AN ACT to amend the vehicle and traffic law, in relation to establishing a congestion pricing program in the city of New York; to amend the public authorities law, in relation to establishing a Sustainable Mobility and Regional Transportation (“SMART”) financing authority; to amend the state finance law, in relation to the creation of the Sustainable Mobility and Regional Transportation (“SMART”) fund; to amend the public authorities law and the tax law, in relation to the disposition of the city of New York’s personal income tax; to amend the vehicle and traffic law, in relation to establishing residential parking systems in the city of New York; to amend the vehicle and traffic law and the public officers law, in relation to establishing in a city with a population of one million or more a bus rapid transit demonstration program to enforce bus lane restrictions by means of bus lane photo devices and providing for the repeal of such provisions upon expiration thereof; and to amend the vehicle and traffic law, in relation to treating violations of obstructing traffic in intersections as a parking violation, to amend the environmental conservation law, the general municipal law and the tax law, in relation to brownfields, to amend the tax law, in relation to exempting qualifying vehicles from local sales and compensating use taxes imposed in or by any city having a population of one million or more, to amend the real property tax law and the education law, in relation to a green roof tax abatement for certain properties in a city of one million or more persons, to amend the public authorities law, the public service law and the New York city charter, in relation to creating an energy planning board and an efficiency authority to develop and implement long-range plans for the supply of energy and the reduction of demand in the city of New York as well as for reduction of emissions of greenhouse gases and criteria pollutants associated with the production and consumption of energy and in relation to energy-saving investments in governmental
operations by such city, to amend the real property tax law and the education law, in relation to a solar electric generating system tax abatement for certain properties in a city of one million or more persons

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the sustainability goals of the city of New York. Each component is wholly contained within a Part identified as Part A through I. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section “of this act”, when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. The vehicle and traffic law is amended by adding a new article 44-B to read as follows:

Article 44-B

TRAFFIC MITIGATION

§ 1700. Legislative findings and declaration.

§ 1701. Short title. This article shall be known and may be cited as the “Traffic Mitigation Act”.

§ 1702. Definitions. For the purposes of this article, unless the context otherwise requires:
1. “Authorized emergency vehicles” shall have the meaning as provided in section one hundred one of this chapter.

2. “Bus” means a motor vehicle having a seating capacity of ten or more passengers in addition to the driver and used for the transportation of persons, but shall not include any motor vehicles, regardless of seating, that are transit vehicles or school vehicles.

3. “Congestion pricing fee” means the fee charged for traveling into and/or within the congestion pricing zone as described in section seventeen hundred four of this article.

4. “Congestion pricing program” means the program for charging vehicles that enter the congestion pricing zone a fee.

5. “Congestion pricing zone” means the area as described in section seventeen hundred three of this article in which a vehicle shall be charged a congestion fee for travel within such zone.

6. “City” means the city of New York.


8. “Electronic fee collection system” means a system of collecting fees which is capable of charging an account holder the appropriate fee by transmission of information from an electronic device in or on a vehicle to a device sensor, which information is used to charge the appropriate fee.

9. “Federal government” means the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

10. “Inter-zonal trip” means travel by a vehicle from outside the congestion pricing zone into the congestion pricing zone.
11. “Intra-zonal trip” means travel by a vehicle solely within the congestion pricing zone.

12. “Livery vehicle” means a for-hire vehicle designed to carry fewer than six passengers, excluding the driver, which charges for service on the basis of flat rate, time, mileage, or zones, but shall not include a black car as defined in chapter six of title thirty five of the rules of the city of New York.

12. “Operation date” means the date determined by the city, pursuant to an agreement with the SMART financing authority as provided in section seventeen hundred six of this article, for the beginning of the operation and enforcement of the congestion pricing program.

14. “Owner” means any person, corporation, partnership, firm, agency, association, lessor, or organization who at the time a vehicle is operated: (a) is the beneficial or equitable owner of such vehicle; (b) has title to such vehicle; (c) is the registrant or co-registrant of such vehicle which is registered with the department of motor vehicles of this state or any other state, territory, district, province, nation or other jurisdiction; (d) uses such vehicle in its vehicle renting and/or leasing business; or (e) is an owner of such vehicle as defined by section one hundred twenty-eight or subdivision (a) of section twenty-one hundred one of the vehicle and traffic law.

15. “Parking violations bureau” means the parking violations bureau created in the department pursuant to section 19-201 of the administrative code of the city of New York.

16. “Passenger vehicle” means a motor vehicle designed and used for conveying not more than nine people and shall include cars rented for hire, excluding buses and taxis, and motorcycles designed and used only for conveying people.
17. “Photo-monitoring system” means a vehicle sensor installed within the congestion pricing zone to work in conjunction with photographic equipment which automatically produces one or more photographs, one or more microphotographs, a videotape, a digital recording or other recorded images of a vehicle entering, exiting or traveling within the congestion pricing zone.

18. “Safety, traffic and parking control, and inspection vehicles” means vehicles operated by the city, the state of New York, and the federal government as part of official public safety, traffic and parking control, and roadway construction, repair, and inspection duties.

19. “Sanitation vehicles” means vehicles operated by the city as part of official refuse collection, street cleaning, snow removal, or sand spreading duties.

20. “School vehicle” means a vehicle that is owned or operated by a public or governmental agency or private school and is being operated for the transportation of pupils, teachers and other persons acting in a supervisory capacity, to or from school or school activities or privately owned and being operated on a regular basis for compensation for the transportation of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities.

21. “SMART financing authority” means the public benefit corporation created by section twenty-seven hundred ninety-nine-ccc of the public authorities law.

22. “Taxi” means a motor vehicle displaying a valid taxi medallion issued by the New York city taxi and limousine commission.

23. “Transit vehicle” means any bus or other passenger vehicle owned or operated by the metropolitan transportation authority or any other public authority or governmental agency for the purpose of transporting passengers.
24. “Truck” means any vehicle or combination of vehicles designed primarily for the transportation of property.

25. “Vehicle classification number” means the category of vehicles contained in the classifications for charges for Triborough Bridge and Tunnel authority crossings as provided in section 1021.1 of title twenty one of the New York codes, rules and regulations.

§ 1703. Establishment of congestion pricing program.

1. The city, pursuant to the agreement with the SMART financing authority as provided in section seventeen hundred six of this article, shall establish a congestion pricing program as described in this article.

(a) The congestion pricing program shall initially operate as a pilot program and shall commence on the operation date as determined by the city, pursuant to the agreement with the SMART financing authority provided in section seventeen hundred six of this article.

(b) At the pilot period completion date, which shall be three years from the operation date, the mayor shall have ninety days in which to determine, in his or her discretion, which shall be binding and conclusive, whether the congestion pricing program should continue to operate.

(c) During such ninety day period, the mayor may make recommendations to the legislature and the governor to amend the congestion pricing program as a result of the mayor’s review of the operation of the congestion pricing program and the environmental study described in section seventeen hundred nine of this article.

(d) The congestion pricing program shall continue to be in effect and shall not expire until either (i) the mayor determines pursuant to subdivision (b) of this section that the congestion pricing program shall not continue to operate; or (ii) ninety days shall have elapsed
from the pilot period completion date without any such determination by the mayor to either continue or discontinue the program.

2. (a) The congestion pricing program shall operate within the congestion pricing zone, which shall include any roadways that are located within the geographic area in the borough of Manhattan south of and not inclusive of 86th street.

(b) Notwithstanding paragraph (a) of this subdivision, the congestion pricing zone shall not include any portion of (i) Route 9A (including West street, the West Side highway, and the Henry Hudson parkway), the FDR drive, the Battery Park underpass, and any entrance and/or exit ramps thereto; and (ii) any roadway portions of the Lincoln tunnel, the Holland tunnel, the Brooklyn-Battery tunnel, the Queens-Midtown tunnel, the Brooklyn Bridge, the Manhattan Bridge, the Williamsburg Bridge, the Queensboro Bridge, and any entrance and/or exit ramps thereto. The congestion pricing zone shall also not include free routes between the Lincoln tunnel, the Holland tunnel, the Brooklyn-Battery tunnel, the Queens-Midtown tunnel, the Brooklyn Bridge, the Manhattan Bridge, the Williamsburg Bridge, and the Queensboro Bridge and the FDR drive or Route 9A, as applicable, that shall be designated by the city in its sole discretion, provided that the city shall designate such free routes along the most direct and safe route as feasible.

3. Notwithstanding any other provision of law, the city, pursuant to the agreement with the SMART financing authority provided in section seventeen hundred six of this article, shall install and operate an electronic fee collection system and a photo-monitoring system at the perimeter of and within the congestion pricing zone. The city, pursuant to the agreement with the SMART financing authority provided in section seventeen hundred six of this article, shall determine the appropriate placement of such systems so as to identify vehicles
entering, exiting, and traveling within the congestion pricing zone and so as to utilize the electronic fee collection system.

§ 1704. Congestion pricing fees.

1. Upon the operation date and continuing through the expiration of the pilot period as described in section seventeen hundred three of this article, unless the congestion pricing program is continued by the mayor, the city, as agent of the SMART financing authority, pursuant to the agreement with the SMART financing authority provided in section seventeen hundred six of this article, shall charge and collect a single congestion pricing fee per day from the owner of any vehicle entering or traveling within the congestion pricing zone between 6 antemeridian and 6 post-meridian, Monday through Friday, according to the following initial rate schedule:

(a) For trucks with a maximum gross weight equal to or greater than seven thousand pounds, which includes all vehicles in vehicle classification number two, except for buses: twenty-one dollars ($ 21.00) for an inter-zonal trip and five dollars and fifty cents ($ 5.50) for an intra-zonal trip.

(b) For all other vehicles, including vehicles in vehicle classification numbers one, three, four, and five, passenger vehicles, buses, and trucks with a gross weight of less than seven thousand pounds: eight dollars ($ 8.00) for an inter-zonal trip and four dollars ($ 4.00) for an intra-zonal trip.

2. Pursuant to the provisions of section twenty-seven hundred ninety-nine of the public authorities law, the SMART financing authority shall be authorized to adjust the congestion pricing fees specified in subdivision one of this section, only to the extent necessary (i) to satisfy the SMART financing authority’s then existing obligations to its bondholders,
provided and to the extent that such obligations are secured by congestion pricing revenues, (ii) to cover the cost of constructing, operating, and maintaining the congestion pricing program, or (iii) for traffic mitigation purposes; provided, however, that such fees may not be changed during the three year pilot period described in section seventeen hundred three of this article.

3. A vehicle shall be charged each day only the highest single congestion pricing fee for the use of a roadway by such vehicle within the congestion pricing zone.

4. For vehicles that are equipped with an electronic device that participates in the electronic fee collection system, the city, as agent for the SMART financing authority, pursuant to the agreement with the SMART financing authority provided in section seventeen hundred six of this article, shall automatically deduct from the congestion pricing fee charged to a vehicle entering the congestion pricing zone an amount equal to the cumulative amount of tolls or other charges that the owner of the vehicle paid on the same day to cross the following bridges and tunnels: the George Washington Bridge, the Henry Hudson bridge, the Triborough bridge (only for trips into and out of Manhattan), the Verrazano bridge, the Lincoln tunnel, the Holland tunnel, the Brooklyn-Battery tunnel, the Queens-Midtown tunnel, and any other bridge, tunnel, or crossing into the borough of Manhattan that institutes a toll or other charge after the effective date of this act. Owners shall not be entitled to a credit to the extent such deduction results in a negative amount. Vehicles not equipped with an electronic device that participates in the electronic fee collection system shall not receive the reductions in the congestion pricing fee described in this subdivision.

5. The following vehicles shall be exempt from any congestion pricing fees: authorized emergency vehicles, safety, traffic and parking control, and inspection vehicles, sanitation vehicles, school vehicles, taxis, livery vehicles, transit vehicles, vehicles with license
plates issued by the commissioner of motor vehicles pursuant to section four hundred four-a of
this chapter.

6. It shall be a violation of this section for the owner of any vehicle subject to a
congestion pricing fee pursuant to this article to fail to pay such fee to the city, as agent for the
SMART financing authority, pursuant to the agreement with the SMART financing authority
provided in section seventeen hundred six of this article, within forty-eight hours after the end of
a day in which the vehicle has incurred a congestion pricing fee pursuant to this section.

§ 1705. Congestion pricing fee collection program.

1. Notwithstanding any other provision of law, the city, as agent for the SMART
financing authority, pursuant to the agreement with the SMART financing authority provided in
section seventeen hundred six of this article, shall establish a congestion pricing fee collection
program. Such a program shall provide that the city, as agent for the SMART financing
authority, pursuant to the agreement with the SMART financing authority provided in section
seventeen hundred six of this article, shall collect congestion pricing fees automatically from
owners of vehicles holding an account through an electronic fee collection system. In addition,
such a collection program shall provide that the city, as agent for the SMART financing
authority, pursuant to the agreement with the SMART financing authority provided in section
seventeen hundred six of this article, shall create a mechanism for owners of vehicles that do not
participate in the electronic fee collection system to pay collection pricing fees directly to the
city, as agent for the SMART financing authority, pursuant to the agreement with the SMART
financing authority provided in section seventeen hundred six of this article, both before and
within forty-eight hours after traveling into or within the congestion pricing zone.
All congestion pricing fees collected by the city, as agent for the SMART financing authority, shall at all times be the property of the SMART financing authority.

§ 1706. Agreement between the city and the SMART financing authority.

1. The city and the SMART financing authority shall enter into an agreement, and shall be authorized to alter such agreement from time to time, that provides for the construction, operation, maintenance, and financing of the congestion pricing program and the congestion pricing fee collection program. Such an agreement shall provide that the city shall be responsible for the construction, operation, and maintenance of the congestion pricing program and the congestion pricing fee collection program, except as otherwise provided by this article, and that the SMART financing authority shall reimburse the city for the costs of construction, operation, and maintenance of the congestion pricing program and the congestion pricing fee collection program as provided in such agreement. Such an agreement shall further provide that the city shall collect congestion pricing fees as agent for the SMART financing authority, and that such fees shall at all times be the property of the SMART financing authority. Such agreement shall further provide that the department of finance or the parking violations bureau shall adjudicate violations of this article as provided in this article, and that all fines and penalties collected by the department of finance or the parking violations bureau shall be the property at all times of the SMART financing authority; provided, however, that the SMART financing authority and the city shall enter into an agreement to reimburse the department of finance or the parking violations bureau for the costs of such adjudication. The city and the SMART financing authority are authorized to enter into third-party agreements with the state, any state agency, the federal government, the port authority of New York and New Jersey, any other state or agency or instrumentality thereof, any public authority of this or any other state, any political subdivision
or municipality of this state or any other state, and any person, firm, partnership, association or
corporation as the city and the SMART financing authority determine are necessary or
convenient for the construction, operation, and maintenance of the congestion pricing program
and congestion pricing fee collection program.

2. Notwithstanding any other provision of law, the city may procure contracts to
design, construct, operate, maintain, and implement the congestion pricing program and the
congestion pricing fee collection program through the award of one or more contracts pursuant to
a competitive request for proposals process in accordance with the rules of the city’s
procurement policy board.

§ 1707. Violations and enforcement.

1. Notwithstanding any other provision of law, violations of this article shall be
adjudicated pursuant to this section. The owner of a vehicle shall be liable for a penalty imposed
pursuant to this section if such vehicle was used or operated with the permission of the owner,
expressed or implied, in violation of subdivision six of section seventeen hundred four of this
article, and such violation is evidenced by information obtained from a photo-monitoring system
or other credible evidence.

2. A certificate, sworn to or affirmed by a technician employed or contracted by
the city, or a facsimile thereof, based upon inspection of photographs, microphotographs,
videotape, digital recording or other recorded images produced by a photo-monitoring system
shall be prima facie evidence of the facts contained therein. Any photographs,
microphotographs, videotape, digital recording or other recorded images evidencing such a
violation shall be available for inspection in any proceeding to adjudicate the liability for such
violation pursuant to this section.
3. Notwithstanding any other provision of law, an owner liable for a violation of subdivision six of section seventeen hundred four of this article shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be promulgated by the department of finance; provided, however, that such fines and penalties shall not exceed one hundred fifteen dollars; provided, further that an owner shall be liable for an additional penalty not to exceed twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period. The department of finance or the parking violations bureau shall adjudicate liability imposed by this section.

4. An imposition of liability pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

5. A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation of subdivision six of section seventeen hundred four of this article. Personal service on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein. The notice of liability shall contain the following information:

(a) the name and address of the person alleged to be liable as an owner for a violation of subdivision six of section seventeen hundred four of this article;

(b) the registration number of the vehicle involved in such violation;

(c) the date, time, and location or locations where such violation took place;

(d) the identification number of the photo-monitoring system or other document locator number;
(e) information advising the person charged of the manner and time in which he or she may contest the liability alleged in the notice; and

(f) a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability, may subject the person to additional penalties, and that a default judgment may be issued thereon.

6. If the evidence of the violation is derived from an official source other than the photo-monitoring system, such as from an employee of the police department of the city of New York, the notice shall contain sufficient information detailing the name and title of the city employee who observed the violation in addition to the information described in subdivision five of this section.

7. If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was reported to the police department as having been stolen, it shall be a valid defense to an allegation of liability for a violation of subdivision six of section seventeen hundred four of this article that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the department of finance or parking violations bureau.

8. (a) An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision five of this section shall not be liable for the violation of subdivision six of section seventeen hundred four of this article provided that:
(i) prior to the violation the lessor has filed with the department of finance or the parking violations bureau and paid the required filing fee in accordance with the provisions of section two hundred thirty-nine of the vehicle and traffic law; and

(ii) within thirty-seven days after receiving notice from the department of finance or the parking violations bureau of the date and time of a liability, together with the other information contained in the original notice of liability, the lessor submits to the department of finance or the parking violations bureau the correct name and address of the lessee of the vehicle identified in the notice of liability at the time of such violation, together with such other additional information contained in the rental lease or other contract document, as may be reasonably required by the department of finance or the parking violations bureau pursuant to regulations that may be promulgated for such purpose.

(b) Failure to comply with subparagraph (ii) of paragraph (a) of this subdivision shall render the owner liable for the penalty prescribed in this section.

(c) Where the lessor complies with the provisions of this subdivision, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for subdivision six of section seventeen hundred four of this article and shall be sent a notice of liability pursuant to subdivision four of this section.

9. If the owner liable for a violation of subdivision six of section seventeen hundred four of this article was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

10. Notwithstanding any other provision of this section, no owner of a vehicle shall be subject to a penalty imposed pursuant to this section if the operator of such vehicle was
operating such vehicle without the consent of the owner at the time such operator committed a
violation of subdivision six of section seventeen hundred four of this article. For the purposes of
this subdivision, there shall be a presumption that the operator of such vehicle was operating
such vehicle with the consent of the owner at the time such operator committed a violation of
subdivision six of section seventeen hundred four of this article.

11. Nothing in this section shall be construed to limit the liability of an operator
of a vehicle for any violation of subdivision six of section seventeen hundred four of this article.

§ 1708. Disposition of revenue and penalties.

1. All congestion pricing fees collected by the city, as agent for the SMART
financing authority pursuant to the agreement with the SMART financing authority provided in
section seventeen hundred six of this article, but not including fines and penalties collected by
the department of finance or the parking violations bureau for a violation of subdivision six of
section seventeen hundred four of this article pursuant to the provisions of section seventeen
hundred seven of this article, shall at all times be the property of the SMART financing authority
and shall be paid to the SMART financing authority.

2. Notwithstanding any law to the contrary, all fines and penalties collected by
the department of finance or the parking violations bureau for a violation of subdivision six of
section seventeen hundred four of this article pursuant to the provisions of section seventeen
hundred seven of this article shall all at times be the property of the SMART financing authority
and shall be paid to the SMART financing authority; provided, however, that the SMART
financing authority shall reimburse the department of finance or the parking violations bureau for
the costs of adjudication as provided in the agreement between the SMART financing authority
and the city described in section seventeen hundred six of this article.
§ 1709. Environmental study during pilot period. The legislature hereby declares that the congestion pricing program described in this article is designed to improve the environment, including air quality, and mitigate traffic in the state. Notwithstanding any other provision of law, the city and the SMART financing authority shall be authorized to commence the operation of the congestion pricing program prior to the completion of an environmental impact statement as may otherwise be required by law, and shall conduct an environmental study of the congestion pricing program during the operation of the three year pilot period described in section seventeen hundred three of this article. Such environmental study shall substantially conform to the provisions of section 8-0109 of the environmental conservation law, any rules promulgated thereunder, and chapter six of title thirty-four of the rules of the city of New York, and shall be finalized by the completion of the three year pilot period. For the purposes of such study, the department of transportation of the city of New York shall be deemed the lead agency.

§ 1710. Rulemaking authority. Any agencies of the city, including the department of finance and the parking violations bureau, are empowered and authorized to promulgate any regulations necessary or in aid of their powers and duties pursuant to this article.

§ 2. Article 8 of the public authorities law is amended by adding a new title 34 to read as follows:

TITLE 34 – Sustainable Mobility And Regional Transportation Financing Authority

§ 2799-aaa. Short title. This title shall be known and may be cited as the “Sustainable Mobility And Regional Transportation Financing Authority Act”.

§ 2799-bbb. Definitions. For the purposes of this title, unless the context otherwise requires:
1. “Authority” or “SMART financing authority” or “sustainable mobility and regional transportation financing authority” means the public benefit corporation created by this act.

2. “Bonds” means bonds, notes and other evidence of indebtedness, issued or incurred by the authority.

3. “City” means the city of New York.

4. “City revenues” means the moneys paid or payable by the New York city transitional finance authority to the authority pursuant to section twenty-seven hundred ninety-nine-hh of the public authorities law, or in the event of the termination of the existence of the New York city transitional finance authority, the moneys paid or payable by the state comptroller to the authority pursuant to section thirteen hundred thirteen of the tax law.

5. “Congestion pricing revenues” means the revenues from the congestion pricing program described in article forty-four-B of the vehicle and traffic law that are collected by the city, as agent for the authority, pursuant to the agreement entered into between the authority and the city as described in section seventeen hundred six of the vehicle and traffic law and subdivision one of section twenty-seven hundred ninety-nine-ee of this title, and paid to, and at all times are the property of, the authority; and the fines and penalties collected by the department of finance of the city of New York or the parking violations bureau of the city of New York pursuant to section seventeen hundred seven of the vehicle and traffic law that are paid to, and at all times are the property of, the authority, subject to the agreement between the authority and the city as described in section seventeen hundred six of the vehicle and traffic law and subdivision one of section twenty-seven hundred ninety-nine-ee of this title that provides
for the reimbursement of the department of finance of the city of New York or the parking
violations bureau of the city of New York for the costs of adjudication.

6. “Construction” means the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a mass transit project; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic and environmental investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

7. “Costs”, as applied to any mass transit project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings and structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all equipment and systems, financing charges, interest prior to, during and after construction, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants’ and legal services, the cost of lease guarantee or bond insurance, and other expenses necessary, reasonably related or incidental to the mass transit project.

8. “Equipment and systems” means rolling stock, omnibuses, vehicles, air, marine or surface craft, motors, boilers, engines, electronic equipment, wires, ways, conduits and mechanisms, machinery, tools, implements, materials, supplies, instruments and devices of every nature whatsoever used or useful for transportation purposes, and all apparatus and all devices for signaling, communications, life safety and ventilation as may be necessary, convenient or desirable for the operation of a mass transit facility.
9. “Federal government” means the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

10. “Governor” means the governor of the state.

11. “Mass transit facility” means marine and aviation facilities, omnibus facilities, railroad facilities or other similar modes and equipment and systems related thereto that are used in connection with the operation of a mass transit line or route within the New York city metropolitan area and the borough of Manhattan.

12. “Mass transit project” means the construction, acquisition, or improvement of a mass transit facility undertaken by a mass transit provider that will have a substantial and direct impact, as determined by the authority, whose determination is conclusive and binding pursuant to the provisions of this title, in reducing travel times or cost or in improving capacity into the borough of Manhattan from areas within the New York city metropolitan area and within the borough of Manhattan itself. A “mass transit project” shall not include a project undertaken primarily to keep an existing mass transit facility or roadway in a state of good repair.

13. “Mass transit provider” means the state, any state agency, the city, any city agency, the federal government, the port authority of New York and New Jersey, any other state or agency or instrumentality thereof, any public authority of this or any other state, and any political subdivision or municipality of this state or any other state that owns, leases, or operates a mass transit facility.

14. “Marine and aviation facilities” mean equipment and craft for the transportation of passengers and other transportation facilities, including marine craft and aircraft of all types including but not limited to hydrofoils, ferries, lighters, tugs, barges, helicopters, amphibians, seaplanes, airplanes or other contrivances now or hereafter used in navigation or
movement on waterways or navigation or flight in airspace. It shall also mean any marine port
or airport facility, docks, piers, bulkheads, ramps or any facility or real property necessary,
convenient or desirable for the accommodation of passengers or the docking, sailing, landing,
taking off, accommodation or servicing of such marine craft or aircraft.

15. “Mayor” means the mayor of the city.

16. “New York city metropolitan area” means the geographic area including the
following counties in the state: Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam,
Queens, Richmond, Rockland, Suffolk, and Westchester; the following counties in the state of
New Jersey: Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Passaic,
Somerset, Sussex, Union, and Warren; and the following counties in the state of Connecticut:
Fairfield and New Haven.

17. “Omnibus facilities” mean motor vehicles, of the type operated by carriers
subject to the jurisdiction of the public service commission, engaged in the transportation of
passengers and their baggage, and equipment, property, buildings, structures, improvements,
loading or unloading areas, parking areas or other facilities necessary, convenient or desirable for
the accommodation of such motor vehicles or their passengers.

18. “Railroad facilities” shall mean right of way and related trackage, rails, cars,
locomotives, other rolling stock, signal, power, fuel, life safety, communication and ventilation
systems, power plants, stations, terminals, storage yards, repair and maintenance shops, yards,
equipment and parts, offices and other real estate or personalty used or held for or incidental to
the operation, rehabilitation or improvement of any railroad.
19. “Revenues” means the congestion pricing revenues, the state revenues, the city revenues and all aid, rents, fees, charges, payments and other income and receipts paid or payable to the authority or to a trustee for the account of the authority.

20. “State” means the state of New York.

21. “State revenues” means moneys appropriated or otherwise paid to the authority by the state pursuant to section ninety-seven-gggg of the state finance law.

§ 2799-ccc. Sustainable mobility and regional transportation financing authority.

1. A public corporation to be known as the “sustainable mobility and regional transportation financing authority” is hereby created for public purposes and shall have the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation, and shall be an instrumentality of the state.

2. The governing body of the authority shall consist of eight directors, to be appointed and serve as follows:

   a. Four directors shall be appointed by the governor and four directors shall be appointed by the mayor.

   b. Each director shall be a person who is a recognized leader in transportation, regional planning, or finance. A director shall not be an officer or employee of the state, any state agency, the city, any city agency, any public authority of the state, any political subdivision or municipality of the state or any mass transit provider that may apply for financing of a mass transit project pursuant to subdivision two of section twenty-seven hundred ninety-nine-eee of this title.

   c. Two directors appointed by the governor and two directors appointed by the mayor shall serve for a term ending three years from the date of creation of the authority, and
two directors appointed by the governor and two directors appointed by the mayor shall serve for a term ending six years from the date of creation of the authority. Thereafter each director shall serve a term of six years, except that any director appointed to fill a vacancy shall serve only until the expiration of his or her predecessor’s term. Each director shall hold office until his or her successor has been appointed and qualified. A director may be removed by the entity that appointed him or her for cause, after the director has been provided with notice and an opportunity to be heard.

3. The power of such corporation shall be vested in and exercised by a majority of the directors of the board then in office, provide however, that a quorum of the board consisting of at least two directors appointed by the governor and two directors appointed by the mayor is required for the transaction of any business or of the exercise of any power of the authority. Provided, further, that the approval of three-quarters of the directors of the board then in office, including no less than two directors appointed by the governor and two directors appointed by the mayor, shall be required for any action: (i) to enter into, modify or terminate an agreement with the metropolitan transportation authority or the city to provide financing for projects that are designed to maintain existing assets relating to transportation in a state of good repair pursuant to subdivision two of section twenty-seven hundred ninety-nine-eee of this title; (ii) to enter into, modify or terminate an agreement with a mass transit provider to finance a portion of a mass transit project pursuant to subdivision three of section twenty-seven hundred ninety-nine-eee of this title; (iii) to issue bonds or other debt; (iv) to mortgage, sell or buy material assets; (v) to adopt and amend by-laws; (vi) to commence any lawsuits; and (vii) to enter into a contract providing for payments in excess of one hundred thousand dollars ($100,000.00) in any one year period or otherwise authorizing any expenditure in excess of one
hundred thousand dollars ($100,000.00). Such board may delegate to one or more of its directors or its officers, agents and employees such powers and duties as it may deem proper.

4. The board shall elect one of its directors to serve as the chairperson of the authority.

5. The board shall appoint a treasurer and may appoint officers or agents as it may require and proscribe their duties.

6. The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority shall pass to and vest in the city except as otherwise may be specified in such law.

7. It is hereby determined and declared that the authority and the carrying out of its powers and duties are in all respects for the benefit of the people of the city and the state for the improvement of their health, welfare and prosperity and that such purposes are public purposes and the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

§ 2799-ddd. General powers of the authority. The authority shall have the following powers in addition to those specially conferred elsewhere in this title, subject only to agreements with bondholders:

1. to sue and be sued;

2. to have a seal and alter the same at pleasure;
3. to make and alter by-laws for its organization and management and to make
and alter rules and regulations governing the exercise of its powers and fulfillment of its
purposes under this title;

4. to make and execute contracts and all other instruments or agreements
necessary or convenient to carry out any powers and functions expressly given in this title;

5. to acquire, by purchase, gift, grant, transfer, contract or lease, lease as lessee,
hold, and use any real or personal property or any interest therein, as the authority may deem
necessary, convenient or desirable to carry out the purpose of this title and to sell, lease as lessor,
transfer and dispose of any property or interests therein at any time required by it in the exercise
of its powers;

6. to make plans, surveys, and studies necessary, convenient or desirable to the
effectuation of the purposes and powers of the authority and to prepare recommendations in
regard thereto;

7. to make use of existing studies, surveys, plans, data and other material in the
possession of any state agency, any municipality or any mass transit provider in order to avoid
duplication of effort;

8. to enter upon such lands, waters or premises as in the judgment of the authority
may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings
and examinations to accomplish any purpose authorized by this title, the authority being liable
for actual damage done;

9. to conduct investigations and hearings in the furtherance of its general
purposes, and in aid thereof to have access to any books, records or papers relevant thereto; and
if any person whose testimony shall be required for the proper performance of the duties of the
authority shall fail or refuse to aid or assist the authority in the conduct of any investigation or
hearing, or to produce any relevant books, records or other papers, the authority is authorized to
apply for process of subpoena, to issue out of any court of general original jurisdiction whose
process can reach such person, upon due cause shown;

10. to commence any action to protect or enforce any right conferred upon it by
law, contract or other agreement;

11. to borrow money and issue bonds, to refund the same, and to provide for the
rights of the holders of its bonds;

12. as security for the payment of the principal of and interest on any bonds
issued by it pursuant to this title and any agreements made in connection therewith and for its
obligations under bond facilities, to pledge all or any part of its revenues or assets;

13. to procure insurance, letters of credit or other credit enhancement with respect
to its bonds, or facilities for the payment of tenders of such bonds or facilities for the payment
upon maturity of short-term notes not renewed;

14. to enter into interest rate exchange or similar arrangements with any person
under such terms and conditions as the authority may determine, not inconsistent with the
general laws of this state and other provisions of this title, including, without limitation,
provisions as to default or early termination and indemnification by the authority or any other
party thereto for loss of benefits as a result thereof;

15. to procure insurance, letters of credit or other credit enhancement with respect
to arrangements described in subdivision twelve of this section;

16. to accept gifts, grants, loans or contributions of funds or financial or other aid
in any form from the city, state or federal government or any agency or instrumentality thereof,
or from any other source and to expend the proceeds for any of its corporate purposes in accordance with the provisions of this title;

17. subject to the provisions of any contract with bondholders, to invest any funds held in reserves or sinking funds, or any funds not required for immediate use or disbursement, at the discretion of the authority;

18. to appoint such officers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, and compensation, and to retain or employ counsel, auditors and private financial consultants and other services on a contract basis or otherwise for rendering professional, business or technical services and advice; and

19. to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this title.

§ 2799-eee. Specific powers of the authority.

1. The authority and the city shall enter into an agreement, and shall be authorized to alter such agreement from time to time, that provides for the construction, operation, maintenance, and financing of the congestion pricing program and the congestion pricing fee collection program as described in article forty-four-B of the vehicle and traffic law. Such an agreement shall provide that the city shall be responsible for the construction, operation, and maintenance of the congestion pricing program and the congestion pricing fee collection program, and that the authority shall reimburse the city for the costs of construction, operation, and maintenance of the congestion pricing program and the congestion pricing fee collection program as provided in such agreement. Such an agreement shall further provide that the city shall collect congestion pricing fees as agent for the authority, and that such fees shall at all times be the property of the authority. Such agreement shall further provide that the department of
finance of the city of New York or the parking violations bureau of the city of New York shall adjudicate violations of article forty-four-B of the vehicle and traffic law as provided in such article, and that all fines and penalties collected by the department of finance of the city of New York or the parking violations bureau of the city of New York shall be the property at all times of the authority; provided, however, that the authority and the city shall enter into an agreement to reimburse the department of finance of the city of New York or the parking violations bureau of the city of New York for the costs of such adjudication. The authority and the city are authorized to enter into third-party agreements with the state, any state agency, the federal government, the port authority of New York and New Jersey, any other state or agency or instrumentality thereof, any public authority of this or any other state, any political subdivision or municipality of this state or any other state, and any person, firm, partnership, association or corporation as the city and the authority determine are necessary or convenient for the construction, operation, and maintenance of the congestion pricing program and congestion pricing fee collection program.

2. The authority shall be authorized to make agreements with the metropolitan transportation authority and the city to provide financing for projects that are designed to maintain existing assets relating to transportation in a state of good repair.

(a) The total amounts provided by the authority for such projects over the twenty years following the date of creation of the authority shall not exceed twelve billion dollars ($12,000,000,000) for the metropolitan transportation authority and one billion seven hundred twenty-two million dollars ($1,722,000,000) for the city. Such agreements shall not require as a prerequisite that the metropolitan transportation authority or the city match any financing by the authority.
(b) The authority shall enter into agreements, and may modify such agreements from time to time, with the metropolitan transportation authority and the city in accordance with the provisions of this title. Such agreements (i) shall describe the particular projects to be financed in whole or in part by the authority and (ii) describe the method by which and the terms and conditions upon which money provided by the authority shall be disbursed to the metropolitan transportation authority or the city; (iii) describe the method by which and the terms and conditions upon which money provided by the authority shall be disbursed to the metropolitan transportation authority or the city; (iv) describe the method of how the authority will monitor the use of such moneys; and (v) contain any other terms or conditions required by the authority.

3. The authority shall be authorized to enter into agreements with mass transit providers to finance no more than fifty percent of the total projected costs of a mass transit project at the time of application by the mass transit provider. The authority shall accept and evaluate applications for financing from mass transit providers for mass transit projects according to the following procedures:

(a) The authority shall develop criteria for evaluating applications for financing of mass transit projects. Such criteria shall consider, at a minimum, the extent to which a mass transit project will have a substantial and direct impact in reducing travel times or cost or in improving capacity into the borough of Manhattan from areas within the New York city metropolitan area and within the borough of Manhattan itself.

(b) The authority shall enter into agreements, and may modify such agreements from time to time, with a mass transit provider to provide no more than fifty percent of the costs of a mass transit project approved by the authority and in accordance with the provisions of this
Such agreements (i) shall describe the particular mass transit projects to be financed in part by the authority; (ii) describe the plan for the financing of the mass transit project; (iii) describe the method by which and the terms and conditions upon which money provided by the authority shall be disbursed to the mass transit provider; (iv) describe the method of how the authority will monitor the use of such moneys; and (v) contain any other terms or conditions required by the authority.

(c) The authority shall not make any payments to a mass transit provider for partial financing of an approved mass transit project pursuant to such an agreement until (i) the mass transit project has received all material permits and required environmental reviews; and (ii) the mass transit provider has certified to the satisfaction of the authority that it has secured from its own resources or from other parties sufficient financing for the mass transit project according to the agreement between the authority and the mass transit provider and as otherwise required by this title.

§ 2799-fff. Adjustments of congestion pricing fees. Notwithstanding any other provision of law, the authority shall be authorized to adjust the congestion pricing fees described in section seventeen hundred four of the vehicle and traffic law only to the extent necessary (1) to satisfy the authority’s then existing obligations to its bondholders, provided and to the extent that such obligations are secured by congestion pricing revenues, (2) to cover the cost of constructing, operating, and maintaining the congestion pricing program, or (3) for traffic mitigation purposes; provided, however, that such fees may not be changed during the three year pilot period described in section seventeen hundred three of the vehicle and traffic law.

§ 2799-ggg. Bonds of the authority.
1. The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts as it may determine for any corporate purposes, including incidental expenses in connection therewith. The authority shall have power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority shall be special obligations payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements entered into between or among the authority, the city and the state, and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America or non-governmental insurer any insurance or guaranty, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds or notes issued by the authority, or on any municipal obligations of governmental units purchased or held by the authority; and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of the bonds or notes of the authority.

3. The authority in its sole discretion shall determine that the issuance of bonds is appropriate. Bonds shall be authorized by resolution of the authority. Bonds shall bear interest at such fixed or variable rates and shall be in such denominations, be in such form, either coupon or registered, be sold at public or private sale, be executed in such manner, be denominated in
United States currency, be payable in such medium of payment, at such place and be subject to such terms of redemption as the authority may provide in such resolution. Bonds may be sold at public or private sale for such price or prices as the authority shall determine.

4. The directors may delegate to the chairperson or other director or officer of the authority the power to set the final terms of bonds.

5. Any resolution or resolutions authorizing bonds or any issue of bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or part of its revenues, together with any other moneys, securities, contracts or property, to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) limitations on the right of the authority to restrict and regulate the use of any project or part thereof in connection with which bonds are issued;

(e) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(f) the procedure, if any, by which the terms of any contract with bondholders may be amended, including the proportion of bondholders which must consent thereto and the manner in which such consent may be given;
(g) the creation of special funds into which any revenues or other moneys may be deposited;

(h) the terms and provisions of any trust, deed or indenture securing the bonds under which the bonds may be issued;

(i) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section twenty-seven hundred ninety-nine-nnn of this title and limited or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(j) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(k) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(l) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

6. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements as the authority may deem necessary, consistent or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or property and the doing of any act, including refraining from doing any act, which the authority would have the right to do in the absence of such agreements. The authority shall have
power to enter into amendments of any such agreements within the powers granted to the
authority by this title and to perform such agreements. The provisions of any such agreements
may be made a part of the contract with the holders of bonds of the authority.

7. Notwithstanding any provision of the uniform commercial code to the
contrary, any pledge of or other security interest in revenues, moneys, accounts, contract rights,
general intangibles or other personal property made or created by the authority shall be valid,
binding and perfected from the time when such pledge is made or other security interest attaches
without any physical delivery of the collateral or further act, and the lien of any such pledge or
other security interest shall be valid, binding and perfected against all parties having claims of
any kind in tort, contract or otherwise against the authority irrespective of whether or not such
parties have notice thereof. No instrument by which such a pledge or security interest is created
nor any financing statement need be recorded or filed.

8. Whether or not the bonds of the authority are of such form and character as to
be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby
made negotiable instruments within the meaning of and for all the purposes of the uniform
commercial code, subject only to the provisions of the bonds for registration.

9. Neither the directors of the authority nor any person executing bonds shall be
liable personally thereon or be subject to any personal liability or accountability solely by reason
of the issuance thereof. The bonds or other obligations of the authority shall not be a debt of
either the state or the city, and neither the state nor the city shall be liable thereon, nor shall they
be payable out of any funds other than those of the authority; and such bonds shall be contain on
the face thereof a statement to such effect.
10. The authority, subject to such agreements with bondholders as then may exist, shall have power to purchase bonds of the authority out of any moneys available therefore, which shall thereupon be cancelled.

§ 2799-hhh. Resources of the authority.

1. Subject to the provisions of this title, the directors of the authority shall receive, accept, invest, administer, expend and disburse for its corporate purposes all money of the authority from whatever sources derived.

2. Subject to the provisions of any contract with bondholders, the money of the authority shall be paid to the authority and shall be deposited in a bank or banks designated by the authority.

3. The money in any of the authority's accounts shall be paid out on checks signed by the treasurer of the authority, or by other lawful and appropriate means such as wire or electronic transfer, on requisitions of the chairperson of the authority or of such other officer as the directors shall authorize to make such requisition, or pursuant to a bond resolution or trust indenture.

4. All deposits of authority money shall be secured by obligations of the United States or of the state or of the city at a market value at least equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The authority shall have the power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any money of the authority or any money held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the other provisions of this title.
Money held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such money may be secured in the same manner as money of the authority, and all banks and trust companies are authorized to give such security for such deposits.

5. Congestion pricing revenues received by the authority, state revenues received by the authority, and city revenues received by the authority, together with any other revenues received by the authority, shall be applied in the following order of priority: first pursuant to the authority's contracts with bondholders, then to pay the authority's expenses not otherwise provided for, which shall include the fulfillment of the agreement with the city described in section seventeen hundred six of the vehicle and traffic law and subdivision one of section twenty-seven hundred ninety-nine-eee of this title, and then for any other corporate purpose or function, including the fulfillment of other agreements, authorized by this title.

6. Subject to the provisions of any contract with bondholders, the authority shall be required to commit all revenues or moneys it receives to agreements or projects authorized by this title or to otherwise expend such revenues or moneys in accordance with any corporate purpose authorized by this title within three years of the receipt of such revenues or moneys from any source; provided, however, that the authority may retain a fund not to exceed three million dollars ($3,000,000) to provide for regular expenses of the authority that shall not be subject to the requirements of this subdivision.

§ 2799-iii. Agreement with the state. The state does hereby pledge to and agree with the holders of any issue of bonds issued by the authority pursuant to this title and secured by such a pledge that the state will not limit, alter or impair the rights hereby vested in the authority or the city to fulfill the terms of any agreements made with such holders pursuant to this title, will not limit or alter the right of the authority to pledge city revenues or state revenues received
by the authority, will not limit or alter the right of the city, pursuant to an agreement with the
authority to construct, operate, and maintain a congestion pricing program as described by article
forty-four-B of the vehicle and traffic law subject to the pilot period provisions in section
seventeen hundred three of the vehicle and traffic law, will not alter or reduce the power of the
authority to adjust the congestion pricing fees as pursuant to the power granted by section
twenty-seven hundred ninety-nine of this title, will not reduce the size of the congestion
pricing zone, expand the classes of vehicles exempt from or shrink the classes of vehicles subject
to congestion pricing fees or otherwise alter the congestion pricing program described by article
forty-four-B of the vehicle and traffic law, unless such actions do not impair the rights hereby
vested in the authority to fulfill the terms of any agreements made with such holders pursuant to
this title, or in any way impair the rights and remedies of such holders or the security for such
bonds until such bonds, together with the interest thereon and all costs and expenses in
connection with any action or proceeding by or on behalf of such holders, are fully paid and
discharged. The authority is authorized to include this pledge and agreement of the state in any
agreement with the holders of such bonds. Nothing contained in this title shall be deemed to
restrict the right of the state to amend, modify, repeal or otherwise alter statutes imposing or
relating to taxes or fees, or appropriations relating thereto, except as regarding the power of the
authority to pledge city revenues and state revenues received by the authority, the establishment
and continuation of the congestion pricing program, the shrinking of the congestion pricing zone,
the establishment of the classes of vehicles exempt from and subject to congestion pricing fees,
and the power of the authority to adjust congestion pricing fees as provided in this section. The
authority shall not include within any resolution, contract or agreement with holders of the bonds
issued under this title any provision which provides that a default occurs as a result of the state
exercising its right to amend, repeal, modify or otherwise alter such taxes, fees, or
appropriations, except as provided in this section. Nothing in this title shall be deemed to
oblige the state to make any payments or impose any fees or taxes to satisfy the debt service
obligations of the authority.

§ 2799-jjj. Bonds legal for investment and deposit. The bonds of the authority
are hereby made securities in which all public officers and bodies of the state and all public
corporations, municipalities and municipal subdivisions, all insurance companies and
associations and other persons carrying on an insurance business, all banks, bankers, trust
companies, savings banks and savings associations including savings and loan associations,
building and loan associations, investment companies and other persons carrying on a banking
business, all administrators, conservators, guardians, executors, trustees and other fiduciaries,
and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds
or in other obligations of the state, may properly and legally invest funds, including capital, in
their control or belonging to them. The bonds are also hereby made securities which may be
deposited with and may be received by all public officers and bodies of the state and all
municipalities and public corporations for any purpose for which the deposit of bonds or other
obligations of the state is now or may hereafter be authorized.

§ 2799-kkk. Tax exemption and tax contract by the state.

1. It is hereby determined that the creation of the authority and the carrying out of
its corporate purposes are in all respects for the benefit of the people of the state of New York
and are public purposes. Accordingly, the authority shall be regarded as performing an essential
governmental function in the exercise of the powers conferred upon it by this title. The property
of the authority, its income and its operations shall be exempt from taxation, assessments, special
assessments and ad valorem levies. The authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including, but not limited to, fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds issued pursuant to this title, their transfer and the income therefrom shall, at all times, be exempt from taxation.

3. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to pay or to secure the payment of such bonds shall at all times be exempt from taxation.

4. Notwithstanding any provision in this section to the contrary, the authority may pay, or may enter into agreements with the city to pay, a sum or sums, annually or otherwise, or to provide other considerations to the city with respect to real property owned by the authority located within the city.

§ 2799-III. Actions against the authority.

1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the
authority or of any director, officer, agent or employee thereof, unless (a) it shall appear by and
as an allegation in the complaint or moving papers that a notice of claim shall have been made
and served upon the authority, within the time limit prescribed by and in compliance with section
fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or
moving papers that at least thirty days have elapsed since the service of such notice and that
adjustment or payment thereof has been neglected or refused, and (c) the action or proceeding
shall be commenced within one year after the happening of the event upon which the claim is
based. An action against the authority for wrongful death shall be commenced in accordance
with the notice of claim and time limitation provisions of title eleven of article nine of this
chapter.

2. Wherever a notice of claim is served upon the authority, it shall have the right
to demand an examination of the claimant relative to the occurrence and extent of the injuries or
damages for which claim is made, in accordance with the provisions of section fifty-h of the
general municipal law.

3. The authority may require any person presenting for settlement an account or
claim for any cause whatever against the authority to be sworn before a director, counsel or an
attorney, officer or employee thereof designated for such purpose, concerning such account or
claim and when so sworn, to answer orally as to any facts relative to such account or claim. The
authority shall have power to settle or adjust any claims in favor of or against the authority.

4. The rate of interest to be paid by the authority upon any judgment for which it
is liable, other than a judgment on bonds, shall not exceed the maximum rate of interest on
judgments and accrued claims against municipal authorities as provided in the general municipal
law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate
specified in the general municipal law until paid or otherwise satisfied.

5. Neither any director of the authority nor any officer, employee, or agent of the
authority, while acting within the scope of his or her authority, shall be subject to any liability
resulting from exercising or carrying out any of the powers given in this title.

6. Indemnification.

(a) The state shall save harmless and indemnify directors, officers and employees
of and representatives to the authority, all of whom shall be deemed officers and employees of
the state for purposes of section seventeen of the public officers law, against any claim, demand,
suit, or judgment arising by reason of any act or omission to act by such director, officer,
employee or representative occurring in the discharge of his or her duties and within the scope of
his or her service on behalf of the authority including any claim, demand, suit or judgment based
on allegations that financial loss was sustained by any person in connection with the acquisition,
disposition or holding of securities or other obligations. In the event of any such claim, demand,
suit or judgment, a director, officer or employee of or representative to the authority shall be
saved harmless and indemnified, notwithstanding the limitations of subdivision one of section
seventeen of the public officers law, unless such individual is found by a final judicial
determination not to have acted, in good faith, for a purpose which he or she reasonably believed
to be in the best interest of the authority or not to have had reasonable cause to believe that his or
her conduct was lawful.

(b) In connection with any such claim, demand, suit, or judgment, any director,
officer or employee of or representative to the authority shall be entitled to representation by
private counsel of his or her choice in any civil judicial proceeding whenever the attorney
general determines based upon his or her investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate. The attorney general shall notify the individual in writing of such determination that the individual is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representative, that appropriate groups of such individuals be represented by the same counsel. If the individual or groups of individuals is entitled to representation by private counsel under the provisions of this section, the attorney general shall so certify to the state comptroller. Reasonable attorneys’ fees and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the civil action or proceeding, subject to certification that the individual is entitled to representation under the terms and conditions of this section by the authority, upon the audit and warrant of the state comptroller. The provisions of this subdivision shall be in addition to and shall not supplant any indemnification or other benefits heretofore or hereafter conferred upon directors, officers, or employees of and representatives to the authority by section seventeen of the public officers law, by action of the authority or otherwise. The provisions of this subdivision shall inure only to directors, officers and employees of and representatives to the authority, shall not enlarge or diminish the rights of any other party, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

§ 2799-mmm. Audits. The accounts of the authority shall be subject to the audit of the comptroller of the city and the comptroller of the state. In addition, the authority shall be subject to an annual financial audit performed by an independent certified accountant selected by the authority. Such audit report shall be submitted to the mayor, the comptroller of the city, the speaker of the city council of the city, the director of management and budget of the city, the
§ 2799-nnn. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (i) of subdivision five of section twenty-seven hundred ninety-nine-ggg of this title:

1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or shall default in any agreement made with the holders of any issue of bonds, the holders of at least twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the city and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose provided in this section.

2. Such trustee may, and upon written request of the holders of at least twenty-five per centum in principal amount of such bonds outstanding shall, in his or her or its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders and require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holder of such bonds; and
(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds.

3. Such trustee shall, in addition to the provisions of subdivisions one and two of this section, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this section or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county of New York.

§ 2799-ooo. Effect of inconsistent provision. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title.

§ 2799-ppp. Separability; construction. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered. The provisions of this title shall be liberally construed to assist the effectuation of the public purposes furthered hereby.

§ 3. Article 6 of the state finance law is amended by adding a new section 97-gggg to read as follows:

§ 97-gggg. Sustainable Mobility and Regional Transportation Fund.
1. There is hereby established in the custody of the state comptroller a special
revenue fund to be known as the “Sustainable Mobility and Regional Transportation Fund” or
the “SMART Fund.”

2. The state shall provide the SMART Fund with two hundred twenty million
dollars ($220,000,000) no later than March thirty-first, two thousand nine, two hundred sixty
million dollars ($260,000,000) beginning April first, two thousand nine and no later than March
thirty-first, two thousand ten, two hundred seventy five million dollars ($275,000,000)
beginning April first, two thousand ten and no later than March thirty-first, two thousand eleven,
and beginning April first, two thousand eleven and no later than March thirty-first, two thousand
dozen and each similar annual period thereafter an amount equal to three and five hundredths
percent (3.05%) of the revenue from the city personal income tax received by the city pursuant to
article thirty of the tax law in the immediately preceding calendar year.

3. All moneys of such fund shall be paid by the state comptroller as soon as
practicable to the sustainable mobility and regional transportation financing authority created by
section twenty-seven hundred ninety-nine-ccc of the public authorities law for any authorized
use or function as determined by such authority.

§ 4. Subdivision (5) of section 2799-hh of the public authorities law, as added by
chapter 16 of the laws of 1997, is amended to read as follows:

5. Tax revenues received by the authority pursuant to section thirteen hundred
thirteen of the tax law, together with any alternative revenues received by the authority, shall be
applied in the following order of priority: first pursuant to the authority’s contracts with
bondholders, then to pay the authority’s operating expenses not otherwise provided for, then to
pay to the sustainable mobility and regional transportation financing authority created by section
twenty-seven hundred ninety-nine-ccc of this chapter an amount equal to an amount paid by the
state to such authority pursuant to section ninety-seven-gggg of the state finance law, provided
however, that such amount shall not exceed two hundred twenty million dollars ($ 220,000,000)
between the effective date of the act that added this provision and March thirty-first, two
thousand nine, two hundred sixty million dollars ($ 260,000,000) between April first, two
thousand nine, and March thirty-first, two thousand ten, two hundred seventy five million dollars
($ 275,000,000) between April first, two thousand ten, and March thirty-first, two thousand
eleven, and then between April first, two thousand eleven, and March thirty-first two thousand
twelve and each similar annual period thereafter an amount equal to three and five hundredths
percent (3.05%) of the revenue from the city personal income tax received by the city pursuant to
this article in the immediately preceding calendar year, provided further, that no such payments
shall be made after April first, two thousand twelve, if the sustainable mobility and regional
transportation financing authority has no obligations outstanding, and then pursuant to the
authority’s agreements with the city, which agreements shall require the authority to transfer the
balance of such taxes not required to meet contractual or other obligations of the authority to the
city as frequently as possible.

§ 5. The opening paragraph of subsection (c) of section 1313 of the tax law, as
amended by chapter 58 of the laws of 2005, is amended to read as follows:

(c) Subject to the provisions of subsection (g) of this section, the comptroller,
after reserving such refund fund and such costs shall, commencing on or before the fifteenth day
of each month, pay to the New York city transitional finance authority on a daily basis the
balance of taxes imposed pursuant to the authority of this article or former article two-E of the
general city law to be applied by the authority, in the following order of priority: first pursuant to
the authority's contracts with bondholders, then to pay the authority's operating expenses not
otherwise provided for, then to pay to the sustainable mobility and regional transportation
financing authority created by section twenty-seven hundred ninety-nine-ccc of the public
authorities law an amount equal to an amount appropriated and paid by the state to such authority
pursuant to section ninety-seven-gggg of the state finance law, provided however, that such
amount shall not exceed two hundred twenty million dollars ($ 220,000,000) between the
effective date of the act that added this provision and March thirty-first, two thousand nine, two
hundred sixty million dollars ($ 260,000,000) between April first, two thousand nine, and March
thirty-first, two thousand ten, two hundred seventy five million dollars ($ 275,000,000) between
April first, two thousand ten, and March thirty-first, two thousand eleven, and then between
April first, two thousand eleven, and March thirty-first two thousand twelve and each similar
annual period thereafter an amount equal to three and five hundredths percent (3.05%) of the
revenue from the city personal income tax received by the city pursuant to this article in the
immediately preceding calendar year, provided further, that no such payments shall be made
after April first, two thousand twelve, if the sustainable mobility and regional transportation
financing authority has no obligations outstanding, and then pursuant to the authority's
agreements with the city, which agreements shall require the authority to transfer the balance of
such taxes not required to meet contractual or other obligations of the authority to the city as
frequently as practicable; except that the comptroller shall:

§ 6. Subsection (g) of section 1313 of the tax law, as amended by chapter 58 of
the laws of 2005, is amended to read as follows:

(g) The balance payable to the New York city transitional finance authority
pursuant to this section shall instead be paid to the chief fiscal officer of the city of New York
unless and until the comptroller has received from such authority a notice, which shall be
conclusive and upon which the comptroller may rely without further inquiry, that such authority
has incurred obligations payable by it, whether for borrowed money, operating expenses, or to
pay an amount to the sustainable mobility and regional transportation financing authority created
by section twenty-seven hundred ninety-nine-ccc of the public authorities law or otherwise. On
and after the date of such notice and until such date as the authority shall have no obligations
outstanding, the city shall have no right, title or interest in or to the taxes, except as provided in
the authority’s agreements with the city. Upon the termination of the existence of the New York
city transitional finance authority, or any successor to such authority or other entity that
refinances the obligations of such authority with indebtedness payable from the taxes, the
comptroller shall first pay to the sustainable mobility and regional transportation financing
authority created by section twenty-seven hundred ninety-nine-ccc of the public authorities law
an amount equal to an amount appropriated and paid by the state to such authority pursuant to
section ninety-seven-gggg of the state finance law, provided however, that such amount shall not
exceed two hundred twenty million dollars ($220,000,000) between the effective date of the act
that added this provision and March thirty-first, two thousand nine, two hundred sixty million
dollars ($260,000,000) between April first, two thousand nine, and March thirty-first, two
thousand ten, two hundred seventy five million dollars ($275,000,000) between April first, two
thousand ten, and March thirty-first, two thousand eleven, and then between April first, two
thousand eleven, and March thirty-first two thousand twelve and each similar annual period
thereafter an amount equal to three and five hundredths percent (3.05%) of the revenue from the
city personal income tax received by the city pursuant to this article in the immediately
preceding calendar year, prior to paying the balance to the chief fiscal officer of the city of New
York, provided further, that no such payments shall be made after April first, two thousand twelve, if the sustainable mobility and regional transportation financing authority has no obligations outstanding.

§ 7. Article 39 of the vehicle and traffic law is amended by adding a new section 1640-m to read as follows:

§ 1640-m. Residential parking system in the city of New York. 1. Notwithstanding the provisions of any law to the contrary, the department of transportation of the city of New York is authorized to promulgate regulations to provide for a residential parking permit system and to fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. The regulations providing for such residential parking system shall:

(a) describe the areas in the city that shall be subject to a residential parking system; and

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than sixty minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and
(f) provide sufficient spaces, as determined by the department of transportation of the city of New York, on streets where adjacent properties are zoned for commercial or retail use.

3. Notwithstanding any other provision of law, such fees collected pursuant to regulations authorized by this section shall be credited to the general fund of the city of New York.

§ 8. Subdivision 1 of section 235 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:

1. Notwithstanding any inconsistent provision of any general, special or local law or administrative code to the contrary, in any city which heretofore or hereafter is authorized to establish an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations, or to adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, [or] to adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, or to adjudicate the liability of owners for violations of the congestion pricing program in the city of New York as defined in and in accordance with the provisions of article forty-four-B of this chapter, such tribunal and the rules and regulations pertaining thereto, shall be constituted in substantial conformance with the following sections.

§ 9. Subdivision 1 of section 236 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:
1. Creation. In any city as hereinbefore or hereafter authorized such tribunal when created shall be known as the parking violations bureau and shall have jurisdiction of traffic infractions which constitute a parking violation and, where authorized by local law adopted pursuant to subdivision (a) of section eleven hundred eleven-a of this chapter, shall adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with such section eleven hundred eleven-a, and shall adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, and shall adjudicate the liability of owners for violations of the congestion pricing program in the city of New York as defined in and in accordance with the provisions of article forty-four-B of this chapter. Such tribunal, except in a city with a population of one million or more, shall also have jurisdiction of abandoned vehicle violations. For the purposes of this article, a parking violation is the violation of any law, rule or regulation providing for or regulating the parking, stopping or standing of a vehicle. In addition for purposes of this article, "commissioner" shall mean and include the commissioner of traffic of the city or an official possessing authority as such a commissioner.

§ 10. Subdivision 11 of section 237 of the vehicle and traffic law, as added by chapter 379 of the laws of 1992, is amended to read as follows:

11. To adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty[.]:
§ 11. Section 237 of the vehicle and traffic law is amended by adding a new
subdivision 12 to read as follows:

12. To adjudicate the liability of owners for violations of the congestion pricing
program in the city of New York as defined in and in accordance with the provisions of article
forty-four-B of this chapter.

§ 12. Paragraph (f) of subdivision 1 of section 239 of the vehicle and traffic law,
as amended by chapter 379 of the laws of 1992, is amended to read as follows:

f. "Notice of violation" means a notice of violation as defined in subdivision nine
of section two hundred thirty-seven of this article, but shall not be deemed to include a notice of
liability issued pursuant to authorization set forth in section eleven hundred eleven-a of this
chapter and shall not be deemed to include a notice of liability issued pursuant to section two
thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b
and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty and
shall not be deemed to include a notice of liability issued pursuant to section seventeen hundred
seven of this chapter.

§ 13. Subdivision 4 of section 239 of the vehicle and traffic law, as amended by
chapter 379 of the laws of 1992, is amended to read as follows:

4. Applicability. The provisions of paragraph b of subdivision two and
subdivision three of this section shall not be applicable to determinations of owner liability for
the failure of an operator to comply with subdivision (d) of section eleven hundred eleven of this
chapter and shall not be applicable to determinations of owner liability imposed pursuant to
section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-
a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred
fifty and shall not be applicable to determinations of owner liability for violations of article forty-four-B of this chapter.

§ 14. Subdivision 1 of section 240 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:

1. Notice of hearing. Whenever a person charged with a parking violation enters a plea of not guilty or a person alleged to be liable in accordance with section eleven hundred eleven-a of this chapter for a violation of subdivision (d) of section eleven hundred eleven of this chapter contests such allegation, or a person alleged to be liable in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law, of sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, or of article forty-four-B of this chapter, the bureau shall advise such person personally by such form of first class mail as the director may direct of the date on which he must appear to answer the charge at a hearing. The form and content of such notice of hearing shall be prescribed by the director, and shall contain a warning to advise the person so pleading or contesting that failure to appear on the date designated, or on any subsequent adjourned date, shall be deemed an admission of liability, and that a default judgment may be entered thereon.

§ 15. Subdivision 1-a of section 240 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:

1-a. Fines and penalties. Whenever a plea of not guilty has been entered, or the bureau has been notified that an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or an allegation of liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of
chapter seven hundred seventy-four of the laws of nineteen hundred fifty or an allegation of
liability in accordance with section seventeen hundred seven of this chapter, is being contested,
by a person in a timely fashion and a hearing upon the merits has been demanded, but has not yet
been held, the bureau shall not issue any notice of fine or penalty to that person prior to the date
of the hearing.

§ 16. Paragraphs (a) and (g) of subdivision 2 of section 240 of the vehicle and
traffic law, as amended by chapter 379 of the laws of 1992, are amended to read as follows:

a. Every hearing for the adjudication of a charge of parking violation or an
allegation of liability in accordance with section eleven hundred eleven-a of this chapter or an
allegation of liability in accordance with section two thousand nine hundred eighty-five of the
public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred
seventy-four of the laws of nineteen hundred fifty or an allegation of liability in accordance with
section seventeen hundred seven of this chapter, shall be held before a hearing examiner in
accordance with rules and regulations promulgated by the bureau.

g. A record shall be made of a hearing on a plea of not guilty or of a hearing at
which liability in accordance with section eleven hundred eleven-a of this chapter is contested or
of a hearing at which liability in accordance with section two thousand nine hundred eighty-five
of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven
hundred seventy-four of the laws of nineteen hundred fifty is contested or a hearing at which
liability in accordance with section seventeen hundred seven of this chapter is contested.
Recording devices may be used for the making of the record.

§ 17. Subdivisions 1 and 2 of section 241 of the vehicle and traffic law, as
amended by chapter 379 of the laws of 1992, are amended to read as follows:
1. The hearing examiner shall make a determination on the charges, either sustaining or dismissing them. Where the hearing examiner determines that the charges have been sustained he may examine either the prior parking violations record or the record of liabilities incurred in accordance with section eleven hundred eleven-a of this chapter or the record of liabilities incurred in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty of the person charged or the record of liabilities incurred in accordance with section seventeen hundred seven of this chapter, as applicable prior to rendering a final determination. Final determinations sustaining or dismissing charges shall be entered on a final determination roll maintained by the bureau together with records showing payment and nonpayment of penalties.

2. Where an operator or owner fails to enter a plea to a charge of a parking violation or contest an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or fails to contest an allegation of liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty or fails to contest an allegation of liability in accordance with section seventeen hundred seven of this chapter, or fails to appear on a designated hearing date or subsequent adjourned date or fails after a hearing to comply with the determination of a hearing examiner, as prescribed by this article or by rule or regulation of the bureau, such failure to plead or contest, appear or comply shall be deemed, for all purposes, an admission of liability and shall be grounds for rendering and entering a default judgment in an amount provided by the rules and regulations of the bureau. However, after the expiration of the original date prescribed for entering a plea and before a
default judgment may be rendered, in such case the bureau shall pursuant to the applicable
provisions of law notify such operator or owner, by such form of first class mail as the
commission may direct; (1) of the violation charged, or liability in accordance with section
eleven hundred eleven-a of this chapter alleged or liability in accordance with section two
thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b
and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty alleged
or liability in accordance with section seventeen hundred seven of this chapter, (2) of the
impending default judgment, (3) that such judgment will be entered in the Civil Court of the city
in which the bureau has been established, or other court of civil jurisdiction or any other place
provided for the entry of civil judgments within the state of New York, and (4) that a default may
be avoided by entering a plea or contesting an allegation of liability in accordance with section
eleven hundred eleven-a of this chapter or contesting an allegation of liability in accordance with
section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a,
sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred
fifty or contesting an allegation of liability in accordance with section seventeen hundred seven
of this chapter, as appropriate, or making an appearance within thirty days of the sending of such
notice. Pleas entered and allegations contested within that period shall be in the manner
prescribed in the notice and not subject to additional penalty or fee. Such notice of impending
default judgment shall not be required prior to the rendering and entry thereof in the case of
operators or owners who are non-residents of the state of New York. In no case shall a default
judgment be rendered or, where required, a notice of impending default judgment be sent, more
than two years after the expiration of the time prescribed for entering a plea or contesting an
allegation. When a person has demanded a hearing, no fine or penalty shall be imposed for any
reason, prior to the holding of the hearing. If the hearing examiner shall make a determination on
the charges, sustaining them, he shall impose no greater penalty or fine than those upon which
the person was originally charged.

§ 18. Subparagraph (i) of paragraph a of subdivision 5-a of section 401 of the
vehicle and traffic law, as amended by chapter 496 of the laws of 1990 and designated
subsection (i) by chapter 373 of the laws of 1994, is amended to read as follows:

(i) If at the time of application for a registration or renewal thereof there is a
certification from a court, parking violations bureau, traffic and parking violations agency or
administrative tribunal of appropriate jurisdiction or administrative tribunal of appropriate
jurisdiction that the registrant or his representative failed to appear on the return date or any
subsequent adjourned date or failed to comply with the rules and regulations of an administrative
tribunal following entry of a final decision in response to a total of three or more summonses or
other process in the aggregate, issued within an eighteen month period, charging either that (i)
such motor vehicle was parked, stopped or standing, or that such motor vehicle was operated for
hire by the registrant or his agent without being licensed as a motor vehicle for hire by the
appropriate local authority, in violation of any of the provisions of this chapter or of any law,
ordinance, rule or regulation made by a local authority or (ii) the registrant was liable in
accordance with section eleven hundred eleven-a of this chapter for a violation of subdivision (d)
of section eleven hundred eleven of this chapter or (iii) the registrant was liable in accordance
with section seventeen hundred seven of this chapter, the commissioner or his agent shall deny
the registration or renewal application until the applicant provides proof from the court, traffic
and parking violations agency or administrative tribunal wherein the charges are pending that an
appearance or answer has been made or in the case of an administrative tribunal that he has
complied with the rules and regulations of said tribunal following entry of a final decision.

Where an application is denied pursuant to this section, the commissioner may, in his discretion, deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision. Such denial shall only remain in effect as long as the summonses remain unanswered, or in the case of an administrative tribunal, the registrant fails to comply with the rules and regulations following entry of a final decision.

§ 19. The opening paragraph of subdivision 1 of section 1809 of the vehicle and traffic law, as amended by chapter 62 of the laws of 2003, is amended to read as follows:

1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for an offense under this chapter or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, or other than an adjudication in accordance with section seventeen hundred seven of this chapter, there shall be levied a crime victim assistance fee and a mandatory surcharge, in addition to any sentence required or permitted by law, in accordance with the following schedule:
§ 20. Paragraph (c) of subdivision 1 of section 1809 of the vehicle and traffic law, as amended by chapter 62 of the laws of 2003, is amended to read as follows:

(c) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for an offense under this chapter other than a crime pursuant to section eleven hundred ninety-two of this chapter, or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter or other than an infraction pursuant to article nine of this chapter or other than an adjudication of liability of an owner for a violation of toll collection regulations pursuant to section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, or other than an adjudication in accordance with section seventeen hundred seven of this chapter, there shall be levied a crime victim assistance fee in the amount of five dollars and a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of forty-five dollars.

§ 21. Subdivision 2 of section 87 of the public officers law is amended by adding a new paragraph (k) to read as follows:

(k) are photographs, microphotographs, videotape or other recorded images produced by a bus lane photo device prepared under authority of article forty-four-B of the vehicle and traffic law.
§ 22. This act shall take effect immediately; provided that nothing herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provision shall be applied or qualified or shall expire or shall be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

End of Part A

PART B

Section 1. Subdivision 1 of section 235 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:

1. Notwithstanding any inconsistent provision of any general, special or local law or administrative code to the contrary, in any city which heretofore or hereafter is authorized to establish an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations, or to adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, [or] to adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, or to adjudicate liability of owners in accordance with section eleven hundred eleven-b of this chapter for violations of bus lane restrictions as defined in such section, such tribunal and the rules and regulations pertaining thereto, shall be constituted in substantial conformance with the following sections.
§ 2. Subdivision 1 of section 236 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:

1. Creation. In any city as hereinbefore or hereafter authorized such tribunal when created shall be known as the parking violations bureau and shall have jurisdiction of traffic infractions which constitute a parking violation and, where authorized by local law adopted pursuant to subdivision (a) of section eleven hundred eleven-a of this chapter, shall adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with such section eleven hundred eleven-a, and shall adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, and shall adjudicate liability of owners in accordance with section eleven hundred eleven-b of this chapter for violations of bus lane restrictions as defined in such section. Such tribunal, except in a city with a population of one million or more, shall also have jurisdiction of abandoned vehicle violations. For the purposes of this article, a parking violation is the violation of any law, rule or regulation providing for or regulating the parking, stopping or standing of a vehicle. In addition for purposes of this article, "commissioner" shall mean and include the commissioner of traffic of the city or an official possessing authority as such a commissioner.

§ 3. Subdivision 11 of section 237 of the vehicle and traffic law, as added by chapter 379 of the laws of 1992, is amended to read as follows:

11. To adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine
hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty.

§ 4. Section 237 of the vehicle and traffic law is amended by adding a new subdivision 12 to read as follows:

12. To adjudicate liability of owners in accordance with section eleven hundred eleven-b of this chapter for violations of bus lane restrictions as defined in such section.

§ 5. Paragraph (f) of subdivision 1 of section 239 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:

f. "Notice of violation" means a notice of violation as defined in subdivision nine of section two hundred thirty-seven of this article, but shall not be deemed to include a notice of liability issued pursuant to authorization set forth in section eleven hundred eleven-a of this chapter and shall not be deemed to include a notice of liability issued pursuant to section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty and shall not be deemed to include a notice of liability issued pursuant to section eleven hundred eleven-b of this chapter.

§ 6. Subdivision 4 of section 239 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:

4. Applicability. The provisions of paragraph b of subdivision two and subdivision three of this section shall not be applicable to determinations of owner liability for the failure of an operator to comply with subdivision (d) of section eleven hundred eleven of this chapter and shall not be applicable to determinations of owner liability imposed pursuant to section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-
a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty and shall not be applicable to determinations of owner liability for violations of section eleven hundred eleven-b of this chapter.

§ 7. Subdivision 1 of section 240 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:

1. Notice of hearing. Whenever a person charged with a parking violation enters a plea of not guilty or a person alleged to be liable in accordance with section eleven hundred eleven-a of this chapter for a violation of subdivision (d) of section eleven hundred eleven of this chapter contests such allegation, or a person alleged to be liable in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities [law or] law, of sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, or of section eleven hundred eleven-b of this chapter, the bureau shall advise such person personally by such form of first class mail as the director may direct of the date on which he must appear to answer the charge at a hearing. The form and content of such notice of hearing shall be prescribed by the director, and shall contain a warning to advise the person so pleading or contesting that failure to appear on the date designated, or on any subsequent adjourned date, shall be deemed an admission of liability, and that a default judgment may be entered thereon.

§ 8. Subdivision 1-a of section 240 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:

1-a. Fines and penalties. Whenever a plea of not guilty has been entered, or the bureau has been notified that an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or an allegation of liability in accordance with section two thousand nine
hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty or an allegation of liability in accordance with section eleven hundred eleven-b of this chapter, is being contested, by a person in a timely fashion and a hearing upon the merits has been demanded, but has not yet been held, the bureau shall not issue any notice of fine or penalty to that person prior to the date of the hearing.

§ 9. Paragraphs (a) and (g) of subdivision 2 of section 240 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, are amended to read as follows:

a. Every hearing for the adjudication of a charge of parking violation or an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or an allegation of liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty or an allegation of liability in accordance with section eleven hundred eleven-b of this chapter, shall be held before a hearing examiner in accordance with rules and regulations promulgated by the bureau.

g. A record shall be made of a hearing on a plea of not guilty or of a hearing at which liability in accordance with section eleven hundred eleven-a of this chapter is contested or of a hearing at which liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty is contested or a hearing at which liability in accordance with section eleven hundred eleven-b of this chapter is contested. Recording devices may be used for the making of the record.
§ 10. Subdivisions 1 and 2 of section 241 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, are amended to read as follows:

1. The hearing examiner shall make a determination on the charges, either sustaining or dismissing them. Where the hearing examiner determines that the charges have been sustained he may examine either the prior parking violations record or the record of liabilities incurred in accordance with section eleven hundred eleven-a of this chapter or the record of liabilities incurred in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty of the person charged or the record of liabilities incurred in accordance with section eleven hundred eleven-b of this chapter, as applicable prior to rendering a final determination. Final determinations sustaining or dismissing charges shall be entered on a final determination roll maintained by the bureau together with records showing payment and nonpayment of penalties.

2. Where an operator or owner fails to enter a plea to a charge of a parking violation or contest an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or fails to contest an allegation of liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty or fails to contest an allegation of liability in accordance with section eleven hundred eleven-b of this chapter, or fails to appear on a designated hearing date or subsequent adjourned date or fails after a hearing to comply with the determination of a hearing examiner, as prescribed by this article or by rule or regulation of the bureau, such failure to plead or contest, appear or comply shall be deemed, for all purposes, an admission of liability and shall be grounds for rendering and
entering a default judgment in an amount provided by the rules and regulations of the bureau.

However, after the expiration of the original date prescribed for entering a plea and before a default judgment may be rendered, in such case the bureau shall pursuant to the applicable provisions of law notify such operator or owner, by such form of first class mail as the commission may direct; (1) of the violation charged, or liability in accordance with section eleven hundred eleven-a of this chapter alleged or liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty alleged or liability in accordance with section eleven hundred eleven-b of this chapter, (2) of the impending default judgment, (3) that such judgment will be entered in the Civil Court of the city in which the bureau has been established, or other court of civil jurisdiction or any other place provided for the entry of civil judgments within the state of New York, and (4) that a default may be avoided by entering a plea or contesting an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or contesting an allegation of liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty or contesting an allegation of liability in accordance with section eleven hundred eleven-b of this chapter, as appropriate, or making an appearance within thirty days of the sending of such notice. Pleas entered and allegations contested within that period shall be in the manner prescribed in the notice and not subject to additional penalty or fee. Such notice of impending default judgment shall not be required prior to the rendering and entry thereof in the case of operators or owners who are non-residents of the state of New York. In no case shall a default judgment be rendered or, where required, a notice of impending default judgment be sent, more
than two years after the expiration of the time prescribed for entering a plea or contesting an
allegation. When a person has demanded a hearing, no fine or penalty shall be imposed for any
reason, prior to the holding of the hearing. If the hearing examiner shall make a determination on
the charges, sustaining them, he shall impose no greater penalty or fine than those upon which
the person was originally charged.

§ 11. Subparagraph (i) of paragraph a of subdivision 5-a of section 401 of the
vehicle and traffic law, as amended by chapter 496 of the laws of 1990 and designated
subparagraph (i) by chapter 373 of the laws of 1994, is amended to read as follows:

(i) If at the time of application for a registration or renewal thereof there is a
certification from a court, parking violations bureau, traffic and parking violations agency or
administrative tribunal of appropriate jurisdiction or administrative tribunal of appropriate
jurisdiction that the registrant or his representative failed to appear on the return date or any
subsequent adjourned date or failed to comply with the rules and regulations of an administrative
tribunal following entry of a final decision in response to a total of three or more summonses or
other process in the aggregate, issued within an eighteen month period, charging either that (i)
such motor vehicle was parked, stopped or standing, or that such motor vehicle was operated for
hire by the registrant or his agent without being licensed as a motor vehicle for hire by the
appropriate local authority, in violation of any of the provisions of this chapter or of any law,
ordinance, rule or regulation made by a local authority or (ii) the registrant was liable in
accordance with section eleven hundred eleven-a of this chapter for a violation of subdivision (d)
of section eleven hundred eleven of this chapter or (iii) the registrant was liable in accordance
with section eleven hundred eleven-b of this chapter, the commissioner or his agent shall deny
the registration or renewal application until the applicant provides proof from the court, traffic
and parking violations agency or administrative tribunal wherein the charges are pending that an appearance or answer has been made or in the case of an administrative tribunal that he has complied with the rules and regulations of said tribunal following entry of a final decision.

Where an application is denied pursuant to this section, the commissioner may, in his discretion, deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision. Such denial shall only remain in effect as long as the summonses remain unanswered, or in the case of an administrative tribunal, the registrant fails to comply with the rules and regulations following entry of a final decision.

§ 12. The opening paragraph of subdivision 1 of section 1809 of the vehicle and traffic law, as amended by chapter 62 of the laws of 2003, is amended to read as follows:

1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for an offense under this chapter or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, or other than an adjudication in accordance with section eleven hundred eleven-b of this chapter, there shall be levied a crime victim assistance fee and a mandatory surcharge, in
addition to any sentence required or permitted by law, in accordance with the following schedule:

§ 13. Paragraph (c) of subdivision 1 of section 1809 of the vehicle and traffic law, as amended by chapter 62 of the laws of 2003, is amended to read as follows:

(c) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for an offense under this chapter other than a crime pursuant to section eleven hundred ninety-two of this chapter, or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter or other than an infraction pursuant to article nine of this chapter or other than an adjudication of liability of an owner for a violation of toll collection regulations pursuant to section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, or other than an adjudication in accordance with section eleven hundred eleven-b of this chapter, there shall be levied a crime victim assistance fee in the amount of five dollars and a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of forty-five dollars.

§ 14. Subdivision 2 of section 87 of the public officers law is amended by adding a new paragraph (k) to read as follows:
(k) are photographs, microphotographs, videotape or other recorded images
produced by a bus lane photo device prepared under authority of section eleven hundred eleven-b
of the vehicle and traffic law.

§ 15. The vehicle and traffic law is amended by adding a new section 1111-b to
read as follows:

§ 1111-b. Owner liability for failure of operator to comply with bus lane
restrictions. (a) Notwithstanding any other provision of law, each city with a population of one
million or more is hereby authorized and empowered to establish a bus rapid transit
demonstration program imposing monetary liability on the owner of a vehicle for failure of an
operator thereof to comply with bus lane restrictions in such city in accordance with the
provisions of this section. The department of transportation of such city, for purposes of the
implementation of such program, shall operate bus lane photo devices only within such bus rapid
transit demonstration program in such city. Such bus lane photo devices may be stationary or
mobile and shall be activated at locations determined by such department of transportation
and/or on buses selected by such department of transportation in consultation with the applicable
mass transit agency.

(b) In any city that has established a bus rapid transit demonstration program
pursuant to subdivision (a) of this section, the owner of a vehicle shall be liable for a penalty
imposed pursuant to this section if such vehicle was used or operated with the permission of the
owner, express or implied, in violation of any bus lane restrictions that apply to routes within
such demonstration program, and such violation is evidenced by information obtained from a bus
lane photo device; provided however that no owner of a vehicle shall be liable for a penalty
imposed pursuant to this section where the operator of such vehicle has been convicted of the underlying violation of any bus lane restrictions.

(c) For purposes of this section, the following terms shall mean:

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

2. "bus lane photo device" shall mean a device that is capable of operating independently of an enforcement officer and produces one or more images of each vehicle at the time it is in violation of bus lane restrictions.

3. “bus lane restrictions” shall mean restrictions on the use of designated traffic lanes by vehicles other than buses imposed on routes within a bus rapid transit demonstration program by rule or signs erected by the department of transportation of a city that establishes such a demonstration program pursuant to this section.

4. “bus rapid transit demonstration program” shall mean a program that operates on routes designated by the department of transportation of a city that establishes such a demonstration program pursuant to this section and in a city with a population of one million or more shall operate on the following five corridors: (i) Fordham Road–Pelham Parkway Corridor in the Bronx and New York counties, consisting of Fordham Road, Pelham Parkway, Bartow Avenue and University Heights Bridge in the Bronx county, and, in New York county West 207th Street; (ii) Nostrand Avenue Corridor in Kings county, consisting of Nostrand Avenue, Rogers Avenue, Bedford Avenue, and Lee Avenue; (iii) First and Second Avenues and 125th Street Corridor in New York county, consisting of First Avenue, Second Avenue, Allen Street, Madison Street, Pearl Street, Water Street and 125th Street; (iv) Merrick Boulevard Corridor in Queens county, consisting of Merrick Boulevard, Liberty Avenue, Archer Avenue, and 160th Street; and (v) Hylan Boulevard Corridor in Richmond and Kings counties,
consisting of Richmond Avenue, Hylan Boulevard, Steuben Street, and Narrows Road in Richmond county, and, in Kings county, Fort Hamilton Parkway, 86th Street, Fourth Avenue, and 92nd Street.

(d) A certificate, sworn to or affirmed by a technician employed by the city in which the charged violation occurred or its vendor or contractor, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a bus lane photo device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to this section.

(e) An owner liable for a violation of a bus lane restriction imposed on any route within a bus rapid transit demonstration program shall be liable for monetary penalties in accordance with a schedule of fines and penalties promulgated by the parking violations bureau of such city; provided, however, that the monetary penalty for violating a bus lane restrictions shall not exceed one hundred fifteen dollars; provided, further, that an owner shall be liable for an additional penalty not to exceed twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

(f) An imposition of liability pursuant to this section shall not be deemed a conviction of an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

(g) 1. A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation a bus lane restriction. Personal delivery on the owner shall
not be required. A manual or automatic record of mailing prepared in the ordinary course of
business shall be prima facie evidence of the facts contained therein.

2. A notice of liability shall contain the name and address of the person alleged to
be liable as an owner for a violation of a bus lane restriction, the registration number of the
vehicle involved in such violation, the location where such violation took place, the date and
time of such violation and the identification number of the bus lane photo device which recorded
the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of
the manner and the time in which he or she may contest the liability alleged in the notice. Such
notice of liability shall also contain a warning to advise the persons charged that failure to
contest in the manner and time provided shall be deemed an admission of liability and that a
default judgment may be entered thereon.

4. The notice of liability shall be prepared and mailed by the agency or agencies
designated by such city.

(h) If an owner of a vehicle receives a notice of liability pursuant to this section
for any time period during which such vehicle was reported to the police department as having
been stolen, it shall be a valid defense to an allegation of liability for a violation of a bus lane
restriction that the vehicle had been reported to the police as stolen prior to the time the violation
occurred and had not been recovered by such time. For purposes of asserting the defense
provided by this subdivision it shall be sufficient that an original incident form issued by the
police on the stolen vehicle be sent by first class mail to the parking violations bureau of such
city.
1. An owner who is a lessor of a vehicle to which a notice of liability was
issued pursuant to subdivision (g) of this section shall not be liable for the violation of a bus lane
restriction, provided that:

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

   (ii) within thirty-seven days after receiving notice from such bureau of the date
and time of a liability, together with the other information contained in the original notice of
liability, the lessor submits to such bureau the correct name and address of the lessee of the
vehicle identified in the notice of liability at the time of such violation, together with such other
additional information contained in the rental, lease or other contract document, as may be
reasonably required by such bureau pursuant to regulations that may be promulgated for such
purpose.

2. Failure to comply with subparagraph (ii) of paragraph one of this subdivision
shall render the owner liable for the penalty prescribed in this section.

3. Where the lessor complies with the provisions of paragraph one of this
subdivision, the lessee of such vehicle on the date of such violation shall be deemed to be the
owner of such vehicle for purposes of this section, shall be subject to liability for such violation
pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this
section.

(j) If the owner liable for a violation of a bus lane restriction was not the operator
of the vehicle at the time of the violation, the owner may maintain an action for indemnification
against the operator.
(k) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of bus lane restrictions.

(l) Any city that adopts a bus rapid transportation demonstration program pursuant to subdivision (a) of this section shall submit a report on the results of the use of bus lane photo devices to the governor, the temporary president of the senate and the speaker of the assembly by April first, two thousand twelve. Such report shall include, but not be limited to:

1. a description of the locations and/or buses where bus lane photo devices were used;

2. the total number of violations recorded on a monthly and annual basis;

3. the total number of notices of liability issued;

4. the number of fines and total amount of fines paid after first notice of liability;

5. the number of violations adjudicated and results of such adjudications including breakdowns of dispositions made;

6. the total amount of revenue realized by such city; and

7. quality of the adjudication process and its results.

§ 16. This act will take effect on the thirtieth day after it shall have become a law and shall remain in full force and effect for seven years when upon such date the provisions of this act shall be deemed repealed; provided that nothing herein shall be deemed to affect the application, qualification, expiration or repeal of any other provision of law amended by any section of this act and such provision shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law; and provided that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such date.
PART C

Section 1. Section 236 of the vehicle and traffic law is amended by adding a new subdivision 2-a to read as follows:

2-a. Notwithstanding any other provision of law, in cities with a population of one million or more, for purposes of this article a parking violation shall include a violation of section eleven hundred seventy-five of this chapter.

§ 2. This act shall take effect immediately.

End of Part C

PART D

§ 1. Title 13 of article 27 of the environmental conservation law is amended by adding a new section 27-1320 to read as follows:

§ 27-1320. Contribution and cost recovery

1. (a) Any person, including a responsible person under section 27-1313 of this article, may seek contribution related to an inactive hazardous waste disposal site from any other person who is liable or potentially liable under paragraph a of subdivision three of section 27-1313 of this title prior to the commencement of, during or following a recovery action under subdivision five of section 27-1313 of this title. Claims for contribution shall be brought in accordance with this section in a court of competent jurisdiction. Nothing in this section shall diminish the right of any person to bring an action for contribution in the absence of a recovery action under subdivision five of section 27-1313 of this title or in the absence of a finding under subdivision three of section 27-1313 of this title that the inactive hazardous waste disposal site constitutes a significant threat to the environment.
(b) Any person who commences an action for contribution pursuant to paragraph (a) of this section against another person who has not yet been found to be a responsible person under paragraph a of subdivision three of section 27-1313 of this title, has the burden of proving that the other person was or is the owner of the inactive hazardous waste disposal site, or was a person responsible for the disposal of hazardous wastes at such site. In meeting this burden, the person who commences an action need not prove that the inactive hazardous waste disposal site constitutes a significant threat to the environment.

(c) Any person who commences an action for contribution pursuant to paragraph (a) of this subdivision prior to the commencement of a recovery action under subdivision five of section 27-1313 of this title, may only recover any necessary costs expended investigating and/or remediating hazardous wastes at or emanating from the inactive hazardous waste disposal site. For the purposes of this section, there shall be a rebuttable presumption that the costs expended investigating and remediating an inactive hazardous waste disposal site by a person who is a party to an administrative consent order, a brownfield site cleanup agreement under section 27-1409 of title fourteen of this article, a voluntary cleanup agreement with the department, or who is enrolled in an approved local expedited brownfield cleanup program established pursuant to section 27-1455 of title fourteen-A of this article, are necessary costs. All other persons have the burden of proving that investigative and remedial activities are necessary and, as a whole, substantially consistent with the national contingency plan, as set forth in subdivision three of section 300.700 of title 40 of the Code of Federal Regulations or, alternatively, consistent with such other standards as the department may promulgate in regulations.
2. (a) In an action brought under this section in which a liable party seeks a contribution claim, the court shall enter judgment allocating liability among the liable parties. Allocation shall not affect the parties' liability to the department. The burden is on each party to show how liability should be allocated.

(b) In determining allocation under this section, the court may use such equitable factors as it deems appropriate. The trier of fact shall consider the following factors:

(i) the extent to which each party's contribution to the release of a hazardous substance can be distinguished;

(ii) the amount of hazardous substance involved;

(iii) the degree of involvement of and care exercised by each party in manufacturing, treating, transporting and disposing of the hazardous substance;

(iv) the degree of cooperation by each party with federal, state or local officials to prevent harm to the public health or the environment; and

(v) knowledge by each party of the hazardous nature of the substance.

3. (a) When the department enters into an administrative or judicially approved settlement of a civil action brought under section 27-1313 of this title, the amount of the department's claim under that civil action shall be reduced by the amount of the consideration paid to the department or the allocated amount of the settling party's liability, whichever is less. A settlement shall not otherwise affect the department's claim under that section.

(b) (i) A person who has resolved its liability to the department or the federal government in an administrative or judicially approved settlement shall not be liable for claims for contribution regarding matters addressed in the settlement unless the terms of the settlement provide otherwise.
(ii) The settling party may seek contribution from a nonsettling party to recover
the consideration paid in excess of its allocated share of liability as determined by the court.

(c) (i) When the department has obtained less than complete relief from a person
who has resolved its liability to the department in an administrative or judicially approved
settlement, the department may bring an action against a person who has not so resolved its
liability.

(ii) A nonsettling party may seek contribution from any other nonsettling party or
any settling party as allowed under this section.

§ 2. Paragraph (b) of subdivision 4 of section 27-1323 of the environmental
conservation law, as amended by section 3 of part E of chapter 577 of the laws of 2004, is
amended to read as follows:

(b) For purposes of this section, (1) the term "act of God" means an unanticipated
grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible
character, the effects of which could not have been prevented or avoided by the exercise of due
care or foresight, (2) the term "contractual relationship" includes, but is not limited to, land
contracts, deeds, or other instruments transferring title or possession, unless the real property on
which the site concerned is located was acquired by such person after the disposal or placement
of the hazardous waste on, in, or at such site, and such person establishes one or more of the
circumstances described in clause (i), (ii), [or] (iii), or (iv) of this subparagraph by a
preponderance of the evidence:

(i) At the time such person acquired the site, such person did not know and had no
reason to know that any hazardous waste which is the subject of the significant threat
determination was disposed of on, in, or at the site; or
(ii) Such person is a government entity which acquired the site by escheat, or
through any other involuntary transfer or acquisition or through the exercise of eminent domain
authority by purchase or condemnation; or

(iii) Such person acquired the site by inheritance or bequest. In addition to
establishing the foregoing, the person must establish that he or she has satisfied the requirements
of clauses (i) and (ii) of subparagraph three of paragraph (a) of this subdivision, provides full
cooperation, assistance, and site access to the persons that are authorized to conduct remedial
actions at the site (including the cooperation and access necessary for the installation, integrity,
operation, and maintenance of any complete or partial remedial action at the site), is in
compliance with any land use restrictions established or relied on in connection with the
remedial action at a site, and does not impede the effectiveness or integrity of any institutional
and/or engineering control employed at the site in connection with a remedial action[.]; or

(iv) At the time such person acquired the site, such person was a bona fide
prospective purchaser. In addition to establishing the foregoing, such person must establish that
he or she has satisfied the requirements of clauses (i) and (ii) of subparagraph three of paragraph
(a) of this subdivision, and the requirements of paragraph (e) of this subdivision.

§ 3. Subdivision 4 of section 27-1323 of the environmental conservation law is
amended by adding new paragraphs (e) and (f) to read as follows:

(e) The term “bona fide prospective purchaser” means a person (or a tenant of a
person) that acquires ownership of a site after the effective date of the act that added this
paragraph and that establishes each of the following by a preponderance of the evidence:

(1) All disposal of hazardous substances at the site occurred before the person
acquired the site.
(2) The person conducted all appropriate inquiries, as provided in subparagraphs two and four of paragraph (c) of this subdivision.

(3) The person provides all legally required notices with respect to the discovery or release of any hazardous substances at the site.

(4) The person exercises appropriate care with respect to hazardous substances found at the site by taking reasonable steps to:

(i) stop any continuing release;

(ii) prevent any threatened future release; and

(iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance.

(5) The person provides full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at a site (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions or natural resource restoration at the site).

(6) The person:

(i) is in compliance with any land use restrictions established or relied on in connection with the response action at the site; and

(ii) does not impede the effectiveness or integrity of any institutional control employed at the site in connection with a response action.

(7) The person complies with any request for information or administrative subpoena issued by the department.

(8) The person is not:
(i) potentially liable, or affiliated with any other person that is potentially liable, for response costs at a site through:

(A) any direct or indirect familial relationship; or

(B) any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by the instruments by which title to the facility is conveyed or financed or by a contract for the sale of goods or services); or

(ii) the result of a reorganization of a business entity that was potentially liable.

(f) If there are unrecovered response costs incurred by the state at a site for which an owner of the site is not liable by reason of paragraph (e) of this subdivision, and if each of the conditions described in subparagraphs one and two of this paragraph is met, the state shall have a lien on the site or may, by agreement with the owner, obtain from the owner a lien on any other property or other assurance of payment satisfactory to the commissioner, for the unrecovered response costs. The conditions referred to are the following:

(1) A response action for which there are unrecovered costs of the state is carried out at the site.

(2) The response action increases the fair market value of the site above the fair market value of the site that existed before the response action was initiated.

(3) A lien under this paragraph:

(i) shall be in an amount not to exceed the increase in fair market value of the site attributable to the response action at the time of a sale or other disposition of the site;

(ii) shall arise at the time at which costs are first incurred by the state with respect to a response action at the site;

(iii) shall continue until the earlier of:
(A) satisfaction of the lien by sale or other means; or

(B) notwithstanding any statute of limitations, recovery of all response costs incurred at the site.

§ 4. Section 27-1323 of the environmental conservation law is amended by adding a new subdivision 5 to read as follows.

5. Contiguous Property Exemption. (a) For the purposes of this title, no person shall incur any liability from any statutory claims of the state as an owner or operator of a site, or a person responsible for the disposal of hazardous waste at such site, if such person owns real property that is contiguous to or otherwise similarly situated with respect to, and that is or may be contaminated by a release or threatened release of a hazardous substance from, a site that is not owned by that person.

(b) This exemption shall apply if:

(1) such person has not caused, contributed, or consented to the release or threatened release of a hazardous waste from or onto the site;

(2) such person is not:

(i) potentially liable, or affiliated with any other person that is potentially liable, for response costs at a site through:

(A) any direct or indirect familial relationship; or

(B) any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by the instruments by which title to the facility is conveyed or financed or by a contract for the sale of goods or services); or

(ii) the result of a reorganization of a business entity that was potentially liable.

(3) such person takes reasonable steps to:
(i) stop any continuing release;
(ii) prevent any threatened future release; and
(iii) prevent or limit human, environmental, or natural resource exposure to any
hazardous substance released on or from property owned by that person;

(4) such person provides full cooperation, assistance, and access to persons that
are authorized to conduct response actions or natural resource restoration at the site from which
there has been a release or threatened release (including the cooperation and access necessary for
the installation, integrity, operation, and maintenance of any complete or partial response action
or natural resource restoration at the site);

(5) such person:
(i) is in compliance with any land use restrictions established or relied on in
connection with the response action at the site; and
(ii) does not impede the effectiveness or integrity of any institutional control
employed at the site in connection with a response action;

(6) such person is in compliance with any request for information or
administrative subpoena issued by the department;

(7) such person provides all legally required notices with respect to the discovery
or release of any hazardous substances at the site; and

(8) at the time at which such person acquired the property, such person:
(i) conducted all appropriate inquiries, as provided in subparagraphs two and four
of paragraph (c) of subdivision four of this section; and
(ii) did not know or have reason to know that the property was or could be contaminated by a release or threatened release of one or more hazardous substances from other real property not owned or operated by the person.

(c) To qualify as a person described in paragraph (a) of this subdivision, a person must establish by a preponderance of the evidence that the conditions in subparagraphs one through eight of paragraph (b) of this subdivision have been met.

(d) Any person that does not qualify as a person described in this subdivision because the person had, or had reason to have, knowledge specified in subparagraph eight of paragraph (b) of this subdivision at the time of acquisition of the real property may qualify as a bona fide prospective purchaser if the person is otherwise described in paragraph (e) of subdivision four of this section.

(e) With respect to a hazardous substance from one or more sources that are not on the property of a person that is a contiguous property owner that enters ground water beneath the property of the person solely as a result of subsurface migration in an aquifer, subparagraph three of paragraph (b) of this subdivision shall not require such person to conduct ground water investigations or to install ground water remediation systems.

§ 5. Subdivision 2 of section 27-1405 of the environmental conservation law, as amended by section 2 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

2. "Brownfield site" or "site" shall mean any real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant, including, but not limited to, any real property, the redevelopment or reuse of which may be complicated by the presence of historic fill material. Such term shall not include real property:
(a) listed in the registry of inactive hazardous waste disposal sites under section 27-1305 of this article at the time of application to this program and given a classification as described in subparagraph one or two of paragraph b of subdivision two of section 27-1305 of this article; provided, however [except until July first, two thousand five], that real property listed in the registry of inactive hazardous waste disposal sites under subparagraph two of paragraph b of subdivision two of section 27-1305 of this article prior to the effective date of this article, where such real property is owned by a volunteer shall not be deemed ineligible to participate and further provided that the status of any such site as listed in the registry shall not be altered prior to the issuance of a certificate of completion pursuant to section 27-1419 of this title;

(b) listed on the national priorities list established under authority of 42 U.S.C. section 9605;

(c) subject to an enforcement action under title seven or nine of this article, except a treatment, storage or disposal facility subject to a permit; provided, that nothing herein contained shall be deemed otherwise to exclude from the scope of the term "brownfield site" a hazardous waste treatment, storage or disposal facility having interim status according to regulations promulgated by the commissioner;

(d) subject to an order for cleanup pursuant to article twelve of the navigation law or pursuant to title ten of article seventeen of this chapter except such property shall not be deemed ineligible if it is subject to a stipulation agreement; or

(e) subject to any other on-going state or federal environmental enforcement action related to the contamination which is at or emanating from the site subject to the present application.
§ 6. Section 27-1405 of the environmental conservation law is amended by adding a new subdivision 17-a to read as follows:

17-a. “Historic fill material” shall mean non-indigenous material, deposited or disposed of to raise the topographic elevation of a site, which may have been contaminated prior to emplacement, and is in no way connected with the subsequent operations at the location of the emplacement and which includes, without limitation, construction debris, dredge spoils, incinerator residue, demolition debris, fly ash, and non-hazardous waste. Historic fill material does not include any material which is chemical production waste or waste from processing of metal or mineral ores, residues, slag or tailings. In addition, historic fill material does not include a municipal solid waste disposal site.

§ 7. Section 970-r of the general municipal law, as added by section 1 of part F of chapter 1 of the laws of 2003, subdivision 1 as amended, paragraph g of subdivision 1 as added, paragraphs a and g of subdivision 2 as amended, paragraphs f and i of subdivision 3 as amended and paragraph h of subdivision 6 as amended by section 1 of part F of chapter 577 of the laws of 2004, is amended to read as follows:

§ 970-r. State assistance for brownfield opportunity areas.

1. Definitions. a. "Applicant" shall mean the municipality and/or community based organization submitting an application in the manner authorized by this section.

   b. "Commissioner" shall mean the commissioner of the department of environmental conservation.

   c. "Community based organization" shall mean a not-for-profit corporation exempt from taxation under section 501(c)(3) of the internal revenue code whose stated mission [is] includes promoting reuse of brownfield sites and/or community revitalization within a
specified geographic area in which the community based organization is located; [which has
twenty-five percent or more of its board of directors residing in the community in such area;] and
represents a community with a demonstrated financial need. "Community based organization"
shall not include any not-for-profit corporation that has caused or contributed to the release or
threatened release of a contaminant from or onto the brownfield site, or any not-for-profit
corporation that generated, transported, or disposed of, or that arranged for, or caused, the
generation, transportation, or disposal of contamination from or onto the brownfield site. This
definition shall not apply if more than twenty-five percent of the members, officers or directors
of the not-for-profit corporation are or were employed or receiving compensation from any
person responsible for a site under title thirteen or title fourteen of article twenty-seven of the
environmental conservation law, article twelve of the navigation law or under applicable
principles of statutory or common law liability.

d. "Brownfield site" shall have the same meaning as set forth in section 27-1405
of the environmental conservation law.

e. "Department" shall mean the department of [environmental conservation] state.

f. "Contamination" or "contaminated" shall have the same meaning as provided in
section 27-1405 of the environmental conservation law.

g. "Municipality" shall have the same meaning as set forth in subdivision fifteen
of section 56-0101 of the environmental conservation law.

h. “Secretary” shall mean the secretary of state.

i. “Strategic site” shall mean a brownfield site selected by the grantee in
consultation with the department that, if remediated and redeveloped in accordance with an
approved brownfield opportunity area plan, would stimulate economic development, community
revitalization, or the siting of public amenities.

2. State assistance for pre-nomination study for brownfield opportunity areas. a. Within the limits of appropriations therefor, the [commissioner] secretary is authorized to provide, on a competitive basis, financial assistance to municipalities, to community based organizations, or to municipalities and community based organizations acting in cooperation to prepare a pre-nomination study for a brownfield opportunity area designation. Such financial assistance shall not exceed ninety percent of the costs of such pre-nomination study for any such area.

b. Activities eligible to receive such assistance shall include, but are not limited to, the assembly and development of basic information about:

(1) the borders of the proposed brownfield opportunity area;

(2) the number and size of brownfield sites;

(3) current and anticipated uses of the properties in the proposed area;

(4) current and anticipated future conditions of groundwater in the proposed area;

(5) known data about the environmental conditions of the properties in the proposed area;

(6) ownership of the properties in the proposed area; and

(7) preliminary descriptions of possible remediation strategies, reuse opportunities, necessary infrastructure improvements and other public or private measures needed to stimulate investment, promote revitalization, and enhance community health and environmental conditions.
c. Funding preferences shall be given to applications for such assistance that relate to areas having one or more of the following characteristics:

(1) areas for which the application is a partnered application by a municipality and a community based organization;

(2) areas with concentrations of brownfield sites;

(3) areas for which the application demonstrates support from a municipality and a community based organization;

(4) areas showing indicators of economic distress including low resident incomes, high unemployment, high commercial vacancy rates, depressed property values; and

(5) areas with brownfield sites presenting strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.

d. The [commissioner] secretary, upon the receipt of an application for such assistance from a community based organization not in cooperation with the local government having jurisdiction over the proposed brownfield opportunity area, shall request the municipal government to review and state the municipal government's support or lack of support. The municipal government's statement shall be considered a part of the application.

e. Each application for assistance shall be submitted to the [commissioner] secretary in a format, and containing such information, as prescribed by the [commissioner] secretary but shall include, at a minimum, the following:

(1) a statement of the rationale or relationship between the proposed assistance and the criteria set forth in this subdivision for the evaluation and ranking of assistance applications;
(2) the processes by which local participation in the development of the application has been sought;

(3) the process to be carried out with the state assistance including, but not limited to, the goals of and budget for the effort, the work plan and timeline for the attainment of these goals, and the intended process for community participation in the process;

(4) the manner and extent to which public or governmental agencies with jurisdiction over issues that will be addressed in the data gathering process will be involved in this process;

(5) other planning and development initiatives proposed or in progress in the proposed brownfield opportunity area; and

(6) for each community based organization which is an applicant or a co-applicant, a description of the relationship between the community based organization and the area that is the subject of the application, its financial and institutional accountability, its experience in conducting and completing planning initiatives and in working with the local government associated with the proposed brownfield opportunity area.

f. Prior to making an award for assistance, the [commissioner] secretary shall notify the temporary president of the senate and speaker of the assembly.

g. Following notification to the applicant that assistance has been awarded, and prior to disbursement of funds, a contract shall be executed between the department and the applicant or co-applicants. The [commissioner] secretary shall establish terms and conditions for such contracts as the [commissioner] secretary deems appropriate, including provisions to define: applicant's work scope, work schedule, and deliverables; fiscal reports on budgeted and actual use of funds expended; and requirements for submission of a final fiscal report. The contract
shall also require the distribution of work products to the department, and, for community based organizations, to the chief executive officer, or his or her designee, of the applicant's municipality. Applicants shall be required to make the results publicly available.

3. State assistance for nominations to designate brownfield opportunity areas. a. Within the limits of appropriations therefor, the [commissioner] secretary is authorized to provide, on a competitive basis, financial assistance to municipalities, to community based organizations, or to municipalities and community based organizations acting in cooperation to prepare a nomination for designation of a brownfield opportunity area. Such financial assistance shall not exceed ninety percent of the costs of such nomination for any such area.

b. An application for such financial assistance shall include an indication of support from owners of brownfield sites in the proposed brownfield opportunity area. All residents and property owners in the proposed brownfield opportunity area shall receive notice in such form and manner as the [commissioner] secretary shall prescribe.

c. No application for such financial assistance shall be considered unless the applicant demonstrates that it has, to the maximum extent practicable, solicited and considered the views of residents of the proposed brownfield opportunity area, the views of state and local officials elected to represent such residents and the local organizations representing such residents.

d. Activities eligible to receive such financial assistance shall include the identification, preparation, creation, development and assembly of information and elements to be included in a nomination for designation of a brownfield opportunity area, including but not limited to:

(1) the borders of the proposed brownfield opportunity area;
(2) the location of each known or suspected brownfield site in the proposed brownfield opportunity area;

(3) the identification of strategic sites within the proposed brownfield opportunity area;

(4) the type of potential developments anticipated for sites within the proposed brownfield opportunity area proposed by either the current or the prospective owners of such sites;

(5) local legislative or regulatory action which may be required to implement a plan for the redevelopment of the proposed brownfield opportunity area;

(6) priorities for public and private investment in infrastructure, open space, economic development, housing, or community facilities in the proposed brownfield opportunity area;

(7) mapping of current and anticipated uses of the properties and groundwater in the proposed brownfield opportunity area;

(8) existing detailed assessments of individual brownfield sites and, where the consent of the site owner has been obtained, the need for conducting on-site assessments;

(9) known data about the environmental conditions of properties in the proposed brownfield opportunity area;

(10) ownership of the properties in the proposed brownfield opportunity area;

(11) descriptions of possible remediation strategies, brownfield redevelopment, necessary infrastructure improvements and other public or private measures needed to stimulate investment, promote revitalization, and enhance community health and environmental conditions;
(12) the goals and objectives, both short term and long term, for the economic revitalization of the proposed brownfield opportunity area; and

(13) the publicly controlled and other developable lands and buildings within the proposed brownfield opportunity area which are or could be made available for residential, industrial and commercial development.

e. Funding preferences shall be given to applications for such assistance that relate to areas having one or more of the following characteristics:

(1) areas for which the application is a partnered application by a municipality and a community based organization;

(2) areas with concentrations of brownfield sites;

(3) areas for which the application demonstrates support from a municipality and a community based organization;

(4) areas showing indicators of economic distress including low resident incomes, high unemployment, high commercial vacancy rates, depressed property values; and

(5) areas with brownfield sites presenting strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.

f. Each application for such assistance shall be submitted to the [commissioner] secretary in a format, and containing such information, as prescribed by the [commissioner] secretary but shall include, at a minimum, the following:

(1) a statement of the rationale or relationship between the proposed assistance and the criteria set forth in this section for the evaluation and ranking of assistance applications;

(2) the processes by which local participation in the development of the application has been sought;
(3) the process to be carried out under the state assistance including, but not
limited to, the goals of and budget for the effort, the work plan and timeline for the attainment of
these goals, and the intended process for public participation in the process;
(4) the manner and extent to which public or governmental agencies with
jurisdiction over issues that will be addressed in the data gathering process will be involved in
this process;
(5) other planning and development initiatives proposed or in progress in the
proposed brownfield opportunity area;
(6) for each community based organization which is an applicant or a co-
applicant, a description of the relationship between the community based organization and the
area that is the subject of the application, its financial and institutional accountability, its
experience in conducting and completing planning initiatives and in working with the local
government associated with the proposed brownfield opportunity area; and
(7) the financial commitments the applicant will make to the brownfield
opportunity area for activities including, but not limited to, marketing of the area for business
development, human resource services for residents and businesses in the brownfield
opportunity area, and services for small and minority and women-owned businesses.
g. The [commissioner] secretary, upon the receipt of an application for such
assistance from a community based organization not in cooperation with the local government
having jurisdiction over the proposed brownfield opportunity area, shall request the municipal
government to review and state the municipal government's support or lack of support. The
municipal government's statement shall be considered a part of the application.
Prior to making an award for assistance, the [commissioner] secretary shall notify the temporary president of the senate and speaker of the assembly.

Following notification to the applicant that assistance has been awarded, and prior to disbursement of funds, a contract shall be executed between the department and the applicant or co-applicants. The [commissioner] secretary shall establish terms and conditions for such contracts as the [commissioner] secretary deems appropriate, including provisions to define: applicant's work scope, work schedule, and deliverables; fiscal reports on budgeted and actual use of funds expended; and requirements for submission of a final fiscal report. The contract shall also require the distribution of work products to the department, and, for community based organizations, to the applicant's municipality. Applicants shall be required to make the results publicly available. Such contract shall further include a provision providing that if any responsible party payments become available to the applicant, the amount of such payments attributable to expenses paid by the award shall be paid to the department by the applicant; provided that the applicant may first apply such responsible party payments toward any actual project costs incurred by the applicant.

Designation of brownfield opportunity area. Upon completion of a nomination for designation of a brownfield opportunity area, it shall be forwarded by the applicant to the [commissioner] secretary, who shall[, in consultation with the secretary of state,] determine whether it is consistent with the provisions of this section. If the [commissioner] secretary determines that the nomination is consistent with the provisions of this section, the brownfield opportunity area shall be designated. If the [commissioner] secretary determines that the nomination is not consistent with the provisions of this section, the [commissioner] secretary
shall make recommendations in writing to the applicant of the manner and nature in which the
nomination should be amended.

5. Priority and preference. The designation of a brownfield opportunity area pursuant to this section is intended to serve as a planning tool. It alone shall not impose any new obligations on any property or property owner. To the extent authorized by law, [projects] strategic sites in brownfield opportunity areas designated pursuant to this section shall receive a priority and preference when considered for financial assistance pursuant to articles fifty-four and fifty-six of the environmental conservation law. To the extent authorized by law, [projects] strategic sites in brownfield opportunity areas designated pursuant to this section may receive a priority and preference when considered for financial assistance pursuant to any other state, federal or local law. Strategic sites in brownfield opportunity areas designated pursuant to this section shall receive a priority and preference for participation in the brownfield cleanup program established pursuant to title fourteen of article twenty-seven of the environmental conservation law.

6. State assistance for brownfield site assessments in brownfield opportunity areas. a. Within the limits of appropriations therefor, the [commissioner] secretary, in consultation with the [secretary of state] commissioner, is authorized to provide, on a competitive basis, financial assistance to municipalities, to community based organizations, or to municipalities and community based organizations acting in cooperation to conduct brownfield site assessments in a brownfield opportunity area designated pursuant to this section. Such financial assistance shall not exceed ninety percent of the costs of such brownfield site assessment.
b. Brownfield sites eligible for such assistance must be owned by a municipality, or volunteer as such term is defined in section 27-1405 of the environmental conservation law.

c. Brownfield site assessment activities eligible for funding include, but are not limited to, testing of properties to determine the nature and extent of the contamination (including soil and groundwater), environmental assessments, the development of a proposed remediation strategy to address any identified contamination, and any other activities deemed appropriate by the commissioner secretary in consultation with the secretary of state commissioner. Any site assessment activities funded pursuant to paragraph a of this subdivision shall be subject to the review and approval of such commissioner.

d. Applications for such assistance shall be submitted to the commissioner secretary in a format, and containing such information, as prescribed by the commissioner secretary in consultation with the secretary of state commissioner.

e. Funding preferences shall be given to applications for such assistance that relate to areas having one or more of the following characteristics:

   (1) areas for which the application is a partnered application by a municipality and a community based organization;

   (2) areas with concentrations of brownfield sites;

   (3) areas for which the application demonstrates support from a municipality and a community based organization;

   (4) areas showing indicators of economic distress including low resident incomes, high unemployment, high commercial vacancy rates, depressed property values; and

   (5) areas with brownfield sites presenting strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.
f. The [commissioner] secretary, upon the receipt of an application for such assistance from a community based organization not in cooperation with the local government having jurisdiction over the proposed brownfield opportunity area, shall request the municipal government to review and state the municipal government's support or lack of support. The municipal government's statement shall be considered a part of the application.

g. Prior to making an award for assistance, the [commissioner] secretary shall notify the temporary president of the senate and the speaker of the assembly.

h. Following notification to the applicant that assistance has been awarded, and prior to disbursement of funds, a contract shall be executed between the department and the applicant or co-applicants. The [commissioner] secretary shall establish terms and conditions for such contracts as the [commissioner] secretary deems appropriate in consultation with the [secretary of state] commissioner, including provisions to define: applicant's work scope, work schedule, and deliverables; fiscal reports on budgeted and actual use of funds expended; and requirements for submission of a final fiscal report. The contract shall also require the distribution of work products to the department, and, for community based organizations, to the applicant's municipality. Applicants shall be required to make the results publicly available. Such contract shall further include a provision providing that if any responsible party payments become available to the applicant, the amount of such payments attributable to expenses paid by the award shall be paid to the department by the applicant; provided that the applicant may first apply such responsible party payments towards actual project costs incurred by the applicant.

7. Amendments to designated area. Any proposed amendment to a brownfield opportunity area designated pursuant to this section shall be proposed, and reviewed by the
[commissioner] secretary, in the same manner and using the same criteria set forth in this section and applicable to an initial nomination for the designation of a brownfield opportunity area.

8. Applications.  a. All applications for pre-nomination study assistance or applications for designation of a brownfield opportunity area shall demonstrate that the following community participation activities have been or will be performed by the applicant:

(1) identification of the interested public and preparation of a contact list;
(2) identification of major issues of public concern;
(3) provision [to] for access to the draft and final application for pre-nomination assistance and brownfield opportunity area designation supporting documents in a manner convenient to the public;
(4) public notice and newspaper notice of (i) the intent of the municipality and/or community based organization to undertake a pre-nomination process or prepare a brownfield opportunity area plan, and (ii) the availability of such application.

b. Application for nomination of a brownfield opportunity area shall provide the following minimum community participation activities:

(1) a comment period of at least thirty days on a draft application;
(2) a public meeting on a brownfield opportunity area draft application.

c. Applications for pre-nomination or nomination pursuant to this section may be submitted at any time during the calendar year.

9. Financial assistance; advance payment. Notwithstanding any other law to the contrary, financial assistance pursuant to this section provided by the [commissioner] secretary pursuant to an executed contract may include an advance payment up to twenty-five percent of the contract amount.
§ 8. Paragraph 5 of subdivision (a) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004, is amended to read as follows:

(5) (A) Applicable percentage. [For] Except as provided in subparagraphs (B) and (C) of this paragraph, for purposes of paragraphs two, three and four of this subdivision, the applicable percentage shall be twelve percent in the case of credits claimed under article nine, nine-A, thirty-two or thirty-three of this chapter, and ten percent in the case of credits claimed under article twenty-two of this chapter, except that where at least fifty percent of the area of the qualified site relating to the credit provided for in this section is located in an environmental zone as defined in paragraph six of subdivision (b) of this section, the applicable percentage shall be increased by an additional eight percent. Provided, however, as afforded in section 27-1419 of the environmental conservation law, if the certificate of completion indicates that the qualified site has been remediated to Track 1 as that term is described in subdivision four of section 27-1415 of the environmental conservation law, the applicable percentage set forth in the first sentence of this paragraph shall be increased by an additional two percent.

(B) For any qualified site with respect to which a certificate of completion has been issued to the taxpayer on or after January first, two thousand eight, for purposes of paragraphs two and four of this subdivision, the applicable percentage shall be sixty percent in the case of credits claimed under article nine, nine-A, thirty-two or thirty-three of this chapter, and fifty-eight percent in the case of credits claimed under article twenty-two of this chapter, except that where at least fifty percent of the area of the qualified site relating to the credit provided for in this section is located in an environmental zone as defined in paragraph six of subdivision (b) of this section, the applicable percentage shall be increased by an additional eight percent. Provided, however, as afforded in section 27-1419 of the environmental conservation law,
law, if the certificate of completion indicates that the qualified site has been remediated to Track
1 as that term is described in subdivision four of section 27-1415 of the environmental
conservation law, the applicable percentage set forth in the first sentence of this paragraph shall
be increased by an additional two percent. Provided, further, however, where at least fifty
percent of the area of a qualified site relating to the credit provided for in this section is a
strategic site, as defined in paragraph i of subdivision one of section nine hundred seventy-r of
the general municipal law, located in a brownfield opportunity area as designated pursuant to
section nine hundred seventy-r of the general municipal law, the applicable percentage shall be
increased by an additional ten percent.

(C) For any qualified site with respect to which a certificate of completion has
been issued to the taxpayer on or after January first, two thousand eight, for purposes of
paragraph three of this subdivision, the applicable percentage shall be two percent in the case of
credits claimed under article nine, nine-A, twenty-two, thirty-two or thirty-three of this chapter,
except that where at least fifty percent of the area of the qualified site relating to the credit
provided for in this section is located in an environmental zone as defined in paragraph six of
subdivision (b) of this section, the applicable percentage shall be increased by an additional eight
percent. Provided, however, as afforded in section 27-1419 of the environmental conservation
law, if the certificate of completion indicates that the qualified site has been remediated to Track
1 as that term is described in subdivision four of section 27-1415 of the environmental
conservation law, the applicable percentage set forth in the first sentence of this paragraph shall
be increased by an additional two percent. Provided, further, however, where at least fifty
percent of the area of a qualified site relating to the credit provided for in this section is a
strategic site, as defined in paragraph i of subdivision one of section nine hundred seventy-r of
the general municipal law, located in a brownfield opportunity area as designated pursuant to section nine hundred seventy-r of the general municipal law, the applicable percentage shall be increased by an additional ten percent.

§ 9. This act shall take effect immediately.

End of Part D

PART E

Section 1. Article 27 of the environmental conservation law is amended by adding a new title 14-A to read as follows:

TITLE 14-A EXPEDITED BROWNFIELD CLEANUP PROGRAM

§ 27-1451. Short title

This title shall be known and may be cited as the “Expeditied Brownfield Cleanup Program”.

§ 27-1453. Definitions

1. “City certificate of completion” shall mean a written certificate that is issued by a city agency or office designated to administer a department-approved local expedited brownfield cleanup program to a person enrolled in such program who has successfully investigated and remediated a brownfield site to the satisfaction of the city agency or office.

2. “City participant” shall mean a person who either: (a) was the owner of the brownfield site at the time of the disposal or discharge of contaminants or (b) is otherwise a person responsible according to applicable principles of statutory or common law liability, unless such person’s liability arises solely as a result of such person’s ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants.
3. “Historic fill material” shall mean non-indigenous material, deposited or disposed of to raise the topographic elevation of a site, which may have been contaminated prior to emplacement, and is in no way connected with the subsequent operations at the location of the emplacement and which includes, without limitation, construction debris, dredge spoils, incinerator residue, demolition debris, fly ash, and non-hazardous waste. Historic fill material does not include any material which is chemical production waste or waste from processing of metal or mineral ores, residues, slag or tailings. In addition, historic fill material does not include a municipal solid waste disposal site.

4. “Qualified environmental professional” shall mean a person who possesses sufficient specific education, training, and experience necessary to exercise professional judgment to develop opinions and conclusions regarding the presence of releases or threatened releases to the surface or subsurface of a property or off-site areas. Such a person must: (a) hold a current professional engineer's or a professional geologist's license or registration issued by the state or another state, and have the equivalent of three years of full-time relevant experience in site investigation and remediation; or (b) be a site remediation professional licensed or certified by the federal government, a state or a recognized accrediting agency, to perform investigation or remediation tasks consistent with department guidance, and have the equivalent of three years of full-time relevant experience; or (c) on the effective date of the act that added this paragraph, have the equivalent of at least ten years of full-time relevant experience in site investigation and remediation.

5. “Remedial action plan” shall mean a written document prepared by a qualified environmental professional and submitted on behalf of a person enrolled in a department-approved local expedited brownfield cleanup program. Such remedial action plan shall contain
the results of any and all investigations of the brownfield site and shall establish the size, scope
and character of the remediation plan for the site and shall include, at a minimum, the project
schedules, the construction and installation activities to be undertaken, applicable community
and worker health and safety plans, sampling plans and site restoration plans.

§ 27-1455. Local expedited brownfield cleanup program

1. Any city having a population of one million or more may establish and
administer an expedited brownfield cleanup program, provided such program has been approved
by the department in accordance with subdivision two of this section. Such program shall be
prepared and administered by an agency or office designated by the chief executive officer of
any such city and shall be consistent with the criteria set forth in section 27-1457 of this title.
Any brownfield site, as defined in subdivision two of section 27-1405 of this article, except any
brownfield site described in paragraph (a) of subdivision two of section 27-1405 of this article,
that is eligible to participate in the brownfield cleanup program established pursuant to title
fourteen of this article and that is located within such city, shall be eligible to participate in the
expedited brownfield cleanup program established pursuant to this subdivision, provided,
however, that such city may prepare, and the department may approve, an expedited brownfield
cleanup program that limits the brownfield sites eligible to participate in such program. In
addition, any real property, the redevelopment or reuse of which may be complicated by the
presence of historic fill material, shall be eligible to participate in the expedited brownfield
cleanup program established pursuant to this subdivision, regardless of whether such real
property is eligible to participate in the brownfield cleanup program established pursuant to title
fourteen of this article.
2. (a) Any city having a population of one million or more shall, prior to establishing and administering an expedited brownfield cleanup program pursuant to subdivision one of this section, submit such program to the department for review. The department shall, within ninety days of such submission, notify such city in writing of its approval or disapproval and, in the case of a disapproval, specify in writing the reasons for its disapproval. If the department does not notify the city in the time and manner prescribed in the foregoing sentence, the program shall be deemed approved. Any disapproved program may be revised and resubmitted to the department for review. The department shall, within sixty days of such resubmission, notify such city in writing of its approval or disapproval and, in the case of a disapproval, specify in writing the reasons for its disapproval. If the department does not notify the city in the time and manner prescribed in the foregoing sentence, the program shall be deemed approved.

(b) Any expedited brownfield cleanup program that is consistent with the criteria set forth in section 27-1457 of this title shall be approved by the department.

§ 27-1457. General criteria for expedited brownfield cleanup program

1. An expedited brownfield cleanup program established pursuant to subdivision one of section 27-1455 of this title shall be consistent with the criteria set forth in paragraphs (a) through (i) of this subdivision. Such program shall, at a minimum:

(a) provide an application review process to ensure that only eligible brownfield sites are accepted into the expedited brownfield cleanup program;

(b) provide notice to the public prior to the approval of a remedial action plan;
(c) provide mechanisms for the review and written approval of remedial action plans, and for documentation indicating that the remedial actions are complete, including through the issuance of a city certificate of completion;

(d) provide adequate procedures to ensure that remedial action plans are protective of human health and the environment, and consistent with the current, intended or reasonably anticipated residential, commercial, industrial or other end use of the site;

(e) provide adequate oversight to ensure that remedial actions are conducted in a manner protective of human health and the environment, and consistent with the current, intended or reasonably anticipated residential, commercial, industrial or other end use of the site;

(f) require that any remedial action plan submitted by a city participant contain a plan for the development and implementation of a remedial action for contamination that has emanated from the brownfield site;

(g) show the capability, through enforcement mechanisms, of ensuring completion of remedial actions if the person conducting the remedial actions fails or refuses to complete the necessary remedial actions, including operation and maintenance or long-term monitoring activities;

(h) contain procedures to ensure that the owner of the brownfield site or its successors or assigns continues in full force and effect all institutional and engineering controls required at the site in accordance with the remedial action plan; and

(i) describe the elements of a public education campaign that will be undertaken by the agency or office designated to administer a department-approved local expedited brownfield cleanup program.
2. Such program may include provisions authorizing qualified environmental professionals to certify that a remedial action plan or the implementation, operation, maintenance or monitoring of any remedial action described therein meets standards established in such program for the protection of human health and the environment, provided that all such certifications shall be subject to review and modification by the agency or office designated to administer a department-approved local expedited brownfield cleanup program pursuant to subdivision one of section 27-1455 of this title.

3. Upon approval of a local expedited brownfield cleanup program by the department, a city having a population of one million or more may bring an action in the supreme court of the state or before a local administrative tribunal with jurisdiction to hear such matters, to seek injunctive relief or monetary penalties against any person who is enrolled in the local expedited brownfield cleanup program and who misrepresents any material fact related to the investigation or remediation of a brownfield site, or otherwise fails or refuses to complete the necessary remedial actions, including operation and maintenance, long-term monitoring activities, or implementation of institutional or engineering controls. The city may seek monetary civil penalties not to exceed thirty-seven thousand five hundred dollars and an additional penalty of not more than thirty-seven thousand five hundred dollars for each day during which such violation continues.

§ 27-1459. Liability limitation

1. Notwithstanding any other provision of law and except as provided in subdivision two of this section, any person who participates in the local expedited brownfield cleanup program established pursuant to subdivision one of section 27-1455 of this title by a city having a population of one million or more, and who is issued a city certificate of completion by
such city in accordance with the provisions of such program, shall not be liable to the state or
such city upon any statutory or common law cause of action, arising out of the presence of any
contamination in, on or emanating from the brownfield site that was the subject of such
certificate at any time before the approval of a remedial action plan by such city for the
brownfield site, except that a city participant shall not receive a release for natural resource
damages that may be available under law.

2. The state and such city nonetheless shall reserve all of their rights concerning, and such liability limitation shall not extend to, any further investigation and/or remediation the department or such city deems necessary due to:

(a) environmental contamination at, on, under, or emanating from the brownfield site if, in light of such conditions, the site is no longer protective of public health or the environment; or

(b) non-compliance with the terms of the remedial action plan and the city certificate of completion required by this title; or

(c) fraud committed by the owner of the brownfield site or its successors or assigns in its application for or participation in this program; or

(d) a written finding by the department or such city that a change in an environmental standard, factor, or criterion upon which the remedial action plan was based, renders the brownfield site remedial action plan implemented at the site no longer protective of human health or the environment; or

(e) a change in the brownfield site's use subsequent to such city’s issuance of the city certificate of completion unless additional remediation is undertaken which shall meet the standard for protection of human health and the environment that applies under this title; or
(f) following the issuance of a city certificate of completion the failure of the owner of the brownfield site or its successors or assigns to make substantial progress toward completion of its proposed development of the site within five years, or the owner of the brownfield site or its successors or assigns engages in unreasonable delay and fails to complete its proposed development of the site within a reasonable time, considering the size, scope and nature of the development.

3. The liability limitation provided pursuant to this section shall run with the land, extending to the owner’s successors or assigns through acquisition of title to the brownfield site and to a person who develops or otherwise occupies the brownfield site; provided that such persons act with due care and in good faith to adhere to the requirements of the remedial action plan and city certificate of completion. However, such liability limitation does not extend, and cannot be transferred, to a person who is responsible for the disposal or the discharge of contaminants on such site according to applicable principles of statutory or common law liability as of the effective date of the city certificate of completion issued pursuant to this title.

4. The provisions of this title shall not affect an action or a claim, including a statutory or common law claim for contribution or indemnification, that an owner has or may have against a third party.

5. Nothing in this section shall be construed to affect either the liability of any person with respect to any costs, damages, or investigative or remedial activities that are not included in the remedial action plan for the brownfield site or the state's or such city’s authority to maintain an action or proceeding against any person who is not subject to a remedial action plan.
6. A person who has received a liability limitation under this section shall not be liable for claims for contribution regarding matters addressed in the remedial action plan, except nothing in this section shall effect the liability of the person responsible for such person's own acts or omissions causing wrongful death or personal injury. Such liability limitation does not discharge any of the persons responsible under law to investigate and remediate the contamination, but it reduces the potential liability of the others by the amount of the value associated with the remediation activities described in the remedial action plan.

8. Nothing in this section shall be construed to affect the authority of the department or such city to reach settlement with other persons consistent with its authority under applicable law.

9. Nothing in this section shall affect the liability of any person with respect to any civil action brought by a party other than the state or such city.

10. In addition to any other powers the department or such city may have, the department and such city shall have the authority to periodically inspect each brownfield site to ensure that the use of the property complies with the terms and conditions of the remedial action plan.

§ 2. This act shall take effect immediately.

PART F

Section 1. Subdivision (b) of section 1107 of the tax law is amended by adding a new clause 12 to read as follows:

(12) Notwithstanding any provision of law to the contrary, receipts from the retail sale or use of any qualifying vehicle shall be exempt from the taxes imposed by this section. For
purposes of this clause, “qualifying vehicle” shall mean a low-emission and energy efficient vehicle as certified by the administrator of the United States environmental protection agency pursuant to 23 U.S.C. § 166(f)(3). If the administrator of the United States environmental protection agency has not so certified any vehicle as a low-emission and energy efficient vehicle, then, until such certification occurs, “qualifying vehicle” shall mean any vehicle that has achieved an air pollution score of nine or better and a greenhouse gas score of nine or better on the green vehicle guide maintained by the United States environmental protection agency. The state department of taxation and finance shall post on its web site a list of qualifying vehicles by make and model year and such other specifications as may be necessary to identify a qualifying vehicle, and shall update such list as necessary to provide a complete list qualifying vehicles.

§ 2. Subparagraph (i) of paragraph 1 of subdivision (a) of section 1210 of the tax law, as amended by chapter 306 of the laws of 2005 and designated by chapter 710 of the laws of 2005, is amended to read as follows:

   (i) Either, all of the taxes described in article twenty-eight of this chapter, at the same uniform rate, as to which taxes all provisions of the local laws, ordinances or resolutions imposing such taxes shall be identical, except as to rate and except as otherwise provided herein, with the corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. However, any local law enacted by any city of one million or more, imposing the taxes authorized by this subdivision, shall omit the exemption provided in subdivision (c) of section eleven hundred fifteen insofar as it applies to fuel, gas, electricity, refrigeration and steam, and gas, electric, refrigeration and steam service of whatever
nature for use or consumption directly and exclusively in the production of gas, electricity, refrigeration or steam and, unless such city elects otherwise, the provision for refund or credit contained in clause six of subdivision (a) of section eleven hundred nineteen, and may omit (A) the exception provided in paragraph three of subdivision (c) of section eleven hundred five for receipts from laundering, dry-cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining and (B) the exception provided in paragraph one of subdivision (f) of section eleven hundred five for charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. Furthermore, any local law enacted by a city of one million or more imposing the taxes authorized by this subdivision may impose the taxes described in paragraph six of subdivision (c) of section eleven hundred five at a rate in addition to the rate prescribed by this section not to exceed two per centum in multiples of one-half of one per centum. The taxes authorized under this subdivision may not be imposed by a city or county unless the local law, ordinance or resolution imposes such taxes so as to include all portions and all types of receipts, charges or rents, subject to state tax under sections eleven hundred five and eleven hundred ten, except as provided in the following sentence. Any local law, ordinance or resolution enacted by any city of less than one million or by any county or school district, imposing the taxes authorized by this subdivision, shall, notwithstanding any provision of law to the contrary, exclude from the operation of such local taxes all sales of tangible personal property for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, generating, assembly, refining, mining or extracting; and all sales of tangible personal property for use or consumption predominantly either in the production of tangible personal property, for sale, by farming or in a
commercial horse boarding operation, or in both; and, unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivision (a) of section eleven hundred nineteen. Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment exemption provided for in subdivision (ee), the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) and the qualified empire zone enterprise exemptions provided for in subdivision (z) of section eleven hundred fifteen, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment exemption or such clothing and footwear exemption or such qualified empire zone enterprise exemptions; provided that if such a city having a population of one million or more enacts the resolution described in subdivision (k) of this section or repeals such resolution or enacts the resolution described in subdivision (l) of this section or repeals such resolution or enacts the resolution described in subdivision (n) of this section or repeals such resolution, such resolution or repeal shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this subdivision, whether or not such taxes are suspended at the time such city enacts its resolution pursuant to subdivision (k), (l) or (n) of this section or at the time of any such repeal; provided, further, that any such local law, ordinance or resolution and section eleven hundred seven, as deemed to be amended in the event a city of one million or more enacts a resolution pursuant to the authority of subdivision (k), (l) or (n) of this section, shall be further amended, as provided in section twelve hundred eighteen, so that the residential solar energy systems equipment exemption or the clothing and footwear exemption or the qualified empire zone enterprise exemptions in any such local law, ordinance or resolution or in such section
eleven hundred seven are the same, as the case may be, as the residential solar energy systems
equipment exemption provided for in subdivision (ee), the clothing and footwear exemption in
paragraph thirty of subdivision (a) or the qualified empire zone enterprise exemptions in
subdivision (z) of section eleven hundred fifteen. Notwithstanding any provision of law to the
contrary, receipts from the retail sale or use of any qualifying vehicle shall be exempt from sales
and compensating use taxes imposed by a city of one million or more. For purposes of this
subparagraph, “qualifying vehicle” shall mean a low-emission and energy efficient vehicle as
certified by the administrator of the United States environmental protection agency pursuant to
23 U.S.C. § 166(f)(3). If the administrator of the United States environmental protection agency
has not so certified any vehicle as a low-emission and energy efficient vehicle, then, until such
certification occurs, “qualifying vehicle” shall mean any vehicle that has achieved an air
pollution score of nine or better and a greenhouse gas score of nine or better on the green vehicle
guide maintained by the United States environmental protection agency. The state department of
taxation and finance shall post on its web site a list of qualifying vehicles by make and model
year and such other specifications as may be necessary to identify a qualifying vehicle, and shall
update such list as necessary to provide a complete list of qualifying vehicles.

§ 3. Article 4 of the real property tax law is amended by adding a new title 4-B to
read as follows:

TITLE 4-B GREEN ROOF TAX ABATEMENT FOR CERTAIN PROPERTIES

IN A CITY OF ONE MILLION OR MORE PERSONS

Section 499-aaa. Definitions.

499-bbb. Real property tax abatement.

499-ccc. Application for tax abatement.
Continuing requirements.

Revocation of tax abatement.

Enforcement and administration.

Tax lien and interest.

§ 499-aaa. Definitions. When used in this title, the following terms shall have the following meanings:

“Applicant” shall mean (a) with respect to an eligible building held in the cooperative or condominium form of ownership, the board of managers of a condominium or the board of directors of a cooperative apartment corporation, or (b) with respect to any other eligible building, the owner of such building.

“Application for tax abatement” shall mean an application for a green roof tax abatement pursuant to section four hundred ninety-nine-ccc of this title.

“Compliance period” shall mean the tax year in which a tax abatement is taken and the tax year immediately thereafter.

“Department of finance” shall mean the department of finance of a city having a population of one million or more persons.

“Designated agency” shall mean one or more agencies or departments of a city having a population of one million or more persons that are designated by the mayor of such city to exercise the functions, powers and duties of a designated agency pursuant to this title.

“Eligible building” shall mean a class one, class two or class four real property, as defined in subdivision one of section eighteen hundred two of this chapter, located within a city having a population of one million or more persons. No building shall be eligible for more than one tax abatement pursuant to this title.
“Eligible rooftop space” shall mean the total space available on an eligible building to support a green roof, as certified by a licensed engineer or architect or other certified professional whom a designated agency designates by rule.

“Green roof” shall mean an addition to a roof of an eligible building that covers at least fifty percent of such building’s eligible rooftop space and includes (a) a waterproof roofing membrane layer, (b) a root barrier layer, (c) an insulation layer, (d) a drainage layer designed so the drains can be inspected and cleaned, (e) a growth medium, including soil, with a depth of at least two inches, and (f) a vegetation layer, eighty percent of which must be covered by plants that bloom within the first three growing seasons, such as sedum.

§ 499-bbb. Real property tax abatement. An eligible building shall receive an abatement of real property taxes as provided in this title.

1. The amount of such tax abatement shall be four dollars and fifty cents per square foot of a green roof pursuant to an approved application for tax abatement; provided, however, that the amount of such tax abatement shall not exceed the lesser of (a) one hundred thousand dollars or (b) the tax liability for the eligible building in the tax year in which the tax abatement is taken.

2. Such tax abatement shall commence on July first following the approval of an application for tax abatement by a designated agency, and shall not exceed one year.

3. With respect to any eligible building held in the condominium form of ownership that receives a tax abatement pursuant to this title, such tax abatement benefits shall be apportioned among all of the condominium tax lots within such eligible building.

§ 499-ccc. Application for tax abatement.
1. To obtain a tax abatement pursuant to this title, an applicant must file an application for tax abatement, which may be filed on or after the effective date of the chapter of the laws of two thousand seven that added this subdivision and on or before March fifteenth, two thousand thirteen.

2. Such application shall be filed with a designated agency no later than the March fifteenth before the tax year, beginning July first, for which the tax abatement is sought.

3. Such application shall contain the following:
   
   (a) The name and address of the applicant and the location of the green roof.
   
   (b) Proof that the applicant received all required certifications, permits and other approvals to construct the green roof.
   
   (c) A certification, in a form prescribed by a designated agency, from a licensed engineer or architect or other certified professional whom a designated agency designates by rule that a green roof has been constructed in accordance with this title on an eligible building. Such certification shall set forth the specific findings upon which the certification is based, and shall include information sufficient to identify the eligible building, the professional of record and his or her New York state license number, if any, and such other information as may be prescribed by a designated agency.
   
   (d) A certification of eligible roof top space by a licensed engineer or architect or other certified professional whom a designated agency designates by rule.
   
   (e) An agreement to maintain the green roof during the compliance period in such a manner that it continuously constitutes a green roof within the meaning of this title and any rules promulgated hereunder.
(f) An agreement to permit a designated agency or its designee to inspect the
green roof and any related structures and equipment upon reasonable notice.

(g) Any other information required by a designated agency pursuant to this title.

4. An application for tax abatement shall be in any format prescribed by a
designated agency, including electronic form.

5. An application for tax abatement shall be approved by a designated agency
upon determining that the applicant has submitted proof acceptable to such agency that the
requirements for obtaining a tax abatement pursuant to this title have been met. The burden of
proof shall be on the applicant to show by clear and convincing evidence that the requirements
for granting a certificate of abatement have been satisfied.

§ 499-ddd. Continuing requirements. The tax abatement shall be conditioned
upon:

1. continuing compliance during the compliance period with all applicable
provisions of law, including without limitation the local building and fire codes, maintaining the
green roof in such a manner that it continuously constitutes a green roof within the meaning of
this title and any rules promulgated hereunder, and permitting a designated agency or its
designee to inspect the green roof and any related structures and equipment upon reasonable
notice; and

2. real estate taxes, water and sewer charges, payments in lieu of taxes or other
municipal charges not having been due and owing for more than one year during the compliance
period with respect to an eligible building.

§ 499-eee. Revocation of tax abatement.
1. The department of finance shall revoke, in whole or in part, any tax abatement granted pursuant to this title whenever a designated agency has determined and notified the department of finance that:

   (a) an applicant has failed to comply with a requirement of this title or any rule promulgated hereunder at any time during the compliance period, including without limitation any of the continuing requirements set forth in subdivision one of section four hundred ninety-nine-ddd of this title;

   (b) an eligible building has not been in compliance at any time during the compliance period with a requirement of this title or any rule promulgated hereunder;

   (c) the green roof for which a tax abatement was granted has at any time during the compliance period failed to meet any requirement for a green roof pursuant to this title or any rule promulgated hereunder; or

   (d) an application, certificate, report or other document submitted by the applicant contains a false or misleading statement as to a material fact or omits to state any material fact necessary in order to make the statement therein not false or misleading.

2. The department of finance may revoke, in whole or in part, any tax abatement granted pursuant to this title whenever it has determined that an applicant has failed to comply with the continuing requirements set forth in subdivision two of section four hundred ninety-nine-ddd of this title.

3. Where it has been determined that any of the provisions of subdivision one or two of this section have not been complied with, the applicant shall pay, with interest, such part of any tax abatement received pursuant to this title that represents the period of non-compliance as determined by the designated agency or the department of finance, as the case may be. In
addition, a designated agency may declare any applicant ineligible for future tax abatement pursuant to this title if any application, certificate, report or other document submitted by the applicant contains a false or misleading statement as to a material fact or omits to state any material fact necessary in order to make the statement therein not false or misleading.

§ 499-fff. Enforcement and administration.

1. The department of finance shall have, in addition to any other functions, powers and duties that have been or may be conferred on it by law, the following functions, powers and duties to be exercised in accordance with this title:

(a) to apply a tax abatement upon the notification by a designated agency that an application for tax abatement has been approved;

(b) to revoke all or part of any such tax abatement;

(c) to make and promulgate rules to carry out the purposes of this title; and

(d) any other function, power or duty necessarily implied by this title.

2. A designated agency shall have, in addition to any other functions, powers and duties that have been or may be conferred on it by law, the following functions, powers and duties to be exercised in accordance with this title:

(a) to receive, review, approve and deny applications for tax abatement;

(b) to inspect green roofs and any related structures and equipment;

(c) to prescribe forms and make and promulgate rules to carry out the purposes of this title; and

(d) any other function, power or duty necessarily implied by this title.
3. If a designated agency has reason to believe that a licensed architect or engineer, in making any certification under this title or any rule promulgated hereunder, engaged in professional misconduct, then such department shall so inform the education department.

4. A designated agency may provide for reasonable administrative charges or fees necessary to defray expenses of administering the tax abatement program established by this title.

5. A designated agency and the department of finance shall establish procedures that are necessary or appropriate for (a) the timely notification to the department of finance by a designated agency of an approval of an application for tax abatement and (b) any other interagency coordination to facilitate the purposes of this title.

§ 499-ggg. Tax lien and interest. All taxes, with interest, required to be paid retroactively pursuant to this title shall constitute a tax lien as of the date it is determined such taxes and interest are owed. All interest shall be calculated from the date the taxes would have been due but for the tax abatement granted pursuant to this title at the applicable rate or rates of interest imposed generally for non-payment of real property tax with respect to the eligible building for the period in question.

§ 4. Section 6509 of the education law is amended by adding a new subdivision to read as follows:

(13) In the event that any agency designated pursuant to title four-b of article four of the tax law (relating to the green roof tax abatement) has reported to the department alleged misconduct by an architect or engineer in making a certification under such title, the board of regents, upon a hearing and a finding of willful misconduct, may revoke the license of such professional or prescribe such other penalty as it determines to be appropriate.
§ 5. This act shall take effect immediately, provided however that sections 1 and 2 of this act shall take effect on the first day of the quarterly sales tax period, as set forth in subdivision (b) of section 1136 of the tax law, next succeeding the thirtieth day after it shall have become a law and shall remain in effect for a total of twenty consecutive quarterly sales tax periods, when it shall be deemed repealed; provided, however, that the commissioner of taxation and finance may take any action necessary for the timely implementation of this act on or before the date on which it shall have become a law.

End of Part F

PART G

Section 1. The public service law is amended by adding a new article 12 to read as follows:

ARTICLE 12

ENERGY PLANNING FOR THE CITY OF NEW YORK

§231. Purposes. It is hereby declared that developing long-range plans to ensure that a continuous and adequate supply of energy will be available to the people of the city of New York and to increase efficiency in the use of, and decrease demand for, energy in such city and to reduce emissions of greenhouse gases and criteria pollutants associated with the production and consumption of energy is a matter of public concern. It is further declared that such planning would benefit from the coordination of resources for energy planning that rest with diverse public and private offices and entities and that a board that includes public officials of the city and state and representatives of local utilities serving the people of the city of New York is necessary to the development of sources of energy supply while at the same time accelerating increases in the efficient use of, and reducing demand for, energy in the city of New York.
§232. Definitions.

As used in this article, the following terms shall mean:

1. “Local electric utility” shall mean an electric corporation that distributes or transmits electricity to residents and businesses in the city of New York for light, heat or power and that is subject to the supervision and general jurisdiction of the New York state public service commission.

2. “Local gas utility” shall mean a gas corporation that distributes or furnishes natural gas to residents and businesses in the city of New York for light, heat or power and that is subject to the supervision and general jurisdiction of the New York state public service commission.

3. “Local steam utility” shall mean a steam corporation that transmits or distributes steam to residents and businesses in the city of New York for heat or power and that is subject to the supervision and general jurisdiction of the New York state public service commission.

§233. Energy planning board. 1. There shall be in the department of public service a board known as the New York city energy planning board, hereinafter referred to in this article as the "board", charged with the duties and having the powers provided in this article. The board shall be separate and independent from the public service commission. The members of the board shall not be considered officers, clerks, inspectors, experts or employees of the department, and the board's activities shall not be considered proceedings of the public service commission. The board’s membership shall consist of: the governor, or a person designated by the governor who has at least five years of relevant professional experience involving energy issues and environmental or consumer rights issues; the mayor of the city of New York, or a person designated by such mayor who has at least five years of relevant professional experience
involving energy issues and environmental or consumer rights issues; the chief executive officer of the local electric utility or a person designated by such chief executive officer, who, notwithstanding the public officers law or any other provision of law to the contrary, may participate in board deliberations concerning the local electric utility’s long-range energy plan as a non-voting member, and shall not participate in any other board actions or deliberations; and the chief executive officer of the local gas utility or a person designated by such chief executive officer, who, notwithstanding the public officers law or any other provision of law to the contrary, may participate in board deliberations concerning the local gas utility’s long-range energy plan as a non-voting member, and shall not participate in any other board actions or deliberations; except that no utility may have more than one representative on the board, and in the event that one utility is required by this article to submit more than one long-range energy plan, the utility board representative may participate as a non-voting member in deliberations concerning each plan submitted by the utility, and shall not participate in any other board actions or deliberations. Board members who are designated pursuant to this section shall serve at the pleasure of the person making the designation. Any decision or action taken by the board must be approved by both the governor or governor’s designee and the mayor or mayor’s designee.

The mayor or the mayor’s designee shall serve as the chairperson of the board.

2. Members of the board who are serving as designees and who are not otherwise officials or employees of the city or state may engage in private employment, or in a profession or business. Notwithstanding any otherwise applicable provision of general law, the governor or governor's designee shall be subject to the provisions of sections seventy-three, seventy-three-a and seventy-four of the public officers law, and shall not be subject to the provisions of chapter sixty-eight of the New York city charter; the mayor or mayor's designee shall be subject to the
provisions of chapter sixty-eight of the New York city charter, and shall not be subject to the
provisions of sections seventy-three, seventy-three-a or seventy-four of the public officers law;
and the chief executive officer of a local electric, gas or steam utility or the designee of any such
chief executive officer shall not be subject to the provisions of sections seventy-three, seventy-
three-a or seventy-four of the public officers law or chapter sixty-eight of the New York city
charter.

3. The chairperson shall preside over meetings of the board and shall serve as the primary
liaison between the members and board staff and be primarily responsible for the discharge of
the executive and administrative functions of the board.

4. The members of the board shall serve without compensation for their services as
members, but they shall be entitled to reimbursement for their actual and necessary expenses
incurred in the performance of their official duties.

5. Notwithstanding any inconsistent provisions of law, general, special or local, no
officer or employee of the state, or of any civil division thereof, shall be deemed to have
forfeited or shall forfeit his office or employment by reason of his acceptance of membership on
the board; provided, however, a member who holds such other public office or employment shall
receive no additional compensation or allowance for services rendered pursuant to this article,
but shall be entitled to reimbursement for his actual and necessary expenses incurred in the
performance of such services.

6. The board may request or receive the use of office space or supplies and materials or
assistance from staff from agencies, departments and public authorities of the state or from the
city of New York as appropriate. The board shall be represented by the corporation counsel of
the city of New York in all actions or proceedings in which it is a party.
7. The board shall have the powers:

   (a) To review and approve the long-range energy plans submitted by the local electric utility, any local gas utility and the local steam utility in accordance with the provisions of this article, except that all such plans shall be subject to final review and approval by the public service commission;

   (b) To set demand reduction and supply targets for the New York city energy efficiency authority and to monitor the progress in achieving those targets;

   (c) To participate in the process for entering long-term power purchase agreements to meet energy supply needs in accordance with section one thousand one-hundred of the public authorities law;

   (d) To recommend to the public service commission any necessary funding to implement the long-range energy plans approved in accordance with section two hundred thirty-four, subdivision twenty-nine of section sixty-six and subdivision thirteen of section eighty of this chapter; and

   (e) To set guidelines and procedures for the preparation and submission of long-range energy plans by a local electric utility, a local gas utility and a local steam utility and the review of such plans by the board, consistent with the requirements of section two hundred thirty-four of this article.

§ 234. Long-range energy planning. 1. By September 1, 2008, and every two years following the approval of the most recent plan thereafter, the local electric utility shall submit a proposed long-range plan for future operations in accordance with the provisions of this article, provided, however, the board may require the local electric utility to submit such a plan more frequently for good cause shown. Copies of the draft plan shall be made available to the public
for inspection, except that trade secrets or other confidential information may be redacted by the board on application by the local electric utility. Such plan shall include:

(i) a forecast of electricity demands over a period of ten years, including annual in-city electric energy sales and summer and winter peak loads by utility service area and total annual in-city electric energy sales and coincident peak load on a citywide basis, specifically identifying the extent to which energy conservation, load management and other demand-reducing measures, and electric energy generated by cogeneration, small hydro and alternate energy production facilities consumed on site, have been incorporated within such forecast; (ii) a forecast of city electricity supply requirements over a period of ten years, specifically identifying the amount of reserve margins required for reliable electric service, the amounts of transmission and distribution losses assumed; (iii) an assessment of the ability of existing electricity supply sources, and demand-reducing measures, including those reasonably certain to be available, through implementation of strategies, policies or objectives developed to satisfy electricity supply requirements; (iv) an inventory of (1) all existing electric generating and transmission facilities used by the local electric utility to supply electricity services to persons in the city of New York, (2) electric generating and transmission facilities under construction for use by the local electric utility to supply electricity services to persons in the city of New York, including the dates for completion and operation, and (3) the anticipated retirement dates for electric generating facilities currently used by the local electric utility to supply electricity services to persons in the city of New York; (v) recommended supply additions and demand reducing measures for satisfying the electricity supply requirements, accounting for recommended retirement of existing electric generating facilities; (vi) a statement of research and development plans, including objectives and programs in the areas of energy conservation, load management,
electric generation and transmission, new energy technologies and pollution abatement and control, recent results of such programs undertaken or funded to date, and an assessment of the potential impacts of such results; (vii) a projection of estimated electricity prices to consumers over the forecast period; (viii) a description of the load forecasting methodology and the assumptions and data used in the preparation of the forecasts, specifically including projections of demographic and economic activity and such other factors which may influence electricity demand, and the bases for such projections; (ix) proposed policies, objectives and strategies for meeting the city's future electricity needs and reducing greenhouse gas and criteria pollutant emissions, including the procurement of renewable energy supply and distributed generation and demand reduction measures; (x) a description of environmental effects of pollutants associated with existing and anticipated future generation facilities, including an analysis of anticipated reductions in emissions of greenhouse gases and criteria pollutants resulting from implementation of the policies, objectives and strategies identified in accordance with this subdivision; (xi) existing, planned or anticipated land use considerations that may influence the siting or location of potential new electric generation sources; and (xii) such additional information as the board may require to carry out the purposes of this article.

2. By September 2008, and every two years following the approval of the most recent plan thereafter, any local gas utility shall submit a proposed long-range plan for future operations in accordance with the provisions of this article, provided, however, the board may require the local gas utility to submit such a plan more frequently for good cause shown. Copies of the draft plan shall be made available to the public for inspection, except that trade secrets or other confidential information may be redacted by the board on application by the local gas utility.

Such plan shall include:
(i) a forecast over a period of ten years of estimated annual in-city gas sales, winter season sales and peak day sales by appropriate end-use classifications, specifically identifying the extent to which energy conservation measures and the sale of gas owned by persons other than the local gas utility directly to end-users have been incorporated within such forecast; (ii) a forecast of city gas supply requirements over a period of ten years, specifically identifying the amounts of gas needed to meet severe weather conditions, lost and unaccounted for gas, out-of-city sales commitments and internal use; (iii) an assessment of the ability of existing gas supply sources, and those reasonably certain to be available, to satisfy gas supply requirements; (iv) an inventory of (1) all existing supply sources, storage facilities, and transmission facilities owned by the local gas utility which are used in providing service within the city, (2) the transmission and storage facilities under construction which would be used in providing service within the city, their projected costs and capacities, including peaking capacity, (3) transmission facility additions proposed to be constructed by the local gas utility, (4) transmission facilities operated, or planned to be operated, by others, to the extent information concerning the same is known; (v) recommended supply additions and demand-reducing measures for satisfying the gas supply requirements, not reasonably certain to be met by existing gas supply sources; (vi) a projection of estimated gas prices to consumers over the forecast period; (vii) a description of the load forecasting methodology and the assumptions and data used in the preparation of the forecasts, specifically including projections of demographic and economic activity and such other factors which may influence demand for natural gas, and the bases for such projections; (viii) a statement of research and development plans, including objectives and programs in the areas of energy conservation and new energy technologies, recent results of such programs undertaken or funded to date, and an assessment of the
potential impacts of such results; (ix) proposed policies, objectives and strategies for meeting
the city's future gas needs and reducing emissions of greenhouse gases or criteria pollutants,
including energy conservation and other demand-reduction measures; (x) an analysis of
anticipated reductions in emissions of greenhouse gases and criteria pollutants resulting from
implementation of the policies, objectives and strategies identified in accordance with this
subdivision; and (xi) such additional information as the board may require to carry out the
purposes of this article.

3. By September 2008, and every two years following the approval of the most recent
plan thereafter, the local steam utility shall submit a proposed long-range plan for future
operations in accordance with the provisions of this article, provided, however, the board may
require the local steam utility to submit such a plan more frequently for good cause shown.
Copies of the draft plan shall be made available to the public for inspection, except that trade
secrets or other confidential information may be redacted by the board on application by the
local steam utility. Such plan shall include:

(i) a forecast over a period of ten years of estimated annual in-city steam sales; (ii) a
forecast of city steam supply requirements over a period of ten years; (iii) an assessment of the
ability of existing steam supply sources, and those reasonably certain to be available, to satisfy
steam supply requirements; (iv) an inventory of (1) all existing supply sources, storage facilities,
and delivery infrastructure owned by the local steam utility which are used in providing service
within the city, (2) the steam supply sources and delivery infrastructure under construction
which would be used in providing service within the city, their projected costs and capacities,
including peaking capacity, (3) steam supply source and delivery infrastructure additions
proposed to be constructed by the local steam utility, (4) steam supply sources and delivery
infrastructure operated, or planned to be operated, by others, to the extent information
concerning the same is known; (v) a projection of estimated steam prices to consumers over the
forecast period; (vi) a description of the load forecasting methodology and the assumptions
and data used in the preparation of the forecasts, specifically including projections of
demographic and economic activity and such other factors which may influence demand for
steam, and the bases for such projections; (vii) a statement of research and development plans,
including objectives and programs in the areas of energy conservation and new energy
technologies, recent results of such programs undertaken or funded to date, and an assessment of
the potential impacts of such results; (viii) proposed policies, objectives and strategies for
increasing the use of steam energy in place of electricity or natural gas and meeting the city's
future steam needs; and (ix) such additional information as the board may require to carry out the
purposes of this article.

4. Each long-range energy plan shall be designed to satisfy energy supply and reliability
requirements and evaluated by the board according to the plan’s effectiveness in achieving the
following goals: cost-effective integration of energy supply sources and demand-reducing
measures; long-range economic benefit for customers, such as rate-reduction; reductions in
carbon dioxide and other greenhouse gas emissions; criteria pollutant emissions reductions; and
other criteria identified by the board, which may include security and diversity of fuel supplies
and generating modes, protection of public health and safety, other environmental issues such as
land use and water quality, and the ability of the city to compete economically.

5. The board may direct that an approved long-range energy plan be amended, upon its
own initiative or upon the written application of any interested person. In connection with any
such amendment, the board may require the filing of such information by the local utility as may
be required, consistent with the requirements of this article. The board may only direct an amendment to the long-range energy plan, or aspects thereof, upon a finding by the board that there has been a material and substantial change in fact or circumstance since the most recent plan was approved. A decision of the board to direct an amendment to the plan, or that no amendment is necessary, shall be subject to final review and approval by the public service commission.

§2. Section 66 of the public service law is amended by adding a new subdivision 29 to read as follows:

29. The commission shall require that any long-range energy plan submitted by a local electric utility or local gas utility and approved by the New York city energy planning board in accordance with article twelve of this chapter be submitted for final approval by the commission. Should the commission decline to approve the plan as submitted, the energy planning board shall have an opportunity to review any changes to the plan prior to final approval by the commission. Each utility that submits a long-range energy plan in accordance with article twelve of this chapter shall comply with the policies and strategies for meeting the city’s future energy needs and reducing emissions of greenhouse gases or criteria pollutants set forth in its long-range energy plan and with any additional long-range planning requirements that may be imposed by the commission.

§3. Section 80 of the public service law is amended by adding a new subdivision 13 to read as follows:

29. The commission shall require that any long-range energy plan submitted by a local steam utility and approved by the New York city energy planning board in accordance with article twelve of this chapter be submitted for final approval by the commission. Should the
commission decline to approve the plan as submitted, the energy planning board shall have an
opportunity to review any changes to the plan prior to final approval by the commission. Each
utility that submits a long-range energy plan in accordance with article twelve of this chapter
shall comply with the policies and strategies for meeting the city’s future energy needs set forth
in its long-range energy plan and with any additional long-range planning requirements that may
be imposed by the commission.

§ 4. Title 1 of article 5 of the public authorities law is amended by adding a new section
1001-b to read as follows:

§1001-b. Implementation of energy plans of the city of New York

1. It is declared that ensuring a continuous and adequate supply of dependable electric
power and energy to meet the long-range needs of the people of the city of New York is a matter
of public concern to the people of the state. It is further declared that the authority is uniquely
qualified to assist the New York city energy planning board, established pursuant to article
twelve of the public service law, in the implementation of plans approved by such board and the
public service commission for obtaining electric power and energy to meet the long-ranges needs
of such people.

2. The authority is authorized to assist in the implementation of plans approved by the
New York city energy planning board, established pursuant to article twelve of the public service
law, and the public service commission for the development of additional sources of supply of
dependable electric power for the benefit of the people of the city of New York by procuring
through a competitive solicitation process long-term contracts for the purchase of electric power.
All savings and costs attributable to such procurements shall be allocated to New York city
electric delivery customers. For purposes of this section, the term “long-term” shall mean a term of at least ten years.

§ 5. Article 10-D of the public authorities law is amended by adding a new title 4 to read as follows:

Title 4

New York city energy efficiency authority

§3975. Legislative declaration. It is hereby declared that the reduction of consumption of, and demand for, energy by the people of the city of New York is a matter of public concern and that such reduction is essential to sustain growth of the population of the city and the concomitant growth in the level of economic activity in the long term. It is further declared that expertise in, and responsibility for, energy conservation rest with diverse public and private entities and that coordination of public officials of the city and state and representatives of local utilities serving the people of the city of New York is necessary to target available resources toward the goals of increasing efficient use of, and reducing demand for, energy. It is further declared that the New York city energy planning board, established pursuant to article twelve of the public service law, has been created for the purpose of developing long-range plans to ensure continuous and adequate supply of dependable electric power and energy and to increase efficiency in the use of, and decrease demand for, energy. The plans of such board relating to the reduction of consumption of energy, the reduction of emissions of greenhouse gases and criteria pollutants, and the increase in efficient use of energy, when approved by such board and the public service commission, may be most effectively implemented by a public benefit corporation that ensures that city, state and private resources are coordinated.
§3976. Definitions. As used in this title, unless a different meaning clearly appears from
the context:

1. “Authority” shall mean the public benefit corporation created by this title and
known as New York city energy efficiency authority.

2. “City” shall mean the city of New York.

3. “City energy planning board” shall mean the board established by article twelve
of the public service law.

4. “Electricity services” shall mean the, transmission and distribution of electricity.

5. “Energy” means work or heat that is or may be produced by electric power or
natural gas.

6. “Energy conservation technologies” shall mean all methods of conserving and
storing energy, improving the efficiency of energy utilization, reducing the emission of
greenhouse gases and criteria pollutants, and preserving and protecting the environment and the
public health and safety in connection with the use of energy.

7. “Gas services” shall mean the delivery of natural gas.

8. “Local electric utility” shall mean local electric utility, as defined in section two
hundred thirty-two of article twelve of the public service law.

9. “Local gas utility” shall mean local gas utility, as defined in section two hundred
thirty-two of article twelve of the public service law, that is not a local electric utility.

10. “Long-range” shall mean a term of at least ten years.

11. “Mayor” shall mean the mayor of the city of New York.

12. “New York city energy efficiency authority” shall mean the public authority
established by this title.
13. “Person” shall mean any natural person, firm, association, public or private
 corporation, public utility, organization, partnership, trust, estate, or joint stock company, or any
 political subdivision of this state, or any officer or agent of the state or city of New York.

14. “State” shall mean the state of New York.

§3977. New York city energy efficiency authority. 1. There is hereby created a
corporation known as the New York city energy efficiency authority for public purposes and
charged with duties and having the powers provided in this title. The authority shall be a body
corporate and politic constituting a public benefit corporation. It shall be administered by a board
of four directors consisting of the mayor or a designee of the mayor, the chief executive officer
of the New York energy research and development authority, established by title nine of article
eight of the public authorities law, or a designee of such officer, the chief executive officer of
the local electric utility or a designee of such utility, and the chief executive officer of the local
gas utility or a designee of such utility. A designee shall serve at the pleasure of the person by
whom he or she is designated. Neither the chief executive officer of the local electric utility, or
the designee of such officer, or the chief executive officer of the local gas utility, or the designee
of such officer shall have a vote on such board. The chairperson of the board shall be the mayor
or the mayor’s designee.

2. Notwithstanding any other provision of general law: a. members of the board of the
authority who are officers or employees of the state and persons designated by such officers to
serve on such board shall comply with the provisions of sections seventy-three, seventy-three-a
and seventy-four of the public officers law and shall not be subject to chapter sixty-eight of the
New York city charter; b. members of the board of the authority who are officers or employees
of the city and persons designated by such officers to serve on such board shall comply with the
provisions of the New York city charter that apply to officers or employees of the city and shall
not be subject to the provisions of sections seventy-three, seventy-three-a or seventy-four of the
public officers law; c. employees of the authority shall comply with the provisions of the New
York city charter that apply to employees of the city and shall not be subject to the provisions of
sections seventy-three, seventy-three-a or seventy-four of the public officers law; and d. the chief
executive officers of the local electric utility and the local gas utility and any persons designated
by such chief executive officers to serve on such board shall not be subject to the provisions of
chapter sixty-eight of the New York city charter, shall not be deemed to be employees of the city
for purposes of other provisions of the charter, and shall not be subject to the provisions of
section seventy-three, seventy-three-a or seventy-four of the public officers law.

3. The presence of all four members of the board shall be required for a quorum for the
transaction of any business or the exercise of any power of the authority. Actions of the authority
shall require the affirmative vote, at a meeting at which a quorum is present, of both the mayor
and the chief executive officer of the New York state energy research and development authority
or the designees of such mayor and chief executive officer.

4. The chairperson shall preside over meetings of the authority and shall serve as the
primary liaison between the members and authority staff. The president shall be the chief
executive officer of the authority and shall be primarily responsible for the discharge of the
executive and administrative functions of the authority.

5. The members of the board shall serve without compensation for their services as
members, but they shall be entitled to reimbursement for their actual and necessary expenses
incurred in the performance of their official duties.
6. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the authority; provided, however, a member who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this article, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

7. It is hereby determined and declared that the authority and the carrying out of its powers and duties are in all respects for the benefit of the people of the city and the state for the improvement of their health, welfare and prosperity and that such purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

§3978. Purposes and specific powers of the authority. The purposes of the authority shall be to implement the provisions of plans developed by the city energy planning board and approved by such board and the public service commission for increasing efficiency in the use of, and decreasing demand for, energy by residents and the industrial, commercial, medical, scientific, public interest, educational and governmental organizations within the city and to reduce emissions of greenhouse gases and criteria pollutants associated with the production and consumption of energy. In carrying out such purposes, the authority shall have the following powers:

1. To promote, support and encourage the development and use of energy conservation technologies.
2. To develop, conduct, sponsor and assist programs that provide financial or other incentives that promote or encourage the development and use of energy conservation technologies by consumers and producers of electricity or gas services.

3. To support and encourage the use of steam as a substitute for electric, gas or any other type of power.

4. To conduct, sponsor, assist and foster programs of research, development and demonstration in new energy conservation technologies, including (a) energy conservation, (b) production of energy from new sources, including clean on-site generation, (c) storage of energy, (d) conversion and/or technological improvement of facilities utilizing fossil fuel or renewable energy technologies, (e) transmission and distribution of power, and (f) conversion of energy and improvements of efficiencies of such conversion.

5. To provide services required for the development and use of new energy conservation technologies and related methods by residents and the industrial, commercial, medical, scientific, public interest, educational and governmental organizations within the city.

6. To conduct training and education programs relating to the conservation of energy and to develop and implement programs for the certification of the providers of energy efficiency services, including energy auditors, retro-commissioning agents, retrofitters and others as necessary.

7. To monitor the results of its programs;

8. To collect and disseminate information relating to the development and use of energy conservation technologies, including the power to conduct, sponsor, assist and foster studies and surveys, and publish the results thereof;
9. To advocate to, and petition, the city energy planning board that energy conservation technologies and strategies for encouraging the use of steam as a substitute for energy produced by electricity or gas be incorporated into the plans of local electric and gas utilities.

10. To provide financial incentives and to extend credits and make loans to any person, including residential buildings and commercial or industrial businesses, for the construction, acquisition, installation, reconstruction, improvement, maintenance, equipping, furnishing or leasing of equipment or facilities designed to implement energy conservation technologies and to extend credits and make loans to retailers and distributors to provide incentives for the sale of efficient energy-using products. Such credits or loans may, but need not, be secured by mortgages, contracts, leases or other instruments, upon such terms and conditions as the authority shall determine reasonable in connection with such credits or loans. In the exercise of powers granted in this subdivision, the authority shall have the power to require the inclusion in any contract, lease, loan agreement or other instrument of such provisions for financing and other financial or other covenants as the authority may deem necessary or desirable and to do all things and to execute all instruments necessary and desirable in connection therewith.

11. To apply for and administer federal grants and other monies for the benefit of consumers of energy.

12. To draw upon and coordinate the resources of, and to enter into contracts with, the local electric and gas utilities, the power authority of the state of New York, the New York independent systems operator, the New York state energy research and development authority, the public service commission and other agencies of the state or the city for the financing of incentives and other measures implemented in fulfilling the purposes of the authority and in the exercise of its powers.
§3979. General powers of the authority. Subject to the other provisions of this title, the authority shall have the following powers in addition to any powers specifically conferred upon the authority elsewhere in this title:

1. To sue and be sued.
2. To have a seal and alter the same at pleasure.
3. To borrow money and issue negotiable or non-negotiable note, or other obligations and to provide for the rights of holders thereof.
4. To make and amend by-laws for its organization and internal management, and promulgate rules and regulations governing the exercise of its power and the fulfillment of its purposes under this title, such rules to be promulgated pursuant to the New York city charter.
5. To enter into contracts, leases or other arrangements to fulfill the purposes of the authority under this title and to provide for the establishment, operation, development and management of any property or facility under the jurisdiction of the authority.
6. To acquire, by purchase, gift, grant, transfer, contract or lease, lease as lessee, hold, and use any real or personal property or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title and to sell, lease as lessor, transfer and dispose of any property or interests therein at any time required by it in the exercise of its powers.
7. To appoint such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties and compensation, subject to the civil service law and the rules and regulations of the municipal civil service commission of the city.
8. To engage the services of financial advisors, accountants, engineers and other private consultants on a contract basis for rendering professional and technical assistance and
advice, provided, however, that legal services shall be performed by the corporation counsel of the city.

9. To make plans and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto.

10. To require and receive from any agency of the state, political subdivision of the state, or the city assistance and data and to make use of existing studies, surveys, plans, data and other material in the possession of any state agency, any municipality, the city energy planning board, the New York independent systems operator, the power authority of the state of New York, the New York state energy research and development agency, or other agency or instrumentality of the state or any political subdivision thereof.

11. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of its powers granted in this title.

§3980. Officers and employees; transfer, promotion and seniority. 1. Officers and employees of departments and agencies of the state or city may be transferred to the authority and officers and employees of the authority may be transferred to departments and agencies of the state or city without examination and without loss of any civil service status or rights. No such transfer may, however, be made except with the approval of the head of the state or city department or division involved and the director of the budget of the state or the director of management and budget of the city, as the case may be, and the chairman of the authority and in compliance with any applicable rules and regulations of the municipal civil service commission of the city or state, as the case may be.

2. Promotions from positions in state departments and agencies or departments and agencies of the city to positions in the authority, and vice versa, may be made from
interdepartmental promotion lists resulting from promotion examinations in which both
employees of the authority and employees of the state or city are eligible to participate.

3. In computing seniority for purposes of promotion or for the purposes of suspension or
demotion upon the abolition of positions in the service of the authority or in the service of the
state or city, in the case of an employee of the authority a period of prior employment in the
service of the state or city shall be counted in the same manner as though such period of
employment had been in the service of the authority, and in the case of an employee of the state
or city a period of prior employment in the service of the authority shall be counted in the same
manner as though such period of employment had been in the service of the state or city. For the
purposes of the establishment and certification of preferred lists, employees suspended from the
authority shall be eligible for reinstatement in the service of the state or city, and employees
suspended from the service of the state or city shall be eligible for reinstatement in the service of
the authority, in the same manner as though the authority were a department of the state or city,
as the case may be.

§3981. Assistance by state and city officers, departments, boards, divisions and
commissions. At the request of the authority, engineering for such authority shall be performed
by such other agencies of state and city government within their respective functions, and legal
services shall be performed by the corporation counsel of the city of New York.

§3982. Deposit, investment and accounting of moneys of the authority. All moneys of
the authority, from whatever source derived, shall be paid to the treasurer of the authority and
shall be deposited forthwith in a bank or banks in the state designated by the authority. The
moneys in such accounts shall be paid out on check of the treasurer upon requisition by the
chairperson of the authority or such other officer or officers as the authority may authorize to
make such requisitions. All deposits of such moneys shall be secured by obligations of or
guaranteed by the United States, or of the state or of the city of a market value equal at all times
to the amount on deposit and all banks and trust companies are authorized to give such security
for such deposits. The moneys held by the authority may be expended for payment of any and
all costs and expenditures as required for the corporate purposes of the authority.

§ 3983. Exemption from taxation of the property and income of the authority. The
property of the authority and its income and operations shall be exempt from taxation.

§ 3984. Public service law not applicable to authority. The authority shall not be subject
to the provisions of the public service law or to regulation by or the jurisdiction of the
department of public service or the public service commission by reason of any contract,
agreement or arrangement entered into by the authority with any power company, or the power
authority of the state of New York, or more than one of the foregoing, or by reason of any action
taken thereunder by the authority.

§6. The public service law is amended by adding a new section 66-m to read as follows:

§66-m. Funding of energy efficiency initiatives. Electric utilities serving customers in the
city of New York shall collect the charges on bills rendered by such utilities that are imposed by
the commission as a means of funding necessary environmental and other public policy
programs that would not otherwise be recovered in a competitive market, including the systems
benefit charge, from customers located in such city and shall pay all amounts so collected on a
monthly basis to the New York city energy efficiency authority established by title four of article
ten-D of the public authorities law to be used by such authority for its purposes. In the event that
the commission imposes similar charges on bills rendered by local gas utilities as a means of
funding necessary environmental and other public policy programs that would not otherwise be
recovered in a competitive market, such gas utilities shall be collect such charges from customers
located in such city and shall pay all amounts so collected on a monthly basis to such authority to
be used by such authority for its purposes.

§ 7. This act shall take effect immediately.

End of Part G

PART H

Section 1. The charter of the city of New York is amended by adding a new section 258-a to read as follows:

258-a. Energy-saving investments. Notwithstanding any other provision of this charter, the amount appropriated in the budget to pay for energy-saving investments in governmental operations, including but not limited to systems and tools to manage the energy use of city buildings centrally, audits and tune-ups of city buildings, and retrofitting of city buildings to save energy, shall be not less than ten percent of the amount appropriated for all energy-related expenses.

§ 2. This act shall take effect immediately, provided further that this act shall apply to the budget for the fiscal year commencing July 1, 2008.

End of Part H

PART I

Section 1. Article 4 of the real property tax law is amended by adding a new title 4-C to read as follows:

TITLE 4-C SOLAR ELECTRIC GENERATING SYSTEM TAX ABATEMENT

FOR CERTAIN PROPERTIES IN A CITY OF ONE MILLION OR MORE PERSONS

Section 499-aaaa. Definitions.
§ 499-aaaa. Definitions. When used in this title, the following terms shall have the following meanings:

“Applicant” shall mean (a) with respect to an eligible building held in the cooperative or condominium form of ownership, the board of managers of a condominium or the board of directors of a cooperative apartment corporation, or (b) with respect to any other eligible building, the owner of such building.

“Application for tax abatement” shall mean an application for a solar electric generating system tax abatement pursuant to section four hundred ninety-nine-cccc of this title.

“Compliance period” shall mean the tax year in which a tax abatement commences and the three tax years immediately thereafter.

“Department of finance” shall mean the department of finance of a city having a population of one million or more persons.

“Designated agency” shall mean one or more agencies or departments of a city having a population of one million or more persons that are designated by the mayor of such city to exercise the functions, powers and duties of a designated agency pursuant to this title.

“Eligible building” shall mean a class two or class four real property, as defined in subdivision one of section eighteen hundred two of this chapter, located within a city having a
population of one million or more persons. No building shall be eligible for more than one tax abatement pursuant to this title.

“Eligible solar electric generating system expenditures” shall mean reasonable expenditures for materials, labor costs properly allocable to on-site preparation, assembly and original installation, architectural and engineering services, and designs and plans directly related to the construction or installation of a solar electric generating system installed in connection with an eligible building. Such eligible expenditures shall not include interest or other finance charges, or any expenditures incurred using a federal, state or local grant.

“Solar electric generating system” shall mean a system that uses solar energy to generate electricity. Such system shall not include any equipment connected to a solar electric generating system that is a component of part or parts of a non-solar electric generating system or that uses any sort of recreational facility or equipment as a storage medium.

§ 499-bbbb. Real property tax abatement. An eligible building shall receive an abatement of real property taxes as provided in this title.

1. The amount of such tax abatement shall be as follows:

   (a) if the solar electric generating system is placed in service on or after the effective date of the chapter of the laws of two thousand seven that added this subdivision and before January first, two thousand ten, for each year of the compliance period such tax abatement shall be the lesser of (i) eight and two-thirds percent of eligible solar electric generating system expenditures, (ii) the amount of taxes payable in such tax year, or (iii) sixty-two thousand five hundred dollars; or

   (b) if the solar electric generating system is placed in service on or after January first, two thousand ten, and before January first, two thousand twelve, for each year of the
compliance period such tax abatement shall be the lesser of (i) five percent of eligible solar
electric generating system expenditures, (ii) the amount of taxes payable in such tax year, or (iii)
sixty-two thousand five hundred dollars.

2. Such tax abatement shall commence on July first following the approval of an
application for tax abatement by a designated agency, and may not be carried over to any
subsequent tax year.

3. With respect to any eligible building held in the condominium form of
ownership that receives a tax abatement pursuant to this title, such tax abatement benefits shall
be apportioned among all of the condominium tax lots within such eligible building.

§ 499-cccc.  Application for tax abatement.

1. To obtain a tax abatement pursuant to this title, an applicant must file an
application for tax abatement, which may be filed on or after the effective date of the chapter of
the laws of two thousand seven that added this subdivision and on or before March fifteenth, two
thousand twelve.

2. Such application shall be filed with a designated agency no later than the
March fifteenth before the first tax year, beginning July first, for which the tax abatement is
sought.

3. Such application shall contain the following:

(a) The name and address of the applicant and the location of the solar electric
generating system.

(b) Proof that the applicant received all required certifications, permits and other
approvals to construct the solar electric generating system.
(c) A certification in a form prescribed by a designated agency, from a certifying professional whom a designated agency designates by rule, that a solar electric generating system has been placed in service in connection with an eligible building in accordance with this title. Such certification shall set forth the specific findings upon which the certification is based, and shall include information sufficient to identify the eligible building, the professional of record and his or her New York state license number, if any, and such other information as may be prescribed by a designated agency.

(d) An agreement to permit a designated agency or its designee to inspect the solar electric generating system and any related structures and equipment upon reasonable notice.

(e) Any other information required by a designated agency pursuant to this title.

§ 499-dddd. Continuing requirements. The tax abatement shall be conditioned upon:

1. continuing compliance during the compliance period with all applicable provisions of law, including without limitation the local building and fire codes, and permitting a
designated agency or its designee to inspect the solar electric generating system and any related structures and equipment upon reasonable notice; and

2. real estate taxes, water and sewer charges, payments in lieu of taxes or other municipal charges not having been due and owing for more than one year during the compliance period with respect to an eligible building.

§ 499-eeee. Revocation of tax abatement.

1. The department of finance shall revoke, in whole or in part, any tax abatement granted pursuant to this title whenever a designated agency has determined and notified the department of finance that:

   (a) an applicant has failed to comply with a requirement of this title or any rule promulgated hereunder at any time during the compliance period, including without limitation any of the continuing requirements set forth in subdivision one of section four hundred ninety-nine-dddd of this title;

   (b) an eligible building or solar electric generating system has not been in compliance at any time during the compliance period with a requirement of this title or any rule promulgated hereunder; or

   (c) an application, certificate, report or other document submitted by the applicant contains a false or misleading statement as to a material fact or omits to state any material fact necessary in order to make the statement therein not false or misleading.

2. The department of finance may revoke, in whole or in part, any tax abatement granted pursuant to this title whenever it has determined that an applicant has failed to comply with the continuing requirements set forth in subdivision two of section four hundred ninety-nine-dddd of this title.
3. Where it has been determined that any of the provisions of subdivision one or two of this section have not been complied with, the applicant shall pay, with interest, such part of any tax abatement received pursuant to this title that represents the period of non-compliance as determined by the designated agency or the department of finance, as the case may be. In addition, a designated agency may declare any applicant ineligible for future tax abatement pursuant to this title if any application, certificate, report or other document submitted by the applicant contains a false or misleading statement as to a material fact or omits to state any material fact necessary in order to make the statement therein not false or misleading.

§ 499-ffff. Enforcement and administration.

1. The department of finance shall have, in addition to any other functions, powers and duties that have been or may be conferred on it by law, the following functions, powers and duties to be exercised in accordance with this title:

(a) to apply a tax abatement upon the notification by a designated agency that an application for tax abatement has been approved;

(b) to revoke all or part of any such tax abatement;

(c) to make and promulgate rules to carry out the purposes of this title; and

(d) any other function, power or duty necessarily implied by this title.

2. A designated agency shall have, in addition to any other functions, powers and duties that have been or may be conferred on it by law, the following functions, powers and duties to be exercised in accordance with this title:

(a) to receive, review, approve and deny applications for tax abatement;

(b) to inspect solar electric generating systems and any related structures and equipment;
(c) to establish permit or certification requirements to determine when the solar electric generating system has been placed in service, such as certification by an architect, engineer or other certifying professional designated by such designated agency by rule;
(d) to establish guidance and procedures for determining or certifying eligible solar electric generating system expenditures;
(e) to prescribe forms and make and promulgate rules to carry out the purposes of this title; and
(f) any other function, power or duty necessarily implied by this title.

3. If a designated agency has reason to believe that a licensed architect or engineer, in making any certification under this title or any rule promulgated hereunder, engaged in professional misconduct, then such department shall so inform the education department.

4. A designated agency may provide for reasonable administrative charges or fees necessary to defray expenses of administering the tax abatement program established by this title.

5. A designated agency and the department of finance shall establish procedures that are necessary or appropriate for (a) the timely notification to the department of finance by a designated agency of an approval of an application for tax abatement and (b) any other interagency coordination to facilitate the purposes of this title.

§ 499-gggg. Tax lien and interest. All taxes, with interest, required to be paid retroactively pursuant to this title shall constitute a tax lien as of the date it is determined such taxes and interest are owed. All interest shall be calculated from the date the taxes would have been due but for the tax abatement granted pursuant to this title at the applicable rate or rates of
interest imposed generally for non-payment of real property tax with respect to the eligible
document for the period in question.

§ 9. Section 6509 of the education law is amended by adding a new subdivision
14 to read as follows:

(14) In the event that any agency designated pursuant to title four-c of article four
of the tax law (relating to the solar electric generating system tax abatement) has reported to the
department alleged misconduct by an architect or engineer in making a certification under such
title, the board of regents, upon a hearing and a finding of willful misconduct, may revoke the
license of such professional or prescribe such other penalty as it determines to be appropriate.

§ 2. This act shall take effect immediately.

End of Part I

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or
part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such
judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its
operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved
in the controversy in which such judgment shall have been rendered. It is hereby declared to be
the intent of the legislature that this act would have been enacted even if such invalid provisions
had not been included herein.

§ 3. This act shall take effect immediately, provided, however, that the applicable
effective dates of Parts A through I of this act shall be as specifically set forth in the last section
of such Parts.