal of such para-
 8 graph and shall be deemed repealed therewith; provided, further, that
 9 sections thirty-one and thirty-two of this act shall take effect Janu-
 10 ary 1, 2025 and shall apply to any covered renewable energy system as
 11 defined in section 224-d of the labor law and other covered project as
 12 defined in section 66-r of the public service law, respectively, awarded
 13 a contract pursuant to an advertisement or solicitation of a request for
 14 proposal, invitation for bid, or solicitation of proposal, or any other
 15 method provided for by law or regulation for soliciting a response for
 16 offerors intending to result in a contract that is issued on or after
 17 the effective date of this act.

18 PART P

19 Intentionally Omitted

20 PART Q

21 Section 1. Expenditures of moneys appropriated in a chapter of the
 22 laws of 2024 to the department of agriculture and markets from the
 23 special revenue funds-other/state operations, miscellaneous special
 24 revenue fund-339, public service account shall be subject to the
 25 provisions of this section. Notwithstanding any other provision of law
 26 to the contrary, direct and indirect expenses relating to the department
 27 of agriculture and markets' participation in general ratemaking
 28 proceedings pursuant to section 65 of the public service law or certif-
 29 ication proceedings or permits issued pursuant to article 7, 8, or 10 of
 30 the public service law, shall be deemed expenses of the department of
 31 public service within the meaning of section 18-a of the public service
 32 law. No later than August 15th, 2025, the commissioner of the department
 33 of agriculture and markets shall submit an accounting of such expenses,
 34 including, but not limited to, expenses in the prior state fiscal year
 35 for personal and non-personal services and fringe benefits, to the chair
 36 of the public service commission for the chair's review pursuant to the
 37 provisions of section 18-a of the public service law.

38 § 2. Expenditures of moneys appropriated to the department of state
 39 from the special revenue funds-other/state operations, miscellaneous
 40 special revenue fund-339, public service account shall be subject to the
 41 provisions of this section. Notwithstanding any other provision of law
 42 to the contrary, direct and indirect expenses relating to the activities
 43 of the department of state's utility intervention unit pursuant to
 44 subdivision 4 of section 94-a of the executive law, including, but not
 45 limited to participation in general ratemaking proceedings pursuant to
 46 section 65 of the public service law or certification proceedings or
 47 permits issued pursuant to article 7, 8, or 10 of the public service
 48 law, shall be deemed expenses of the department of public service within
 49 the meaning of section 18-a of the public service law. No later than
 50 August 15th, 2025, the secretary of state shall submit an accounting of
 51 such expenses, including, but not limited to, expenses in the prior

1 state fiscal year for personal and non-personal services and fringe
2 benefits, to the chair of the public service commission for the chair's
3 review pursuant to the provisions of section 18-a of the public service
4 law.

5 § 3. Expenditures of moneys appropriated to the office of parks,
6 recreation and historic preservation from the special revenue funds-
7 other/state operations, miscellaneous special revenue fund-339, public
8 service account shall be subject to the provisions of this section.
9 Notwithstanding any other provision of law to the contrary, direct and
10 indirect expenses relating to the office of parks, recreation and
11 historic preservation's participation in general ratemaking proceedings
12 pursuant to section 65 of the public service law or certification
13 proceedings or permits issued pursuant to article 7, 8, or 10 of the
14 public service law, shall be deemed expenses of the department of public
15 service within the meaning of section 18-a of the public service law. No
16 later than August 15th, 2025, the commissioner of the office of parks,
17 recreation and historic preservation shall submit an accounting of such
18 expenses, including, but not limited to, expenses in the prior state
19 fiscal year for personal and non-personal services and fringe benefits,
20 to the chair of the public service commission for the chair's review
21 pursuant to the provisions of section 18-a of the public service law.

22 § 4. Expenditures of moneys appropriated to the department of environ-
23 mental conservation from the special revenue funds-other/state oper-
24 ations, environmental conservation special revenue fund-301, utility
25 environmental regulation account shall be subject to the provisions of
26 this section. Notwithstanding any other provision of law to the contra-
27 ry, direct and indirect expenses relating to the department of environ-
28 mental conservation's participation in state energy policy proceedings,
29 or certification proceedings or permits issued pursuant to article 7, 8,
30 or 10 of the public service law, shall be deemed expenses of the depart-
31 ment of public service within the meaning of section 18-a of the public
32 service law. No later than August 15th, 2025, the commissioner of the
33 department of environmental conservation shall submit an accounting of
34 such expenses, including, but not limited to, expenses in the prior
35 state fiscal year for personal and non-personal services and fringe
36 benefits, to the chair of the public service commission for the chair's
37 review pursuant to the provisions of section 18-a of the public service
38 law.

39 § 5. Notwithstanding any other law, rule or regulation to the contra-
40 ry, expenses of the department of health public service education
41 program incurred pursuant to appropriations from the cable television
42 account of the state miscellaneous special revenue funds shall be deemed
43 expenses of the department of public service. No later than August 15th,
44 2025, the commissioner of the department of health shall submit an
45 accounting of expenses in the prior state fiscal year to the chair of
46 the public service commission for the chair's review pursuant to the
47 provisions of section 217 of the public service law.

48 § 6. Any expense deemed to be expenses of the department of public
49 service pursuant to sections one through four of this act shall not be
50 recovered through assessments imposed upon telephone corporations as
51 defined in subdivision 17 of section 2 of the public service law.

52 § 7. This act shall take effect immediately and shall be deemed to
53 have been in full force and effect on and after April 1, 2024 and shall
54 expire and be deemed repealed April 1, 2025.

1 Intentionally Omitted

2 PART S

3 Section 1. Subdivision 3 of section 54-1511 of the environmental
4 conservation law, as added by section 5 of part U of chapter 58 of the
5 laws of 2016, is amended to read as follows:

6 3. State assistance payments shall not exceed fifty percent of the
7 project cost or two million dollars, whichever is less, provided however
8 if a municipality meets criteria established by the department relating
9 to either financial hardship or disadvantaged communities pursuant to
10 section 75-0101 of this chapter, the commissioner may authorize state
11 assistance payments of up to eighty percent of the project cost or two
12 million dollars, whichever is less. Such costs are subject to final
13 computation and determination by the commissioner upon completion of the
14 project, and shall not exceed the maximum eligible cost set forth in the
15 contract. A determination of financial hardship shall be based on
16 criteria that clearly indicates that the municipality is experiencing
17 significant and widespread financial distress, with primary consider-
18 ation given to whether a municipality has a median household income at
19 or below eighty percent of the state median household income.

20 § 2. This act shall take effect immediately and shall be deemed to
21 have been in full force and effect on and after April 1, 2024.

22 PART T

23 Section 1. Section 72-0302 of the environmental conservation law, as
24 amended by chapter 608 of the laws of 1993, the opening paragraph of
25 subdivision 1 and the closing paragraph as amended by chapter 432 of the
26 laws of 1997, and paragraph (e) of subdivision 1 as amended and para-
27 graphs (f) and (g) of subdivision 1 as relettered by chapter 170 of the
28 laws of 1994, is amended to read as follows:

29 § 72-0302. State air quality control fees.

30 1. All persons, except those required to pay a fee under section
31 72-0303 of this [~~article~~] title, who are required to obtain a permit,
32 [~~certificate~~] registration or approval pursuant to the state air quality
33 control program and the rules and regulations adopted by the department
34 hereunder shall submit to the department a per emission point fee in an
35 amount established as follows:

36 a. \$11,000.00 for a stationary combustion installation having a maxi-
37 mum operating heat input equal to or greater than fifty million British
38 thermal units per hour as stated on the most recent application for a
39 permit [~~to construct or application for a certificate~~] or registration
40 to operate and which emits or has the potential to emit equal to or
41 greater than any one of the following:

42 (i) one hundred tons per year of oxides of nitrogen, or if located in
43 a severe ozone nonattainment area, twenty-five tons per year; or

44 (ii) one hundred tons per year of sulfur dioxide; or

45 (iii) one hundred tons per year of particulates.

46 b. \$2,000.00 for all stationary combustion installations which are not
47 included under paragraph a of this subdivision and which have a maximum
48 operating heat input greater than fifty million British thermal units
49 per hour as stated on the most recent application for a [~~certificate~~]
50 permit or registration to operate.

1 c. \$100.00 for a stationary combustion installation having a maximum
2 operating heat input less than fifty million British thermal units per
3 hour as stated on the most recent application for a [~~certificate~~] permit
4 or registration to operate.

5 d. \$2,000.00 for a process air contamination source for an annual
6 emission rate equal to or greater than twenty-five tons per year of any
7 one of the following: sulfur dioxide, nitrogen dioxide, total particu-
8 lates, carbon monoxide, total volatile organic compounds and other
9 specific air contaminants. The annual emission rate shall be the actual
10 annual emission rate as stated on the most recent application for a
11 permit [~~to construct~~] or [~~application for a certificate~~] registration to
12 operate. In the event that hours of operation have not been specified
13 on the [~~applications~~] application then maximum possible hours of opera-
14 tion (8760 hours) will be used to calculate actual annual emissions.

15 e. \$160.00 for a process air contamination source, except a gasoline
16 [~~dispensing~~] dispensing site, for an annual emission rate less than
17 twenty-five tons per year of any one of the following: sulfur dioxide,
18 nitrogen dioxide, total particulates, carbon monoxide, total volatile
19 organic compounds and other specific air contaminants. The annual emis-
20 sion rate shall be the actual annual emission rate as applied for on the
21 most recent application for a permit [~~to construct or application for a~~
22 ~~certificate~~] or registration to operate. In the event that hours of
23 operation have not been specified on the [~~applications~~] application then
24 maximum possible hours of operation (8760 hours) will be used to calcu-
25 late actual annual emissions.

26 f. \$2,000.00 for an incinerator capable of charging two thousand
27 pounds of refuse per hour or greater. The charging capacity will be
28 established in accordance with the application for the most recent
29 permit [~~to construct or application for a certificate~~] or registration
30 to operate the incinerator source and will be calculated on an emission
31 point basis.

32 g. \$160.00 for an incinerator with a maximum design charge rate of
33 less than two thousand pounds of refuse per hour. The charging capacity
34 will be established in accordance with the application for the most
35 recent permit [~~to construct or application for a certificate~~] or regis-
36 tration to operate the incinerator source and will be calculated on an
37 emission point basis.

38 Provided, however, that where a city or county is delegated the
39 authority to administer the state air quality control program, or any
40 portion thereof, pursuant to paragraph p of subdivision two of section
41 3-0301 of this chapter and such city or county collects a fee in
42 connection with the issuance of a permit, [~~certificate~~] registration or
43 approval [~~for a combustion installation, incinerator or process air~~
44 ~~contamination source~~] pursuant to the state air quality control program,
45 no additional liability for fees under this section shall accrue for the
46 particular combustion installation, incinerator or process air contam-
47 ination source that is subject to the delegation.

48 § 2. Subdivisions 1 and 2 of section 72-0303 of the environmental
49 conservation law, subdivision 1 as amended by section 1 of part D of
50 chapter 413 of the laws of 1999, the opening paragraph of subdivision 1
51 as amended by section 1 of part Y of chapter 58 of the laws of 2015 and
52 subdivision 2 as added by chapter 608 of the laws of 1993, are amended
53 to read as follows:

54 1. Commencing January first, two thousand [~~fifteen~~] twenty-seven and
55 every year thereafter, all sources of regulated air contaminants identi-
56 fied pursuant to subdivision one of section 19-0311 of this chapter

1 shall submit to the department an annual base fee of [~~two~~ eight thou-
2 sand five hundred dollars per facility. This base fee shall be in addi-
3 tion to the fees listed below. Commencing January first, [~~nineteen~~
4 ~~hundred ninety-four~~] two thousand twenty-seven and every year
5 thereafter, all sources of regulated air contaminants identified pursu-
6 ant to subdivision one of section 19-0311 of this chapter shall submit
7 to the department an annual fee not to exceed the per ton fees described
8 below. The per ton fee is assessed on each ton of emissions [~~up to seven~~
9 ~~thousand tons annually~~] of each regulated air contaminant as follows:
10 [~~sixty~~] two hundred dollars per ton for facilities with total emissions
11 less than one thousand tons annually; [~~seventy~~] two hundred twenty-five
12 dollars per ton for facilities with total emissions of one thousand or
13 more but less than two thousand tons annually; [~~eighty~~] two hundred
14 fifty dollars per ton for facilities with total emissions of two thou-
15 sand or more but less than five thousand tons annually; and [~~ninety~~]
16 three hundred dollars per ton for facilities with total emissions of
17 five thousand or more tons annually. Such [~~fee~~] fees shall be suffi-
18 cient to support an appropriation approved by the legislature for the
19 direct and indirect costs associated with the operating permit program
20 established in section 19-0311 of this chapter. Such [~~fee~~] fees shall be
21 established by the department and shall be calculated by dividing the
22 amount of the current year appropriation from the operating permit
23 program account of the clean air fund by the total tons of emissions of
24 regulated air contaminants, including hazardous air pollutants, that are
25 subject to the operating permit program fees from sources subject to the
26 operating permit program pursuant to section 19-0311 of this chapter [~~up~~
27 ~~to seven thousand tons annually of each regulated air contaminant from~~
28 ~~each source~~]; provided that, in making such calculation, the department
29 shall adjust their calculation to account for any deficit or surplus in
30 the operating permit program account of the clean air fund established
31 pursuant to section ninety-seven-00 of the state finance law [~~, any loan~~
32 ~~repayment from the mobile source account of the clean air fund estab-~~
33 ~~lished pursuant to section ninety-seven-00 of the state finance law,~~
34 and the rate of collection by the department of the bills issued for the
35 [~~fee~~] fees for the prior year.

36 Notwithstanding the provisions of the state administrative procedure
37 act, such calculation and [~~fee~~] fees shall be established as a rule by
38 publication in the Environmental Notice Bulletin no later than thirty
39 days after the budget bills making appropriations for the support of
40 government are enacted or July first, whichever is later, of the year
41 such [~~fee~~] fees will be effective. In no event shall the [~~fee~~] fees
42 established herein be any greater than the maximum fee identified pursu-
43 ant to this section.

44 2. Bills issued for the [~~fee~~] fees established by subdivision one of
45 this section shall be based on actual emissions for the prior calendar
46 year, as demonstrated to the department's satisfaction, or in the
47 absence of such demonstration, on permitted emissions, or, where there
48 is no permit, on potential to emit. Persons required to submit an emis-
49 sions statement to the department shall use such statement to demon-
50 strate actual emissions under this section.

51 § 3. Subdivision 7 of section 72-0303 of the environmental conserva-
52 tion law is REPEALED.

53 § 4. Subdivisions 8, 9 and 10 of section 72-0303 of the environmental
54 conservation law are renumbered subdivisions 7, 8 and 9.

55 § 5. Paragraph c of subdivision 2 of section 97-00 of the state
56 finance law, as added by chapter 608 of the laws of 1993, is REPEALED.

1 § 6. The environmental conservation law is amended by adding a new
2 section 19-0328 to read as follows:

3 § 19-0328. Ozone non-attainment fee programs.

4 1. The department may implement new or revise existing regulatory or
5 permitting fee programs only to the extent necessary to comply with
6 section 7511d of the Act related to the non-attainment of national ambi-
7 ent air quality standards.

8 2. Fees imposed pursuant to subdivision one of this section shall be
9 calculated in the manner set forth in the Act.

10 3. The department shall further establish by rule or rules additional
11 procedures to the extent necessary for assessment of and collection of
12 such fees that shall ensure sufficient notice, fee amounts and compli-
13 ance information are given to affected parties.

14 4. Moneys received pursuant to this section shall be deposited in the
15 air quality improvement fund as established in section ninety-nine-rr of
16 the state finance law.

17 § 7. The state finance law is amended by adding a new section 99-rr to
18 read as follows:

19 § 99-rr. Air quality improvement fund. 1. There is hereby established
20 in the joint custody of the comptroller and the commissioner of taxation
21 and finance a fund to be known as the "air quality improvement fund".

22 2. Such fund shall consist of revenues received by the state pursuant
23 to section 19-0328 of the environmental conservation law and all other
24 moneys, appropriated, credited, or transferred thereto from any other
25 fund or source pursuant to law.

26 3. All moneys of the air quality improvement fund, following appropri-
27 ation by the legislature, shall be made available for the purposes of
28 reducing air pollution and improving or enhancing air quality in
29 affected communities, including but not limited to: (a) measures related
30 to achieving the national ambient air quality standards, including
31 community level projects to reduce or eliminate air pollution from
32 stationary and/or mobile sources of air pollution; and (b) investments
33 which are consistent with the strategies and community emissions
34 reduction programs prepared pursuant to section 75-0115 of the environ-
35 mental conservation law. Any moneys expended from the fund shall ensure
36 that disadvantaged communities, as defined in subdivision five of
37 section 75-0101 of the environmental conservation law, receive overall
38 benefits that approximate the proportion of disadvantaged communities in
39 the applicable federally designated area of nonattainment in New York,
40 provided that such communities shall not receive less than thirty-five
41 percent of the benefit of such funds.

42 4. Moneys shall be payable from the fund on the audit and warrant of
43 the comptroller on vouchers approved and certified by the commissioner
44 of environmental conservation.

45 § 8. This act shall take effect immediately and shall be deemed to
46 have been in full force and effect on and after April 1, 2024; provided,
47 however, if this act shall have become a law after such date then it
48 shall take effect immediately and shall be deemed to have been in full
49 force and effect on and after April 1, 2024; provided, however, that
50 sections one, three, four, and five of this act shall take effect Janu-
51 ary 1, 2025; and provided further, however, that section two of this act
52 shall take effect January 1, 2027.

53 PART U

54 Intentionally Omitted

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PART V

2 Section 1. Section 2 of chapter 584 of the laws of 2011, amending the
3 public authorities law relating to the powers and duties of the dormito-
4 ry authority of the state of New York relative to the establishment of
5 subsidiaries for certain purposes, as amended by section 1 of part DD of
6 chapter 58 of the laws of 2022, is amended to read as follows:

7 § 2. This act shall take effect immediately and shall expire and be
8 deemed repealed on July 1, [~~2024~~] 2026; provided however, that the expi-
9 ration of this act shall not impair or otherwise affect any of the
10 powers, duties, responsibilities, functions, rights or liabilities of
11 any subsidiary duly created pursuant to subdivision twenty-five of
12 section 1678 of the public authorities law prior to such expiration.

13 § 2. This act shall take effect immediately.

14

PART W

15 Section 1. Paragraph (f) of subdivision 1 of section 1977-a of the
16 public authorities law, as amended by section 1 of part EE of chapter 58
17 of the laws of 2023, is amended to read as follows:

18 (f) Additional authorizations. For the purpose of financing capital
19 costs in connection with a program of infrastructure construction,
20 improvements and other capital expenditures for the project area, the
21 authority may, in addition to the authorizations contained elsewhere in
22 this title, borrow money by issuing bonds and notes in an aggregate
23 principal amount not exceeding [~~one billion five hundred million~~
24 ~~dollars~~] two billion five hundred million dollars, plus a principal
25 amount of bonds or notes issued (i) to fund any related debt service
26 reserve fund, (ii) to provide capitalized interest, and (iii) to provide
27 for fees and other charges and expenses including any underwriters'
28 discounts, related to the issuance of such bonds or notes, all as deter-
29 mined by the authority, excluding bonds and notes issued to refund
30 outstanding bonds and notes issued pursuant to this section.

31 § 2. This act shall take effect immediately.

32

PART X

33 Section 1. Subdivision 6 of section 211 of the economic development
34 law, as amended by chapter 294 of the laws of 2019, is amended to read
35 as follows:

36 6. Grants made pursuant to this section shall be subject to the
37 following limitations:

38 (a) no grant shall be made to any one or any consortium of career
39 education agencies and not-for-profit corporations in excess of [~~one~~
40 ~~hundred-seventy-five~~] two hundred fifty thousand dollars; and

41 (b) each grant shall be disbursed for payment of the cost of services
42 and expenses of the program director, the instructors of the participat-
43 ing career education agency or not-for-profit corporation, the faculty
44 and support personnel thereof and any other person in the service of
45 providing instruction and counseling in furtherance of the program.

46 § 2. This act shall take effect immediately.

47

PART Y

48 Section 1. The opening paragraph of subdivision (h) of section 121 of
49 chapter 261 of the laws of 1988, amending the state finance law and

1 other laws relating to the New York state infrastructure trust fund, as
2 amended by chapter 96 of the laws of 2019, is amended to read as
3 follows:

4 The provisions of sections sixty-two through sixty-six of this act
5 shall expire and be deemed repealed on [~~December thirty-first~~] July
6 first, two thousand [~~twenty-four~~] twenty-five, except that:

7 § 2. This act shall take effect immediately.

8 PART Z

9 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
10 of the laws of 1968 constituting the New York state urban development
11 corporation act, as amended by section 1 of part JJ of chapter 58 of the
12 laws of 2023, is amended to read as follows:

13 3. The provisions of this section shall expire, notwithstanding any
14 inconsistent provision of subdivision 4 of section 469 of chapter 309 of
15 the laws of 1996 or of any other law, on July 1, [~~2024~~] 2025.

16 § 2. This act shall take effect immediately.

17 PART AA

18 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
19 New York state urban development corporation act, relating to the powers
20 of the New York state urban development corporation to make loans, as
21 amended by section 1 of part GG of chapter 58 of the laws of 2023, is
22 amended to read as follows:

23 § 2. This act shall take effect immediately provided, however, that
24 section one of this act shall expire on July 1, [~~2024~~] 2025, at which
25 time the provisions of subdivision 26 of section 5 of the New York state
26 urban development corporation act shall be deemed repealed; provided,
27 however, that neither the expiration nor the repeal of such subdivision
28 as provided for herein shall be deemed to affect or impair in any manner
29 any loan made pursuant to the authority of such subdivision prior to
30 such expiration and repeal.

31 § 2. This act shall take effect immediately.

32 PART BB

33 Section 1. Section 4 of chapter 495 of the laws of 2004, amending the
34 insurance law and the public health law relating to the New York state
35 health insurance continuation assistance demonstration project, as
36 amended by section 1 of part U of chapter 58 of the laws of 2023, is
37 amended to read as follows:

38 § 4. This act shall take effect on the sixtieth day after it shall
39 have become a law; provided, however, that this act shall remain in
40 effect until July 1, [~~2024~~] 2025 when upon such date the provisions of
41 this act shall expire and be deemed repealed; provided, further, that a
42 displaced worker shall be eligible for continuation assistance retroac-
43 tive to July 1, 2004.

44 § 2. This act shall take effect immediately.

45 PART CC

46 Intentionally Omitted

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PART DD

Intentionally Omitted

PART EE

Section 1. Subparagraph (B) of paragraph 15-a of subsection (i) of section 3216 of the insurance law, as amended by section 1 of part DDD of chapter 56 of the laws of 2020, is amended to read as follows:

(B) Such coverage may be subject to annual deductibles and coinsurance as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy; provided, however, [~~the total amount~~] that [~~a covered person is required to pay out of pocket for~~] covered prescription insulin drugs shall [~~be capped at an amount not to exceed one hundred dollars per thirty day supply, regardless of the amount or type of insulin needed to fill such covered person's prescription and regardless of the insured's~~] not be subject to a deductible, copayment, coinsurance or any other cost sharing requirement.

§ 2. Subparagraph (B) of paragraph 7 of subsection (k) of section 3221 of the insurance law, as amended by section 2 of part DDD of chapter 56 of the laws of 2020, is amended to read as follows:

(B) Such coverage may be subject to annual deductibles and coinsurance as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy; provided, however, [~~the total amount~~] that [~~a covered person is required to pay out of pocket for~~] covered prescription insulin drugs shall [~~be capped at an amount not to exceed one hundred dollars per thirty day supply, regardless of the amount or type of insulin needed to fill such covered person's prescription and regardless of the insured's~~] not be subject to a deductible, copayment, coinsurance or any other cost sharing requirement.

§ 3. Paragraph 2 of subsection (u) of section 4303 of the insurance law, as amended by section 3 of part DDD of chapter 56 of the laws of 2020, is amended to read as follows:

(2) Such coverage may be subject to annual deductibles and coinsurance as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy; provided, however, [~~the total amount~~] that [~~a covered person is required to pay out of pocket for~~] covered prescription insulin drugs shall [~~be capped at an amount not to exceed one hundred dollars per thirty day supply, regardless of the amount or type of insulin needed to fill such covered person's prescription and regardless of the insured's~~] not be subject to a deductible, copayment, coinsurance or any other cost sharing requirement.

§ 4. This act shall take effect January 1, 2025 and shall apply to any policy or contract issued, renewed, modified, altered, or amended on or after such date.

PART FF

Intentionally Omitted

PART GG

1 Intentionally Omitted

2 PART HH

3 Intentionally Omitted

4 PART II

5 Intentionally Omitted

6 PART JJ

7 Intentionally Omitted

8 PART KK

9 Section 1. Section 4 of part WW of chapter 56 of the laws of 2022
10 amending the public officers law relating to permitting videoconferenc-
11 ing and remote participation in public meetings under certain circum-
12 stances, is amended to read as follows:

13 § 4. This act shall take effect immediately and shall expire and be
14 deemed repealed July 1, [~~2024~~] 2026.

15 § 2. This act shall take effect immediately.

16 PART LL

17 Section 1. Paragraph 2 of subsection (f) of section 1308 of the insur-
18 ance law, as amended by section 2 of chapter 802 of the laws of 1985, is
19 amended to read as follows:

20 (2) Any domestic life insurance company proposing to assume by rein-
21 surance all or any part of the business in force, other than portions of
22 individual risks, of any domestic, foreign or alien life insurance
23 company, fraternal benefit society or other organization having
24 outstanding policies or certificates of life insurance or accident and
25 health insurance or annuity contracts shall make written application to
26 the superintendent for permission to do so. If after due consideration
27 the superintendent is satisfied that the proposed reinsurance will not
28 prejudice the interests of the policyholders of either the applicant or
29 the companies [~~which~~] that are members of The Life Insurance Guaranty
30 Corporation or of The Life and Health Insurance Company Guaranty Corpo-
31 ration of New York, [~~he~~] the superintendent shall grant the permission.

32 § 2. Paragraph 1 of subsection (a) of section 7434 of the insurance
33 law, as amended by chapter 134 of the laws of 1999, is amended to read
34 as follows:

35 (1) Upon the recommendation of the superintendent, and under the
36 direction of the court, distribution payments shall be made in a manner
37 that will assure the proper recognition of priorities and a reasonable
38 balance between the expeditious completion of the liquidation and the
39 protection of unliquidated and undetermined claims. The priority of
40 distribution of claims from an insolvent [~~property/casualty~~] insurer
41 other than a life insurer in any proceeding subject to this article
42 shall be in accordance with the order in which each class of claims is

1 set forth in this paragraph and as provided in this paragraph. Every
2 claim in each class shall be paid in full or adequate funds retained for
3 such payment before the members of the next class receive any payment.
4 No subclasses shall be established within any class. No claim by a
5 shareholder, policyholder or other creditor shall be permitted to
6 circumvent the priority classes through the use of equitable remedies.
7 The order of distribution of claims shall be:

8 [~~(i)~~] (A) Class one. Claims with respect to the actual and necessary
9 costs and expenses of administration, incurred by the liquidator, reha-
10 bilitator or conservator under this article.

11 [~~(ii)~~] (B) Class two. All claims under policies including such claims
12 of the federal or any state or local government for losses incurred,
13 third party claims, claims for unearned premiums, and all claims of a
14 security fund, guaranty association or the equivalent except claims
15 arising under reinsurance contracts.

16 [~~(iii)~~] (C) Class three. Claims of the federal government except those
17 under class two above.

18 [~~(iv)~~] (D) Class four. Claims for wages owing to employees of an
19 insurer against whom a proceeding under this article is commenced for
20 services rendered within one year before commencement of the proceeding,
21 not exceeding one thousand two hundred dollars to each employee, and
22 claims for unemployment insurance contributions required by article
23 eighteen of the labor law. Such priority shall be in lieu of any other
24 similar priority which may be authorized by law.

25 [~~(v)~~] (E) Class five. Claims of state and local governments except
26 those under class two above.

27 [~~(vi)~~] (F) Class six. Claims of general creditors including, but not
28 limited to, claims arising under reinsurance contracts.

29 [~~(vii)~~] (G) Class seven. Claims filed late or any other claims other
30 than claims under class eight or class nine below.

31 [~~(viii)~~] (H) Class eight. Claims for advanced or borrowed funds made
32 pursuant to section one thousand three hundred seven of this chapter.

33 [~~(ix)~~] (I) Class nine. Claims of shareholders or other owners in their
34 capacity as shareholders.

35 § 3. Paragraphs 1 and 4 of subsection (a) of section 7435 of the
36 insurance law, as added by chapter 802 of the laws of 1985, are amended
37 to read as follows:

38 (1) Class one. Claims with respect to the actual and necessary costs
39 and expenses of administration, incurred by the liquidator, rehabilita-
40 tor, conservator or ancillary rehabilitator under this article, or by
41 The Life Insurance Guaranty Corporation or The Life and Health Insurance
42 Company Guaranty Corporation of New York, and claims described in
43 subsection (d) of section seven thousand seven hundred thirteen of this
44 chapter.

45 (4) Class four. All claims under insurance policies, annuity contracts
46 and funding agreements, and all claims of The Life and Health Insurance
47 Company Guaranty Corporation of New York or any other guaranty corpo-
48 ration or association of this state or another jurisdiction, other than
49 [~~(i)~~] claims provided for in paragraph one of this subsection[~~r~~] and
50 [~~(ii)~~] claims for interest.

51 § 4. Paragraph 2 of subsection (c) of section 7709 of the insurance
52 law, as amended by section 10 of subpart D of part Y of chapter 57 of
53 the laws of 2023, is amended to read as follows:

54 (2) The amount of any class B or class C assessment, except for
55 assessments related to long-term care insurance, shall be allocated for
56 assessment purposes among the accounts in the proportion that the premi-

1 ums received by the impaired or insolvent insurer on the policies or
2 contracts covered by each account for the last calendar year preceding
3 the assessment in which the impaired or insolvent insurer received
4 premiums bears to the premiums received by such insurer for such calen-
5 dar year on all covered policies. The amount of any class B or class C
6 assessment for long-term care insurance written by the impaired or
7 insolvent insurer shall be allocated according to a methodology included
8 in the plan of operation and approved by the superintendent. The meth-
9 odology shall provide for fifty percent of the assessment to be allo-
10 cated to health insurance company member insurers and fifty percent to
11 be allocated to life insurance company member insurers; provided, howev-
12 er, that a property/casualty insurer that writes health insurance shall
13 be considered a health insurance company member for this purpose. Class
14 B and class C assessments against member insurers for each account shall
15 be in the proportion that the premiums received on business in this
16 state by each assessed member insurer on policies covered by each
17 account for the three calendar years preceding the assessment bears to
18 such premiums received on business in this state for such calendar years
19 by all assessed member insurers. Class B and Class C assessments
20 against member insurers for the health insurance account shall be
21 further reduced for not-for-profit member insurers pursuant to a method-
22 ology included in the plan of operation and approved by the superinten-
23 dent. Such methodology shall reduce the assessments imposed on not-for-
24 profit member insurers in an amount that, when accounting for
25 appropriate factors, including the value of the tax credits and a factor
26 for the time value of money, results in a percentage of net assessments
27 to premiums that is equivalent for not-for-profit member insurers and
28 for-profit member insurers.

29 § 5. Section 7712 of the insurance law, as added by chapter 802 of the
30 laws of 1985, subsection (a) as amended by section 11 of subpart D of
31 part Y of chapter 57 of the laws of 2023, is amended to read as follows:

32 § 7712. Credits for assessments paid. (a) The superintendent shall
33 annually[~~, within six months following the close of each calendar year,~~
34 ~~furnish to the commissioner of taxation and finance and the director of~~
35 ~~the division of the budget a statement of operations for the life insur-~~
36 ~~ance guaranty corporation and the life and health insurance company~~
37 ~~guaranty corporation of New York. Such statement shall show the assess-~~
38 ~~ments, less any refunds or reimbursements thereof, paid by each insur-~~
39 ~~ance company pursuant to the provisions of article seventy-five or]~~
40 issue a certificate of tax credit for net class A assessments paid, and
41 a separate certificate of tax credit for total net class B and class C
42 assessments paid, as such assessments are described in section seven
43 thousand seven hundred nine of this article, [~~for the purposes of meet-~~
44 ~~ing the requirements of this chapter. Each statement, starting with the~~
45 ~~statement furnished in the year nineteen hundred eighty-six and ending~~
46 ~~with the statement furnished in the year two thousand, shall show the~~
47 ~~annual activity for every year commencing from nineteen hundred eighty-~~
48 ~~five through the most recently completed year. Each statement furnished~~
49 ~~in each year after the year two thousand shall reflect such assessments~~
50 ~~paid during the preceding fifteen calendar years. The superintendent~~
51 ~~shall also furnish a copy of such statement to each such] to an insur-
52 ance company that is required to file a tax return pursuant to article
53 thirty-three of the tax law. The superintendent shall issue such
54 certificates by March thirty-first of the year following the year in
55 which the class A, B, and C assessments are paid or to which they are
56 allocated pursuant to the provisions of subsection (c) of this section.~~

1 For the purposes of this section, an insurance company's "net class A
2 assessments paid" shall mean its gross class A assessments paid pursuant
3 to the provisions of article seventy-five or section seven thousand
4 seven hundred nine of this article, less any refunds, recoveries, or
5 reimbursements, and an insurance company's "total net class B and class
6 C assessments paid" shall mean its gross class B and class C assessments
7 paid pursuant to the provisions of article seventy-five or section seven
8 thousand seven hundred nine of this article, less any refunds, recov-
9 eries, or reimbursements.

10 (b) The ~~[maximum authorized]~~ certificates of tax credit ~~[for each~~
11 ~~company in respect of the assessments paid during the most recent calen-~~
12 ~~dar year covered by such statement]~~ shall ~~[be]~~ set forth the amount of
13 tax credit an insurance company may claim as follows:

14 (1) ~~[if the sum of the net assessments paid by all companies in the~~
15 ~~period reported on in the statement of operations required to be~~
16 ~~furnished by the superintendent pursuant to the provisions of subsection~~
17 ~~(a) of this section is less than one hundred million dollars, no such~~
18 ~~credits shall be authorized]~~ for net class A assessments, the eligible
19 credit amount shall be equal to the product of eighty per centum and the
20 company's net class A assessments paid; and

21 (2) ~~[(A) if the sum of such net assessments exceeds one hundred~~
22 ~~million dollars, the maximum authorized credit for each company with~~
23 ~~respect to net assessments paid by such company in any year shall be the~~
24 ~~excess, if any, of (i) over (ii), where (i) is the sum of such company's~~
25 ~~tentative cross-over year credit and its tentative credits for subse-~~
26 ~~quent years, both as determined pursuant to subparagraphs (B) and (C) of~~
27 ~~this paragraph, and (ii) is the sum of the maximum credits theretofore~~
28 ~~authorized for the years covered by such statement, to and including the~~
29 ~~most recently completed year, determined with reference to the periods~~
30 ~~covered by all prior such statements.~~

31 ~~(B) Such company's tentative cross-over year credit shall be eighty~~
32 ~~per centum of the product of (i) and (ii), where (i) is the sum of~~
33 ~~assessments paid by such company during the cross-over year, and (ii) is~~
34 ~~a fraction, the numerator of which is the excess over one hundred~~
35 ~~million dollars of the sum of net assessments paid by all companies~~
36 ~~during such period and the denominator of which is the sum of net~~
37 ~~assessments paid by such companies during the cross-over year. For~~
38 ~~purposes of this paragraph, the cross-over year is the first year during~~
39 ~~the period covered by such statement in which the net assessments paid~~
40 ~~by all companies during such period exceeded one hundred million dollars~~
41 ~~in whole or in part.~~

42 ~~(C) Such company's tentative credit for each year subsequent to the~~
43 ~~cross-over year shall be eighty per centum of the net assessments paid~~
44 ~~by such company during such year.~~

45 (3) ~~For the purposes of this section, net assessments means gross~~
46 ~~assessments, less any recoveries or reimbursements, paid during the~~
47 ~~period covered by the most recent statement of operations furnished by~~
48 ~~the superintendent pursuant to the provisions of subsection (a) of this~~
49 ~~section]~~ for total net class B and class C assessments, the eligible
50 credit amount shall be equal to the product of eighty per centum and the
51 company's total net class B and class C assessments paid, subject to
52 subsection (c) of this section.

53 (c)(1) The aggregate amount of tax credits pursuant to this section
54 for total net class B and class C assessments in each calendar year
55 shall not exceed one hundred fifty million dollars. The aggregate tax
56 credit amount shall be allocated annually by the superintendent on a pro

1 rata basis to each company required to file a tax return pursuant to
2 article thirty-three of the tax law.

3 (2) The superintendent shall allocate any tax credit amount that
4 exceeds the annual credit cap of one hundred fifty million dollars to
5 the following calendar year and include such amount within the calcu-
6 lation of the eligible credit amount subject to the aggregate credit
7 amount for the succeeding calendar year by the superintendent.

8 (3) For companies issued a certificate of tax credit for total net
9 class B and class C assessments, such annual certificate shall set forth
10 an amount equal to thirty-three and one-third per centum of the amount
11 calculated under subsection (b) of this section and allocated pursuant
12 to paragraph one of this subsection. The amount on the certificate of
13 tax credit shall be eligible to be claimed in the taxable year that
14 begins in the calendar year that such certificate is issued. Thirty-
15 three and one-third per centum of such amount shall be eligible to be
16 claimed in each of the two taxable years following such taxable year.

17 (d)(1) The superintendent shall, in consultation with the commissioner
18 of taxation and finance, develop a certificate of tax credit for net
19 class A assessments, and a certificate of tax credit for total net class
20 B and class C assessments. Each certificate shall contain such informa-
21 tion as required by the commissioner of taxation and finance, including
22 a certificate date.

23 (2) The superintendent shall solely determine the tax credit eligibil-
24 ity of any insurance company and shall revoke any certificate of tax
25 credit issued to an insurance company that no longer qualifies for a tax
26 credit. The superintendent shall modify the amount of the credit shown
27 on any such certificate if the superintendent determines that the amount
28 certified under subsection (b) of this section was not computed properly
29 pursuant to this section.

30 (3) To be issued a certificate of tax credit by the superintendent,
31 each insurance company shall:

32 (A) agree to allow the department of taxation and finance to share the
33 insurance company's tax information relevant to the administration of
34 this section with the superintendent. However, any information shared
35 with the superintendent as a result of this section shall not be avail-
36 able for public disclosure or inspection under article six of the public
37 officers law;

38 (B) allow the superintendent and the corporation access to any and all
39 books and records the superintendent or corporation may require to moni-
40 tor compliance with this section; and

41 (C) agree to provide any additional information required by the super-
42 intendent relevant to this section.

43 § 6. Subdivision (f) of section 1511 of the tax law, as amended by
44 chapter 803 of the laws of 1985, paragraph 1 as amended by chapter 217
45 of the laws 2012, subparagraph (B) of paragraph 3 as further amended by
46 section 104 of part A of chapter 62 of the laws of 2011 and paragraph 5
47 as amended by section 9 of part H3 of chapter 62 of the laws of 2003, is
48 amended to read as follows:

49 (f) Credit relating to life and health insurance guaranty corporation
50 assessments. [A] (1) Allowance of credit. For taxable years beginning
51 on or after January first, two thousand twenty-four, a credit shall be
52 allowed against the tax imposed pursuant to this article (other than
53 section fifteen hundred five-a of this article)[, for a portion of the
54 assessments paid by a taxpayer pursuant to article seventy-five or
55 section seven thousand seven hundred nine of the insurance law. The

1 ~~credit shall be determined in accordance with the following provisions]~~
2 as hereinafter provided.

3 ~~[(1)]~~ (2) Amount of credit. The ~~[maximum authorized]~~ amount of the
4 credit for each taxpayer shall [be determined as provided in] equal the
5 amount shown on the certificate of tax credit, or the amounts shown on
6 such certificates, issued to such taxpayer pursuant to section seven
7 thousand seven hundred twelve of the insurance law. With respect to
8 each such certificate, the amount of the credit must be claimed in the
9 taxable year that begins in the calendar year that such certificate is
10 issued.

11 ~~[(2) Thirty three and one third per centum of the maximum authorized~~
12 ~~credit for the second calendar year preceding the taxable year, plus any~~
13 ~~amount carried forward under subparagraph (C) of paragraph three of this~~
14 ~~subdivision or paragraph four of this subdivision, shall be allowed as a~~
15 ~~credit under this subdivision for such taxable year, and thirty three~~
16 ~~and one third per centum of such maximum authorized credit for such~~
17 ~~second preceding calendar year, plus any amount carried forward under~~
18 ~~subparagraph (C) of this subdivision or paragraph four of this subdivi-~~
19 ~~sion, shall be allowed in each of the two taxable years following such~~
20 ~~taxable year.]~~

21 ~~(3) [(A) For each calendar year for which a credit has been authorized~~
22 ~~pursuant to section seven thousand seven hundred twelve of the insurance~~
23 ~~law, the commissioner of taxation and finance shall determine the total~~
24 ~~tax liability of all life insurance corporations under this article,~~
25 ~~other than under section fifteen hundred five-a of this article, before~~
26 ~~the application of any credits allowed pursuant to this section, for~~
27 ~~taxable years beginning in such calendar year. Such total tax liability~~
28 ~~shall be published in the state register on or before the thirtieth day~~
29 ~~of September of the next succeeding calendar year.~~

30 ~~(B) The credit allowed under paragraph two of this subdivision for~~
31 ~~each taxpayer shall not exceed the product of (x) and (y) where (x) is a~~
32 ~~fraction, the numerator of which is the sum of the gross assessments~~
33 ~~paid by the particular taxpayer during the calendar year for which the~~
34 ~~credit has been authorized and the denominator of which is the sum of~~
35 ~~the gross assessments paid by all companies during such year, both as~~
36 ~~shown in the most recent statement of operations furnished by the super-~~
37 ~~intendent of financial services under subsection (a) of section seven~~
38 ~~thousand seven hundred twelve of the insurance law and both the numera-~~
39 ~~tor and denominator being reduced, as appropriate, by any refunds or~~
40 ~~reimbursements and (y) is the greater of (i) forty per centum of the~~
41 ~~total tax liability published by the commissioner pursuant to subpara-~~
42 ~~graph (A) of this paragraph and (ii) forty million dollars.~~

43 ~~(C) The amount by which the allowable credit computed without refer-~~
44 ~~ence to the limitation contained in subparagraph (B) of this paragraph~~
45 ~~exceeds the allowable credit for such taxable year shall be carried~~
46 ~~forward as a credit under paragraph two of this subdivision.~~

47 ~~(D) With respect to estimated taxes payable under section fifteen~~
48 ~~hundred fourteen of this article any increase in estimated taxes due to~~
49 ~~the limitation imposed by this paragraph shall be deemed timely paid if~~
50 ~~paid on or before the fifteenth day of December next following the date~~
51 ~~specified in subparagraph (A) of this paragraph.]~~ Carryover. The credit
52 allowed under this subdivision for any taxable year shall not reduce the
53 tax due for such year to less than the minimum fixed by paragraph four
54 of subdivision (a) of section fifteen hundred two of this article or
55 section fifteen hundred two-a of this article, whichever is applicable.
56 However, if the amount of credit allowable under this subdivision for

1 any taxable year reduces the tax to such amount, any amount of credit
2 not deductible in such taxable year may be carried over to the following
3 year or years and may be deducted from the taxpayer's tax for such year
4 or years.

5 ~~(4) [If for any taxable year the credits allowable under paragraph two~~
6 ~~of this subdivision determined without regard to this paragraph exceed~~
7 ~~the taxpayer's liability for taxes under this article for the taxable~~
8 ~~year after the allowance of all other credits under this section, then~~
9 ~~the sum of two hundred fifty dollars and the amount by which such cred-~~
10 ~~its under this subdivision exceed such tax liability shall be carried~~
11 ~~forward as a credit under paragraph two of this subdivision for the~~
12 ~~taxable year next following.] Eligibility. To be eligible for the cred-~~

13 it, the taxpayer shall have been issued a certificate, or certificates,
14 of tax credit by the department of financial services pursuant to
15 section seven thousand seven hundred twelve of the insurance law, each
16 of which certificates shall set forth the amount of the credit that may
17 be claimed and the certificate date. A taxpayer that is a partner in a
18 partnership, member of a limited liability company or shareholder in a
19 subchapter S corporation that has received a certificate, or certif-
20 icates, of tax credit shall be allowed its pro rata share of the credit
21 earned by the partnership, limited liability company or subchapter S
22 corporation.

23 ~~(5) [No credit allowed pursuant to this subdivision shall reduce the~~
24 ~~tax payable by any taxpayer under this article for any taxable year to~~
25 ~~an amount less than the minimum tax fixed by paragraph four of subdivi-~~
26 ~~sion (a) of section fifteen hundred two of this article or section~~
27 ~~fifteen hundred two-a of this article, whichever is applicable.] Tax~~
28 return requirement. The taxpayer is required to include with its tax
29 return in the form prescribed by the commissioner, proof of receipt of
30 its certificate, or certificates, of tax credit issued by the department
31 of financial services.

32 (6) Information sharing. Notwithstanding any provision of this chap-
33 ter, employees of the department of financial services and the depart-
34 ment shall be allowed and are directed to share and exchange:

35 (A) information regarding the credit allowed or claimed pursuant to
36 this subdivision and taxpayers that are claiming the credit; and

37 (B) information contained in or derived from credit claim forms
38 submitted to the department. All information exchanged between the
39 department of financial services and the department shall not be subject
40 to public disclosure or inspection under article six of the public offi-
41 cers law.

42 (7) Credit recapture. If a certificate of tax credit issued by the
43 department of financial services under section seven thousand seven
44 hundred twelve of the insurance law is revoked by such department, the
45 amount of credit described in this subdivision and claimed by the
46 taxpayer prior to such revocation shall be added back to tax in the
47 taxable year in which any such revocation becomes final. If an amount of
48 credit on any such certificate of tax credit is modified by the depart-
49 ment of financial services, the difference between the amount of credit
50 described in this subdivision and claimed by the taxpayer prior to such
51 modification and the modified amount shall be added back to tax in the
52 taxable year in which any such modification becomes final.

53 (8) Net assessments. No amount of any net assessments paid by such
54 taxpayer included as the basis for the calculation of the amount shown
55 on any such certificate shall be the basis for any other tax credit
56 under this chapter.

1 § 7. Notwithstanding the provisions of sections one through six of
2 this act, in 2024, for the calendar year 2023, the superintendent of
3 financial services shall furnish the statement of operations for the
4 life insurance guaranty corporation and the life and health insurance
5 company guaranty corporation of New York as provided in subsection (a)
6 of section 7712 of the insurance law, as such provision of law was in
7 effect immediately prior to the effective date of this act.

8 § 8. Notwithstanding the provisions of sections one through seven of
9 this act, an insurance company allowed a tax credit pursuant to section
10 7712 of the insurance law and subdivision (f) of section 1511 of the tax
11 law, as such provisions of law were in effect immediately prior to the
12 effective date of this act, shall continue to be allowed the credit
13 relating to life insurance guaranty corporation assessments under such
14 subdivision (f), for assessments paid on or before December 31, 2023, as
15 follows:

16 (i) any amount of such credit that has not been claimed in a taxable
17 year beginning before January 1, 2024 shall be allowed as a credit
18 against the tax imposed pursuant to article 33 of the tax law, other
19 than section 1505-a of such article, in the taxable year beginning on or
20 after such date; and

21 (ii) any amount of credit allowed pursuant to the previous paragraph
22 shall be subject to the carryover provision of paragraph 3 of subdivi-
23 sion (f) of section 1511 of the tax law, as such subdivision has been
24 amended by section six of this act.

25 § 9. This act shall take effect immediately and shall apply to taxable
26 years beginning on or after January 1, 2024.

27 PART MM

28 Section 1. Short title. This act shall be known and may be cited as
29 the "artificial intelligence deceptive practices act".

30 § 2. This act enacts into law major components of legislation neces-
31 sary to implement the artificial intelligence deceptive practices act.
32 Each component is wholly contained within a Subpart identified as
33 Subparts A through B. The effective date for each particular provision
34 contained within such Subpart is set forth in the last section of such
35 Subpart. Any provision in any section contained within a Subpart,
36 including the effective date of the Subpart, which makes a reference to
37 a section "of this act", when used in connection with that particular
38 component, shall be deemed to mean and refer to the corresponding
39 section of the Subpart in which it is found. Section four of this act
40 sets forth the general effective date of this act.

41 SUBPART A

42 Section 1. Section 50 of the civil rights law is amended to read as
43 follows:

44 § 50. Right of privacy. A person, firm or corporation that uses for
45 advertising purposes, or for the purposes of trade, the name, portrait
46 [~~or~~], picture, likeness, or voice of any living person without having
47 first obtained the written consent of such person, or if a minor of [~~his~~
48 ~~or her~~] such minor's parent or guardian, is guilty of a misdemeanor.

49 § 2. Section 51 of the civil rights law, as amended by chapter 674 of
50 the laws of 1995, is amended to read as follows:

51 § 51. Action for injunction and for damages. Any person whose name,
52 portrait, picture, likeness or voice is used within this state for

1 advertising purposes or for the purposes of trade without the written
2 consent first obtained as above provided may maintain an equitable
3 action in the supreme court of this state against the person, firm or
4 corporation so using [~~his~~] such person's name, portrait, picture, like-
5 ness or voice, to prevent and restrain the use thereof; and may also sue
6 and recover damages for any injuries sustained by reason of such use and
7 if the defendant shall have knowingly used such person's name, portrait,
8 picture, likeness or voice in such manner as is forbidden or declared to
9 be unlawful by section fifty of this article, the jury, in its
10 discretion, may award exemplary damages. But nothing contained in this
11 article shall be so construed as to prevent any person, firm or corpo-
12 ration from selling or otherwise transferring any material containing
13 such name, portrait, picture, likeness or voice in whatever medium to
14 any user of such name, portrait, picture, likeness or voice, or to any
15 third party for sale or transfer directly or indirectly to such a user,
16 for use in a manner lawful under this article; nothing contained in this
17 article shall be so construed as to prevent any person, firm or corpo-
18 ration, practicing the profession of photography, from exhibiting in or
19 about [~~his or its~~] their establishment specimens of the work of such
20 establishment, unless the same is continued by such person, firm or
21 corporation after written notice objecting thereto has been given by the
22 person portrayed; and nothing contained in this article shall be so
23 construed as to prevent any person, firm or corporation from using the
24 name, portrait, picture, likeness or voice of any manufacturer or dealer
25 in connection with the goods, wares and merchandise manufactured,
26 produced or dealt in by [~~him~~] such manufacturer or dealer which [~~he has~~]
27 they have sold or disposed of with such name, portrait, picture, like-
28 ness or voice used in connection therewith; or from using the name,
29 portrait, picture, likeness or voice of any author, composer or artist
30 in connection with [~~his~~] their literary, musical or artistic productions
31 which [~~he has~~] they have sold or disposed of with such name, portrait,
32 picture, likeness or voice used in connection therewith. Nothing
33 contained in this section shall be construed to prohibit the copyright
34 owner of a sound recording from disposing of, dealing in, licensing or
35 selling that sound recording to any party, if the right to dispose of,
36 deal in, license or sell such sound recording has been conferred by
37 contract or other written document by such living person or the holder
38 of such right. Nothing contained in the foregoing sentence shall be
39 deemed to abrogate or otherwise limit any rights or remedies otherwise
40 conferred by federal law or state law.

41 § 3. The opening paragraph of subdivision 1 and subdivisions 4 and 5
42 of section 52-b of the civil rights law, as added by chapter 109 of the
43 laws of 2019, are amended and a new subdivision 11 is added to read as
44 follows:

45 Any person depicted in a still or video image, including an image
46 created or altered by digitization, regardless of whether or not the
47 original still or video image was consensually obtained, shall have a
48 cause of action against an individual who, for the purpose of harassing,
49 annoying or alarming such person, disseminated or published, or threat-
50 ened to disseminate or publish, such still or video image, where such
51 image:

52 4. Any person depicted in a still or video image, including an image
53 created or altered by digitization, that depicts an unclothed or exposed
54 intimate part of such person, or such person engaging in sexual conduct
55 as defined in subdivision ten of section 130.00 of the penal law with
56 another person, which is disseminated or published without the consent

1 of such person and where such person had a reasonable expectation that
2 the image would remain private, may maintain an action or special
3 proceeding for a court order to require any website that is subject to
4 personal jurisdiction under subdivision five of this section to perma-
5 nently remove such still or video image; any such court order granted
6 pursuant to this subdivision may direct removal only as to images that
7 are reasonably within such website's control.

8 5. a. Any website that hosts or transmits a still or video image,
9 including an image created or altered by digitization, viewable in this
10 state, taken under circumstances where the person depicted had a reason-
11 able expectation that the image would remain private, which depicts:

12 (i) an unclothed or exposed intimate part, as defined in section
13 245.15 of the penal law, of a resident of this state; or

14 (ii) a resident of this state engaging in sexual conduct as defined in
15 subdivision ten of section 130.00 of the penal law with another person;
16 and

17 b. Such still or video image is hosted or transmitted without the
18 consent of such resident of this state, shall be subject to personal
19 jurisdiction in a civil action in this state to the maximum extent
20 permitted under the United States constitution and federal law.

21 11. For purposes of this section, "digitization" means the use of
22 software, machine learning, artificial intelligence, or any other compu-
23 ter-generated or technological means, including adapting, modifying,
24 manipulating, or altering a realistic depiction.

25 § 4. Paragraphs b and e of subdivision 1 of section 52-c of the civil
26 rights law, as added by chapter 304 of the laws of 2020, are amended to
27 read as follows:

28 b. "digitization" means to realistically depict the nude body parts of
29 another human being as the nude body parts of the depicted individual,
30 computer-generated nude body parts as the nude body parts of the
31 depicted individual or the depicted individual engaging in sexual
32 conduct, as defined in subdivision ten of section 130.00 of the penal
33 law, in which the depicted individual did not engage. "Digitization"
34 may also mean the use of software, machine learning, artificial intelli-
35 gence, or any other computer-generated or technological means, including
36 adapting, modifying, manipulating, or altering a realistic depiction.

37 e. "sexually explicit material" means any portion of an audio visual
38 work that shows the depicted individual:

39 i. performing in the nude, meaning with an unclothed or exposed inti-
40 mate part, as defined in section 245.15 of the penal law[~~7-08~~];

41 ii. appearing to engage in, or being subjected to, sexual conduct, as
42 defined in subdivision ten of section 130.00 of the penal law[~~7~~]; or

43 iii. posed in a manner intended to elicit sexual arousal or gratifi-
44 cation and where a person would have a reasonable expectation of priva-
45 cy.

46 § 5. This act shall take effect immediately.

47 SUBPART B

48 Section 1. Section 14-106 of the election law is amended by adding two
49 new subdivisions 5 and 6 to read as follows:

50 5. (a) For purposes of this subdivision:

51 (i) "Materially deceptive media" means any image, video, audio, text,
52 or any technological representation of speech or conduct fully or
53 partially created or modified that:

1 (1) exhibits a high level of authenticity or convincing appearance
2 that is visually or audibly indistinguishable from reality to a reason-
3 able person;

4 (2) depicts a scenario that did not actually occur or that has been
5 altered in a significant way from how they actually occurred; and

6 (3) is created by or with software, machine learning, artificial
7 intelligence, or any other computer-generated or technological means,
8 including adapting, modifying, manipulating, or altering a realistic
9 depiction.

10 (ii) "Information content provider" means any person or entity that is
11 responsible, in whole or in part, for the creation or development of
12 information provided through the Internet or any other interactive
13 computer service.

14 (b) (i) A person, firm, association, corporation, campaign, committee,
15 or organization that distributes or publishes any political communi-
16 cation that was produced by or includes materially deceptive media and
17 knows or should know that it is materially deceptive shall be required
18 to disclose this use.

19 (ii) (1) For visual media the disclosure shall be printed or typed in
20 a legible font size easily readable by the average viewer that is no
21 smaller than other text appearing in the visual media and in the same
22 language used on the communication to read as follows: "This (image,
23 video, or audio) has been manipulated".

24 (2) For communication that is auditory, such as radio or automated
25 telephone calls, clearly speaking the statement at the beginning of the
26 audio, at the end of the audio, and, if the audio is greater than two
27 minutes in length, interspersed within the audio at intervals of not
28 greater than two minutes each and in the same language as the rest of
29 the audio used in the communication, and in a pitch that can be easily
30 heard by the average listener satisfies the requirements of clause one
31 of this subparagraph.

32 (iii) This paragraph shall not apply to the following:

33 (1) materially deceptive media that constitutes satire or parody;

34 (2) materially deceptive media created for the purposes of bona fide
35 news reporting when the required disclosure is included; or

36 (3) initial dissemination by a platform or service including, but not
37 limited to, a website, regularly published newspaper, or magazine, where
38 the content disseminated is materially deceptive media provided by
39 another information content provider when a good faith effort has been
40 made to establish that the depiction is not materially deceptive
41 media.

42 (iv) A candidate whose voice or likeness appears in materially decep-
43 tive media in violation of this subdivision may seek reasonable court
44 costs and attorneys' fees and injunctive relief prohibiting the
45 distribution, publication or broadcasting of any materially deceptive
46 media in violation of this subdivision against such individual or entity
47 who disseminated or published such media without the consent of the
48 person depicted and who knew or should have known that it was mate-
49 rially deceptive. An action under this paragraph shall be initiated by
50 filing an application for an order to show cause in the supreme court
51 where the materially deceptive media at issue could deceive and influ-
52 ence electors in an upcoming election. Such action shall be entitled to
53 an automatic calendar preference and be subject to expedited pretrial
54 and trial proceedings.

1 (v) In any action alleging a violation of this subdivision in which
2 a plaintiff seeks preliminary relief with respect to an upcoming
3 election, the court shall grant relief if it determines that:

4 (A) plaintiffs are more likely than not to succeed on the merits; and
5 (B) it is possible to implement an appropriate remedy that would
6 resolve the alleged violation in the upcoming election.

7 (vi) In any action commenced under this subdivision, the plaintiff
8 bears the burden of establishing the use of materially deceptive media
9 by clear and convincing evidence.

10 6. Nothing in this section shall be construed to limit, or to enlarge,
11 the protections that 47 U.S.C. § 230 confers on an interactive computer
12 service for content provided by another information content provider, as
13 such terms are defined in 47 U.S.C. § 230.

14 § 2. This act shall take effect immediately.

15 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-
16 sion, section, subpart or part of this act shall be adjudged by any
17 court of competent jurisdiction to be invalid, such judgment shall not
18 affect, impair, or invalidate the remainder thereof, but shall be
19 confined in its operation to the clause, sentence, paragraph, subdivi-
20 sion, section, subpart or part thereof directly involved in the contro-
21 versy in which such judgment shall have been rendered. It is hereby
22 declared to be the intent of the legislature that this act would have
23 been enacted even if such invalid provisions had not been included here-
24 in.

25 § 4. This act shall take effect immediately provided, however, that
26 the applicable effective date of Subparts A through B of this act shall
27 be as specifically set forth in the last section of such Subparts.

28 PART NN

29 Section 1. Section 2328 of the insurance law, as amended by chapter
30 182 of the laws of 2023, is amended to read as follows:

31 § 2328. Certain motor vehicle insurance rates; prior approval. [~~For~~
32 ~~the periods February first, nineteen hundred seventy-four through August~~
33 ~~second, two thousand one, and the effective date of the~~
34 ~~property/casualty insurance availability act through June thirtieth, two~~
35 ~~thousand twenty six, no] No changes in rates, rating plans, rating rules
36 and rate manuals applicable to motor vehicle insurance, including
37 no-fault coverages under article fifty-one of this chapter, shall be
38 made effective until approved by the superintendent, notwithstanding any
39 inconsistent provisions of this article[~~, provided, however, that chang-~~
40 ~~es in such rates, rating plans, rating rules and rate manuals may be~~
41 ~~made effective without such approval if the rates that result from such~~
42 ~~changes are no higher than the insurer's rates last approved by the~~
43 ~~superintendent]. This section shall apply only to policies covering
44 losses or liabilities arising out of ownership of a motor vehicle used
45 principally for the transportation of persons for hire, including a bus
46 or a school bus as defined in sections one hundred four and one hundred
47 forty-two of the vehicle and traffic law.~~~~

48 § 2. This act shall take effect immediately.

49 PART OO

50 Section 1. Subdivision 20 of section 16-e of section 1 of chapter 174
51 of the laws of 1968, constituting the New York state urban development

1 corporation act, is amended by adding a new paragraph (f) to read as
2 follows:

3 (f) Each regional economic development council awardee may certify in
4 writing to such regional economic development council that they maintain
5 internship opportunities, along with the number of opportunities, a
6 description of the work the interns will engage in, and descriptions of
7 any supplementary programming offered to the interns.

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

10

PART PP

11 Section 1. Section 1115 of the tax law is amended by adding a new
12 subdivision (11) to read as follows:

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

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

29 § 2. This act shall take effect June 1, 2024 and shall expire and be
30 deemed repealed June 1, 2026.

31

PART QQ

32 Section 1. (1) Within 18 months of the effective date of this section
33 the New York state energy research and development authority, hereinaft-
34 er authority, in consultation with the department of public service, the
35 department of transportation, the department of motor vehicles, the New
36 York state thruway authority, the New York power authority, and the Long
37 Island power authority, the department of environmental conservation
38 shall conduct a needs evaluation to:

39 (a) consider planning for fast charger deployment along alternative
40 fuel corridors and major freight corridors;

41 (b) identify the number and location of fast chargers along priority
42 highway corridors and major freight corridors, including fast chargers
43 currently in operation and in development;

44 (c) estimate future need for fast charger deployment along priority
45 highway and major freight corridors for the purposes of (i) facilitating
46 the cost-effective and timely achievement of mandates under (A) article
47 75 of the environmental conservation law, (B) section 19-0306-b of the
48 environmental conservation law regarding zero-emissions vehicle sales
49 targets, (C) rules and regulations for zero-emissions vehicles adopted
50 by the commissioner of environmental conservation, and (D) other rele-
51 vant and applicable federal and state rules or regulations or local

1 goals to reduce transportation sector emissions; and (ii) supporting
2 electric vehicle adoption by consumers and fleet operators;

3 (d) identify the number and location of highway charging hubs, includ-
4 ing but not limited to thruway charging hubs and freight charging hubs,
5 currently in operation and in development along priority highway and
6 major freight corridors;

7 (e) estimate total charging capacity required to serve light duty,
8 medium duty, and heavy duty electric vehicles at each highway and
9 freight charging hub through 2035;

10 (f) identify, to the extent practicable, the number and location of
11 commercial and public fleet vehicles in operation, including their body
12 type, fuel type, model year, zip code, and other relevant information
13 needed to forecast the number and location of zero-emissions vehicles,
14 per state policy;

15 (g) identify the number and location of fleet charging zones;

16 (h) estimate future need for charging deployment and charging capacity
17 in the fleet charging zones, sufficient to satisfy the targets and regu-
18 lations identified in paragraph (c) of this subdivision;

19 (i) examine ways to optimize fast charger deployment among the highway
20 charging hubs, the freight charging hubs, and all such charging hubs,
21 and charging development among the fleet charging zones to reduce the
22 cost of interconnection, if deemed necessary, and electric distribution
23 and local transmission upgrades while serving projected vehicle traffic
24 volumes;

25 (j) analyze and assess the total potential costs associated with any
26 identified need;

27 (k) analyze and assess federal or state funding opportunities to mini-
28 mize such costs to rate payers; and

29 (l) identify the number and location of critical public charging sites
30 and estimate future need for charging deployment and charging capacity
31 for critical public charging sites.

32 (2) The authority shall develop a stakeholder engagement process to
33 raise consumer awareness and education across the state and solicit
34 feedback from the public, local government, representatives or residents
35 of environmental justice or disadvantaged communities, electric vehicle
36 manufacturers, electric vehicle supply equipment manufacturers, fleet
37 operators, school district transportation directors and others on the
38 highway and depot charging needs evaluation. To the extent practicable
39 and consistent with applicable timelines, the authority may coordinate
40 the highway and depot charging needs evaluation stakeholder input proc-
41 ess with the process set forth in section 1884 of the public authorities
42 law.

43 (3) The needs evaluation shall be made publicly available on the
44 authority's website.

45 (4) When conducting the needs evaluation, the following locations
46 shall be considered for designation as highway and/or freight charging
47 hubs:

48 (a) All thruway charging hubs.

49 (b) Additional sites or geographic areas based on (i) eligibility for
50 federal, state, or other funding opportunities, including but not limit-
51 ed to needs identified through the NEVI formula program planning proc-
52 ess, (ii) proximity to electric transmission infrastructure, (iii)
53 projected vehicle traffic, (iv) charging network coverage, (v) inter-
54 state and intrastate commerce, (vi) benefits to environmental justice
55 and disadvantaged communities, (vii) benefits of increased charging
56 accessibility in host communities, (viii) real property ownership or

1 control of potential sites, (ix) relevant commitments from site and/or
2 charging operators, and (x) other factors deemed relevant for the devel-
3 opment and successful implementation of the highway charging needs eval-
4 uation.

5 (c) Locations within one mile of the priority highway corridors,
6 spaced no more than fifty miles apart along the priority highway corri-
7 dors and reasonably accessible regardless of direction of travel.

8 (d) Privately operated sites which are open to the public or multiple
9 commercial entities that have adequate parking and amenities to serve as
10 a highway charging hub or freight charging hub, subject to reasonable
11 restrictions.

12 (5) When conducting the needs evaluation, the following geographic
13 area criteria shall be considered when determining designations as fleet
14 charging zones:

15 (a) total number of commercial and public fleet vehicles in operation
16 and/or total number of fleet operators in the geographic area,

17 (b) projected vehicle traffic in the geographic area,

18 (c) benefits to public fleets, such as school bus operators,

19 (d) benefits to environmental justice and disadvantaged communities,

20 (e) relevant commitments from fleet and/or site operators to install
21 charging equipment,

22 (f) available capacity on the electric distribution and local trans-
23 mission network to serve vehicle chargers,

24 (g) ensuring equitable coverage and access to fleet charging through-
25 out the state, and

26 (h) sites where private or public fleet vehicles are regularly parked,
27 maintained, or otherwise dispatched for service, including school bus
28 garages.

29 (6) As used in this section, the following terms shall have the
30 following meanings:

31 (a) "Alternative fuel corridors" shall mean highways designated within
32 the state pursuant to the national electric vehicle infrastructure
33 formula program under 23 U.S.C. 151 and previously designated under the
34 federal Fixing America's Surface Transportation Act of 2015.

35 (b) "Charging needs evaluation" shall mean the highway and depot
36 charging needs evaluation.

37 (c) "Critical public charging site" shall mean a priority site for the
38 deployment of charging infrastructure designed to support buildout of
39 charging in densely populated urban areas where access to charging may
40 be limited.

41 (d) "Fast charger" shall mean a direct current electric vehicle charg-
42 ing port which can charge at a level of at least 150 kilowatts.

43 (e) "Fleet charging zone" shall mean a priority geographic area for
44 the deployment of charging infrastructure for public and commercial
45 fleet operators or owners, including school bus fleets, taxi and ride-
46 share vehicle fleets.

47 (f) "Freight charging hub" shall mean a priority site for the deploy-
48 ment of large scale, fast charging infrastructure, which has minimum
49 station power capability to simultaneously provide power across at least
50 four ports for charging. These sites may include highway charging hubs.

51 (g) "Highway and depot charging needs evaluation" shall mean the needs
52 evaluation developed pursuant to subdivision two of this section.

53 (h) "Highway charging hub" shall mean a priority site for the deploy-
54 ment of large scale, fast charging infrastructure, which has minimum
55 station power capability to simultaneously provide power across four

1 ports for charging. These sites shall include but are not limited to
2 thruway charging hubs.

3 (i) "Major freight corridor" shall mean segments of the freight trans-
4 portation network identified by the federal highway administration that
5 carry more than 50,000,000 tons per year, including highway segments
6 that carry at least 8,500 trucks per day, additional highway segments
7 and parallel rail lines that together carry at least 8,500 trucks,
8 trailer-on-flatcar, and container-on-flatcar payloads of typically high-
9 value, time sensitive cargo, and rail lines and waterways that carry
10 fifty million tons in bulk cargo per year.

11 (j) "NEVI" shall mean the national electric vehicle infrastructure
12 program established under the federal Infrastructure Investment and Jobs
13 Act of 2021.

14 (k) "Priority highway corridor" shall mean alternative fuel corridors
15 and other state and county highways identified in the charging needs
16 evaluation as appropriate to ensure sufficient and equitable charging
17 access throughout the state.

18 (l) "Thruway charging hubs" shall mean all highway service areas
19 controlled, leased, owned, or operated by the New York state thruway
20 authority.

21 § 2. This act shall take effect immediately and shall be deemed to
22 have been in full force and effect on and after April 1, 2024.

23 PART RR

24 Section 1. Notwithstanding any law to the contrary, the state of New
25 York may consent to binding arbitration with respect to the interpreta-
26 tion of a contract, agreement, or other document or instrument or any
27 matter in each case set forth therein that is lawfully adopted by the
28 Gateway Development Commission pursuant to the Gateway Development
29 Commission Act, chapter 108 of the laws of 2019, with respect to phase
30 one of the Gateway Project as described in paragraph (h) of subdivision
31 2 of section 2 of that act, and to which the state of New York is a
32 party.

33 § 2. This act shall take effect immediately.

34 PART SS

35 Section 1. This act enacts into law major components of legislation
36 necessary related to transparency in local economic development act.
37 Each component is wholly contained within a Subpart identified as
38 Subparts A through B. The effective date for each particular provision
39 contained within such Subpart is set forth in the last section of such
40 Subpart. Any provision in any section contained within a Subpart,
41 including the effective date of the Subpart, which makes a reference to
42 a section "of this act", when used in connection with that particular
43 component, shall be deemed to mean and refer to the corresponding
44 section of the Subpart in which it is found. Section three of this act
45 sets forth the general effective date of this act.

46 SUBPART A

47 Section 1. The public authorities law is amended by adding a new
48 section 8 to read as follows:

1 § 8. Local authorities searchable subsidy and economic development
2 benefits database. 1. For the purposes of this section, the following
3 terms shall have the following meanings:

4 (a) "Economic development benefits" shall mean:

5 (i) funds made available by a local development corporation for
6 economic development, or job creation purposes including, but not limit-
7 ed to, grants, loans, and bonds; and

8 (ii) bonds and tax exemptions which are applied for and preapproved or
9 certified by or on behalf of an industrial development agency for
10 economic development.

11 (b) "Qualified participant" shall mean a project operator pursuant to
12 section eight hundred seventy-four of the general municipal law with a
13 project pursuant to section eight hundred fifty-four of the general
14 municipal law.

15 (c) "Full-time equivalent" shall mean a unit of measure, which is
16 equal to one filled, full-time, annual-salaried position in a manner
17 consistent with federal calculations.

18 (d) "The office" shall mean the authorities budget office.

19 (e) "The database" or "the searchable database" shall mean the data-
20 base created pursuant to subdivision two of this section.

21 (f) "The project" shall mean specific work, action, endeavor, contract
22 or agreement for which any economic benefit as defined in paragraph (a)
23 of this subdivision, is made available or awarded by a local development
24 corporation or industrial development agency to a person, business,
25 limited liability corporation or any other entity.

26 2. Notwithstanding any laws to the contrary, the office shall create a
27 searchable database, displaying data regarding economic development
28 benefits that a qualified participant has been awarded. Such searchable
29 database shall include the following data, features and functionality to
30 the extent practicable:

31 (a) the ability to search the database by each of the reported infor-
32 mation fields;

33 (b) the ability to be searchable, downloadable, and posted on a
34 publicly accessible website as well as referenced on the office's
35 website, with a direct link to the database;

36 (c) the ability to digitally select defined individual fields corre-
37 sponding to any of the reported information from qualified participants
38 to create unique database views;

39 (d) the ability to download the database in its entirety, or in part,
40 in a common machine readable format;

41 (e) a definition or description of terms for fields in the database;

42 (f) a summary of each separate economic development benefit defined in
43 paragraph (a) of subdivision one of this section awarded to qualified
44 participants;

45 (g) a user-friendly guide to outline the features and functionality of
46 the database;

47 (h) a dedicated email account for the public to direct questions
48 related to the database, and the office mailing address, office tele-
49 phone number, and name of the chief officer;

50 (i) the following data on local development corporations shall be
51 included:

52 (i) relating to grants, the source of funds for the grant, the name
53 and address of the entity that received the grant, the date and amount
54 awarded, how the grant funds will be used, whether the grant proceeds
55 were expected to result in new jobs being created, and if so, how many

1 jobs were planned to be created and how many jobs have been created to
2 date;

3 (ii) relating to loans, the source of funds for the loan, the name and
4 address of the entity that received the loan, the date and amount
5 awarded, the loan interest rate, the length of the loan in years, the
6 amount repaid to date, how the loan funds will be used, and whether the
7 loan was provided to the recipient for the purpose of creating jobs, and
8 if so, how many jobs were planned to be created and how many jobs have
9 been created to date; and

10 (iii) relating to bonds, the name and address of the recipient of the
11 bond proceeds, the amount and date of the bond issuance, the bond inter-
12 est rate, the year the bonds are expected to be fully retired, the
13 amount of bond principal retired during the reporting period, how the
14 bond proceeds are used, whether the bond proceeds were provided to the
15 recipient to create jobs, and if so, how many jobs were planned to be
16 created and how many jobs have been created to date; and

17 (j) the following data on industrial development agency projects shall
18 be included:

19 (i) project name, project type, project location, and the project's
20 complete address, including the postal code in a separate and searchable
21 field;

22 (ii) whether the project is part of another phase or multi phase, the
23 category of the project purpose, the total project amount, the benefited
24 project amount, if the project type was a bond, the bond amount, if the
25 project type was a lease, the lease amount, whether the qualified recip-
26 ient is a not-for-profit, the date the project was approved, whether the
27 industrial development agency took title to a property, and if so, the
28 date that title was taken, and the year financial assistance is planned
29 to end;

30 (iii) the qualified participant's name and the qualified participant's
31 complete address, including the postal code in a separate and searchable
32 field;

33 (iv) the amount of project tax exemptions granted, including for
34 state sales tax, local sales tax, county real property tax, local prop-
35 erty tax, school property tax, mortgage recording tax, the total
36 exemptions, and the total exemptions net of real property tax law
37 section four hundred eighty-five-b;

38 (v) the amount of payments in lieu of taxes agreed upon and actually
39 made to the county, local municipality, or school district, the total
40 amount of payments in lieu of taxes agreed upon and actually made, and
41 the net exemptions once the payments in lieu of taxes are subtracted
42 from the total project tax exemptions; and

43 (vi) the total number of employees for the project prior to industrial
44 development agency status, estimate of jobs to be created, average esti-
45 imated annual salary of jobs to be created, annualized salary range of
46 jobs to be created, original estimate of jobs to be retained, estimated
47 average annual salary of jobs to be retained, current number of full-
48 time equivalents, number of full-time equivalent construction jobs
49 during the reporting fiscal year, and the net employment change.

50 3. The office shall submit a quarterly report to the governor, tempo-
51 rary president of the senate, and speaker of the assembly outlining key
52 usage statistics of the database created pursuant to subdivision two of
53 this section including, but not limited to, the total number of unique
54 users that quarter.

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

1

SUBPART B

2 Section 1. The public authorities law is amended by adding a new
3 section 2829 to read as follows:

4 § 2829. State and local authorities subject to the open meetings and
5 freedom of information laws. All state and local authorities, as such
6 terms are defined in section two of this chapter, as well as all subsid-
7 iaries of such state and local authorities, as such terms are defined in
8 section two of this chapter, shall be subject to the provisions of arti-
9 cles six and seven of the public officers law relating to the freedom of
10 information and open meetings laws respectively. All state and local
11 authorities, as well as all subsidiaries of such state and local author-
12 ities, shall, to the extent practicable, stream all open meetings and
13 public hearings on their website in real-time, post video recordings of
14 all open meetings and public hearings on their website within five busi-
15 ness days of the meeting or hearing and maintain such recordings for a
16 period of not less than five years.

17 § 2. This act shall take effect on the thirtieth day after it shall
18 have become a law.

19 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
20 sion, section, subpart or part of this act shall be adjudged by any
21 court of competent jurisdiction to be invalid, such judgment shall not
22 affect, impair, or invalidate the remainder thereof, but shall be
23 confined in its operation to the clause, sentence, paragraph, subdivi-
24 sion, section, subpart or part thereof directly involved in the contro-
25 versy in which such judgment shall have been rendered. It is hereby
26 declared to be the intent of the legislature that this act would have
27 been enacted even if such invalid provisions had not been included here-
28 in.

29 § 3. This act shall take effect immediately provided, however, that
30 the applicable effective date of Subparts A through B of this act shall
31 be as specifically set forth in the last section of such Subpart.

32

PART TT

33 Section 1. This part enacts into law components of legislation relat-
34 ing to the establishment of the New York state empire artificial intel-
35 ligence research program. Each component is wholly contained within a
36 Subpart identified as Subparts A through B. The effective date for each
37 particular provision contained within such Subpart as set forth in the
38 last section of such Subpart. Any provision in any section contained
39 within a Subpart, including the effective date of the Subpart, which
40 makes a reference to a section "of this act", when used in connection
41 with that particular component, shall be deemed to mean and refer to the
42 corresponding section of the Subpart in which it is found. Section three
43 of this act sets forth the general effective date of this act.

44

SUBPART A

45 Section 1. The economic development law is amended by adding a new
46 section 361 to read as follows:

47 § 361. New York state empire artificial intelligence research program.
48 1. Definitions. Whenever used in this section:

49 (a) "Division" shall mean the division of science, technology, and
50 innovation within the department.

1 (b) "Empire AI consortium" or "the consortium" shall be the not-for-
2 profit corporation created to construct and manage the institute.

3 (c) "Institute" shall mean the empire AI research institute at the
4 university of Buffalo established pursuant to subdivision two of this
5 section.

6 2. Empire AI research institute at the university of Buffalo. A state-
7 owned research and computing facility at the state university of New
8 York at Buffalo shall be established, to be known as the empire AI
9 research institute, to promote responsible research and development to
10 advance the ethical and public interest uses of artificial intelligence
11 technology in the state. The institute shall be operated and managed by
12 the consortium. Construction of the institute shall be completed by the
13 university at Buffalo, its affiliates or related entities at the direc-
14 tion of the consortium, or the consortium.

15 3. Labor standards. Any construction project done pursuant to this
16 section or using the moneys appropriated by New York state for the
17 purposes of this section, shall require the use of a project labor
18 agreement, as defined in subdivision one of section two hundred twenty-
19 two of the labor law, for all contractors and subcontractors on the
20 project, consistent with paragraph (a) of subdivision two of section two
21 hundred twenty-two of the labor law.

22 4. Energy efficiency. The division, in cooperation with the urban
23 development corporation and the empire AI consortium, shall work with
24 the power authority of New York, the New York state energy research and
25 development authority, and the department of environmental conservation
26 to ensure a reliable and sufficient clean energy supply for the insti-
27 tute, to maximize the energy efficiency of the facility or facilities
28 and equipment of the institute, and minimize emissions and negative
29 environmental impacts, including from the use of freshwater resources,
30 from constructing, operating, and of maintaining the institute.

31 § 2. Section 1 of chapter 174 of the laws of 1968, constituting the
32 New York state urban development corporation act, is amended by adding a
33 new section 16-ii to read as follows:

34 § 16-ii. Empire AI consortium reports. Beginning May first, two thou-
35 sand twenty-seven, and annually thereafter, the corporation shall
36 prepare and publish on its website, an annual report on the empire AI
37 research institute at the university of Buffalo. Such report shall
38 include but not be limited to: detail on achieving the goals and mission
39 of the empire AI research institute at the university of Buffalo, a
40 summary of the state investment into the empire AI research institute at
41 the university of Buffalo, the leveraged investment, job creation
42 impact, the total investment, total funding disbursed by the corporation
43 to date, the names of the private sector and academic partners that
44 participate in the empire AI research institute at the university of
45 Buffalo and affirmation that any and all academic partners are recog-
46 nized by the board of regents as defined in section two hundred two of
47 the education law, a list of research areas of focus, an accounting of
48 the total number of small businesses provided access to the supercomput-
49 ing equipment, an assessment of whether or not the contract awardee, via
50 the corporation, is in compliance with the terms and conditions of the
51 contract with regard to the empire AI research institute at the univer-
52 sity of Buffalo, an articulation of any additional state benefits for
53 empire state development projects as defined in paragraph (a-3) of
54 subdivision one of section fifty-eight of this chapter. Additionally, in
55 all years in which the institute is fully operational, such report shall

1 include noteworthy projects or innovations which serve to highlight the
2 developments occurring in New York state as a result of the project.

3 § 3. Provisions related to the empire AI consortium. 1. As used in
4 this section, the terms "consortium", "institute" or "division" shall
5 have the same meaning as provided in section 361 of the economic devel-
6 opment law.

7 2. Plan of operation. No later than one year after the incorporation
8 of the empire AI consortium, the consortium shall file with the division
9 its plan of operation, which shall be designed to assure the fair,
10 responsible, reasonable, and equitable administration of the consortium.
11 A copy of the plan shall be submitted to the governor, the temporary
12 president of the senate and the speaker of the assembly. The plan of
13 operation shall at minimum, in addition to any requirements enumerated
14 elsewhere in law, establish:

15 (a) the mission of the consortium and principles of ethical use of
16 artificial intelligence technologies;

17 (b) procedures for application and approval of new members and policy
18 regarding rights and responsibilities of a member of the consortium;

19 (c) adequate privacy controls to ensure the privacy and confidentiali-
20 ty of individuals' personal data; and

21 (d) adequate cybersecurity controls to ensure the confidentiality,
22 integrity, and availability of systems and data.

23 3. Financial oversight of the consortium. No later than May first of
24 each year after the incorporation of the consortium, the consortium
25 shall submit to the governor, the temporary president of the senate, the
26 speaker of the assembly, and the director of budget, the certified
27 financial statements prepared in accordance with generally accepted
28 accounting principles by a certified public accountant. The consortium
29 shall be required on and after January first of each year to afford the
30 certified public accountant convenient access at all reasonable hours to
31 all books, records, and other documents, including but not limited to
32 invoices and vouchers, necessary or useful in the preparation of such
33 statements and in the verification of the monthly statements submitted
34 to the consortium.

35 § 4. This act shall take effect immediately; provided, however, that
36 section three of this act shall expire and be deemed repealed five years
37 after such date.

38

SUBPART B

39 Section 1. Legislative findings. The legislature finds that the state
40 university of New York at Buffalo ("UB") seeks to use a portion of the
41 grounds and facilities on UB's campus for the purposes of the empire AI
42 consortium to create and launch a state-of-the-art artificial intelli-
43 gence computing center. The legislature further finds that housing this
44 consortium on the UB campus will allow the consortium to bring together
45 artificial intelligence researchers and scientists to accelerate
46 research and innovation. Finally, the legislature finds that granting
47 the trustees of the state university of New York the authority and power
48 to lease and otherwise contract to make available such grounds and
49 facilities for such purpose will serve the interests of the people of
50 New York state by expanding educational and research opportunities,
51 spurring innovation, and strengthening the economy.

52 § 2. Notwithstanding any other law to the contrary, the state univer-
53 sity trustees are authorized and empowered, without any public bidding,
54 to lease and otherwise contract to make available to the empire AI

1 consortium (the "ground lessee") a portion of the lands of the universi-
2 ty generally described in this act for the purpose of developing,
3 constructing, maintaining and operating a facility situated on the
4 campus of the state university of New York at Buffalo for use by the
5 empire AI consortium, an artificial intelligence data science technology
6 hub and computing center. The lease shall permit the construction of a
7 facility by the university at Buffalo, its affiliates or related enti-
8 ties at the direction of the consortium, or the empire AI consortium.
9 Notwithstanding anything in this act to the contrary, the empire AI
10 consortium and/or any subsidiary of such consortium is specifically
11 authorized to operate on the leased real property. Such lease or
12 contract shall be without any fee simple conveyance and otherwise upon
13 terms and conditions determined by such trustees, subject to the
14 approval of the director of the division of the budget, the attorney
15 general and the state comptroller. In the event that the real property
16 that is the subject of such lease or contract shall cease to be used for
17 the purpose described in this act, such lease or contract shall imme-
18 diately terminate, and the real property and any improvements thereon
19 shall revert to the state university of New York. Any lease or contract
20 entered into pursuant to this act shall be for a period not exceeding
21 twenty years, and provide that the real property that is the subject of
22 such lease or contract and any improvements thereon shall revert to the
23 state university of New York on the expiration of such contract or
24 lease.

25 § 3. Any contract or lease entered into pursuant to this act shall be
26 deemed to be a state contract for purposes of article 15-A of the execu-
27 tive law, and any contractor, subcontractor, lessee or sublessee enter-
28 ing into such contract or lease for the construction, demolition, recon-
29 struction, excavation, rehabilitation, repair, renovation, alteration or
30 improvement authorized pursuant to this act shall be deemed a state
31 agency for the purposes of article 15-A of the executive law and subject
32 to the provisions of such article.

33 § 4. Notwithstanding any general, special or local law or judicial
34 decision to the contrary, all work performed on a project authorized by
35 this act where all or any portion thereof involves a lease or agreement
36 for construction, demolition, reconstruction, excavation, rehabili-
37 tation, repair, renovation, alteration or improvement shall be deemed
38 public work and shall be subject to and performed in accordance with the
39 provisions of article 8 of the labor law to the same extent and in the
40 same manner as a contract of the state, and compliance with all the
41 provisions of article 8 of the labor law shall be required of any
42 lessee, sublessee, contractor or subcontractor on the project, including
43 the enforcement of prevailing wage requirements by the fiscal officer as
44 defined in paragraph e of subdivision 5 of section 220 of the labor law
45 to the same extent as a contract of the state.

46 § 5. Notwithstanding any law, rule or regulation to the contrary, the
47 state university of New York shall not contract out to the ground lessee
48 or any subsidiary for the instruction or any pedagogical functions or
49 services, or any administrative services, and similar professional
50 services currently being exclusively performed by state employees. All
51 such functions and services shall be performed by state employees pursu-
52 ant to the civil service law. Nothing in this act shall result in the
53 displacement of any currently employed state worker or the loss of posi-
54 tion (including partial displacement such as reduction in the hours of
55 non-overtime, wages or employment benefits), or result in the impairment
56 of existing contracts for services or collective bargaining rights

1 pursuant to existing agreements. All positions currently at the state
2 university of New York in the unclassified service of the civil service
3 law shall remain in the unclassified service.

4 § 6. For the purposes of this act:

5 (a) "Project" shall mean work at the property authorized by this act
6 to be leased to the ground lessee as described in section twelve of this
7 act that involves the design, construction, reconstruction, demolition,
8 excavation, rehabilitation, repair, renovation, alteration or improve-
9 ment of such property.

10 (b) "Project labor agreement" shall mean a pre-hire collective
11 bargaining agreement between a contractor and a labor organization,
12 establishing the labor organization as the collective bargaining repre-
13 sentative for all persons who will perform work on the project, and
14 which provides that only contractors and subcontractors who sign a pre-
15 negotiated agreement with the labor organization can perform project
16 work.

17 § 7. Nothing in this act shall be deemed to waive or impair any rights
18 or benefits of employees of the state university of New York that other-
19 wise would be available to them pursuant to the terms of agreements
20 between the certified representatives of such employees and the state of
21 New York pursuant to article 14 of the civil service law, and all work
22 performed on such property that ordinarily would be performed by employ-
23 ees subject to article 14 of the civil service law shall continue to be
24 performed by such employees.

25 § 8. Notwithstanding the provisions of any general, special, or local
26 law or judicial decision to the contrary, the ground lessee shall
27 require the use of a project labor agreement, as defined in subdivision
28 one of section two hundred twenty-two of the labor law, for all contrac-
29 tors and subcontractors on the project, consistent with paragraph (a) of
30 subdivision 2 of section 222 of the labor law.

31 § 9. Without limiting the determination of the terms and conditions of
32 such contracts or leases, such terms and conditions may provide for
33 leasing, subleasing, construction, reconstruction, rehabilitation,
34 improvement, operation and management of and provision of services and
35 assistance and the granting of licenses, easements and other arrange-
36 ments with regard to such grounds and facilities by the ground lessee,
37 and parties contracting with the ground lessee, and in connection with
38 such activities, the obtaining of funding or financing, whether public
39 or private, unsecured or secured (including, but not limited to, secured
40 by leasehold mortgages and assignments of rents and leases), by the
41 ground lessee and parties contracting with the ground lessee for the
42 purposes of completing the project described in this act.

43 § 10. Such lease shall include an indemnity provision whereby the
44 lessee or sublessee promises to indemnify, hold harmless and defend the
45 lessor against all claims, suits, actions, and liability to all persons
46 on the leased premises, including tenant, tenant's agents, contractors,
47 subcontractors, employees, customers, guests, licensees, invitees and
48 members of the public, for damage to any such person's property, whether
49 real or personal, or for personal injuries arising out of tenant's use
50 or occupation of the demised premises.

51 § 11. Any construction contracts entered into pursuant to this act
52 between the ground lessee and parties contracting with the ground lessee
53 shall be awarded by a competitive process.

54 § 12. The property authorized by this act to be leased to the ground
55 lessee is generally described as within one of two parcels of real prop-
56 erty with improvements thereon consisting of a total of approximately

1 3.13 acres situated on the campus of the state university of New York at
2 Buffalo. The description in this section of the parcels that may be made
3 available pursuant to this act is not meant to be a legal description,
4 but is intended only to identify the parcels:

5 Parcel 1

6 Beginning at a point identified as X coordinate -78.79788341 and Y coord-
7 inate 42.99251367;

8 Running thence approximately east for a distance of 400 feet to a point
9 identified as X coordinate -78.79638843 and Y coordinate 42.99251637;

10 Running thence approximately south for a distance of 200 feet to a point
11 identified as X coordinate -78.79638612 and Y coordinate 42.99196762;

12 Running thence approximately west for a distance of 400 feet to a point
13 identified as X coordinate -78.79788117 and Y coordinate 42.99196493;
14 and

15 Running thence approximately north for a distance of 200 feet to the
16 point or place of beginning.

17 Containing 80,000 sq. ft. (1.84 acres), more or less. Subject to all
18 existing easements and restrictions of record.

19 Parcel 2

20 Beginning at a point identified as X coordinate -78.78973207 and Y coord-
21 inate 42.99481553;

22 Running thence approximately east for a distance of 450 feet to a point
23 identified as X coordinate -78.78808744 and Y coordinate 42.99481837;

24 Running thence approximately south for a distance of 125 feet to a point
25 identified as X coordinate -78.78808635 and Y coordinate 42.9944754;

26 Running thence approximately west for a distance of 450 feet to a point
27 identified as X coordinate -78.78973097 and Y coordinate 42.99447256;
28 and

29 Running thence approximately north for a distance of 125 feet to the
30 point or place of beginning.

31 Containing 56,250 sq. ft. (1.29 acres), more or less. Subject to all
32 existing easements and restrictions of record.

33 In the event that the trustees of the state university of New York
34 determine that it is in the best interests of the state to utilize a
35 different parcel on the campus of the state university of New York at
36 Buffalo for the purposes set out in this act, they are authorized to do
37 so upon sixty days notice to the director of the budget, the secretary
38 of the senate finance committee, and the secretary of the assembly ways
39 and means committee.

1 § 13. The state university of New York shall not lease lands described
2 in this act unless any such lease shall be executed within 5 years of
3 the effective date of this act.

4 § 14. Insofar as the provisions of this act are inconsistent with the
5 provisions of any law, general, special or local, the provisions of this
6 act shall be controlling.

7 § 15. This act shall take effect immediately.

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

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

20 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
21 sion, section or part of this act shall be adjudged by any court of
22 competent jurisdiction to be invalid, such judgement shall not affect,
23 impair, or invalidate the remainder thereof, but shall be confined in
24 its operation to the clause, sentence, paragraph, subdivision, section
25 or part thereof directly involved in the controversy in which such judg-
26 ment shall have been rendered. It is hereby declared to be the intent of
27 the legislature that this act would have been enacted even if such
28 invalid provisions had not been included herein.

29 § 3. This act shall take effect immediately provided, however, that
30 the applicable effective date of Parts A through TT of this act shall be
31 as specifically set forth in the last section of such Parts.