

STATE OF NEW YORK

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SENATE - ASSEMBLY

January 21, 2015

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

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

AN ACT to amend the education law, in relation to contracts for excellence, apportionment of school aid, total foundation aid and the gap elimination adjustment restoration, the teachers of tomorrow teacher recruitment and retention program and waivers from certain duties; to amend the state finance law, in relation to moneys appropriated from the commercial gaming revenue fund; to amend chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to reimbursements for the 2015-2016 school year; to amend chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to withholding a portion of employment preparation education aid and in relation to extending the effectiveness of such chapter; to amend chapter 169 of the laws of 1994 relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets; to amend chapter 82 of the laws of 1995, amending the education law and other laws relating to state aid to school districts and the appropriation of funds for the support of government; to amend section 7 of chapter 472 of the laws of 1998 amending the education law relating to the lease of school buses by school districts; to amend chapter 147 of the laws of 2001 amending the education law relating to conditional appointment of school district, charter school or BOCES employees; to amend chapter 425 of the laws of 2002 amending the education law

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

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and providing for the repeal of such provisions upon expiration thereof (Part O); to amend the labor law, the workers' compensation law and chapter 784 of the laws of 1951, constituting the New York state defense emergency act, in relation to eliminating certain fees charged by the department of labor; and to repeal certain provisions of the labor law and the workers' compensation law relating thereto (Part P); to amend the education law, in relation to requiring experiential learning as a requirement for graduation (Part Q); to amend part U of chapter 57 of the laws of 2005 relating to the New York state higher education capital matching grant program for independent colleges, in relation to the New York state higher education matching grant program for independent colleges and the effectiveness thereof (Part R); to amend the labor law, in relation to the project notification fee imposed for asbestos removal (Part S); to amend chapter 141 of the laws of 1994, amending the legislative law and the state finance law relating to the operation and administration of the legislature, in relation to extending such provisions (Part T); to amend the state finance law, in relation to the creation of the SUNY DSRIP escrow fund (Part U); to amend the education law, in relation to the tuition assistance program for students with disabilities (Part V); to amend the education law, in relation to the investment of contributions to a family tuition account (Part W); to amend the education law, in relation to the allocation of funds from the foster youth college success initiative (Part X); to amend the education law, in relation to the offering of associate of occupational studies degrees by community colleges (Part Y); to amend the education law, in relation to establishing the New York state achievement and investment in merit scholarship (Part Z); to amend the labor law and the tax law, in relation to a program to provide tax incentives for employers employing at risk youth (Part AA); to amend the environmental conservation law, the tax law and the general municipal law, in relation to eligibility for participation in the brownfield cleanup program, assignment of the brownfield redevelopment tax credits and brownfield opportunity areas; to amend part H of chapter 1 of the laws of 2003, amending the tax law relating to brownfield redevelopment tax credits, remediated brownfield credit for real property taxes for qualified sites and environmental remediation insurance credits, in relation to tax credits for certain sites; to amend the environmental conservation law, in relation to hazardous waste generator fees and taxes; to amend the environmental conservation law and the state finance law, in relation to the environmental restoration program; to amend the environmental conservation law, in relation to limitations on liability; to amend the public authorities law, in relation to certain environmental restoration projects; and to repeal certain provisions of the environmental conservation law and the tax law relating thereto (Part BB); to amend the public officers law, the legislative law, the election law and the retirement and social security law, in relation to reporting and disclosure; and to repeal subdivision 2 of section 5 of the legislative law relating to per diem and travel expenses (Part CC); to amend part A of chapter 399 of the laws of 2011, relating to establishing the public integrity reform act of 2011, in relation to the joint commission on public ethics (Part DD); and to amend the education law, in relation to establishing the New York state masters-in-education teacher incentive scholarship program (Subpart A); to amend the education law, in relation to admission requirements for graduate-level teacher education programs (Subpart B); to amend the educa-

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1 ~~[New-York]~~ Urban youth ~~[works]~~ jobs program tax credit. (1) A taxpay-
2 er that has been certified by the commissioner of labor as a qualified
3 employer pursuant to section twenty-five-a of the labor law shall be
4 allowed a credit against the tax imposed by this article equal to (A)
5 five hundred dollars per month for up to six months for each qualified
6 employee the employer employs in a full-time job or two hundred fifty
7 dollars per month for up to six months for each qualified employee the
8 employer employs in a part-time job of at least twenty hours per week or
9 ten hours per week when the qualified employee is enrolled in high
10 school full-time, and (B) one thousand dollars for each qualified
11 employee who is employed for at least an additional six months by the
12 qualified employer in a full-time job or five hundred dollars for each
13 qualified employee who is employed for at least an additional six months
14 by the qualified employer in a part-time job of at least twenty hours
15 per week or ten hours per week when the qualified employee is enrolled
16 in high school full-time, and (C) an additional one thousand dollars for
17 each qualified employee who is employed for at least an additional year
18 after the first year of the employee's employment by the qualified
19 employer in a full-time job or five hundred dollars for each qualified
20 employee who is employed for at least an additional year after the first
21 year of the employee's employment by the qualified employer in a part-
22 time job of at least twenty hours per week or ten hours per week when
23 the qualified employee is enrolled in high school full-time. A taxpayer
24 that is a partner in a partnership, member of a limited liability compa-
25 ny or shareholder in an S corporation that has been certified by the
26 commissioner of labor as a qualified employer pursuant to section twen-
27 ty-five-a of the labor law shall be allowed its pro rata share of the
28 credit earned by the partnership, limited liability company or S corpo-
29 ration. For purposes of this subsection, the term "qualified employee"
30 shall have the same meaning as set forth in subdivision (b) of section
31 twenty-five-a of the labor law. The portion of the credit described in
32 subparagraph (A) of this paragraph shall be allowed for the taxable year
33 in which the wages are paid to the qualified employee, ~~[and]~~ the portion
34 of the credit described in subparagraph (B) of this paragraph shall be
35 allowed in the taxable year in which the additional six month period
36 ends, and the portion of the credit described in subparagraph (C) of
37 this paragraph shall be allowed in the taxable year in which the addi-
38 tional year after the first year of employment ends.

39 § 4. Clause (xxxiii) of subparagraph (B) of paragraph 1 of subsection
40 (i) of section 606 of the tax law, as amended by section 68 of part A of
41 chapter 59 of the laws of 2014, is amended to read as follows:

42	(xxxiii) [New-York] <u>Urban</u> youth	Amount of credit under
43	[works] <u>jobs program</u>	subdivision thirty-six
44	tax credit	of section two hundred ten-B

45 § 5. This act shall take effect immediately.

46 PART BB

47 Section 1. Subdivision (b) of section 27-1318 of the environmental
48 conservation law, as amended by section 2 of part E of chapter 577 of
49 the laws of 2004, is amended to read as follows:

50 (b) Within ~~[sixty]~~ one hundred eighty days of commencement of the
51 remedial design, the owner of an inactive hazardous waste disposal site,
52 and/or any person responsible for implementing a remedial program at

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1 such site, where institutional or engineering controls are employed
2 pursuant to this title, shall execute an environmental easement pursuant
3 to title thirty-six of article seventy-one of this chapter.

4 § 2. Subdivision 2 of section 27-1405 of the environmental conserva-
5 tion law, as amended by section 2 of part A of chapter 577 of the laws
6 of 2004, is amended and three new subdivisions 29, 30 and 31 are added
7 to read as follows:

8 2. "Brownfield site" or "site" shall mean any real property[~~, the~~
9 ~~redevelopment or reuse of which may be complicated by the presence or~~
10 ~~potential presence of~~] where a contaminant is present at levels exceed-
11 ing the soil cleanup objectives or other health-based or environmental
12 standards, criteria or guidance adopted by the department that are
13 applicable based on the reasonably anticipated use of the property, in
14 accordance with applicable regulations. Such term shall not include real
15 property:

16 (a) listed in the registry of inactive hazardous waste disposal sites
17 under section 27-1305 of this article at the time of application to this
18 program and given a classification as described in subparagraph one or
19 two of paragraph b of subdivision two of section 27-1305 of this arti-
20 cle; provided, however [~~except until July first, two thousand five~~],
21 real property listed in the registry of inactive hazardous waste
22 disposal sites under subparagraph two of paragraph b of subdivision two
23 of section 27-1305 of this article [~~prior to the effective date of this~~
24 ~~article~~], where such real property is owned by a volunteer or under
25 contract to be transferred to a volunteer, shall not be deemed ineligi-
26 ble to participate, provided that, prior to the site being accepted into
27 the brownfield cleanup program, the department has not identified any
28 responsible party for that property having the ability to pay for the
29 investigation or cleanup of the property and further provided that the
30 status of any such site as listed in the registry shall not be altered
31 prior to the issuance of a certificate of completion pursuant to section
32 27-1419 of this title. The department's assessment of eligibility under
33 this paragraph shall not constitute a finding concerning liability with
34 respect to the property;

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

37 (c) subject to an enforcement action under title seven or nine of this
38 article, [~~except~~] or permitted or required to be permitted as a treat-
39 ment, storage or disposal facility [~~subject to a permit~~]; provided, that
40 nothing herein contained shall be deemed otherwise to exclude from the
41 scope of the term "brownfield site" a hazardous waste treatment, storage
42 or disposal facility having interim status according to regulations
43 promulgated by the commissioner and provided further that real property
44 owned by a volunteer or under contract to be transferred to a volunteer
45 shall not be deemed ineligible to participate provided that, prior to
46 the site being accepted into the brownfield cleanup program, the depart-
47 ment has not identified any responsible party for that property having
48 the ability to pay for the investigation or cleanup of the property;

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

53 (e) subject to any other on-going state or federal environmental
54 enforcement action related to the contamination which is at or emanating
55 from the site subject to the present application.

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1 29. "Affordable housing project" shall be defined in regulation by the
2 department, after consultation with the division of housing and communi-
3 ty renewal, which shall at a minimum, establish the percentage of units
4 in the project that must be below a defined percentage of the area medi-
5 an income.

6 30. "Underutilized" shall be defined in regulation by the department,
7 after consultation with the business community and the city of New York.
8 Such regulations shall be adopted no later than October first, two thou-
9 sand fifteen and take into consideration the existing use of a property
10 relative to allowable development under zoning, the need for substantial
11 government assistance to redevelop and other relevant factors.

12 31. "Upside down" shall mean a property where the projected and
13 incurred cost of the investigation and remediation which is protective
14 for the anticipated use of the property equals or exceeds seventy-five
15 percent of its independent appraised value, as of the date of submission
16 of the application for participation in the brownfield cleanup program,
17 developed under the hypothetical condition that the property is not
18 contaminated.

19 § 3. Subdivision 1 of section 27-1407 of the environmental conserva-
20 tion law, as amended by section 3 of part A of chapter 577 of the laws
21 of 2004, is amended and a new subdivision 1-a is added to read as
22 follows:

23 1. A person who seeks to participate in this program shall submit a
24 request to the department on a form provided by the department. Such
25 form shall include information to be determined by the department suffi-
26 cient to allow the department to determine eligibility and the current,
27 intended and reasonably anticipated future land use of the site pursuant
28 to section 27-1415 of this title. Any such person shall submit an
29 investigation report sufficient to demonstrate that the site requires
30 remediation in order to meet the remedial requirements of this title.

31 1-a. If the person is also seeking a determination that the site is
32 eligible for the tangible property credit component of the brownfield
33 redevelopment tax credit pursuant to paragraph three of subdivision (a)
34 of section twenty-one of the tax law for a site located in a city having
35 a population of one million or more, such person shall submit informa-
36 tion sufficient to demonstrate that: (a) at least half of the site area
37 is located in an environmental zone as defined in section twenty-one of
38 the tax law; (b) the property is upside down or underutilized; or (c)
39 the project is an affordable housing project. An applicant may request
40 an eligibility determination for tangible property credits at any time
41 from application until the site receives a certificate of completion
42 pursuant to section 27-1419 of this title except for sites seeking
43 eligibility under the underutilized category.

44 Sites are not eligible for tangible property tax credits if: (a) the
45 contamination from ground water or soil vapor is solely emanating from
46 property other than the site subject to the present application; or (b)
47 the department has determined that the property has previously been
48 remediated pursuant to titles nine, thirteen and fourteen of this arti-
49 cle, title five of article fifty-six of this chapter and article twelve
50 of the navigation law such that it may be developed for its then
51 intended use.

52 § 4. Subdivision 3 of section 27-1407 of the environmental conserva-
53 tion law, as amended by section 3 of part A of chapter 577 of the laws
54 of 2004, is amended to read as follows:

55 3. The department shall notify the person requesting participation in
56 this program within [~~ten~~] thirty days after receiving such request that

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1 such request is either complete or incomplete. In the event the applica-
2 tion is determined to be incomplete the department shall specify in
3 writing the missing necessary information required pursuant to this
4 article to complete the application and shall have ten days after
5 receipt of the missing information to issue a written determination if
6 the application is complete.

7 § 5. Subdivision 6 of section 27-1407 of the environmental conserva-
8 tion law, as added by section 1 of part A of chapter 1 of the laws of
9 2003, is amended to read as follows:

10 6. The department shall use all best efforts to expeditiously notify
11 the applicant within forty-five days after receiving [~~their request~~] a
12 complete application for participation that such request is either
13 accepted or rejected, and, for any applicant seeking to receive the
14 tangible property credit component of the brownfield redevelopment tax
15 credit pursuant to paragraph three of subdivision (a) of section twen-
16 ty-one of the tax law, shall concurrently notify the applicant whether
17 the criteria for receiving such component as set forth in subdivision
18 one of this section have been met.

19 § 6. Subdivision 9 of section 27-1407 of the environmental conserva-
20 tion law is amended by adding a new paragraph (g) to read as follows:

21 (g) The person's participation in any remedial program under the
22 department's oversight was terminated by the department or by a court
23 for failure to substantially comply with an agreement or order.

24 § 7. Subdivision 2 of section 27-1409 of the environmental conserva-
25 tion law, as amended by section 4 of part A of chapter 577 of the laws
26 of 2004, is amended to read as follows:

27 2. One requiring: (a) the [applicant] participant to pay for state
28 costs, including the recovery of state costs incurred before the effec-
29 tive date of such agreement; provided, however, that such costs may be
30 based on a reasonable flat-fee for oversight, which shall reflect the
31 projected future state costs incurred in negotiating and overseeing
32 implementation of such agreement; and

33 (b) with respect to a brownfield site which the department has deter-
34 mined constitutes a significant threat to the public health or environ-
35 ment the department may include a provision requiring the applicant to
36 provide a technical assistance grant, as described in subdivision four
37 of section 27-1417 of this title and under the conditions described
38 therein, to an eligible party in accordance with procedures established
39 under such program, with the cost of such a grant incurred by a volun-
40 teer serving as an offset against such state costs [~~. Where the appli-~~
41 ~~cant is a participant, the department shall include provisions relating~~
42 ~~to recovery of state costs incurred before the effective date of such~~
43 ~~agreement];~~

44 § 8. Section 27-1411 of the environmental conservation law is amended
45 by adding a new subdivision 6 to read as follows:

46 6. An applicant shall include with every report submitted to the
47 department a schedule for the submission of any subsequent work plan
48 required to meet the requirements of this title.

49 § 9. Paragraphs (b), (c) and (d) of subdivision 7 of section 27-1415
50 of the environmental conservation law are relettered paragraphs (c), (d)
51 and (e) and a new paragraph (b) is added to read as follows:

52 (b) Within one hundred eighty days of commencement of the remedial
53 design or at least three months prior to the date of the anticipated
54 issuance of the certificate of completion, the owner of a brownfield
55 site, and/or any person responsible for implementing a remedial program
56 at such site, where institutional or engineering controls are employed

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1 pursuant to this title, shall execute an environmental easement pursuant
2 to title thirty-six of article seventy-one of this chapter.

3 § 10. Subdivision 1, paragraph (a) of subdivision 2 and subdivision 3
4 of section 27-1419 of the environmental conservation law, subdivision 1
5 and paragraph (a) of subdivision 2 as added by section 1 of part A of
6 chapter 1 of the laws of 2003, subdivision 3 as amended by chapter 390
7 of the laws of 2008, are amended to read as follows:

8 1. Upon certification by the applicant that the remediation require-
9 ments of this title have been or will be achieved in accordance with the
10 schedules provided in reports submitted to the department on the remedi-
11 al work plan for the brownfield site, such applicant shall submit to the
12 department a final engineering report prepared by an individual licensed
13 or otherwise authorized in accordance with article one hundred forty-
14 five of the education law to practice the profession of engineering.

15 (a) a description of the remediation activities completed pursuant to
16 the remedial work plan and any interim remedial measures for the brown-
17 field site;

18 3. Upon receipt of the final engineering report, the department shall
19 review such report and the data submitted pursuant to the brownfield
20 site cleanup agreement as well as any other relevant information regard-
21 ing the brownfield site. Upon satisfaction of the commissioner that the
22 remediation requirements set forth in this title have been or will be
23 achieved in accordance with the timeframes, if any, established in the
24 remedial work plan, the commissioner shall issue a written certificate
25 of completion~~[, such].~~ The certificate shall include such information as
26 determined by the department of taxation and finance, including but not
27 limited to the brownfield site boundaries included in the final engi-
28 neering report, the date of the brownfield site cleanup agreement
29 ~~[pursuant to section 27-1409 of this title]~~, and the applicable percent-
30 ages available as of the date of the certificate of completion for that
31 site for purposes of section twenty-one of the tax law~~[, with such~~
32 ~~percentages to be determined as follows with respect to such qualified~~
33 ~~site]~~. For those sites for which the department has issued a notice to
34 the applicant on or after July first, two thousand fifteen or the date
35 of publication in the state register of proposed regulations defining
36 "underutilized" as provided in subdivision thirty of section 27-1405 of
37 this title, whichever shall be later, that its request for participation
38 has been accepted under subdivision six of section 27-1407 of this
39 title, the tangible property credit component of the brownfield redevel-
40 opment tax credit pursuant to paragraph three of subdivision (a) of
41 section twenty-one of the tax law shall only be available to the taxpay-
42 er if the criteria for receiving such tax component have been met. For
43 those sites for which the department has issued a notice to the taxpayer
44 after June twenty-third, two thousand eight that its request for partic-
45 ipation has been accepted under subdivision six of section 27-1407 of
46 this title~~+~~

47 ~~For the purposes of calculating]~~, the applicable percentage for the
48 site preparation credit component pursuant to paragraph two of subdivi-
49 sion (a) of section twenty-one of the tax law, and the on-site groundwa-
50 ter remediation credit component pursuant to paragraph four of subdivi-
51 sion (a) of section twenty-one of the tax law~~[, the applicable~~
52 ~~percentage]~~ shall be based on the level of cleanup achieved pursuant to
53 subdivision four of section 27-1415 of this title and the level of
54 cleanup of soils to contaminant-specific soil cleanup objectives promul-
55 gated pursuant to subdivision six of section 27-1415 of this title, up
56 to a maximum of fifty percent, as follows:

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1 (a) soil cleanup for unrestricted use, the protection of groundwater
2 or the protection of ecological resources, the applicable percentage
3 shall be fifty percent;

4 (b) soil cleanup for residential use, the applicable percentage shall
5 be forty percent, except for Track 4 which shall be twenty-eight
6 percent;

7 (c) soil cleanup for commercial use, the applicable percentage shall
8 be thirty-three percent, except for Track 4 which shall be twenty-five
9 percent;

10 (d) soil cleanup for industrial use, the applicable percentage shall
11 be twenty-seven percent, except for Track 4 which shall be twenty-two
12 percent.

13 § 11. Subdivision 5 of section 27-1419 of the environmental conserva-
14 tion law, as amended by section 9 of part A of chapter 577 of the laws
15 of 2004, is amended to read as follows:

16 5. A certificate of completion issued pursuant to this section may be
17 transferred [~~to the applicant's successors or assigns upon transfer or~~
18 ~~sale of the brownfield site~~] by the applicant or subsequent holder of
19 the certificate of completion to a successor to a real property inter-
20 est, including legal title, equitable title or leasehold, in all or a
21 part of the brownfield site for which the certificate of completion was
22 issued. Notwithstanding any provision of this chapter to the contrary, a
23 certificate of completion shall not be transferred to a responsible
24 party. Further, a certificate of completion may be modified or revoked
25 by the commissioner upon a finding that:

26 (a) Either the applicant, or the applicant's successors or assigns,
27 has failed to comply with the terms and conditions of the brownfield
28 site cleanup agreement;

29 (b) The applicant made a misrepresentation of a material fact tending
30 to demonstrate that: (i) it was qualified as a volunteer; or (ii) met
31 the criteria set forth in subdivision one-a of section 27-1407 of this
32 title for the purpose of receiving the tangible property credit compo-
33 nent of the brownfield redevelopment tax credit pursuant to paragraph
34 three of subdivision (a) of section twenty-one of the tax law;

35 (c) Either the applicant, or the applicant's successors or assigns,
36 made a misrepresentation of a material fact tending to demonstrate that
37 the cleanup levels identified in the brownfield site cleanup agreement
38 were reached; or

39 (d) There is good cause for such modification or revocation.

40 § 12. Section 27-1423 of the environmental conservation law is
41 REPEALED.

42 § 13. Section 27-1429 of the environmental conservation law, as
43 amended by section 13 of part A of chapter 577 of the laws of 2004, is
44 amended to read as follows:

45 § 27-1429. Permit waivers.

46 The department, by and through the commissioner, shall be exempt for
47 activities conducted pursuant to subdivision five of section 27-1411 of
48 this title and shall be authorized to exempt a person from the require-
49 ment to obtain any state or local permit or other authorization for any
50 activity needed to implement a program for the investigation and/or
51 remediation of contamination at or emanating from a brownfield site;
52 provided that the activity is conducted in a manner which satisfies all
53 substantive technical requirements applicable to like activity conducted
54 pursuant to a permit.

55 § 14. Subdivision 1 of section 27-1431 of the environmental conserva-
56 tion law is amended by adding a new paragraph c to read as follows:

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1 c. to inspect for compliance with the site management plan approved by
2 the department, including (i) inspection of the performance of mainte-
3 nance, monitoring and operational activities required as part of the
4 remedial program for the site, (ii) inspection for the purpose of ascer-
5 taining current uses of the site, and (iii) taking samples in accordance
6 with paragraph (a) of this subdivision.

7 § 15. Section 27-1435 of the environmental conservation law is
8 REPEALED.

9 § 15-a. The environmental conservation law is amended by adding a new
10 section 27-1437 to read as follows:

11 § 27-1437. BCP-EZ program.

12 1. The department may promulgate regulations to implement a program
13 providing for the expedited investigation and/or remediation of contam-
14 ination at brownfield sites (BCP-EZ program), provided that:

15 (a) at the time of the application, the department has determined that
16 the brownfield site does not pose a significant threat pursuant to
17 section 27-1411 of this title;

18 (b) the applicant has waived in writing any claim for tax credits
19 pursuant to section twenty-one of the tax law on a form prescribed by
20 the department; and

21 (c) the activity is conducted in a manner which satisfies all require-
22 ments applicable to like activity conducted pursuant to sections 27-1415
23 and 27-1417 of this title, except as provided in subdivision two of this
24 section and the time periods specified in paragraphs (b) and (c) of
25 subdivision three of section 27-1417 of this title.

26 2. For any site accepted into the BCP-EZ program pursuant to this
27 section with a remedial work plan identifying a Track 4 remediation, if
28 a contaminant is identified in soil in excess of the remedial action
29 objectives contained in an applicable generic table developed pursuant
30 to subdivision six of section 27-1415 of this title, the applicant may
31 use site-specific data to demonstrate to the department that the concen-
32 tration of the contaminant in the soils reflects background conditions
33 and, in that case, a contaminant-specific action objective for such
34 contaminant equal to such background concentration may be established
35 provided that such objective is protective of the public health and the
36 environment and is determined in a manner acceptable to the department.

37 3. Upon the department's acceptance of the certification by the appli-
38 cant that the remediation requirements of this title, pursuant to
39 section 27-1419 of this title, have been achieved for the brownfield
40 site and an environmental easement, if necessary, has been created and
41 filed pursuant to title thirty-six of article seventy-one of this chap-
42 ter, a site in the BCP-EZ program shall be eligible to receive a certif-
43 icate of completion in accordance with section 27-1419 of this title;
44 provided, however, that such certificate of completion shall not entitle
45 the holder to any tax credits provided by section twenty-one of the tax
46 law.

47 § 16. The opening paragraph of subdivision 10 of section 71-3605 of
48 the environmental conservation law, as added by section 2 of part A of
49 chapter 1 of the laws of 2003, is amended to read as follows:

50 An environmental easement may be enforced in law or equity by its
51 grantor, by the state, or any affected local government as defined in
52 section 71-3603 of this title. Such easement is enforceable against the
53 owner of the burdened property, any lessees, and any person using the
54 land. Enforcement shall not be defeated because of any subsequent
55 adverse possession, laches, estoppel, reversion or waiver. No general
56 law of the state which operates to defeat the enforcement of any inter-

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1 est in real property shall operate to defeat the enforcement of any
2 environmental easement unless such general law expressly states the
3 intent to defeat the enforcement of such easement or provides for the
4 exercise of the power of eminent domain. It is not a defense in any
5 action to enforce an environmental easement that:

6 § 17. Paragraph 3 of subdivision (a) of section 21 of the tax law, as
7 amended by chapter 390 of the laws of 2008, is amended to read as
8 follows:

9 (3) Tangible property credit component.

10 (i) The tangible property credit component shall be equal to the
11 applicable percentage of the cost or other basis for federal income tax
12 purposes of tangible personal property and other tangible property,
13 including buildings and structural components of buildings, which
14 constitute qualified tangible property and may include any related party
15 service fee paid; provided~~[, however,]~~ that in determining the cost or
16 other basis of such property, the taxpayer shall exclude the acquisition
17 cost of any item of property with respect to which a credit under this
18 section was allowable to another taxpayer. A related party service fee
19 shall be allowed only in the calculation of the tangible property credit
20 component and shall not be allowed in the calculation of the site prepa-
21 ration credit component or the on-site groundwater remediation credit
22 component. The portion of the tangible property credit component which
23 is attributable to related party service fees shall be allowed only as
24 follows: (A) in the taxable year in which the qualified tangible proper-
25 ty described in subparagraph (iii) of this paragraph is placed in
26 service, for that portion of the related party service fees which have
27 been earned and actually paid to the related party on or before the last
28 day of such taxable year; and (B) with respect to any other taxable year
29 for which the tangible property credit component may be claimed under
30 this subparagraph and in which the amount of any additional related
31 party service fees are actually paid by the taxpayer to the related
32 party, the tangible property credit component for such amount shall be
33 allowed in such taxable year. The credit component amount so determined
34 shall be allowed for the taxable year in which such qualified tangible
35 property is first placed in service on a qualified site with respect to
36 which a certificate of completion has been issued to the taxpayer, or
37 for the taxable year in which the certificate of completion is issued if
38 the qualified tangible property is placed in service prior to the issu-
39 ance of the certificate of completion. This credit component shall only
40 be allowed for up to [~~ten taxable years after~~] one hundred twenty months
41 after the date of the issuance of such certificate of completion.

42 (ii) The tangible property credit component shall be allowed with
43 respect to property leased to a second party only if such second party
44 is either [~~(i)~~] (A) not a party responsible for the disposal of hazard-
45 ous waste or the discharge of petroleum at the site according to appli-
46 cable principles of statutory or common law liability, or [~~(ii)~~] (B) a
47 party responsible according to applicable principles of statutory or
48 common law liability if such party's liability arises solely from opera-
49 tion of the site subsequent to the disposal of hazardous waste or the
50 discharge of petroleum, and is so certified by the commissioner of envi-
51 ronmental conservation at the request of the taxpayer, pursuant to
52 section 27-1419 of the environmental conservation law. Notwithstanding
53 any other provision of law to the contrary, in the case of allowance of
54 credit under this section to such a lessor, the commissioner shall have
55 the authority to reveal to such lessor any information, with respect to
56 the issue of qualified use of property by the lessee, which is the basis

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1 for the denial in whole or in part, or for the recapture, of the credit
2 claimed by such lessor. For purposes of the tangible property credit
3 component allowed under this section the taxpayer to whom the certifi-
4 cate of completion is issued, as provided for under subdivision five of
5 section 27-1419 of the environmental conservation law, may transfer the
6 benefits and burdens of the certificate of completion, which run with
7 the land and to the applicant's successors or assigns upon transfer or
8 sale of all or any portion of an interest or estate in the qualified
9 site. However, the taxpayer to whom certificate's benefits and burdens
10 are transferred shall not include the cost of acquiring all or any
11 portion of an interest or estate in the site and the amounts included in
12 the cost or other basis for federal income tax purposes of qualified
13 tangible property already claimed by the previous taxpayer pursuant to
14 this section.

15 (iii) The term "related party service fee" shall mean any fee or other
16 monetary compensation earned by a related party and calculated as a
17 percentage of project and/or acquisition costs, in consideration of
18 services rendered to or for the benefit of the taxpayer placing quali-
19 fied tangible property in service in connection with the acquisition and
20 development of such property. For purposes of this subparagraph,
21 "related party" shall have the same meaning as related person as defined
22 in subparagraph (c) of paragraph three of subdivision (b) of section
23 four hundred sixty-five of the internal revenue code.

24 (iv) Eligible costs for the tangible property credit component are
25 limited to costs for tangible property that has a depreciable life for
26 federal income tax purposes of fifteen years or more, costs associated
27 with demolition and excavation on the site and the foundation of any
28 buildings constructed as part of the site cover that are not properly
29 included in the site preparation component and costs associated with
30 non-portable equipment, machinery and associated fixtures and appurte-
31 nances used exclusively on the site, whether or not such property has a
32 depreciable life for federal income tax purposes of fifteen years or
33 more.

34 (v) With respect to any qualified site for which the department of
35 environmental conservation has issued a notice to the taxpayer on or
36 after July first, two thousand fifteen or the date of publication in the
37 state register of proposed regulations defining "underutilized" as
38 provided in subdivision thirty of section 27-1405 of the environmental
39 conservation law, whichever shall be later, that its request for partic-
40 ipation has been accepted under subdivision six of section 27-1407 of
41 the environmental conservation law, and the site is eligible for the
42 tangible property credit component because it is an affordable housing
43 project pursuant to subdivision one-a of section 27-1407 of the environ-
44 mental conservation law, the portion of eligible costs to be included in
45 the calculation of the tangible property credit component will be deter-
46 mined by multiplying the total costs qualified for the tangible property
47 credit component by a fraction, the numerator of which shall be the
48 square footage of space of the affordable housing units dedicated to
49 residential occupancy and the denominator of which shall be the total
50 square footage of the building.

51 § 18. Subparagraphs (A) and (B) of paragraph 3-a of subdivision (a) of
52 section 21 of the tax law, as added by chapter 390 of the laws of 2008,
53 are amended to read as follows:

54 (A) Notwithstanding any other provision of law to the contrary, the
55 tangible property credit component available for any qualified site
56 pursuant to paragraph three of this subdivision shall not exceed thir-

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1 ty-five million dollars or three times the sum of the costs included in
2 the calculation of the site preparation credit component and the on-site
3 groundwater remediation credit component under paragraphs two and four,
4 respectively, of this subdivision, and the costs that would have been
5 included in the calculation of such components if not treated as an
6 expense and deducted pursuant to section one hundred ninety-eight of the
7 internal revenue code, whichever is less; provided, however, that: (1)
8 in the case of a qualified site to be used primarily for manufacturing
9 activities, the tangible property credit component available for any
10 qualified site pursuant to paragraph three of this subdivision shall not
11 exceed forty-five million dollars or six times the sum of the costs
12 included in the calculation of the site preparation credit component and
13 the on-site groundwater remediation credit component under paragraphs
14 two and four, respectively, of this subdivision, and the costs that
15 would have been included in the calculation of such components if not
16 treated as an expense and deducted pursuant to section one hundred nine-
17 ty-eight of the internal revenue code, whichever is less; and (2) the
18 provisions of this paragraph shall not apply to any qualified site for
19 which the department of environmental conservation has issued a notice
20 to the taxpayer before June twenty-third, two thousand eight that its
21 request for participation has been accepted under subdivision six of
22 section 27-1407 of the environmental conservation law.

23 (B) For the purposes of this paragraph, the term "manufacturing activi-
24 ties" means the production of goods by manufacturing, processing,
25 assembling, refining, mining, extracting, farming, agriculture, horti-
26 culture, floriculture, viticulture or commercial fishing[, ~~and shall~~
27 ~~also include the activities of a qualified emerging technology company~~
28 ~~as defined in paragraph (c) of subdivision one of section thirty-one~~
29 ~~hundred two-e of the public authorities law regardless of the ten~~
30 ~~million dollar limitation expressed in subparagraph one of such para-~~
31 ~~graph];~~ provided however, that the generation and distribution of elec-
32 tricity, the distribution of natural gas, and the production of steam
33 associated with the generation of electricity, shall not constitute
34 manufacturing activities.

35 § 19. Subparagraph (C) of paragraph 3-a of subdivision (a) of section
36 21 of the tax law, as added by chapter 390 of the laws of 2008, is
37 amended to read as follows:

38 (C) In order to properly administer the [~~credit~~] credits set forth in
39 [~~paragraph three of~~] this subdivision, the department may disclose
40 information about the calculation and the amounts of the credits claimed
41 under [~~paragraph three of~~] this subdivision on a taxpayer's return to
42 the department of environmental conservation and other taxpayers claim-
43 ing tax credits under this section with respect to the same qualifying
44 site.

45 § 20. Subparagraph (D) of paragraph 3-a of subdivision (a) of section
46 21 of the tax law, as added by chapter 390 of the laws of 2008, is
47 amended to read as follows:

48 (D) [~~if~~] With respect to any qualified site for which the department
49 of environmental conservation has issued a notice to the taxpayer before
50 July first, two thousand fifteen or the date of publication in the state
51 register of proposed regulations defining "underutilized" as provided in
52 subdivision thirty of section 27-1405 of the environmental conservation
53 law, whichever shall be later, that its request for participation has
54 been accepted under subdivision six of section 27-1407 of the environ-
55 mental conservation law, or where the taxpayer has either been issued or
56 received a certificate of completion from another taxpayer under section

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1 27-1419 of the environmental conservation law before July first, two
2 thousand fifteen or the date of publication in the state register of
3 proposed regulations defining "underutilized" as provided in subdivision
4 thirty of section 27-1405 of the environmental conservation law, which-
5 ever shall be later, if the qualifying site is located in a brownfield
6 opportunity area and is developed in conformance with the goals and
7 priorities established for that applicable brownfield opportunity area
8 as designated pursuant to section nine hundred seventy-r of the general
9 municipal law, the applicable percentage of the tangible property credit
10 component will be increased by two percent.

11 § 21. Paragraph 5 of subdivision (a) of section 21 of the tax law, as
12 amended by section 39 of part A of chapter 59 of the laws of 2014, is
13 amended to read as follows:

14 (5) Applicable percentage. (A) For purposes of computing the site
15 preparation and on-site groundwater remediation credit components pursu-
16 ant to paragraphs two[, ~~three~~] and four of this subdivision, with
17 respect to such qualified sites for which the department of environ-
18 mental conservation has issued a notice to the taxpayer before June
19 twenty-third, two thousand eight that its request for participation has
20 been accepted under subdivision six of section 27-1407 of the environ-
21 mental conservation law, or where the taxpayer has either been issued or
22 received a certificate of completion from another taxpayer under section
23 27-1419 of the environmental conservation law for such a site, and, for
24 purposes of computing the tangible property component pursuant to para-
25 graph three of this subdivision with respect to such qualified sites for
26 which the department of environmental conservation has issued a notice
27 to the taxpayer before July first, two thousand fifteen or the date of
28 publication in the state register of proposed regulations defining
29 "underutilized" as provided in subdivision thirty of section 27-1405 of
30 the environmental conservation law, whichever shall be later, that its
31 request for participation has been accepted under subdivision six of
32 section 27-1407 of the environmental conservation law, or where the
33 taxpayer has either been issued or received a certificate of completion
34 from another taxpayer under section 27-1419 of the environmental conser-
35 vation law for such a site, the applicable percentage shall be twelve
36 percent in the case of credits claimed under article nine, nine-A or
37 thirty-three of this chapter, and ten percent in the case of credits
38 claimed under article twenty-two of this chapter, except that where at
39 least fifty percent of the area of the qualified site relating to the
40 credit provided for in this section is located in an environmental zone
41 as defined in paragraphs six of subdivision (b) of this section, the
42 applicable percentage shall be increased by an additional eight percent.
43 Provided, however, as afforded in section 27-1419 of the environmental
44 conservation law, if the certificate of completion indicates that the
45 qualified site has been remediated to Track 1 as that term is described
46 in subdivision four of section 27-1415 of the environmental conservation
47 law, the applicable percentage set forth in the first sentence of this
48 paragraph shall be increased by an additional two percent.

49 (B) With respect to such qualified site for which the department of
50 environmental conservation has issued a notice to the taxpayer on or
51 after July first, two thousand fifteen or the date of publication in the
52 state register of proposed regulations defining "underutilized" as
53 provided in subdivision thirty of section 27-1405 of the environmental
54 conservation law, whichever shall be later, that its request for partic-
55 ipation has been accepted under subdivision six of section 27-1407 of
56 the environmental conservation law, the applicable percentage for the

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1 tangible property credit component of the brownfield redevelopment tax
2 credit pursuant to paragraph three of subdivision (a) of this section
3 shall be the sum of ten percent and the following additional percent-
4 ages, provided that if the sum is greater than twenty-four percent, the
5 total percentage of the tangible property credit component shall be
6 twenty-four percent and is otherwise subject to the limitations set
7 forth in paragraphs three and three-a of subdivision (a) of this
8 section:

9 (i) five percent for a site within an environmental zone;

10 (ii) five percent for a site located within a designated brownfield
11 opportunity area and is developed in conformance with the goals and
12 priorities established for that applicable brownfield opportunity area;

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

15 (iv) five percent for a site to be used primarily for manufacturing
16 activities as such term is defined in subparagraph (B) of paragraph
17 three-a of this subdivision; and

18 (v) five percent for sites remediated to Track 1 as that term is
19 defined in subdivision four of section 27-1415 of the environmental
20 conservation law.

21 (C) The taxpayer shall submit, in the manner prescribed by the commis-
22 sioner, information sufficient to demonstrate that the site qualifies
23 for any credit components available under subparagraph (B) of this para-
24 graph. If the site is receiving the credit component authorized pursuant
25 to clause (ii) of subparagraph (B) of this paragraph for being located
26 within a designated brownfield opportunity area, the taxpayer shall
27 submit a certification from the secretary of state that the development
28 is in conformance with such brownfield opportunity area plan pursuant to
29 section nine hundred seventy-r of the general municipal law.

30 § 22. Clause (i) of subparagraph (B) of paragraph 3 of subdivision
31 (b) of section 21 of the tax law, as amended by chapter 420 of the laws
32 of 2006, is amended to read as follows:

33 (i) is, or when occupied becomes, part of a dwelling whose primary
34 ownership structure is covered under either article nine-B of the real
35 property law or meets the requirements of section 216 (b)(1) of the
36 Internal Revenue Code or is part of an affordable housing project as
37 defined in subdivision twenty-nine of section 27-1405 of the environ-
38 mental conservation law, where units are sold as single family homes or
39 multiple family dwellings;

40 § 23. Paragraphs 2, 4 and 6 of subdivision (b) of section 21 of the
41 tax law, as amended by section 1 of part H of chapter 577 of the laws of
42 2004 and subparagraph (B) and the closing paragraph of paragraph 6 as
43 amended by section 1 of part G of chapter 62 of the laws of 2006, are
44 amended to read as follows:

45 (2) Site preparation costs. The term "site preparation costs" shall
46 mean all amounts properly chargeable to a capital account, [~~(i)~~] which
47 are paid or incurred [~~in connection with a site's qualification for a~~
48 ~~certificate of completion, and (ii) all other site preparation costs~~
49 ~~paid or incurred in connection with preparing a site for the erection of~~
50 ~~a building or a component of a building, or otherwise to establish a~~
51 ~~site as usable for its industrial, commercial (including the commercial~~
52 ~~development of residential housing), recreational or conservation~~
53 ~~purposes. Site preparation costs shall include, but not be limited to,~~
54 ~~the costs of excavation, temporary electric wiring, scaffolding, demoli-~~
55 ~~tion costs, and the costs of fencing and security facilities. Site~~
56 ~~preparation costs shall not include the cost of acquiring the site and~~

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1 ~~shall not include amounts included in the cost or other basis for federal~~
2 ~~income tax purposes of qualified tangible property, as described in~~
3 ~~paragraph three of this subdivision]~~ which are necessary to implement a
4 site's investigation, remediation, or qualification for a certificate of
5 completion, and shall include costs of: excavation; demolition; activ-
6 ities undertaken under the oversight of the department of labor or in
7 accordance with standards established by the department of health to
8 remediate and dispose of regulated materials including asbestos, lead or
9 polychlorinated biphenyls; environmental consulting; engineering; legal
10 costs; transportation, disposal, treatment or containment of contam-
11 inated soil; remediation measures taken to address contaminated soil
12 vapor; cover systems consistent with applicable regulations; physical
13 support of excavation; dewatering and other work to facilitate or enable
14 remediation activities; sheeting, shoring, and other engineering
15 controls required to prevent off-site migration of contamination from
16 the qualified site or migrating onto the qualified site; and the costs
17 of fencing, temporary electric wiring, scaffolding, and security facili-
18 ties until such time as the certificate of completion has been issued.
19 Site preparation shall include all costs paid or incurred within sixty
20 months after the last day of the tax year in which the certificate of
21 completion is issued that are necessary for compliance with the certif-
22 icate of completion or subsequent modifications thereof, or the remedial
23 program defined in such certificate of completion including but not
24 limited to institutional controls, engineering controls, an approved
25 site management plan, and an environmental easement with respect to the
26 qualified site. Site preparation cost shall not include the costs of
27 foundation systems that exceed the cover system requirements in the
28 regulations applicable to the qualified site.

29 (4) On-site groundwater remediation costs. The term "on-site groundwa-
30 ter remediation costs" shall mean all amounts properly chargeable to a
31 capital account, [~~(i)~~] which are paid or incurred [in connection with a
32 site's qualification for a certificate of completion, and (ii) include
33 costs which are paid or incurred in connection with the remediation of
34 on-site groundwater contamination and incurred to implement a require-
35 ment of the remedial work plan or an interim remedial measure work plan
36 for a qualified site which are imposed pursuant to subdivisions two and
37 three of section 27-1411 of the environmental conservation law] which
38 are necessary to implement a site's groundwater investigation, remedi-
39 ation, or qualification for a certificate of completion not already
40 covered under site preparation costs, and shall include costs of: envi-
41 ronmental consulting; engineering; legal costs; transportation,
42 disposal, treatment or containment of contaminated groundwater; sheet-
43 ing, shoring, and other engineering controls required to prevent off-
44 site migration of groundwater contamination from the qualified site or
45 migrating onto the qualified site; and the costs of fencing, temporary
46 electric wiring and security facilities until such time as the certif-
47 icate of completion is issued. On-site groundwater remediation costs
48 shall include all costs paid or incurred within sixty months after the
49 last day of the tax year in which the certificate of completion is
50 issued that are necessary for compliance with the certificate of
51 completion or subsequent modifications thereof, or the groundwater reme-
52 dial program defined in such certificate of completion including but not
53 limited to institutional controls, engineering controls, an approved
54 site management plan specific to on-site groundwater remediation, and an
55 environmental easement with respect to the qualified site.

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1 (6) Environmental zones (EN-Zones). An "environmental zone" shall mean
2 an area designated as such by the commissioner of [~~economic development~~]
3 labor. Such areas [~~so designated are areas which are~~] shall be census
4 tracts [~~and block numbering areas which, as of the two thousand census,~~]
5 that satisfy either of the following criteria:

6 (A) areas that have both:

7 (i) a poverty rate of at least twenty percent [~~for the year to which~~
8 ~~the data relate~~] based on the most recent five year American Community
9 Survey; and

10 (ii) an unemployment rate of at least one and one-quarter times the
11 statewide unemployment rate [~~for the year to which the data relate~~]
12 based on the most recent five year American Community Survey, or;

13 (B) areas that have a poverty rate of at least two times the poverty
14 rate for the county in which the areas are located [~~for the year to~~
15 ~~which the data relate provided, however, that a qualified site shall~~
16 ~~only be deemed to be located in an environmental zone under this subpar-~~
17 ~~agraph (B) if such site was the subject of a brownfield site cleanup~~
18 ~~agreement pursuant to section 27-1409 of the environmental conservation~~
19 ~~law that was entered into prior to September first, two thousand ten]~~
20 based on the most recent five year American Community Survey.

21 Such designation shall be made and a list of all such environmental
22 zones shall be established by the commissioner of [~~economic development~~
23 ~~no later than December thirty-first, two thousand four provided, howev-~~
24 ~~er, that a qualified site shall only be deemed to be located in an envi-~~
25 ~~ronmental zone under subparagraph (B) of this paragraph if such site was~~
26 ~~the subject of a brownfield site cleanup agreement pursuant to section~~
27 ~~27-1409 of the environmental conservation law that was entered into~~
28 ~~prior to September first, two thousand ten]~~ labor based on the two thou-
29 sand nine through two thousand thirteen American Community Survey esti-
30 mate. Upon request of the commissioner of environmental conservation,
31 the commissioner of labor shall update such designation based on the
32 most recent American Community Survey, or its successor.

33 The determination of whether a site is located in an environmental
34 zone shall be based on the date the department of environmental conser-
35 vation issued a notice to the taxpayer that its request for partici-
36 ipation in the brownfield cleanup program has been deemed complete
37 pursuant to subdivision three of section 27-1407 of the environmental
38 conservation law.

39 § 24. Section 171-r of the tax law is amended by adding a new subdivi-
40 sion (e) to read as follows:

41 (e) The commissioner, in consultation with the commissioner of envi-
42 ronmental conservation, shall publish by January thirty-first, two thou-
43 sand sixteen a supplemental brownfield credit report containing the
44 information required by this section about the credits claimed for the
45 years two thousand five, two thousand six, and two thousand seven.

46 § 25. Section 171-s of the tax law is REPEALED.

47 § 26. Paragraph b of subdivision 2 of section 970-r of the general
48 municipal law, as added by section 1 of part F of chapter 1 of the laws
49 of 2003, is amended to read as follows:

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

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

54 (2) the number and size of known or suspected brownfield sites;

55 (3) current and anticipated uses of the properties in the proposed
56 brownfield opportunity area;

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1 (4) current and anticipated future conditions of groundwater in the
2 proposed brownfield opportunity area;

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

5 (6) ownership of the properties in the proposed brownfield opportunity
6 area and whether the owners are participating in the brownfield opportu-
7 nity area planning process; and

8 (7) preliminary descriptions of possible remediation strategies, reuse
9 opportunities, necessary infrastructure improvements and other public or
10 private measures needed to stimulate investment, promote revitalization,
11 and enhance community health and environmental conditions.

12 § 27. Subparagraphs 2 and 5 of paragraph c of subdivision 2 of section
13 970-r of the general municipal law, as added by section 1 of part F of
14 chapter 1 of the laws of 2003, are amended to read as follows:

15 (2) areas with concentrations of known or suspected brownfield sites;

16 (5) areas with known or suspected brownfield sites presenting strate-
17 gic opportunities to stimulate economic development, community revitali-
18 zation or the siting of public amenities.

19 § 28. Paragraph a of subdivision 3 of section 970-r of the general
20 municipal law, as amended by chapter 390 of the laws of 2008, is amended
21 to read as follows:

22 a. Within the limits of appropriations therefor, the secretary is
23 authorized to provide, on a competitive basis, financial assistance to
24 municipalities, to community based organizations, to community boards,
25 or to municipalities and community based organizations acting in cooper-
26 ation to prepare a nomination for designation of a brownfield opportu-
27 nity area. Such financial assistance shall not exceed ninety percent of
28 the costs of such nomination for any such area. A nomination study must
29 include sufficient information to designate the brownfield opportunity
30 area. The contents of the nomination study shall be developed based on
31 pre-nomination study information, which shall principally consist of an
32 area-wide study, documenting the historic brownfield uses in the area
33 proposed for designation.

34 § 29. Subparagraphs 2 and 5 of paragraph e of subdivision 3 and subdivi-
35 sion 4 of section 970-r of the general municipal law, subparagraphs 2
36 and 5 of paragraph e of subdivision 3 as added by section 1 of part F of
37 chapter 1 of the laws of 2003 and subdivision 4 as amended by chapter
38 390 of the laws of 2008, are amended to read as follows:

39 (2) areas with concentrations of known or suspected brownfield sites;

40 (5) areas with known or suspected brownfield sites presenting strate-
41 gic opportunities to stimulate economic development, community revitali-
42 zation or the siting of public amenities.

43 4. Designation of brownfield opportunity area. Upon completion of a
44 nomination for designation of a brownfield opportunity area, it shall be
45 forwarded by the applicant to the secretary, who shall determine whether
46 it is consistent with the provisions of this section. The secretary may
47 review and approve a nomination for designation of a brownfield opportu-
48 nity area at any time. If the secretary determines that the nomination
49 is consistent with the provisions of this section, the brownfield oppor-
50 tunity area shall be designated. If the secretary determines that the
51 nomination is not consistent with the provisions of this section, the
52 secretary shall make recommendations in writing to the applicant of the
53 manner and nature in which the nomination should be amended.

54 § 30. Paragraph a and subparagraphs 2 and 5 of paragraph e of subdivi-
55 sion 6 of section 970-r of the general municipal law, paragraph a as
56 amended by chapter 386 of the laws of 2007 and subparagraphs 2 and 5 of

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1 paragraph e as added by section 1 of part F of chapter 1 of the laws of
2 2003, are amended to read as follows:

3 a. Within the limits of appropriations therefor, [~~the commissioner, in~~
4 ~~consultation with~~] the secretary of state, is authorized to provide, on
5 a competitive basis, financial assistance to municipalities, to communi-
6 ty based organizations, to community boards, or to municipalities and
7 community based organizations acting in cooperation to conduct brown-
8 field site assessments [~~in a brownfield opportunity area designated~~
9 ~~pursuant to this section~~]. Such financial assistance shall not exceed
10 ninety percent of the costs of such brownfield site assessment.

11 (2) areas with concentrations of known or suspected brownfield sites;

12 (5) areas with known or suspected brownfield sites presenting strate-
13 gic opportunities to stimulate economic development, community revitali-
14 zation or the siting of public amenities.

15 § 31. Section 970-r of the general municipal law is amended by adding
16 a new subdivision 10 to read as follows:

17 10. The secretary shall establish criteria for brownfield opportunity
18 area conformance determinations for purposes of the brownfield redevelop-
19 ment tax credit component pursuant to clause (ii) of subparagraph (B)
20 of paragraph (5) of subdivision (a) of section twenty-one of the tax
21 law. In establishing criteria, the secretary shall be guided by, but not
22 limited to, the following considerations: how the proposed use and
23 development advances the designated brownfield opportunity area plan's
24 vision statement, goals and objectives for revitalization; how the
25 density of development and associated buildings and structures advances
26 the plan's objectives, desired redevelopment and priorities for invest-
27 ment; and how the project complies with zoning and other local laws and
28 standards to guide and ensure appropriate use of the project site.

29 § 32. Section 31 of part H of chapter 1 of the laws of 2003, amending
30 the tax law relating to brownfield redevelopment tax credits, remediated
31 brownfield credit for real property taxes for qualified sites and envi-
32 ronmental remediation insurance credits, as amended by chapter 474 of
33 the laws of 2012, is amended to read as follows:

34 § 31. The tax credits allowed under section [~~21,~~] 22 or 23 of the tax
35 law and the corresponding provisions in articles 9, 9-A, 22[~~,~~32] and 33
36 of the tax law, as added by the provisions of sections one through twen-
37 ty-nine of this act, shall not be applicable [~~if~~] to any site accepted
38 into the brownfield cleanup program on and after July 1, 2015 or the
39 date of publication in the state register of proposed regulations defin-
40 ing "underutilized" as provided in subdivision 30 of section 27-1405 of
41 the environmental conservation law, whichever shall be later. The tax
42 credits allowed under section 21 of the tax law and the corresponding
43 provisions in articles 9, 9-A, 22 and 33 of the tax law, as added by the
44 provisions of sections one through twenty-nine of this act, shall not be
45 applicable to any site accepted into the brownfield cleanup program
46 after December 31, 2022, provided, however that any sites accepted on or
47 before December 31, 2022 must have received the [~~remediation~~] certifi-
48 cate of completion required to qualify for any of such credits [~~is~~
49 ~~issued after December~~] on or before March 31, [2015] 2026.

50 § 33. Notwithstanding any other provision of this act, any site for
51 which a brownfield cleanup agreement with the department of environ-
52 mental conservation was entered into (1) prior to June 23, 2008 and
53 which has not received a certificate of completion by December 31, 2017
54 or (2) on or after June 23, 2008 and prior to July 1, 2015 or the date
55 of publication in the state register of proposed regulations defining
56 "underutilized" as provided in subdivision 30 of section 27-1405 of the

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1 environmental conservation law, whichever shall be later, and which has
2 not received a certificate of completion by December 31, 2019, shall
3 only be eligible for brownfield redevelopment tax credits available
4 pursuant to section 21 of the tax law as if the site was accepted into
5 the brownfield cleanup program on and after July 1, 2015 or the date of
6 publication in the state register of proposed regulations defining
7 "underutilized" as provided in subdivision 30 of section 27-1405 of the
8 environmental conservation law, whichever shall be later, and shall be
9 subject to the eligibility requirements for the tangible property credit
10 component set forth in subdivision 1-a of section 27-1407 of the envi-
11 ronmental conservation law.

12 § 34. Paragraph c of subdivision 3 of section 27-0923 of the environ-
13 mental conservation law, as amended by section 5 of part I of chapter
14 577 of the laws of 2004, is amended to read as follows:

15 c. For the purpose of this section, generation of hazardous waste
16 shall not include retrieval or creation of hazardous waste which must be
17 disposed of under an order of or agreement with the department pursuant
18 to title thirteen or title fourteen of this article or under a contract
19 with the department pursuant to title five of article fifty-six of this
20 chapter or under an order of or agreement with the United States envi-
21 ronmental protection agency or an order of a court of competent juris-
22 isdiction, related to a facility addressed pursuant to the Comprehensive
23 Environmental Response, Compensation and Liability Act (42 U.S.C. 9601
24 et seq.) or under a written agreement with a municipality which has
25 entered into a memorandum of agreement with the department related to
26 the remediation of brownfield sites as of August fifth, two thousand
27 ten.

28 § 35. Subparagraphs (i) and (vi) of paragraph d of subdivision 1 of
29 section 72-0402 of the environmental conservation law, as amended by
30 chapter 99 of the laws of 2010, are amended to read as follows:

31 (i) under a contract with the department, or with the department's
32 written approval and in compliance with department regulations, or
33 pursuant to an order of the department, the United States environmental
34 protection agency or a court of competent jurisdiction, related to the
35 cleanup or remediation of a hazardous materials or hazardous waste
36 spill, discharge, or surficial cleanup, pursuant to this chapter; or

37 (vi) under a brownfield site cleanup agreement with the department
38 pursuant to section 27-1409 of this chapter or under a written agreement
39 with a municipality which has entered into a memorandum of agreement
40 with the department related to the remediation of brownfield sites as of
41 August fifth, two thousand ten; or

42 § 36. Section 56-0501 of the environmental conservation law, as added
43 by chapter 413 of the laws of 1996, is amended to read as follows:

44 § 56-0501. Allocation of moneys.

45 1. Of the moneys received by the state from the sale of bonds pursuant
46 to the Clean Water/Clean Air Bond Act of 1996, two hundred million
47 dollars (\$200,000,000) shall be available for disbursements for environ-
48 mental restoration projects.

49 2. Beginning in state fiscal year two thousand fifteen--two thousand
50 sixteen, environmental restoration projects may be funded using the
51 proceeds of bonds issued pursuant to section twelve hundred
52 eighty-five-g of the public authorities law provided that funding for
53 such projects shall conform to the limitations provided in subdivision
54 one of such section.

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1 § 37. Subdivision 6 of section 56-0502 of the environmental conserva-
2 tion law, as amended by section 2 of part D of chapter 577 of the laws
3 of 2004, is amended to read as follows:

4 6. "State assistance", for purposes of this title, shall mean in the
5 case of a contract authorized by subdivision one of section 56-0503 of
6 this title, payments made to a municipality to reimburse the munici-
7 pality for the state share of the costs incurred by the municipality to
8 undertake an environmental restoration project or in the case of a writ-
9 ten agreement authorized by subdivision three of section 56-0503 of this
10 title, costs incurred by the state to undertake an environmental resto-
11 ration project but not reimbursed by a municipality.

12 § 38. Paragraph (c) of subdivision 2 of section 56-0503 of the envi-
13 ronmental conservation law, as amended by section 4 of part D of chapter
14 1 of the laws of 2003, is amended and a new subdivision 3 is added to
15 read as follows:

16 (c) A provision that the municipality shall assist in identifying a
17 responsible party by searching local records, including property tax
18 rolls, or document reviews, and if, in accordance with the required
19 departmental approval of any settlement with a responsible party, any
20 responsible party payments become available to the municipality, before,
21 during or after the completion of an environmental restoration project,
22 which were not included when the state share was calculated pursuant to
23 this section, the state assistance share shall be recalculated, and the
24 municipality shall pay to the state, for deposit into the environmental
25 restoration project account of the hazardous waste remedial fund estab-
26 lished under section ninety-seven-b of the state finance law, the
27 difference between the original state assistance payment and the recal-
28 culated state share. Recalculation of the state share shall be done each
29 time a payment from a responsible party is received by the municipality;

30 3. The department may undertake an environmental restoration project
31 on behalf of a municipality upon request. If the department undertakes
32 the project on behalf of the municipality, the state shall enter into a
33 written agreement with the municipality and the agreement shall require
34 the municipality to periodically provide its share to the state for
35 costs incurred during the progress of such project. The municipality's
36 share shall be the same as would be required under subdivision one of
37 this section. The agreement shall include all provisions specified in
38 subdivision two of this section as appropriate.

39 § 39. Subdivision 4 of section 56-0505 of the environmental conserva-
40 tion law, as amended by section 5 of part D of chapter 1 of the laws of
41 2003, is amended to read as follows:

42 4. After completion of such project, the municipality may use the
43 property for public purposes or may dispose of it. If the municipality
44 shall dispose of such property by sale to a responsible party, such
45 party shall pay to such municipality, in addition to such other consid-
46 eration, an amount of money constituting the amount of state assistance
47 provided [~~to the municipality~~] under this title plus accrued interest
48 and transaction costs and the municipality shall deposit that money into
49 the environmental restoration project account of the hazardous waste
50 remedial fund established under section ninety-seven-b of the state
51 finance law.

52 § 40. Subdivisions 3 and 4 of section 56-0508 of the environmental
53 conservation law, as added by section 7 of part D of chapter 1 of the
54 laws of 2003, are amended to read as follows:

55 3. such temporary incidents of ownership by such taxing district shall
56 also qualify it as being the owner of such property [~~for the purposes of~~

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A. 3006--B

1 ~~obtaining~~] to be eligible for funding from the state of New York for
2 such environmental restoration investigation project under this article
3 or for such funding from any source pursuant to any other state, feder-
4 al, or local law, but such incidents of ownership shall not be suffi-
5 cient to qualify it as the owner of such property for the purposes of
6 holding it wholly or partially liable for any damages, past, present, or
7 future from any release of any hazardous material, substance, or contam-
8 inant into the air, ground, or water, unless such release was caused by
9 such taxing district.

10 4. within thirty days of the completion of the environmental restora-
11 tion investigation project and the receipt by the taxing jurisdiction of
12 the final report of such investigation, such taxing jurisdiction shall
13 file such report with the court on notice to the court and all other
14 parties of record, and the stay of the foreclosure shall be lifted
15 (unless lifted earlier by a prior court order), and all incidents of
16 temporary ownership of the taxing jurisdiction that was awarded such
17 taxing district, except any right [~~to receive funding~~] for the environ-
18 mental restoration investigation project to be funded, shall cease to
19 exist, and nothing in this subdivision shall preclude the taxing juris-
20 diction that conducted the environmental restoration investigation
21 project or the taxing jurisdiction that commenced the foreclosure
22 action, if it is a different taxing jurisdiction than the taxing juris-
23 diction which conducted the investigation, from withdrawing the parcel
24 from foreclosure pursuant to section eleven hundred thirty-eight of the
25 real property tax law.

26 § 40-a. The opening paragraph and subparagraph (i) of paragraph (a) of
27 subdivision 1 of section 56-0509 of the environmental conservation law,
28 as amended by section 4 of part D of chapter 577 of the laws of 2004,
29 are amended to read as follows:

30 Notwithstanding any other provision of law and except as provided in
31 subdivision two of this section and in paragraph (h) of subdivision two
32 of section 56-0503 of this title, the following shall not be liable to
33 the state upon any statutory or common law cause of action, or to any
34 person upon any statutory cause of action arising out of the presence of
35 any contamination in or on property at any time before the effective
36 date of a contract entered into pursuant to this title or written agree-
37 ment pursuant to subdivision three of section 56-0503 of this title:

38 (i) a municipality receiving state assistance under this title to
39 undertake, or under written agreement pursuant to subdivision three of
40 section 56-0503 of this title for the state to undertake an environ-
41 mental restoration project and complying with the terms and conditions
42 of the contract or written agreement pursuant to subdivision three of
43 section 56-0503 of this title providing such assistance; and

44 § 41. Paragraph (f) of subdivision 3 of section 97-b of the state
45 finance law, as amended by section 4 of part I of chapter 1 of the laws
46 of 2003, is amended to read as follows:

47 (f) to undertake such remedial measures as the department of environ-
48 mental conservation may determine necessary due to environmental condi-
49 tions related to the property subject to an agreement to provide state
50 assistance or contract under title five of article fifty-six of the
51 environmental conservation law that were unknown to such department at
52 the time of its approval of such agreement or contract which indicates
53 that conditions on such property are not sufficiently protective of
54 human health for its reasonably anticipated uses or due to information
55 received, in whole or in part, after such department's approval of such
56 agreement's final engineering report and certification, which indicates

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1 that such agreement's remedial activities are not sufficiently protec-
2 tive of human health for such property's reasonably anticipated uses;
3 and, [~~respecting the monies in the environmental restoration project~~
4 ~~account in excess of ten million dollars,~~] shall provide state assist-
5 ance under title five of article fifty-six of the environmental conser-
6 vation law;

7 § 42. Notwithstanding the provisions of subdivision 1-a of section
8 27-1407 of the environmental conservation law, a site which is accepted
9 into the brownfield cleanup program after the effective date of this act
10 and prior to the adoption of regulations defining "underutilized" as
11 provided in subdivision 30 of section 27-1405 of the environmental
12 conservation law may, within ninety days following the adoption of such
13 regulations, request an eligibility determination to receive the tangi-
14 ble property credit component of the brownfield redevelopment credit
15 pursuant to section 21 of the tax law.

16 § 43. Subdivisions 1 and 3 of section 1285-q of the public authorities
17 law, as added by section 6 of part I of chapter 1 of the laws of 2003,
18 are amended to read as follows:

19 1. Subject to chapter fifty-nine of the laws of two thousand, but
20 notwithstanding any other provisions of law to the contrary, in order to
21 assist the corporation in undertaking the administration and the financ-
22 ing of hazardous waste site remediation projects for payment of the
23 state's share of the costs of the remediation of hazardous waste sites,
24 in accordance with title thirteen of article twenty-seven of the envi-
25 ronmental conservation law and section ninety-seven-b of the state
26 finance law, and for payment of state costs associated with the remedi-
27 ation of offsite contamination at significant threat sites as provided
28 in section 27-1411 of the environmental conservation law, and beginning
29 in state fiscal year two thousand fifteen - two thousand sixteen for
30 environmental restoration projects pursuant to title five of article
31 fifty-six of the environmental conservation law provided that funding
32 for such projects shall not exceed ten percent of the funding appropri-
33 ated for the purposes of financing hazardous waste site remediation
34 projects, pursuant to title thirteen of article twenty-seven of the
35 environmental conservation law in any state fiscal year pursuant to
36 capital appropriations made to the department of environmental conserva-
37 tion, the director of the division of budget and the corporation are
38 each authorized to enter into one or more service contracts, none of
39 which shall exceed twenty years in duration, upon such terms and condi-
40 tions as the director and the corporation may agree, so as to annually
41 provide to the corporation in the aggregate, a sum not to exceed the
42 annual debt service payments and related expenses required for any bonds
43 and notes authorized pursuant to section twelve hundred ninety of this
44 title. Any service contract entered into pursuant to this section shall
45 provide that the obligation of the state to fund or to pay the amounts
46 therein provided for shall not constitute a debt of the state within the
47 meaning of any constitutional or statutory provision and shall be deemed
48 executory only to the extent of moneys available for such purposes,
49 subject to annual appropriation by the legislature. Any such service
50 contract or any payments made or to be made thereunder may be assigned
51 and pledged by the corporation as security for its bonds and notes, as
52 authorized pursuant to section twelve hundred ninety of this title.

53 3. The maximum amount of bonds that may be issued for the purpose of
54 financing hazardous waste site remediation projects and environmental
55 restoration projects authorized by this section shall not exceed [~~one~~]
56 two billion two hundred million dollars and shall not exceed one hundred

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1 [~~twenty~~] million dollars for appropriations enacted for any state fiscal
2 year, provided that the bonds not issued for such appropriations may be
3 issued pursuant to reappropriation in subsequent fiscal years. No bonds
4 shall be issued for the repayment of any new appropriation enacted after
5 March thirty-first, two thousand [~~thirteen~~] twenty-six for hazardous
6 waste site remediation projects authorized by this section. Amounts
7 authorized to be issued by this section shall be exclusive of bonds
8 issued to fund any debt service reserve funds, pay costs of issuance of
9 such bonds, and bonds or notes issued to refund or otherwise repay bonds
10 or notes previously issued. Such bonds and notes of the corporation
11 shall not be a debt of the state, and the state shall not be liable
12 thereon, nor shall they be payable out of any funds other than those
13 appropriated by this state to the corporation for debt service and
14 related expenses pursuant to any service contracts executed pursuant to
15 subdivision one of this section, and such bonds and notes shall contain
16 on the face thereof a statement to such effect.

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

26 § 45. This act shall take effect July 1, 2015 or on the date of publi-
27 cation in the state register of proposed regulations defining "underuti-
28 lized" as provided in subdivision 30 of section 27-1405 of the environ-
29 mental conservation law, whichever shall be later; provided, however,
30 that:

31 a. the commissioner of environmental conservation shall notify the
32 legislative bill drafting commission of the date of publication in the
33 state register of such proposed regulations in order that the commission
34 may maintain an accurate and timely effective data base of the official
35 text of the laws of the state of New York in furtherance of effecting
36 provisions of section 44 of the legislative law and section 70-b of the
37 public officers law;

38 b. the amendments to section 970-r of the general municipal law made
39 by sections twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty
40 and thirty-one of this act; section 27-0923 of the environmental conser-
41 vation law made by section thirty-four of this act; section 72-0402 of
42 the environmental conservation law made by section thirty-five of this
43 act; section 56-0501 of the environmental conservation law made by
44 section thirty-six of this act; section 56-0502 of the environmental
45 conservation law made by section thirty-seven of this act; section
46 56-0503 of the environmental conservation law made by section thirty-
47 eight of this act; section 56-0505 of the environmental conservation law
48 made by section thirty-nine of this act; section 56-0508 of the environ-
49 mental conservation law made by section forty of this act; section
50 56-0509 of the environmental conservation law as amended by section
51 forty-a of this act; section 97-b of the state finance law made by
52 section forty-one of this act; and section 1285-q of the public authori-
53 ties law made by section forty-three of this act shall take effect imme-
54 diately;

55 c. the department of environmental conservation shall not charge
56 volunteers in the brownfield cleanup program for oversight costs for any

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1 sites in the program incurred on or after July 1, 2015 or after the
 2 publication in the state register of proposed regulations defining
 3 "underutilized" as provided in subdivision 30 of section 27-1405 of the
 4 environmental conservation law, whichever shall be later;
 5 d. the amendments made by section two of this act relating to the
 6 definition of brownfield site, and all amendments made by sections
 7 seventeen, eighteen, nineteen, twenty, twenty-one and twenty-three of
 8 this act shall apply only to sites for which the department of environ-
 9 mental conservation has issued a notice to the applicant on or after
 10 July 1, 2015 or after the publication in the state register of proposed
 11 regulations defining "underutilized" as provided in subdivision 30 of
 12 section 27-1405 of the environmental conservation law, whichever shall
 13 be later, that its request for participation has been accepted under
 14 subdivision 6 of section 27-1407 of the environmental conservation law
 15 subject to the provisions of section thirty-three of this act; and
 16 e. the department of labor shall update the environmental zones as
 17 required by section twenty-four of this act within ninety days of this
 18 act becoming law; and
 19 f. the department of environmental conservation shall publish in the
 20 state register proposed regulations defining "affordable housing
 21 project" as provided in subdivision 29 of section 27-1405 of the envi-
 22 ronmental conservation law, on or before June 8, 2015.

23

PART CC

24 Section 1. Subparagraphs (a), (b) and (c) of paragraph 8 and paragraph
 25 13 of subdivision 3 of section 73-a of the public officers law, subpara-
 26 graphs (a), (b) and (c) of paragraph 8 as amended by section 37 of
 27 subpart A of part H of chapter 55 of the laws of 2014 and paragraph 13
 28 as amended by section 5 of part A of chapter 399 of the laws of 2011,
 29 are amended to read as follows:

30 (a) If the reporting individual practices law, is licensed by the
 31 department of state as a real estate broker or agent or practices a
 32 profession licensed by the department of education, or works as a member
 33 or employee of a firm required to register pursuant to section one-e of
 34 the legislative law as a lobbyist, [~~give a general~~] describe the
 35 services rendered for which compensation was paid including a general
 36 description of the principal subject areas of matters undertaken by such
 37 individual and principal duties performed. Specifically state whether
 38 the reporting individual provides services directly to clients. Addi-
 39 tionally, if such an individual practices with a firm or corporation and
 40 is a partner or shareholder of the firm or corporation, give a general
 41 description of principal subject areas of matters undertaken by such
 42 firm or corporation.

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48 (b) APPLICABLE ONLY TO NEW CLIENTS OR CUSTOMERS FOR WHOM SERVICES ARE
 49 PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE AND BEFORE DECEMBER
 50 THIRTY-FIRST, TWO THOUSAND FIFTEEN, OR FOR NEW MATTERS FOR EXISTING
 51 CLIENTS OR CUSTOMERS WITH RESPECT TO THOSE SERVICES THAT ARE PROVIDED ON