

S T A T E O F N E W Y O R K

S. 2007--B

A. 3007--B

S E N A T E - A S S E M B L Y

January 23, 2017

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 intentionally omitted (Part A); intentionally omitted (Part B); intentionally omitted (Part C); to amend the public health law, in relation to controlling drug costs; to amend the social services law, in relation to the drug utilization review board; to amend the social services law, in relation to Medicaid reimbursement of covered outpatient drugs; to authorize the suspension of a provider's Medicaid enrollment for inappropriate prescribing of opioids; to amend the social services law, in relation to refills of controlled substances; to amend the social services law, in relation to reducing Medicaid coverage and increasing copayments for non-prescription drugs, to aligning pharmacy copayment requirements with federal regulations, and to adjusting consumer price index penalties for generic drugs (Part D); to amend the social services law, in relation to fiscal intermediary certification under the consumer directed personal assistance program; and to amend the public health law, in relation to reserved bed days and establishing a prospective per diem adjustment for certain nursing homes (Part E); intentionally omitted (Part F); to amend part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to known and projected department of health state fund medicaid expenditures, in relation to extending the Medicaid global cap (Part G); to amend the New York Health Care Reform Act of 1996, in relation to extending certain provisions relating thereto; to amend the New York Health Care Reform Act of 2000, in relation to extending the effectiveness of provisions thereof; to

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

LBD12571-04-7

1 S 17. Subdivision 3 of section 2999-p of the public health law, as
2 amended by chapter 461 of the laws of 2012, is amended to read as
3 follows:

4 3. The commissioner may issue a certificate of authority to an entity
5 that meets conditions for ACO certification as set forth in regulations
6 made by the commissioner pursuant to section twenty-nine hundred nine-
7 ty-nine-q of this article. The commissioner shall not issue any new
8 certificate under this article after December thirty-first, two thousand
9 [sixteen] TWENTY.

10 S 18. Subdivision 2 of section 246 of chapter 81 of the laws of 1995,
11 amending the public health law and other laws relating to medical
12 reimbursement and welfare reform, as amended by section 2 of part D of
13 chapter 57 of the laws of 2015, is amended to read as follows:

14 2. Sections five, seven through nine, twelve through fourteen, and
15 eighteen of this act shall be deemed to have been in full force and
16 effect on and after April 1, 1995 through March 31, 1999 and on and
17 after July 1, 1999 through March 31, 2000 and on and after April 1, 2000
18 through March 31, 2003 and on and after April 1, 2003 through March 31,
19 2006 and on and after April 1, 2006 through March 31, 2007 and on and
20 after April 1, 2007 through March 31, 2009 and on and after April 1,
21 2009 through March 31, 2011 and sections twelve, thirteen and fourteen
22 of this act shall be deemed to be in full force and effect on and after
23 April 1, 2011 through March 31, 2015 and on and after April 1, 2015
24 through March 31, 2017 AND ON AND AFTER APRIL 1, 2017 THROUGH MARCH 31,
25 2019;

26 S 19. This act shall take effect immediately and shall be deemed to
27 have been in full force and effect on and after April 1, 2017.

28 PART J

29 Intentionally Omitted

30 PART K

31 Intentionally Omitted

32 PART L

33 Intentionally Omitted

34 PART M

35 Section 1. The public health law is amended by adding a new section
36 1112 to read as follows:

37 S 1112. EMERGING CONTAMINANT MONITORING. 1. INDUSTRY AND MODERN TECH-
38 NOLOGY HAVE CREATED THOUSANDS OF NEW CHEMICALS THAT WOULD NOT OTHERWISE
39 EXIST IN NATURE. ALTHOUGH SOME OF THESE CHEMICALS HAVE PROVEN BENEFITS,
40 THE EFFECT OF MANY SUCH CHEMICALS ON HUMAN HEALTH IS UNKNOWN OR NOT
41 FULLY UNDERSTOOD. FURTHERMORE, WITH THE ADVANCE OF SCIENCE AND TECHNOLO-
42 GY, PUBLIC HEALTH SCIENTISTS AND EXPERTS ARE ABLE TO IDENTIFY NATURALLY
43 OCCURRING CONTAMINANTS THAT POSE PREVIOUSLY UNKNOWN HAZARDS TO HUMAN
44 HEALTH. WHERE THESE CHEMICALS OR CONTAMINANTS, COLLECTIVELY REFERRED TO
45 AS "EMERGING CONTAMINANTS," ENTER DRINKING WATER SUPPLIES, THEY CAN
46 PRESENT UNKNOWN BUT POTENTIALLY SERIOUS RISKS TO PUBLIC HEALTH. NEW
47 YORKERS SERVED BY PUBLIC WATER SUPPLIES HAVE THE RIGHT TO KNOW WHEN

1 POTENTIALLY HAZARDOUS SUBSTANCES CONTAMINATE THEIR DRINKING WATER AND
2 THE DEPARTMENT MUST BE EQUIPPED TO MONITOR AND PROTECT THE PUBLIC FROM
3 THESE EMERGING CONTAMINANTS.

4 2. A. "EMERGING CONTAMINANTS" SHALL MEAN ANY PHYSICAL, CHEMICAL,
5 MICROBIOLOGICAL OR RADIOLOGICAL SUBSTANCE LISTED AS AN EMERGING CONTAM-
6 INANT PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

7 B. "NOTIFICATION LEVEL" MEANS THE CONCENTRATION LEVEL OF AN EMERGING
8 CONTAMINANT IN DRINKING WATER THAT THE COMMISSIONER HAS DETERMINED,
9 BASED ON AVAILABLE SCIENTIFIC INFORMATION, WARRANTS PUBLIC NOTIFICATION
10 AND MAY REQUIRE ACTIONS, WHICH MAY INCLUDE ENHANCED MONITORING AND
11 ACTIVITIES TO REDUCE EXPOSURE, PURSUANT TO THIS SECTION.

12 C. "COVERED PUBLIC WATER SYSTEM" SHALL MEAN: (I) A PUBLIC WATER
13 SYSTEM THAT SERVES AT LEAST FIVE SERVICE CONNECTIONS USED BY YEAR-ROUND
14 RESIDENTS OR REGULARLY SERVES AT LEAST TWENTY-FIVE YEAR-ROUND RESIDENTS;
15 OR (II) A PUBLIC WATER SYSTEM THAT REGULARLY SERVES AT LEAST TWENTY-FIVE
16 OF THE SAME PEOPLE, FOUR HOURS OR MORE PER DAY, FOR FOUR OR MORE DAYS
17 PER WEEK, FOR TWENTY-SIX OR MORE WEEKS PER YEAR.

18 3. A. THE COMMISSIONER SHALL PROMULGATE REGULATIONS TO IDENTIFY AND
19 LIST SUBSTANCES AS EMERGING CONTAMINANTS THAT MEET THE FOLLOWING CRITE-
20 RIA:

21 (I) ARE NOT SUBJECT TO ANY OTHER SUBSTANCE-SPECIFIC DRINKING WATER
22 REGULATION OF THE DEPARTMENT THAT ESTABLISHES A MAXIMUM CONTAMINANT
23 LEVEL, MAXIMUM RESIDUAL DISINFECTANT LEVEL, OR ACTION LEVEL;

24 (II) ARE KNOWN OR ANTICIPATED TO OCCUR IN PUBLIC WATER SYSTEMS; AND

25 (III) BECAUSE OF THEIR QUANTITY, CONCENTRATION, OR PHYSICAL, CHEMICAL
26 OR INFECTIOUS CHARACTERISTICS, MAY CAUSE PHYSICAL INJURY OR ILLNESS, OR
27 OTHERWISE POSE A POTENTIAL HAZARD TO HUMAN HEALTH WHEN PRESENT IN DRINK-
28 ING WATER.

29 B. IN DETERMINING WHAT SUBSTANCES SHALL BE LISTED AS EMERGING CONTAM-
30 INANTS THE COMMISSIONER SHALL, AT A MINIMUM, CONSIDER:

31 (I) UNREGULATED CONTAMINANTS MONITORED PURSUANT TO THE FEDERAL SAFE
32 DRINKING WATER ACT (42 U.S.C. S 300G-1) AS AMENDED FROM TIME TO TIME;

33 (II) SUBSTANCES THAT REQUIRE REGULATION OR MONITORING WHEN PRESENT IN
34 DRINKING WATER IN OTHER JURISDICTIONS OUTSIDE THE STATE OF NEW YORK;

35 (III) PESTICIDE CHEMICALS FOR WHICH THE UNITED STATES ENVIRONMENTAL
36 PROTECTION AGENCY HAS SET HUMAN HEALTH BENCHMARKS FOR DRINKING WATER;

37 (IV) SUBSTANCES FOUND AT SITES IN REMEDIAL PROGRAMS LOCATED INSIDE AND
38 OUTSIDE THE STATE OF NEW YORK, INCLUDING BUT NOT LIMITED TO INACTIVE
39 HAZARDOUS WASTE SITES; AND

40 (V) RECOMMENDATIONS FROM THE DRINKING WATER QUALITY COUNCIL ESTAB-
41 LISHED PURSUANT TO SECTION ELEVEN HUNDRED THIRTEEN OF THIS TITLE.

42 C. THE COMMISSIONER SHALL, AT A MINIMUM, INCLUDE THE FOLLOWING CHEMI-
43 CALS IDENTIFIED AS EMERGING CONTAMINANTS: 1,4-DIOXANE; PERFLUOROCTANE-
44 SULFONIC ACID; AND PERFLUOROCTANOIC ACID.

45 D. THE COMMISSIONER SHALL BY REGULATION REMOVE ANY SUBSTANCE FROM THE
46 LIST OF EMERGING CONTAMINANTS UPON ADOPTING A MAXIMUM CONTAMINANT LEVEL
47 FOR SUCH SUBSTANCE.

48 4. EVERY COVERED PUBLIC WATER SYSTEM SHALL TEST DRINKING WATER FOR THE
49 PRESENCE OF EMERGING CONTAMINANTS AT LEAST ONCE EVERY THREE YEARS PURSU-
50 ANT TO A SCHEDULE DETERMINED BY THE DEPARTMENT THROUGH REGULATION.

51 5. EVERY TEST CONDUCTED IN ACCORDANCE WITH THIS SECTION SHALL BE
52 CONDUCTED BY A LABORATORY CERTIFIED BY THE DEPARTMENT PURSUANT TO
53 SECTION FIVE HUNDRED TWO OF THIS CHAPTER. LABORATORIES SHALL SUBMIT SUCH
54 RESULTS ELECTRONICALLY TO THE DEPARTMENT, TO ANY OTHER HEALTH DEPARTMENT
55 WITH JURISDICTION OVER THE COVERED PUBLIC WATER SYSTEM, AND TO THE

1 COVERED PUBLIC WATER SYSTEM, IN THE MANNER PRESCRIBED PURSUANT TO
2 SECTION FIVE HUNDRED TWO OF THIS CHAPTER.

3 6. THE COMMISSIONER SHALL PROMULGATE REGULATIONS ESTABLISHING NOTIFI-
4 CATION LEVELS FOR ANY EMERGING CONTAMINANT LISTED PURSUANT TO SUBDIVI-
5 SION THREE OF THIS SECTION. ANY NOTIFICATION LEVEL ESTABLISHED PURSUANT
6 TO THIS SUBDIVISION SHALL BE EQUAL TO OR LOWER THAN ANY FEDERAL LIFETIME
7 HEALTH ADVISORY LEVEL ESTABLISHED PURSUANT TO THE FEDERAL SAFE DRINKING
8 WATER ACT (42 U.S.C. S 300G-1). IF NO FEDERAL LIFETIME HEALTH ADVISORY
9 LEVEL HAS BEEN ESTABLISHED, THE COMMISSIONER SHALL ESTABLISH NOTIFICA-
10 TION LEVELS BASED UPON THE AVAILABLE SCIENTIFIC INFORMATION, AND MAY
11 TAKE INTO CONSIDERATION RECOMMENDATIONS OF THE DRINKING WATER QUALITY
12 COUNCIL ESTABLISHED PURSUANT TO SECTION ELEVEN HUNDRED THIRTEEN OF THIS
13 TITLE.

14 7. NOTWITHSTANDING SUBDIVISION THREE OF THIS SECTION, THE COMMISSIONER
15 MAY, BY DECLARATION, ADD ANY PHYSICAL, CHEMICAL, MICROBIOLOGICAL OR
16 RADIOLOGICAL SUBSTANCE TO THE LIST OF EMERGING CONTAMINANTS ESTABLISHED
17 PURSUANT TO SUBDIVISION THREE OF THIS SECTION, ESTABLISH A NOTIFICATION
18 LEVEL, AND REQUIRE TESTING FOR SUCH SUBSTANCE, IF THE COMMISSIONER
19 DETERMINES THAT: (I) SUCH SUBSTANCE POSES OR HAS THE POTENTIAL TO POSE A
20 SIGNIFICANT HAZARD TO HUMAN HEALTH WHEN PRESENT IN DRINKING WATER; (II)
21 SUCH SUBSTANCE WAS RECENTLY DETECTED IN A PUBLIC WATER SYSTEM AND HAS
22 THE POTENTIAL TO BE PRESENT IN OTHER PUBLIC WATER SYSTEMS; AND (III) IT
23 APPEARS TO BE PREJUDICIAL TO THE INTERESTS OF THE PEOPLE TO DELAY ACTION
24 BY PREPARING AND FILING REGULATIONS. THE COMMISSIONER SHALL, HOWEVER,
25 PROMULGATE REGULATIONS ADDING SUCH NEW EMERGING CONTAMINANT OR ESTAB-
26 LISHING SUCH NOTIFICATION LEVEL WITHIN ONE YEAR OF SUCH DECLARATION.
27 SUCH DECLARATION SHALL CLEARLY STATE WHERE AND THE DATE BY WHICH SUCH
28 TESTING MUST OCCUR. AFTER THE COMMISSIONER PROMULGATES REGULATIONS
29 ADDING SUCH EMERGING CONTAMINANT, SUCH REGULATIONS SHALL SUPERSEDE THE
30 DECLARATION ISSUED PURSUANT TO THIS SUBDIVISION.

31 8. WHENEVER ONE OR MORE EMERGING CONTAMINANTS IS CONFIRMED TO BE PRES-
32 ENT IN DRINKING WATER AT CONCENTRATIONS AT OR ABOVE A NOTIFICATION LEVEL
33 ESTABLISHED PURSUANT TO THIS SECTION:

34 A. THE COVERED PUBLIC WATER SYSTEM SHALL NOTIFY THE DEPARTMENT WITHIN
35 TWENTY-FOUR HOURS;

36 B. THE COVERED PUBLIC WATER SYSTEM SHALL NOTIFY ALL OWNERS OF REAL
37 PROPERTY SERVED BY THE COVERED PUBLIC WATER SYSTEM IN A TIME AND MANNER
38 TO BE PRESCRIBED BY THE DEPARTMENT, PROVIDED THAT IN NO EVENT SHALL
39 NOTIFICATION OCCUR MORE THAN NINETY DAYS AFTER THE PRESENCE OF AN EMERG-
40 ING CONTAMINANT AT CONCENTRATIONS AT OR ABOVE A NOTIFICATION LEVEL
41 ESTABLISHED PURSUANT TO THIS SECTION IS CONFIRMED;

42 C. THE COMMISSIONER MAY DIRECTLY NOTIFY SUCH OWNERS OF REAL PROPERTY
43 IF IT IS DETERMINED THAT THE PUBLIC'S INTEREST WOULD BE BEST SERVED BY
44 SUCH NOTIFICATION, OR IF THE COMMISSIONER DETERMINES THAT THE COVERED
45 PUBLIC WATER SYSTEM IS NOT ACTING, OR CANNOT ACT IN A TIMELY MANNER;

46 D. THE COMMISSIONER MAY REQUIRE THAT THE COVERED PUBLIC WATER SYSTEM
47 TAKE SUCH ACTIONS AS MAY BE APPROPRIATE TO REDUCE EXPOSURE TO EMERGING
48 CONTAMINANTS. IF THE COMMISSIONER DETERMINES THAT THE CONCENTRATION OF
49 THE EMERGING CONTAMINANT CONSTITUTES AN ACTUAL OR POTENTIAL THREAT TO
50 PUBLIC HEALTH, BASED ON THE BEST AVAILABLE SCIENTIFIC INFORMATION, THE
51 COMMISSIONER SHALL CONSULT WITH THE COMMISSIONER OF THE DEPARTMENT OF
52 ENVIRONMENTAL CONSERVATION REGARDING ANY FURTHER ACTION THAT MAY BE
53 APPROPRIATE, INCLUDING BUT NOT LIMITED TO ACTIONS PURSUANT TO TITLE
54 TWELVE OF ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION LAW.

55 9. THE COMMISSIONER SHALL WORK IN CONSULTATION WITH THE COMMISSIONER
56 OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION TO DEVELOP EDUCATIONAL

1 MATERIALS, AND MAY TAKE INTO CONSIDERATION RECOMMENDATIONS OF THE DRINK-
 2 ING WATER QUALITY COUNCIL ESTABLISHED PURSUANT TO SECTION ELEVEN HUNDRED
 3 THIRTEEN OF THIS TITLE. SUCH EDUCATIONAL MATERIALS SHALL BE MADE AVAIL-
 4 ABLE TO THE COVERED PUBLIC WATER SYSTEM AND THE GENERAL PUBLIC, RELATING
 5 TO METHODOLOGIES FOR REDUCING EXPOSURE TO EMERGING CONTAMINANTS AND
 6 POTENTIAL ACTIONS THAT MAY BE TAKEN TO MITIGATE OR REMEDIATE EMERGING
 7 CONTAMINANTS. THE COMMISSIONER SHALL ALSO PROVIDE THE COVERED PUBLIC
 8 WATER SYSTEM WITH INFORMATION RELATING TO POTENTIAL FUNDING SOURCES
 9 PROVIDED BY THE STATE AND FEDERAL GOVERNMENT FOR MITIGATION OR REMEDIAL
 10 ACTIVITIES, AND TO REDUCE THE EXPOSURE TO EMERGING CONTAMINANTS.

11 10. ANY OWNER OF REAL PROPERTY, INCLUDING ANY OWNER'S AGENT, TO WHOM A
 12 COVERED PUBLIC WATER SYSTEM HAS PROVIDED NOTIFICATION OF THE EXCEEDANCE
 13 OF A NOTIFICATION LEVEL ESTABLISHED PURSUANT TO SUBDIVISION SIX OF THIS
 14 SECTION, SHALL TAKE ALL REASONABLE AND NECESSARY STEPS TO PROVIDE, WITH-
 15 IN TEN DAYS, ANY TENANTS WITH COPIES OF THE NOTIFICATION PROVIDED BY THE
 16 COVERED PUBLIC WATER SYSTEM.

17 11. THE COMMISSIONER MAY PROMULGATE REGULATIONS PURSUANT TO WHICH THE
 18 DEPARTMENT MAY PROVIDE FINANCIAL ASSISTANCE FOR COMPLIANCE WITH THE
 19 TESTING REQUIREMENTS OF THIS SECTION, TO ANY COVERED PUBLIC WATER SYSTEM
 20 UPON A SHOWING THAT THE COSTS ASSOCIATED WITH TESTING DRINKING WATER IN
 21 COMPLIANCE WITH THIS SECTION WOULD IMPOSE A FINANCIAL HARDSHIP. SUCH
 22 REGULATIONS SHALL, WHEN PRIORITIZING PUBLIC WATER SYSTEMS FOR ELIGIBIL-
 23 ITY FOR FINANCIAL ASSISTANCE, INCORPORATE PROVISIONS THAT GIVE PREFER-
 24 ENCE TO PUBLIC WATER SYSTEMS SERVING LESS THAN TEN THOUSAND INDIVIDUALS.

25 12. THE COMMISSIONER SHALL PERIODICALLY REVIEW SUBSTANCES THAT HAVE
 26 BEEN IDENTIFIED AS EMERGING CONTAMINANTS PURSUANT TO THIS SECTION AND
 27 DETERMINE IF THE DEPARTMENT SHOULD ESTABLISH A MAXIMUM CONTAMINANT LEVEL
 28 FOR THE SUBSTANCE. SUCH REVIEW SHALL OCCUR, AT A MINIMUM, ONCE EVERY
 29 THREE YEARS.

30 S 2. Section 502 of the public health law is amended by adding a new
 31 subdivision 10 to read as follows:

32 10. THE DEPARTMENT MAY REQUIRE AN ENVIRONMENTAL LABORATORY TO REPORT
 33 LABORATORY TEST RESULTS TO THE DEPARTMENT, OR TO ANY OTHER HEALTH
 34 DEPARTMENT IN AN ELECTRONIC MANNER PRESCRIBED BY THE DEPARTMENT.

35 S 3. This act shall take effect immediately.

36 PART N

37 Intentionally Omitted

38 PART O

39 Intentionally Omitted

40 PART P

41 Section 1. Section 48-a of part A of chapter 56 of the laws of 2013
 42 amending chapter 59 of the laws of 2011 amending the public health law
 43 and other laws relating to general hospital reimbursement for annual
 44 rates relating to the cap on local Medicaid expenditures, as amended by
 45 section 29 of part B of chapter 59 of the laws of 2016, is amended to
 46 read as follows:

47 S 48-a. 1. Notwithstanding any contrary provision of law, the commis-
 48 sioners of the office of alcoholism and substance abuse services and the
 49 office of mental health are authorized, subject to the approval of the
 50 director of the budget, to transfer to the commissioner of health state

1 funds to be utilized as the state share for the purpose of increasing
2 payments under the medicaid program to managed care organizations
3 licensed under article 44 of the public health law or under article 43
4 of the insurance law. Such managed care organizations shall utilize such
5 funds for the purpose of reimbursing providers licensed pursuant to
6 article 28 of the public health law or article 31 or 32 of the mental
7 hygiene law for ambulatory behavioral health services, as determined by
8 the commissioner of health, in consultation with the commissioner of
9 alcoholism and substance abuse services and the commissioner of the
10 office of mental health, provided to medicaid [eligible] ENROLLED outpa-
11 tients AND FOR ALL OTHER BEHAVIORAL HEALTH SERVICES EXCEPT INPATIENT
12 INCLUDED IN NEW YORK STATE'S MEDICAID REDESIGN WAIVER APPROVED BY THE
13 CENTERS FOR MEDICARE AND MEDICAID SERVICES (CMS). Such reimbursement
14 shall be in the form of fees for such services which are equivalent to
15 the payments established for such services under the ambulatory patient
16 group (APG) rate-setting methodology as utilized by the department of
17 health, the office of alcoholism and substance abuse services, or the
18 office of mental health for rate-setting purposes OR ANY SUCH OTHER FEES
19 PURSUANT TO THE MEDICAID STATE PLAN OR OTHERWISE APPROVED BY CMS IN THE
20 MEDICAID REDESIGN WAIVER; provided, however, that the increase to such
21 fees that shall result from the provisions of this section shall not, in
22 the aggregate and as determined by the commissioner of health, in
23 consultation with the commissioner of alcoholism and substance abuse
24 services and the commissioner of the office of mental health, be greater
25 than the increased funds made available pursuant to this section. The
26 increase of such ambulatory behavioral health fees to providers avail-
27 able under this section shall be for all rate periods on and after the
28 effective date of section [1] 29 of part [C] B of chapter [57] 59 of the
29 laws of [2015] 2016 through March 31, [2018] 2020 for patients in the
30 city of New York, for all rate periods on and after the effective date
31 of section [1] 29 of part [C] B of chapter [57] 59 of the laws of [2015]
32 2016 through [June 30, 2018] MARCH 31, 2020 for patients outside the
33 city of New York, and for all rate periods on and after the effective
34 date of such chapter through [June 30, 2018] MARCH 31, 2020 for all
35 services provided to persons under the age of twenty-one; provided,
36 however, [eligible providers may work with managed care plans to achieve
37 quality and efficiency objectives and engage in shared savings] THE
38 COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE COMMISSIONER OF ALCO-
39 HOLISM AND SUBSTANCE ABUSE SERVICES AND THE COMMISSIONER OF MENTAL
40 HEALTH, MAY REQUIRE, AS A CONDITION OF APPROVAL OF SUCH AMBULATORY
41 BEHAVIORAL HEALTH FEES, THAT AGGREGATE MANAGED CARE EXPENDITURES TO
42 ELIGIBLE PROVIDERS MEET THE ALTERNATIVE PAYMENT METHODOLOGY REQUIREMENTS
43 AS SET FORTH IN ATTACHMENT I OF THE NEW YORK STATE MEDICAID SECTION ONE
44 THOUSAND ONE HUNDRED FIFTEEN MEDICAID REDESIGN TEAM WAIVER AS APPROVED
45 BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES. THE COMMISSIONER OF
46 HEALTH SHALL, IN CONSULTATION WITH THE COMMISSIONER OF ALCOHOLISM AND
47 SUBSTANCE ABUSE SERVICES AND THE COMMISSIONER OF MENTAL HEALTH, WAIVE
48 SUCH CONDITIONS IF A SUFFICIENT NUMBER OF PROVIDERS, AS DETERMINED BY
49 THE COMMISSIONER, SUFFER A FINANCIAL HARDSHIP AS A CONSEQUENCE OF SUCH
50 ALTERNATIVE PAYMENT METHODOLOGY REQUIREMENTS, OR IF HE OR SHE SHALL
51 DETERMINE THAT SUCH ALTERNATIVE PAYMENT METHODOLOGIES SIGNIFICANTLY
52 THREATEN INDIVIDUALS ACCESS TO AMBULATORY BEHAVIORAL HEALTH SERVICES.
53 SUCH WAIVER MAY BE APPLIED ON A PROVIDER SPECIFIC OR INDUSTRY WIDE
54 BASIS. FURTHER, SUCH CONDITIONS MAY BE WAIVED, AS THE COMMISSIONER
55 DETERMINES NECESSARY, TO COMPLY WITH FEDERAL RULES OR REGULATIONS
56 GOVERNING THESE PAYMENT METHODOLOGIES. Nothing in this section shall

1 prohibit managed care organizations and providers from negotiating
2 different rates and methods of payment during such periods described
3 above, subject to the approval of the department of health. The depart-
4 ment of health shall consult with the office of alcoholism and substance
5 abuse services and the office of mental health in determining whether
6 such alternative rates shall be approved. The commissioner of health
7 may, in consultation with the commissioner of alcoholism and substance
8 abuse services and the commissioner of the office of mental health,
9 promulgate regulations, including emergency regulations promulgated
10 prior to October 1, 2015 to establish rates for ambulatory behavioral
11 health services, as are necessary to implement the provisions of this
12 section. Rates promulgated under this section shall be included in the
13 report required under section 45-c of part A of this chapter.

14 2. Notwithstanding any contrary provision of law, the fees paid by
15 managed care organizations licensed under article 44 of the public
16 health law or under article 43 of the insurance law, to providers
17 licensed pursuant to article 28 of the public health law or article 31
18 or 32 of the mental hygiene law, for ambulatory behavioral health
19 services provided to patients enrolled in the child health insurance
20 program pursuant to title one-A of article 25 of the public health law,
21 shall be in the form of fees for such services which are equivalent to
22 the payments established for such services under the ambulatory patient
23 group (APG) rate-setting methodology OR ANY SUCH OTHER FEES ESTABLISHED
24 PURSUANT TO THE MEDICAID STATE PLAN. The commissioner of health shall
25 consult with the commissioner of alcoholism and substance abuse services
26 and the commissioner of the office of mental health in determining such
27 services and establishing such fees. Such ambulatory behavioral health
28 fees to providers available under this section shall be for all rate
29 periods on and after the effective date of this chapter through [June
30 30, 2018] MARCH 31, 2020, provided, however, that managed care organiza-
31 tions and providers may negotiate different rates and methods of payment
32 during such periods described above, subject to the approval of the
33 department of health. The department of health shall consult with the
34 office of alcoholism and substance abuse services and the office of
35 mental health in determining whether such alternative rates shall be
36 approved. The report required under section 16-a of part C of chapter
37 60 of the laws of 2014 shall also include the population of patients
38 enrolled in the child health insurance program pursuant to title one-A
39 of article 25 of the public health law in its examination on the transi-
40 tion of behavioral health services into managed care.

41 S 2. Section 1 of part H of chapter 111 of the laws of 2010 relating
42 to increasing Medicaid payments to providers through managed care organ-
43 izations and providing equivalent fees through an ambulatory patient
44 group methodology, as amended by section 30 of part B of chapter 59 of
45 the laws of 2016, is amended to read as follows:

46 Section 1. a. Notwithstanding any contrary provision of law, the
47 commissioners of mental health and alcoholism and substance abuse
48 services are authorized, subject to the approval of the director of the
49 budget, to transfer to the commissioner of health state funds to be
50 utilized as the state share for the purpose of increasing payments under
51 the medicaid program to managed care organizations licensed under arti-
52 cle 44 of the public health law or under article 43 of the insurance
53 law. Such managed care organizations shall utilize such funds for the
54 purpose of reimbursing providers licensed pursuant to article 28 of the
55 public health law, or pursuant to article 31 or article 32 of the mental
56 hygiene law for ambulatory behavioral health services, as determined by

1 the commissioner of health in consultation with the commissioner of
2 mental health and commissioner of alcoholism and substance abuse
3 services, provided to medicaid [eligible] ENROLLED outpatients AND FOR
4 ALL OTHER BEHAVIORAL HEALTH SERVICES EXCEPT INPATIENT INCLUDED IN NEW
5 YORK STATE'S MEDICAID REDESIGN WAIVER APPROVED BY THE CENTERS FOR MEDI-
6 CARE AND MEDICAID SERVICES (CMS). Such reimbursement shall be in the
7 form of fees for such services which are equivalent to the payments
8 established for such services under the ambulatory patient group (APG)
9 rate-setting methodology as utilized by the department of health or by
10 the office of mental health or office of alcoholism and substance abuse
11 services for rate-setting purposes OR ANY SUCH OTHER FEES PURSUANT TO
12 THE MEDICAID STATE PLAN OR OTHERWISE APPROVED BY CMS IN THE MEDICAID
13 REDESIGN WAIVER; provided, however, that the increase to such fees that
14 shall result from the provisions of this section shall not, in the
15 aggregate and as determined by the commissioner of health in consulta-
16 tion with the commissioners of mental health and alcoholism and
17 substance abuse services, be greater than the increased funds made
18 available pursuant to this section. The increase of such behavioral
19 health fees to providers available under this section shall be for all
20 rate periods on and after the effective date of section [2] 30 of part
21 [C] B of chapter [57] 59 of the laws of [2015] 2016 through March 31,
22 [2018] 2020 for patients in the city of New York, for all rate periods
23 on and after the effective date of section [2] 30 of part [C] B of chap-
24 ter [57] 59 of the laws of [2015] 2016 through [June 30, 2018] MARCH 31,
25 2020 for patients outside the city of New York, and for all rate periods
26 on and after the effective date of section [2] 30 of part [C] B of chap-
27 ter [57] 59 of the laws of [2015] 2016 through [June 30, 2018] MARCH 31,
28 2020 for all services provided to persons under the age of twenty-one;
29 provided, however, [eligible providers may work with managed care plans
30 to achieve quality and efficiency objectives and engage in shared
31 savings] THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE COMMIS-
32 SIONER OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES AND THE COMMISSIONER
33 OF MENTAL HEALTH, MAY REQUIRE, AS A CONDITION OF APPROVAL OF SUCH AMBU-
34 LATORY BEHAVIORAL HEALTH FEES, THAT AGGREGATE MANAGED CARE EXPENDITURES
35 TO ELIGIBLE PROVIDERS MEET THE ALTERNATIVE PAYMENT METHODOLOGY REQUIRE-
36 MENTS AS SET FORTH IN ATTACHMENT I OF THE NEW YORK STATE MEDICAID
37 SECTION ONE THOUSAND ONE HUNDRED FIFTEEN MEDICAID REDESIGN TEAM WAIVER
38 AS APPROVED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES. THE
39 COMMISSIONER OF HEALTH SHALL, IN CONSULTATION WITH THE COMMISSIONER OF
40 ALCOHOLISM AND SUBSTANCE ABUSE SERVICES AND THE COMMISSIONER OF MENTAL
41 HEALTH, WAIVE SUCH CONDITIONS IF A SUFFICIENT NUMBER OF PROVIDERS, AS
42 DETERMINED BY THE COMMISSIONER, SUFFER A FINANCIAL HARDSHIP AS A CONSE-
43 QUENCE OF SUCH ALTERNATIVE PAYMENT METHODOLOGY REQUIREMENTS, OR IF HE OR
44 SHE SHALL DETERMINE THAT SUCH ALTERNATIVE PAYMENT METHODOLOGIES SIGNIF-
45 ICANTLY THREATEN INDIVIDUALS ACCESS TO AMBULATORY BEHAVIORAL HEALTH
46 SERVICES. SUCH WAIVER MAY BE APPLIED ON A PROVIDER SPECIFIC OR INDUSTRY
47 WIDE BASIS. FURTHER, SUCH CONDITIONS MAY BE WAIVED, AS THE COMMISSIONER
48 DETERMINES NECESSARY, TO COMPLY WITH FEDERAL RULES OR REGULATIONS
49 GOVERNING THESE PAYMENT METHODOLOGIES. Nothing in this section shall
50 prohibit managed care organizations and providers from negotiating
51 different rates and methods of payment during such periods described,
52 subject to the approval of the department of health. The department of
53 health shall consult with the office of alcoholism and substance abuse
54 services and the office of mental health in determining whether such
55 alternative rates shall be approved. The commissioner of health may, in
56 consultation with the commissioners of mental health and alcoholism and

1 substance abuse services, promulgate regulations, including emergency
2 regulations promulgated prior to October 1, 2013 that establish rates
3 for behavioral health services, as are necessary to implement the
4 provisions of this section. Rates promulgated under this section shall
5 be included in the report required under section 45-c of part A of chap-
6 ter 56 of the laws of 2013.

7 b. Notwithstanding any contrary provision of law, the fees paid by
8 managed care organizations licensed under article 44 of the public
9 health law or under article 43 of the insurance law, to providers
10 licensed pursuant to article 28 of the public health law or article 31
11 or 32 of the mental hygiene law, for ambulatory behavioral health
12 services provided to patients enrolled in the child health insurance
13 program pursuant to title one-A of article 25 of the public health law,
14 shall be in the form of fees for such services which are equivalent to
15 the payments established for such services under the ambulatory patient
16 group (APG) rate-setting methodology. The commissioner of health shall
17 consult with the commissioner of alcoholism and substance abuse services
18 and the commissioner of the office of mental health in determining such
19 services and establishing such fees. Such ambulatory behavioral health
20 fees to providers available under this section shall be for all rate
21 periods on and after the effective date of this chapter through [June
22 30, 2018] MARCH 31, 2020, provided, however, that managed care organiza-
23 tions and providers may negotiate different rates and methods of payment
24 during such periods described above, subject to the approval of the
25 department of health. The department of health shall consult with the
26 office of alcoholism and substance abuse services and the office of
27 mental health in determining whether such alternative rates shall be
28 approved. The report required under section 16-a of part C of chapter
29 60 of the laws of 2014 shall also include the population of patients
30 enrolled in the child health insurance program pursuant to title one-A
31 of article 25 of the public health law in its examination on the transi-
32 tion of behavioral health services into managed care.

33 S 3. This act shall take effect immediately and shall be deemed to
34 have been in full force and effect on and after April 1, 2017; provided,
35 however, that the amendments to section 48-a of part A of chapter 56 of
36 the laws of 2013 made by section one of this act shall not affect the
37 repeal of such section and shall be deemed repealed therewith; provided
38 further, that the amendments to section 1 of part H of chapter 111 of
39 the laws of 2010 made by section two of this act shall not affect the
40 expiration of such section and shall be deemed to expire therewith.

41

PART Q

42 Section 1. Subdivisions 3-b and 3-c of section 1 of part C of chapter
43 57 of the laws of 2006, relating to establishing a cost of living
44 adjustment for designated human services programs, as amended by section
45 1 of part I of chapter 60 of the laws of 2014, are amended to read as
46 follows:

47 3-b. Notwithstanding any inconsistent provision of law, beginning
48 April 1, 2009 and ending March 31, 2016 AND BEGINNING APRIL 1, 2017 AND
49 ENDING MARCH 31, 2018, the commissioners shall not include a COLA for
50 the purpose of establishing rates of payments, contracts or any other
51 form of reimbursement, PROVIDED THAT THE COMMISSIONERS OF THE OFFICE FOR
52 PEOPLE WITH DEVELOPMENTAL DISABILITIES, THE OFFICE OF MENTAL HEALTH, AND
53 THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES SHALL NOT INCLUDE
54 A COLA BEGINNING APRIL 1, 2017 AND ENDING MARCH 31, 2019.

1 3-c. Notwithstanding any inconsistent provision of law, beginning
2 April 1, [2016] 2018 and ending March 31, [2019] 2021, the commissioners
3 shall develop the COLA under this section using the actual U.S. consumer
4 price index for all urban consumers (CPI-U) published by the United
5 States department of labor, bureau of labor statistics for the twelve
6 month period ending in July of the budget year prior to such state
7 fiscal year, for the purpose of establishing rates of payments,
8 contracts or any other form of reimbursement.

9 S 2. Section 1 of part C of chapter 57 of the laws of 2006, relating
10 to establishing a cost of living adjustment for designated human service
11 programs, is amended by adding a new subdivision 3-e to read as follows:

12 3-E. (I) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION 3-B OF THIS
13 SECTION OR ANY OTHER INCONSISTENT PROVISION OF LAW, AND SUBJECT TO THE
14 AVAILABILITY OF THE APPROPRIATION THEREFOR, FOR THE PROGRAMS LISTED IN
15 PARAGRAPHS (I), (II), AND (III) OF SUBDIVISION 4 OF THIS SECTION, THE
16 COMMISSIONERS SHALL PROVIDE FUNDING TO SUPPORT (1) AN OVERALL AVERAGE
17 THREE AND ONE-QUARTER PERCENT (3.25%) INCREASE TO TOTAL SALARIES FOR
18 DIRECT CARE STAFF, DIRECT SUPPORT PROFESSIONALS FOR EACH ELIGIBLE
19 STATE-FUNDED PROGRAM BEGINNING JANUARY 1, 2018; AND (2) AN OVERALL AVER-
20 AGE THREE AND ONE-QUARTER PERCENT (3.25%) INCREASE TO TOTAL SALARIES FOR
21 DIRECT CARE STAFF AND DIRECT SUPPORT PROFESSIONALS, AND CLINICAL STAFF
22 FOR EACH ELIGIBLE STATE-FUNDED PROGRAM BEGINNING APRIL 1, 2018. FOR THE
23 PURPOSE OF THIS FUNDING INCREASE, DIRECT SUPPORT PROFESSIONALS ARE INDI-
24 VIDUALS EMPLOYED IN CONSOLIDATED FISCAL REPORTING POSITION TITLE CODES
25 RANGING FROM 100 TO 199; DIRECT CARE STAFF ARE INDIVIDUALS EMPLOYED IN
26 CONSOLIDATED FISCAL REPORTING POSITION TITLE CODES RANGING FROM 200 TO
27 299; AND CLINICAL STAFF ARE INDIVIDUALS EMPLOYED IN CONSOLIDATED FISCAL
28 REPORTING POSITION TITLE CODES RANGING FROM 300 TO 399.

29 (II) THE FUNDING MADE AVAILABLE PURSUANT TO PARAGRAPH (I) OF THIS
30 SUBDIVISION SHALL BE USED: (1) TO HELP ALLEVIATE THE RECRUITMENT AND
31 RETENTION CHALLENGES OF DIRECT CARE STAFF, DIRECT SUPPORT PROFESSIONALS
32 AND CLINICAL STAFF EMPLOYED IN ELIGIBLE PROGRAMS; AND (2) TO CONTINUE
33 AND TO EXPAND EFFORTS TO SUPPORT THE PROFESSIONALISM OF THE DIRECT CARE
34 WORKFORCE. EACH LOCAL GOVERNMENT UNIT OR DIRECT CONTRACT PROVIDER
35 RECEIVING SUCH FUNDING SHALL HAVE FLEXIBILITY IN ALLOCATING SUCH FUNDING
36 TO SUPPORT SALARY INCREASES TO PARTICULAR JOB TITLES TO BEST ADDRESS THE
37 NEEDS OF ITS DIRECT CARE STAFF, DIRECT SUPPORT PROFESSIONALS AND CLIN-
38 ICAL STAFF. EACH LOCAL GOVERNMENT UNIT OR DIRECT CONTRACT PROVIDER
39 RECEIVING SUCH FUNDING SHALL ALSO SUBMIT A WRITTEN CERTIFICATION, IN
40 SUCH FORM AND AT SUCH TIME AS EACH COMMISSIONER SHALL PRESCRIBE, ATTEST-
41 ING TO HOW SUCH FUNDING WILL BE OR WAS USED FOR PURPOSES ELIGIBLE UNDER
42 THIS SECTION. FURTHER, PROVIDERS SHALL SUBMIT A RESOLUTION FROM THEIR
43 GOVERNING BODY TO THE APPROPRIATE COMMISSIONER, ATTESTING THAT THE FUND-
44 ING RECEIVED WILL BE USED SOLELY TO SUPPORT SALARY AND SALARY-RELATED
45 FRINGE BENEFIT INCREASES FOR DIRECT CARE STAFF, DIRECT SUPPORT PROFES-
46 SIONALS AND CLINICAL STAFF, PURSUANT TO PARAGRAPH (I) OF THIS SUBDIVI-
47 SION. SALARY INCREASES THAT TAKE EFFECT ON AND AFTER APRIL 1, 2017 MAY
48 BE USED TO DEMONSTRATE COMPLIANCE WITH THE JANUARY 1, 2018 FUNDING
49 INCREASE AUTHORIZED BY THIS SECTION, EXCEPT FOR SALARY INCREASES NECES-
50 SARY TO COMPLY WITH STATE MINIMUM WAGE REQUIREMENTS. SUCH COMMISSIONERS
51 SHALL BE AUTHORIZED TO RECOUP ANY FUNDS AS APPROPRIATED HEREIN DETER-
52 MINED TO HAVE BEEN USED IN A MANNER INCONSISTENT WITH SUCH STANDARDS OR
53 INCONSISTENT WITH THE PROVISIONS OF THIS SUBDIVISION, AND SUCH COMMIS-
54 SIONERS SHALL BE AUTHORIZED TO EMPLOY ANY LEGAL MECHANISM TO RECOUP SUCH
55 FUNDS, INCLUDING AN OFFSET OF OTHER FUNDS THAT ARE OWED TO SUCH LOCAL
56 GOVERNMENTAL UNIT OR PROVIDER.

1 (III) WHERE APPROPRIATE, TRANSFERS TO THE DEPARTMENT OF HEALTH SHALL
2 BE MADE AS REIMBURSEMENT FOR THE STATE SHARE OF MEDICAL ASSISTANCE.

3 S 3. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2017; provided,
5 however, that the amendments to section 1 of part C of chapter 57 of the
6 laws of 2006 made by sections one and two of this act shall not affect
7 the repeal of such section and shall be deemed repealed therewith.

8 PART R

9 Section 1. The public health law is amended by adding a new section
10 1113 to read as follows:

11 S 1113. DRINKING WATER QUALITY COUNCIL; ESTABLISHED. 1. THERE SHALL BE
12 ESTABLISHED, WITHIN THE DEPARTMENT, THE DRINKING WATER QUALITY COUNCIL.
13 SUCH COUNCIL SHALL BE COMPOSED OF TWELVE MEMBERS AS FOLLOWS:

14 (A) THE COMMISSIONER, OR THE COMMISSIONER'S DESIGNEE, WHO SHALL BE THE
15 CHAIR OF THE COUNCIL;

16 (B) THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION OR DESIGNEE;

17 (C) A DESIGNEE OF THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION WITH
18 EXPERTISE IN WATER RESOURCES;

19 (D) A DESIGNEE OF THE COMMISSIONER WITH EXPERTISE IN DRINKING WATER;
20 AND

21 (E) EIGHT MEMBERS APPOINTED BY THE GOVERNOR, TWO OF WHOM SHALL BE
22 RECOMMENDED BY THE TEMPORARY PRESIDENT OF THE SENATE, AND TWO BY THE
23 SPEAKER OF THE ASSEMBLY.

24 2. (A) OF THE FOUR MEMBERS APPOINTED TO THE DRINKING WATER QUALITY
25 COUNCIL AND RECOMMENDED BY THE TEMPORARY PRESIDENT OF THE SENATE AND THE
26 SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE AND THE
27 SPEAKER OF THE ASSEMBLY SHALL EACH RECOMMEND:

28 (I) ONE MEMBER WHO REPRESENTS WATER PURVEYORS; AND

29 (II) ONE MEMBER REPRESENTING THE PUBLIC, WHO HAS A BACKGROUND OR
30 EXPERTISE IN TOXICOLOGY OR HEALTH RISK ASSESSMENT.

31 (B) OF THE FOUR ADDITIONAL MEMBERS APPOINTED TO THE DRINKING WATER
32 QUALITY COUNCIL, THE GOVERNOR SHALL APPOINT:

33 (I) ONE MEMBER WHO REPRESENTS WATER PURVEYORS;

34 (II) ONE MEMBER WHO HAS A BACKGROUND OR EXPERTISE IN TOXICOLOGY OR
35 HEALTH RISK ASSESSMENT;

36 (III) ONE MEMBER WHO HAS A BACKGROUND OR EXPERTISE IN MICROBIOLOGY;
37 AND

38 (IV) ONE MEMBER WHO HAS A BACKGROUND OR EXPERTISE IN ENVIRONMENTAL
39 ENGINEERING.

40 (C) THE MEMBERS OF SUCH COUNCIL APPOINTED PURSUANT TO PARAGRAPH (E) OF
41 SUBDIVISION ONE OF THIS SECTION SHALL SERVE TERMS OF TWO YEARS.

42 (D) THE MEMBERS APPOINTED PURSUANT TO PARAGRAPH (E) OF SUBDIVISION ONE
43 OF THIS SECTION SHALL EACH SERVE HIS OR HER TERM OF OFFICE OR UNTIL HIS
44 OR HER SUCCESSOR IS APPOINTED; PROVIDED THAT ANY VACANCY IN THE POSITION
45 OF AN APPOINTED MEMBER SHALL BE FILLED IN THE SAME MANNER AS THE
46 ORIGINAL APPOINTMENT AND ONLY FOR THE UNEXPIRED TERM OF THE VACANCY.

47 3. THE MEMBERS OF THE DRINKING WATER QUALITY COUNCIL SHALL RECEIVE NO
48 COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND
49 NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT
50 TO THIS TITLE.

51 4. THE DRINKING WATER QUALITY COUNCIL SHALL MEET AT SUCH TIMES AND
52 PLACES AS MAY BE DETERMINED BY ITS CHAIR. THE COUNCIL SHALL MEET AT A
53 MINIMUM OF TWO TIMES PER YEAR. ALL MEETINGS SHALL BE OPEN TO THE PUBLIC
54 PURSUANT TO ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW. A MAJORITY OF THE

1 MEMBERS OF SUCH COUNCIL SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF
2 BUSINESS. ACTION MAY BE TAKEN, AND MOTIONS AND RESOLUTIONS ADOPTED, AT
3 ANY MEETING BY THE AFFIRMATIVE VOTE OF A MAJORITY OF THE FULL MEMBERSHIP
4 OF THE COUNCIL.

5 5. THE COUNCIL SHALL MAKE RECOMMENDATIONS TO THE DEPARTMENT RELATING
6 TO:

7 (A) THOSE CONTAMINANTS, WHICH THE DEPARTMENT MAY LIST AS EMERGING
8 CONTAMINANTS PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED TWELVE OF THIS
9 TITLE.

10 (I) IN DETERMINING WHAT SUBSTANCES SHALL BE RECOMMENDED AS EMERGING
11 CONTAMINANTS THE COUNCIL SHALL, AT A MINIMUM, CONSIDER:

12 A. UNREGULATED CONTAMINANTS MONITORED PURSUANT TO THE FEDERAL SAFE
13 DRINKING WATER ACT (42 USC S 300G-1) AS AMENDED FROM TIME TO TIME;

14 B. SUBSTANCES THAT REQUIRE REGULATION OR MONITORING WHEN PRESENT IN
15 DRINKING WATER IN OTHER JURISDICTIONS OUTSIDE THE STATE OF NEW YORK;

16 C. PESTICIDE CHEMICALS FOR WHICH THE UNITED STATES ENVIRONMENTAL
17 PROTECTION AGENCY HAS SET HUMAN HEALTH BENCHMARKS FOR DRINKING WATER;

18 D. SUBSTANCES FOUND AT SITES IN REMEDIAL PROGRAMS LOCATED INSIDE AND
19 OUTSIDE THE STATE OF NEW YORK, INCLUDING BUT NOT LIMITED TO INACTIVE
20 HAZARDOUS WASTE SITES; AND

21 E. WATERBORNE PATHOGENS AND MICROBIOLOGICAL CONTAMINANTS.

22 (II) THE COUNCIL SHALL RECOMMEND A NOTIFICATION LEVEL FOR EACH RECOM-
23 MENDED EMERGING CONTAMINANT.

24 (III) THE COUNCIL SHALL RECOMMEND TIMEFRAMES AND FREQUENCIES IN WHICH
25 TESTING SHOULD BE REQUIRED FOR THE RECOMMENDED EMERGING CONTAMINANTS,
26 ALLOWING FOR VARIATION BASED ON CIRCUMSTANCES SUCH AS THE SOURCE OF
27 WATER, THE REGION AND SIZE OF THE WATER SYSTEM.

28 (IV) THE COUNCIL SHALL PROVIDE THE DEPARTMENT WITH ITS FIRST LIST OF
29 RECOMMENDED EMERGING CONTAMINANTS AND CORRESPONDING NOTIFICATION LEVELS
30 FOR WHICH TESTING SHALL BE REQUIRED NO LATER THAN ONE YEAR FROM THE
31 INITIAL MEETING OF THE COUNCIL, AND THE COUNCIL SHALL UPDATE THE LIST
32 AND RECOMMEND NOTIFICATION LEVELS ANNUALLY THEREAFTER;

33 (B) A REVIEW OF SUBSTANCES IDENTIFIED AS EMERGING CONTAMINANTS PURSU-
34 ANT TO SECTION ONE THOUSAND ONE HUNDRED TWELVE OF THIS TITLE. WHERE
35 APPROPRIATE THE COUNCIL SHALL RECOMMEND EITHER A MAXIMUM CONTAMINANT
36 LEVEL (MCL), OR THE REMOVAL OF THE SUBSTANCE FROM THE LIST OF EMERGING
37 CONTAMINANTS, ON THE BASIS OF AVAILABLE SCIENTIFIC EVIDENCE AND ANY
38 OTHER RELEVANT FACTORS;

39 (C) THE FORM AND CONTENT OF PUBLIC NOTIFICATIONS ISSUED PURSUANT TO
40 SECTION ONE THOUSAND ONE HUNDRED TWELVE OF THIS TITLE;

41 (D) WORKING WITH OTHER STATE AGENCIES AND THE FEDERAL GOVERNMENT TO
42 ENSURE FUNDS ARE AVAILABLE AND ACCESSIBLE, PARTIES KNOWN TO BE RESPONSI-
43 BLE FOR CONTAMINATION ARE PURSUED, AND MITIGATION, REMEDIATION, AND
44 CLEANUP PROJECTS OCCUR IN A TIMELY MANNER;

45 (E) THE DEVELOPMENT OF EDUCATIONAL MATERIALS REGARDING PRIVATE WELL
46 WATER TESTING;

47 (F) THE APPROPRIATE USE OF, AND METHODS AND MANNER OF CONDUCTING,
48 BIOMONITORING AND BIOMONITORING STUDIES;

49 (G) THE INCLUSION OF INFORMATION ON THE ONLINE TRACKING AND MAPPING
50 SYSTEM ESTABLISHED IN SECTION 3-0315 OF THE ENVIRONMENTAL CONSERVATION
51 LAW; AND

52 (H) ANYTHING ELSE THE DEPARTMENT OR THE DEPARTMENT OF ENVIRONMENTAL
53 CONSERVATION DESIGNATES.

54 6. THE DRINKING WATER QUALITY COUNCIL SHALL BE ENTITLED TO REQUEST AND
55 RECEIVE INFORMATION FROM ANY STATE, MUNICIPAL DEPARTMENT, BOARD, COMMIS-
56 SION OR AGENCY THAT MAY BE REQUIRED OR ARE DEEMED NECESSARY FOR THE

1 PURPOSES OF SUCH COUNCIL, INCLUDING BUT NOT LIMITED TO ALL WATER INFOR-
2 MATION AND ANNUAL REPORTS THE DEPARTMENT HAS RELATING TO BOTH PUBLIC AND
3 PRIVATE WATER SUPPLIES.

4 7. BEFORE THE COUNCIL ADVANCES ANY RECOMMENDATION TO THE DEPARTMENT,
5 THE COUNCIL SHALL PROVIDE AN OPPORTUNITY FOR PUBLIC AND STAKEHOLDER
6 COMMENTS. FINAL RECOMMENDATIONS OF THE COUNCIL SHALL BE POSTED ON THE
7 DEPARTMENT'S WEBSITE WITHIN THIRTY DAYS AFTER THE COUNCIL ADOPTS SUCH
8 RECOMMENDATIONS.

9 S 2. This act shall take effect immediately.

10

PART S

11 Section 1. Subdivision 2 of section 365-1 of the social services law,
12 as added by section 37 of part H of chapter 59 of the laws of 2011, is
13 amended to read as follows:

14 2. In addition to payments made for health home services pursuant to
15 subdivision one of this section, the commissioner is authorized to pay
16 additional amounts to providers of health home services that meet proc-
17 ess or outcome standards specified by the commissioner. SUCH ADDITIONAL
18 AMOUNTS MAY BE PAID WITH STATE FUNDS ONLY IF FEDERAL FINANCIAL PARTIC-
19 IPATION FOR SUCH PAYMENTS IS UNAVAILABLE.

20 S 2. Section 364-j of the social services law is amended by adding a
21 new subdivision 33 to read as follows:

22 33. FOR SERVICES UNDER THIS TITLE PROVIDED BY RESIDENTIAL HEALTH CARE
23 FACILITIES UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, THE
24 COMMISSIONER SHALL DIRECT MANAGED CARE ORGANIZATIONS LICENSED UNDER
25 ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW, ARTICLE FORTY-THREE OF THE
26 INSURANCE LAW, AND THIS SECTION, TO CONTINUE TO REIMBURSE AT A BENCHMARK
27 RATE WHICH IS TO BE THE FEE-FOR-SERVICE RATE CALCULATED PURSUANT TO
28 SECTION TWENTY-EIGHT HUNDRED EIGHT OF THE PUBLIC HEALTH LAW. THE BENCH-
29 MARK FEE-FOR-SERVICE RATE SHALL CONTINUE TO BE PAID BY SUCH MANAGED CARE
30 ORGANIZATIONS FOR ALL SERVICES PROVIDED BY RESIDENTIAL HEALTHCARE FACIL-
31 ITIES FROM THE EFFECTIVE DATE OF THIS SUBDIVISION AT LEAST UNTIL DECEM-
32 BER THIRTY-FIRST, TWO THOUSAND TWENTY. THE COMMISSIONER MAY REQUIRE, AS
33 A CONDITION OF CONTINUING TO REQUIRE PAYMENT AT SUCH BENCHMARK RATE THAT
34 AGGREGATE MANAGED CARE EXPENDITURES TO RESIDENTIAL HEALTH CARE FACILI-
35 TIES MEET THE ALTERNATIVE PAYMENT METHODOLOGY REQUIREMENTS SET FORTH IN
36 ATTACHMENT I OF THE NEW YORK STATE SECTION 1115 MEDICAID REDESIGN TEAM
37 WAIVER AS APPROVED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES.
38 THE COMMISSIONER OF HEALTH SHALL WAIVE SUCH REQUIREMENTS IF A SUFFICIENT
39 NUMBER OF PROVIDERS, AS DETERMINED BY THE COMMISSIONER, SUFFER A FINAN-
40 CIAL HARDSHIP AS A CONSEQUENCE OF SUCH ALTERNATIVE PAYMENT METHODOLOGY
41 REQUIREMENTS, OR IF THE COMMISSIONER DETERMINES THAT SUCH ALTERNATIVE
42 PAYMENT METHODOLOGIES SIGNIFICANTLY THREATEN INDIVIDUALS' ACCESS TO
43 RESIDENTIAL HEALTH CARE FACILITY SERVICES; SUCH WAIVER MAY BE APPLIED ON
44 A PROVIDER-SPECIFIC OR INDUSTRY-WIDE BASIS. FURTHER, SUCH REQUIREMENTS
45 MAY BE WAIVED, AS THE COMMISSIONER DETERMINES NECESSARY, TO COMPLY WITH
46 FEDERAL RULES OR REGULATIONS GOVERNING THESE PAYMENT METHODOLOGIES.

47 S 3. Subdivision 2 of section 365-a of the social services law is
48 amended by adding a new paragraph (dd) to read as follows:

49 (DD) PASTEURIZED DONOR HUMAN MILK (PDHM), WHICH MAY INCLUDE FORTIFIERS
50 AS MEDICALLY INDICATED, FOR INPATIENT USE, FOR WHICH A LICENSED MEDICAL
51 PRACTITIONER HAS ISSUED AN ORDER FOR AN INFANT WHO IS MEDICALLY OR PHYS-
52 ICALLY UNABLE TO RECEIVE MATERNAL BREAST MILK OR PARTICIPATE IN BREAST
53 FEEDING OR WHOSE MOTHER IS MEDICALLY OR PHYSICALLY UNABLE TO PRODUCE
54 MATERNAL BREAST MILK AT ALL OR IN SUFFICIENT QUANTITIES OR PARTICIPATE

1 IN BREAST FEEDING DESPITE OPTIMAL LACTATION SUPPORT. SUCH INFANT SHALL:
2 (I) HAVE A DOCUMENTED BIRTH WEIGHT OF LESS THAN ONE THOUSAND FIVE
3 HUNDRED GRAMS; OR (II) HAVE A CONGENITAL OR ACQUIRED CONDITION THAT
4 PLACES THE INFANT AT A HIGH RISK FOR DEVELOPMENT OF NECROTIZING ENTERO-
5 COLITIS; OR (III) HAVE A CONGENITAL OR ACQUIRED CONDITION THAT MAY BENE-
6 FIT FROM THE USE OF DONOR BREAST MILK AS DETERMINED BY THE COMMISSIONER
7 OF HEALTH OR HIS OR HER DESIGNEE.

8 S 4. Subdivision 2 of section 365-a of the social services law is
9 amended by adding a new paragraph (ee) to read as follows:

10 (EE) MEDICAL ASSISTANCE SHALL INCLUDE THE COVERAGE OF A SET OF
11 SERVICES TO ENSURE IMPROVED OUTCOMES OF WOMEN WHO ARE IN THE PROCESS OF
12 OVULATION ENHANCING DRUGS, LIMITED TO THE PROVISION OF SUCH TREATMENT,
13 OFFICE VISITS, HYSTEOSALPINGOGRAM SERVICES, PELVIC ULTRASOUNDS, AND
14 BLOOD TESTING; SERVICES SHALL BE LIMITED TO THOSE NECESSARY TO MONITOR
15 SUCH TREATMENT. IN THE EVENT THAT NINETY PERCENT FEDERAL FINANCIAL
16 PARTICIPATION FOR SUCH SERVICES IS NOT AVAILABLE, THE STATE SHARE OF
17 APPROPRIATIONS RELATED TO THESE SERVICES SHALL BE USED FOR A GRANT
18 PROGRAM INTENDED TO ACCOMPLISH THE PURPOSE OF THIS SECTION.

19 S 5. Section 3614-c of the public health law, as amended by chapter 56
20 of the laws of 2016, subparagraph (iv) of paragraph (a) of subdivision 3
21 as amended by section 1 and subparagraph (iv) of paragraph (b) of subdi-
22 vision 3 as amended by section 2 of part E of chapter 73 of the laws of
23 2016, is amended to read as follows:

24 S 3614-c. Home care worker wage parity. 1. As used in this section,
25 the following terms shall have the following meaning:

26 (a) "Living wage law" means any law enacted by Nassau, Suffolk or
27 Westchester county or a city with a population of one million or more
28 which establishes a minimum wage for some or all employees who perform
29 work on contracts with such county or city.

30 (b) "Total compensation" means all wages and other direct compensation
31 paid to or provided on behalf of the employee including, but not limited
32 to, wages, health, education or pension benefits, supplements in lieu of
33 benefits and compensated time off, except that it does not include
34 employer taxes or employer portion of payments for statutory benefits,
35 including but not limited to FICA, disability insurance, unemployment
36 insurance and workers' compensation.

37 (c) "Prevailing rate of total compensation" means the average hourly
38 amount of total compensation paid to all home care aides covered by
39 whatever collectively bargained agreement covers the greatest number of
40 home care aides in a city with a population of one million or more. For
41 purposes of this definition, any set of collectively bargained agree-
42 ments in such city with substantially the same terms and conditions
43 relating to total compensation shall be considered as a single collec-
44 tively bargained agreement.

45 (d) "Home care aide" means a home health aide, personal care aide,
46 home attendant, PERSONAL ASSISTANT PERFORMING CONSUMER DIRECTED PERSONAL
47 ASSISTANCE SERVICES PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF
48 THE SOCIAL SERVICES LAW, or other licensed or unlicensed person whose
49 primary responsibility includes the provision of in-home assistance with
50 activities of daily living, instrumental activities of daily living or
51 health-related tasks; provided, however, that home care aide does not
52 include any individual (i) working on a casual basis, or (ii) (EXCEPT
53 FOR A PERSON EMPLOYED UNDER THE CONSUMER DIRECTED PERSONAL ASSISTANCE
54 PROGRAM UNDER SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES
55 LAW) who is a relative through blood, marriage or adoption of: (1) the
56 employer; or (2) the person for whom the worker is delivering services,

1 under a program funded or administered by federal, state or local
2 government.

3 (e) "Managed care plan" means any managed care program, organization
4 or demonstration covering personal care or home health aide services,
5 and which receives premiums funded, in whole or in part, by the New York
6 state medical assistance program, including but not limited to all Medi-
7 caid managed care, Medicaid managed long term care, Medicaid advantage,
8 and Medicaid advantage plus plans and all programs of all-inclusive care
9 for the elderly.

10 (f) "Episode of care" means any service unit reimbursed, in whole or
11 in part, by the New York state medical assistance program, whether
12 through direct reimbursement or covered by a premium payment, and which
13 covers, in whole or in part, any service provided by a home care aide,
14 including but not limited to all service units defined as visits, hours,
15 days, months or episodes.

16 (g) "Cash portion of the minimum rate of home care [aid] AIDE total
17 compensation" means the minimum amount of home care aide total compen-
18 sation that may be paid in cash wages, as determined by the department
19 in consultation with the department of labor.

20 (h) "Benefit portion of the minimum rate of home care aide total
21 compensation" means the portion of home care aide total compensation
22 that may be paid in cash or health, education or pension benefits, wage
23 differentials, supplements in lieu of benefits and compensated time off,
24 as determined by the department in consultation with the department of
25 labor. Cash wages paid pursuant to increases in the state or federal
26 minimum wage cannot be used to satisfy the benefit portion of the mini-
27 mum rate of home care aide total compensation.

28 2. Notwithstanding any inconsistent provision of law, rule or regu-
29 lation, no payments by government agencies shall be made to certified
30 home health agencies, long term home health care programs [or], managed
31 care plans, OR THE CONSUMER DIRECTED PERSONAL ASSISTANCE PROGRAM UNDER
32 SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW, for any
33 episode of care furnished, in whole or in part, by any home care aide
34 who is compensated at amounts less than the applicable minimum rate of
35 home care aide total compensation established pursuant to this section.

36 3. (a) The minimum rate of home care aide total compensation in a city
37 with a population of one million or more shall be:

38 (i) for the period March first, two thousand twelve through February
39 twenty-eighth, two thousand thirteen, ninety percent of the total
40 compensation mandated by the living wage law of such city;

41 (ii) for the period March first, two thousand thirteen through Febru-
42 ary twenty-eighth, two thousand fourteen, ninety-five percent of the
43 total compensation mandated by the living wage law of such city;

44 (iii) for the period March first, two thousand fourteen through March
45 thirty-first two thousand sixteen, no less than the prevailing rate of
46 total compensation as of January first, two thousand eleven, or the
47 total compensation mandated by the living wage law of such city, which-
48 ever is greater;

49 (iv) for all periods on or after April first, two thousand sixteen,
50 the cash portion of the minimum rate of home care aide total compen-
51 sation shall be ten dollars or the minimum wage as laid out in paragraph

52 (a) of subdivision one of section six hundred fifty-two of the labor
53 law, whichever is higher. The benefit portion of the minimum rate of
54 home care aide total compensation shall be four dollars and nine cents.

55 (b) The minimum rate of home care aide total compensation in the coun-
56 ties of Nassau, Suffolk and Westchester shall be:

1 (i) for the period March first, two thousand thirteen through February
2 twenty-eighth, two thousand fourteen, ninety percent of the total
3 compensation mandated by the living wage law as set on March first, two
4 thousand thirteen of a city with a population of a million or more;

5 (ii) for the period March first, two thousand fourteen through Febru-
6 ary twenty-eighth, two thousand fifteen, ninety-five percent of the
7 total compensation mandated by the living wage law as set on March
8 first, two thousand fourteen of a city with a population of a million or
9 more;

10 (iii) for the period March first, two thousand fifteen, through Febru-
11 ary twenty-eighth, two thousand sixteen, one hundred percent of the
12 total compensation mandated by the living wage law as set on March
13 first, two thousand fifteen of a city with a population of a million or
14 more;

15 (iv) for all periods on or after March first, two thousand sixteen,
16 the cash portion of the minimum rate of home care aide total compen-
17 sation shall be ten dollars or the minimum wage as laid out in paragraph
18 (b) of subdivision one of section six hundred fifty-two of the labor
19 law, whichever is higher. The benefit portion of the minimum rate of
20 home care aide total compensation shall be three dollars and twenty-two
21 cents.

22 4. The terms of this section shall apply equally to services provided
23 by home care aides who work on episodes of care as direct employees of
24 certified home health agencies, long term home health care programs, or
25 managed care plans, or as employees of licensed home care services agen-
26 cies, limited licensed home care services agencies, OR THE CONSUMER
27 DIRECTED PERSONAL ASSISTANCE PROGRAM UNDER SECTION THREE HUNDRED SIXTY-
28 FIVE-F OF THE SOCIAL SERVICES LAW, or under any other arrangement.

29 5. No payments by government agencies shall be made to certified home
30 health agencies, long term home health care programs, [or] managed care
31 plans, OR THE CONSUMER DIRECTED PERSONAL ASSISTANCE PROGRAM UNDER
32 SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW, for any
33 episode of care without the certified home health agency, long term home
34 health care program, [or] managed care plan OR THE CONSUMER DIRECTED
35 PERSONAL ASSISTANCE PROGRAM having delivered prior written certification
36 to the commissioner, on forms prepared by the department in consultation
37 with the department of labor, that all services provided under each
38 episode of care are in full compliance with the terms of this section
39 and any regulations promulgated pursuant to this section.

40 6. If a certified home health agency or long term home health care
41 program elects to provide home care aide services through contracts with
42 licensed home care services agencies or through other third parties,
43 provided that the episode of care on which the home care aide works is
44 covered under the terms of this section, the certified home health agen-
45 cy, long term home health care program, or managed care plan must obtain
46 a written certification from the licensed home care services agency or
47 other third party, on forms prepared by the department in consultation
48 with the department of labor, which attests to the licensed home care
49 services agency's or other third party's compliance with the terms of
50 this section. Such certifications shall also obligate the certified home
51 health agency, long term home health care program, or managed care plan
52 to obtain, on no less than a quarterly basis, all information from the
53 licensed home care services agency, FISCAL INTERMEDIARY or other third
54 parties necessary to verify compliance with the terms of this section.
55 Such certifications and the information exchanged pursuant to them shall
56 be retained by all certified home health agencies, long term home health

1 care programs, or managed care plans, and all licensed home care
2 services agencies, or other third parties for a period of no less than
3 ten years, and made available to the department upon request.

4 7. The commissioner shall distribute to all certified home health
5 agencies, long term home health care programs, [and] managed care plans,
6 AND FISCAL INTERMEDIARIES IN THE CONSUMER DIRECTED PERSONAL ASSISTANCE
7 PROGRAM UNDER SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES
8 LAW, official notice of the minimum rates of home care aide compensation
9 at least one hundred twenty days prior to the effective date of each
10 minimum rate for each social services district covered by the terms of
11 this section.

12 8. The commissioner is authorized to promulgate regulations, and may
13 promulgate emergency regulations, to implement the provisions of this
14 section.

15 9. Nothing in this section should be construed as applicable to any
16 service provided by certified home health agencies, long term home
17 health care programs, [or] managed care plans, OR CONSUMER DIRECTED
18 PERSONAL ASSISTANCE PROGRAM UNDER SECTION THREE HUNDRED SIXTY-FIVE-F OF
19 THE SOCIAL SERVICES LAW except for all episodes of care reimbursed in
20 whole or in part by the New York Medicaid program.

21 10. No certified home health agency, managed care plan [or], long term
22 home health care program, OR FISCAL INTERMEDIARY IN THE CONSUMER
23 DIRECTED PERSONAL ASSISTANCE PROGRAM UNDER SECTION THREE HUNDRED SIXTY-
24 FIVE-F OF THE SOCIAL SERVICES LAW shall be liable for recoupment of
25 payments for services provided through a licensed home care services
26 agency or other third party with which the certified home health agency,
27 long term home health care program, or managed care plan has a contract
28 because the licensed agency or other third party failed to comply with
29 the provisions of this section if the certified home health agency, long
30 term home health care program, [or] managed care plan, OR FISCAL INTER-
31 MEDIARY has reasonably and in good faith collected certifications and
32 all information required pursuant to subdivisions five and six of this
33 section.

34 S 6. Notwithstanding any other provision of law, the commissioner of
35 health is authorized to sell accounts receivable balances owed to the
36 state by Medicaid providers to financial institutions; provided that no
37 such sale of accounts receivable balances shall include any state
38 support, including a guarantee or contingent obligation of state funds
39 to mitigate the risk of nonpayment by providers owing on these account
40 receivable balances. The commissioner in consultation with the director
41 of the budget is authorized to determine the sale prices of any such
42 accounts receivable balances and shall include sale terms governing the
43 reasonable collection of such balances by the financial institution.
44 Following any such sale, providers owing on these accounts receivable
45 balances shall not include any additional cost, interest, or financing
46 charges solely as a result of such sale but shall be fully responsible
47 for paying the accounts receivable balances. Proceeds from the sale of
48 the accounts receivable balances shall be deposited to the Medicaid
49 escrow fund and be used to offset Medicaid costs under the Medicaid
50 global spending cap. The commissioner shall provide the legislature with
51 a description of the terms of any such sale, including a list of the
52 impacted Medicaid providers, at least thirty days prior to the sale.

53 S 7. This act shall take effect immediately; provided, however that:

54 a. the amendments to section 364-j of the social services law made by
55 section two of this act shall not affect the repeal of such section and
56 shall be deemed to be repealed therewith;

1 b. sections three and five of this act shall take effect July 1, 2017;
2 and

3 c. section six of this act shall expire April 1, 2019; however, such
4 expiration shall not invalidate or otherwise impact any sale of accounts
5 receivable effected pursuant to such section prior to its expiration.

6 PART T

7 Section 1. This act shall be known and may be cited as the "clean
8 water infrastructure act of 2017".

9 S 2. Article 15 of the environmental conservation law is amended by
10 adding a new title 33 to read as follows:

11 TITLE 33

12 SOURCE WATER PROTECTION PROJECTS

13 SECTION 15-3301. DEFINITIONS.

14 15-3303. LAND ACQUISITION PROJECTS FOR SOURCE WATER PROTECTION.

15 15-3305. APPROVAL AND EXECUTION OF PROJECTS.

16 S 15-3301. DEFINITIONS.

17 AS USED IN THIS TITLE THE FOLLOWING TERMS SHALL MEAN:

18 1. "LAND ACQUISITION PROJECTS" MEANS OPEN SPACE ACQUISITION PROJECTS
19 UNDERTAKEN WITH WILLING SELLERS INCLUDING, BUT NOT LIMITED TO, THE
20 PURCHASE OF CONSERVATION EASEMENTS, UNDERTAKEN BY A MUNICIPALITY, A
21 NOT-FOR-PROFIT CORPORATION, OR PURCHASE OF CONSERVATION EASEMENTS BY A
22 SOIL AND WATER CONSERVATION DISTRICT.

23 2. "MUNICIPALITY" MEANS THE SAME AS SUCH TERM AS DEFINED IN SECTION
24 56-0101 OF THIS CHAPTER.

25 3. "NOT-FOR-PROFIT CORPORATION" MEANS A CORPORATION FORMED PURSUANT TO
26 THE NOT-FOR-PROFIT CORPORATION LAW AND QUALIFIED FOR TAX-EXEMPT STATUS
27 UNDER THE FEDERAL INTERNAL REVENUE CODE.

28 4. "SOIL AND WATER CONSERVATION DISTRICT" MEANS THE SAME AS SUCH TERM
29 AS DEFINED IN SECTION THREE OF THE SOIL AND WATER CONSERVATION DISTRICTS
30 LAW.

31 5. "STATE ASSISTANCE PAYMENT" MEANS PAYMENT OF THE STATE SHARE OF THE
32 COST OF PROJECTS AUTHORIZED BY THIS TITLE TO PRESERVE, ENHANCE, RESTORE
33 AND IMPROVE THE QUALITY OF THE STATE'S ENVIRONMENT.

34 S 15-3303. LAND ACQUISITION PROJECTS FOR SOURCE WATER PROTECTION.

35 1. THE COMMISSIONER IS AUTHORIZED TO PROVIDE STATE ASSISTANCE TO MUNI-
36 CIPALITIES, NOT-FOR-PROFIT CORPORATIONS AND SOIL AND WATER CONSERVATION
37 DISTRICTS TO UNDERTAKE LAND ACQUISITION PROJECTS FOR SOURCE WATER
38 PROTECTION, IN COOPERATION WITH WILLING SELLERS. LAND ACQUISITION
39 PROJECTS FOR SOURCE WATER PROTECTION SHALL SUPPORT, EXPAND OR ENHANCE
40 DRINKING WATER QUALITY PROTECTION, INCLUDING BUT NOT LIMITED TO AQUI-
41 FERS, WATERSHEDS, RESERVOIRS, LAKES, RIVERS AND STREAMS.

42 2. A. ANY BUFFER ENCUMBERED BY A CONSERVATION EASEMENT ACQUIRED PURSU-
43 ANT TO THIS SECTION THAT ENCUMBERS LANDS USED IN AGRICULTURAL PRODUCTION
44 AS DEFINED IN SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS
45 LAW IN A COUNTY DESIGNATED STATE CERTIFIED AGRICULTURAL DISTRICT CREATED
46 UNDER SECTION THREE HUNDRED THREE OF THE AGRICULTURE AND MARKETS LAW MAY
47 ALLOW AGRICULTURAL ACTIVITY THAT QUALIFIES SUCH LANDS, PROVIDED SUCH
48 ACTIVITY ON SUCH LANDS DOES NOT IMPAIR DRINKING WATER AND COMPLIES WITH
49 AN AGRICULTURAL ENVIRONMENTAL MANAGEMENT PROGRAM PLAN DEVELOPED BY THE
50 STATE SOIL AND WATER CONSERVATION COMMITTEE, IN PARTNERSHIP WITH THE
51 DEPARTMENT.

1 B. NOTWITHSTANDING ANY LIMITATIONS PROVIDED HEREIN ON LANDS ACQUIRED
2 PURSUANT TO THIS TITLE A LICENSE OR EASEMENT MAY BE GRANTED BY THE OWNER
3 OF SUCH PROPERTY TO A PUBLIC UTILITY FOR A PUBLIC PURPOSE.

4 3. IN EVALUATING LAND ACQUISITION PROJECTS FOR SOURCE WATER PROTECTION
5 PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL GIVE PRIORITY TO PROJECTS
6 WHICH PROTECT OR RECHARGE DRINKING WATER SOURCES AND WATERSHEDS INCLUD-
7 ING RIPARIAN BUFFERS AND WETLANDS.

8 4. A. NO STATE ASSISTANCE MAY BE PROVIDED PURSUANT TO THIS SECTION TO
9 FUND ANY LAND ACQUISITION PROJECT WHICH IS UNDERTAKEN BY EMINENT DOMAIN
10 UNLESS SUCH PROCESS IS UNDERTAKEN WITH A WILLING SELLER.

11 B. THE DEPARTMENT SHALL NOT PROVIDE FUNDING PURSUANT TO THIS TITLE FOR
12 ANY LAND ACQUISITION PROJECT FOR SOURCE WATER PROTECTION BY A
13 NOT-FOR-PROFIT CORPORATION, IF ANY TOWN, VILLAGE OR CITY WITHIN WHICH
14 SUCH A PROJECT IS LOCATED, BY RESOLUTION, WITHIN NINETY DAYS OF NOTIFI-
15 CATION BY SUCH CORPORATION OF ITS INTEREST IN ACQUIRING SUCH PROJECTS,
16 OBJECTS TO SUCH ACQUISITION.

17 5. CONSISTENT WITH SECTION ELEVEN-B OF THE SOIL AND WATER CONSERVATION
18 DISTRICTS LAW, THE SOIL AND WATER CONSERVATION COMMITTEE IN CONSULTATION
19 WITH THE COMMISSIONER OF AGRICULTURE AND MARKETS IS AUTHORIZED TO
20 PROVIDE STATE ASSISTANCE PAYMENTS TO COUNTY SOIL AND WATER CONSERVATION
21 DISTRICTS, WITHIN AMOUNTS APPROPRIATED, FOR LAND ACQUISITION PROJECTS
22 FOR SOURCE WATER PROTECTION PROJECTS TO SUPPORT, EXPAND OR ENHANCE
23 DRINKING WATER QUALITY PROTECTION, INCLUDING BUT NOT LIMITED TO AQUI-
24 FERS, WATERSHEDS, RESERVOIRS, LAKES, RIVERS AND STREAMS. SUCH COMMITTEE
25 SHALL GIVE PRIORITY TO PROJECTS WHICH ESTABLISH BUFFERS FROM WATERS
26 WHICH SERVES AS OR ARE TRIBUTARIES TO DRINKING WATER SUPPLIES FOR SUCH
27 PROJECTS USING STATE ASSISTANCE PURSUANT TO THIS SECTION.

28 6. REAL PROPERTY ACQUIRED, DEVELOPED, IMPROVED, RESTORED OR REHABILI-
29 TATED BY OR THROUGH A MUNICIPALITY OR NOT-FOR-PROFIT CORPORATION WITH
30 FUNDS MADE AVAILABLE PURSUANT TO THIS TITLE SHALL NOT BE SOLD, LEASED,
31 EXCHANGED, DONATED OR OTHERWISE DISPOSED OF OR USED FOR OTHER THAN THE
32 PUBLIC PURPOSES OF THIS TITLE WITHOUT THE EXPRESS AUTHORITY OF AN ACT OF
33 THE LEGISLATURE, WHICH SHALL PROVIDE FOR THE SUBSTITUTION OF OTHER LANDS
34 OF EQUAL ENVIRONMENTAL VALUE AND FAIR MARKET VALUE AND REASONABLY EQUIV-
35 ALENT USEFULNESS AND LOCATION TO THOSE TO BE DISCONTINUED, SOLD OR
36 DISPOSED OF, AND SUCH OTHER REQUIREMENTS AS SHALL BE APPROVED BY THE
37 COMMISSIONER.

38 7. IF THE STATE ACQUIRES A REAL PROPERTY INTEREST IN LAND PURCHASED BY
39 A MUNICIPALITY OR NOT-FOR-PROFIT WITH FUNDS MADE AVAILABLE PURSUANT TO
40 THIS TITLE, THE STATE SHALL PAY THE FAIR MARKET VALUE OF SUCH INTEREST
41 LESS THE AMOUNT OF FUNDING PROVIDED BY THE STATE PURSUANT TO THIS
42 SECTION.

43 8. TO THE FULLEST EXTENT PRACTICABLE, IT IS THE POLICY OF THE STATE TO
44 PROMOTE AN EQUITABLE REGIONAL DISTRIBUTION OF FUNDS, CONSISTENT WITH THE
45 PURPOSE OF THIS SECTION.

46 S 15-3305. APPROVAL AND EXECUTION OF PROJECTS.

47 1. LAND ACQUISITION PROJECTS FOR SOURCE WATER PROTECTION MAY BE UNDER-
48 TAKEN PURSUANT TO THE PROVISIONS OF THIS ARTICLE AND OTHER APPLICABLE
49 PROVISIONS OF LAW ONLY WITH THE APPROVAL OF THE COMMISSIONER.

50 2. THE COMMISSIONER SHALL REVIEW SUCH PROJECT APPLICATION AND MAY
51 APPROVE, DISAPPROVE OR RECOMMEND MODIFICATIONS THERETO CONSISTENT WITH
52 APPLICABLE LAW, CRITERIA, STANDARDS OR RULES AND REGULATIONS RELATIVE TO
53 SUCH PROJECTS. IN REVIEWING APPLICATIONS FOR PROJECTS PURSUANT TO THIS
54 SECTION, THE COMMISSIONER SHALL GIVE DUE CONSIDERATION TO:

55 A. THE PROJECT'S CONTRIBUTION TO THE PROTECTION OF DRINKING WATER
56 SUPPLIES;

1 B. THE PRESENCE OF A WATER PLAN, INCLUDING A SOURCE WATER
2 ASSESSMENT/PROTECTION PLAN OR OTHER SIMILAR PLAN WHICH IDENTIFIES MEAS-
3 URES TO REDUCE THREATS TO DRINKING WATER SOURCES AND PRIORITIES FOR LAND
4 ACQUISITION PROJECTS; AND,

5 C. FINANCIAL NEED OR HARDSHIP.

6 3. ALL LAND ACQUISITION PROJECTS SHALL BE UNDERTAKEN IN THE STATE OF
7 NEW YORK. THE TOTAL AMOUNT OF THE STATE ASSISTANCE PAYMENTS TOWARD THE
8 COST OF ANY SUCH PROJECT SHALL BE SET FORTH IN ANY REQUEST FOR PROPOSAL
9 ISSUED TO SOLICIT PROJECTS AND WILL IN NO EVENT EXCEED SEVENTY-FIVE
10 PERCENT OF THE COST.

11 FOR THE PURPOSE OF DETERMINING THE AMOUNT OF THE STATE ASSISTANCE
12 PAYMENTS, THE COST OF THE PROJECT SHALL NOT BE MORE THAN THE AMOUNT SET
13 FORTH IN THE APPLICATION FOR STATE ASSISTANCE PAYMENTS APPROVED BY THE
14 COMMISSIONER. THE STATE ASSISTANCE PAYMENTS TOWARD THE COST OF A PROJECT
15 SHALL BE PAID ON AUDIT AND WARRANT OF THE STATE COMPTROLLER ON A CERTIF-
16 ICATE OF AVAILABILITY OF THE DIRECTOR OF THE BUDGET.

17 4. A. THE COMMISSIONER AND A MUNICIPALITY MAY ENTER INTO A CONTRACT
18 FOR THE UNDERTAKING BY THE MUNICIPALITY OF A SOURCE WATER PROTECTION
19 PROJECT. SUCH PROJECT SHALL BE RECOMMENDED TO THE COMMISSIONER BY THE
20 GOVERNING BODY OF THE MUNICIPALITY AND, WHEN APPROVED BY THE COMMISSION-
21 ER, MAY BE UNDERTAKEN BY THE MUNICIPALITY PURSUANT TO THIS TITLE AND ANY
22 OTHER APPLICABLE PROVISION OF LAW.

23 B. THE COMMISSIONER AND A NOT-FOR-PROFIT CORPORATION MAY ENTER INTO A
24 CONTRACT FOR THE UNDERTAKING BY THE NOT-FOR-PROFIT CORPORATION OF A
25 SOURCE WATER PROTECTION PROJECT. SUCH A PROJECT SHALL BE RECOMMENDED TO
26 THE COMMISSIONER BY THE GOVERNING BODY OF A NOT-FOR-PROFIT CORPORATION
27 WHICH DEMONSTRATES TO THE SATISFACTION OF THE COMMISSIONER THAT IT IS
28 CAPABLE OF OPERATING AND MAINTAINING SUCH PROPERTY FOR THE BENEFIT OF
29 DRINKING WATER AND/OR WATER QUALITY PROTECTION. UPON APPROVAL BY THE
30 COMMISSIONER, SUCH PROJECT MAY BE UNDERTAKEN PURSUANT TO THE PROVISIONS
31 OF THIS TITLE AND ANY OTHER APPLICABLE PROVISION OF LAW.

32 5. NO MONIES SHALL BE EXPENDED FOR SOURCE WATER PROTECTION LAND ACQUI-
33 SITION PROJECTS EXCEPT PURSUANT TO AN APPROPRIATION THEREFOR.

34 S 3. The public health law is amended by adding a new section 1114 to
35 read as follows:

36 S 1114. LEAD SERVICE LINE REPLACEMENT GRANT PROGRAM. 1. TO THE EXTENT
37 PRACTICABLE, THE DEPARTMENT SHALL ALLOCATE APPROPRIATED FUNDS EQUITABLY
38 AMONG REGIONS OF THE STATE. WITHIN EACH REGION, THE DEPARTMENT SHALL
39 GIVE PRIORITY TO MUNICIPALITIES THAT HAVE A HIGH PERCENTAGE OF ELEVATED
40 CHILDHOOD BLOOD LEAD LEVELS, BASED ON THE MOST RECENT AVAILABLE DATA. IN
41 DISTRIBUTING THE AWARDS ALLOCATED FOR EACH REGION TO SUCH PRIORITY MUNI-
42 CIPALITIES, THE DEPARTMENT SHALL ALSO CONSIDER WHETHER THE COMMUNITY IS
43 LOW INCOME AND THE NUMBER OF LEAD SERVICE LINES IN NEED OF REPLACEMENT.
44 THE DEPARTMENT MAY REQUEST THAT SUCH MUNICIPALITIES PROVIDE SUCH
45 DOCUMENTATION AS THE DEPARTMENT MAY REQUIRE TO CONFIRM AWARD ELIGIBIL-
46 ITY.

47 2. THE DEPARTMENT SHALL PUBLISH INFORMATION, APPLICATION FORMS, PROCE-
48 DURES AND GUIDELINES RELATING TO THE PROGRAM ON ITS WEBSITE AND IN A
49 MANNER THAT IS ACCESSIBLE TO THE PUBLIC AND ALL POTENTIAL AWARD RECIPI-
50 ENTS.

51 S 4. Article 27 of the environmental conservation law is amended by
52 adding a new title 12 to read as follows:

53 TITLE 12

54 MITIGATION AND REMEDIATION OF CERTAIN SOLID WASTE SITES AND
55 DRINKING WATER CONTAMINATION

1 SECTION 27-1201. DEFINITIONS.
2 27-1203. MITIGATION AND REMEDIATION OF SOLID WASTE SITES.
3 27-1205. MITIGATION OF CONTAMINANTS IN DRINKING WATER.
4 27-1207. USE AND REPORTING OF THE SOLID WASTE MITIGATION ACCOUNT
5 AND THE DRINKING WATER RESPONSE ACCOUNT.
6 27-1209. RULES AND REGULATIONS.
7 27-1211. PROTECTION AGAINST LIABILITY AND LIABILITY EXEMPTIONS
8 AND DEFENSES.

9 S 27-1201. DEFINITIONS.

10 WHEN USED IN THIS TITLE:

11 1. "CONTAMINANT" MEANS EMERGING CONTAMINANTS PURSUANT TO SECTION ELEV-
12 EN HUNDRED TWELVE OF THE PUBLIC HEALTH LAW, AND, FOR SOLID WASTE SITES,
13 SHALL INCLUDE PARAMETERS IDENTIFIED IN REGULATIONS REQUIRED TO BE TESTED
14 BY LANDFILLS TO ENSURE THE PROTECTION OF GROUNDWATER QUALITY.

15 2. "CONTAMINATION" OR "CONTAMINATED" MEANS THE PRESENCE OF A CONTAM-
16 INANT IN ANY ENVIRONMENTAL MEDIA, INCLUDING SOIL, SURFACE WATER, OR
17 GROUNDWATER, SUFFICIENT TO CAUSE OR SUBSTANTIALLY CONTRIBUTE TO AN
18 EXCEEDANCE OF STANDARDS, CRITERIA, AND GUIDANCE VALUES ESTABLISHED BY
19 THE DEPARTMENT OR DRINKING WATER STANDARDS, INCLUDING MAXIMUM CONTAM-
20 INANT LEVELS, NOTIFICATION LEVELS, MAXIMUM RESIDUAL DISINFECTANT LEVELS
21 OR ACTION LEVELS ESTABLISHED BY THE DEPARTMENT OF HEALTH.

22 3. "DRINKING WATER CONTAMINATION SITE" MEANS ANY AREA OR SITE THAT IS
23 CAUSING OR SUBSTANTIALLY CONTRIBUTING TO THE CONTAMINATION OF ONE OR
24 MORE PUBLIC DRINKING WATER SUPPLIES.

25 4. "DRINKING WATER RESPONSE ACCOUNT" MEANS THE ACCOUNT ESTABLISHED
26 PURSUANT TO SUBDIVISION ONE OF SECTION NINETY-SEVEN-B OF THE STATE
27 FINANCE LAW.

28 5. "MITIGATION" MEANS THE INVESTIGATION, SAMPLING, MANAGEMENT, OR
29 TREATMENT OF A SOLID WASTE SITE OR DRINKING WATER CONTAMINATION SITE
30 REQUIRED TO ENSURE THE AVAILABILITY OF SAFE DRINKING WATER, INCLUDING
31 PUBLIC WATER SYSTEMS AND INDIVIDUAL ONSITE WATER SUPPLY SYSTEMS NECES-
32 SARY TO MEET STANDARDS, CRITERIA, AND GUIDANCE VALUES ESTABLISHED BY THE
33 DEPARTMENT OR DRINKING WATER STANDARDS, INCLUDING MAXIMUM CONTAMINANT
34 LEVELS, NOTIFICATION LEVELS, MAXIMUM RESIDUAL DISINFECTANT LEVELS, OR
35 ACTION LEVELS ESTABLISHED BY THE DEPARTMENT OF HEALTH THAT CAN BE
36 SUCCESSFULLY CARRIED OUT WITH AVAILABLE, IMPLEMENTABLE AND COST-EFFEC-
37 TIVE TECHNOLOGY. "MITIGATION" ACTIVITIES INCLUDE BUT ARE NOT LIMITED TO
38 THE INSTALLATION OF DRINKING WATER TREATMENT SYSTEMS, THE PROVISION OF
39 ALTERNATIVE WATER SUPPLIES, OR REPAIR OF A LANDFILL CAP. "MITIGATION"
40 DOES NOT MEAN REMEDIATION.

41 6. "SOLID WASTE SITE" MEANS A SITE WHERE (A) THE DEPARTMENT HAS A
42 REASONABLE BASIS TO SUSPECT THAT THE ILLEGAL DISPOSAL OF SOLID WASTE
43 OCCURRED OR, (B) A COURT OF COMPETENT JURISDICTION HAS DETERMINED THAT
44 AN ILLEGAL DISPOSAL OF SOLID WASTE OCCURRED, OR (C) THE DEPARTMENT KNOWS
45 OR HAS A REASONABLE BASIS TO SUSPECT THAT AN INACTIVE SOLID WASTE
46 MANAGEMENT FACILITY WHICH DOES NOT HAVE A CURRENT MONITORING PROGRAM IS
47 IMPACTING OR CONTAMINATING ONE OR MORE DRINKING WATER SUPPLIES. SOLID
48 WASTE SITE SHALL NOT INCLUDE A SITE WHICH IS CURRENTLY SUBJECT TO INVES-
49 TIGATION OR REMEDIATION PURSUANT TO TITLE THIRTEEN OR FOURTEEN OF THIS
50 ARTICLE OR ANY SITE WHICH COMPLETED SUCH PROGRAMS AND WAS EITHER
51 DELISTED BY OR RECEIVED A CERTIFICATE OF COMPLETION FROM THE DEPARTMENT.

52 7. "SOLID WASTE MITIGATION ACCOUNT" MEANS THE ACCOUNT ESTABLISHED
53 PURSUANT TO SUBDIVISION ONE OF SECTION NINETY-SEVEN-B OF THE STATE
54 FINANCE LAW.

55 8. "SOLID WASTE MANAGEMENT FACILITY" MEANS ANY FACILITY EMPLOYED FOR
56 SOLID WASTE COLLECTION, PROCESSING AND DISPOSAL INCLUDING PROCESSING

1 SYSTEMS, INCLUDING RESOURCE RECOVERY FACILITIES OR OTHER FACILITIES FOR
2 REDUCING SOLID WASTE VOLUME, SANITARY LANDFILLS, REGULATED FACILITIES
3 FOR THE DISPOSAL OF CONSTRUCTION AND DEMOLITION DEBRIS, REGULATED PLANTS
4 AND FACILITIES FOR COMPACTING, COMPOSTING OR PYROLIZATION OF SOLID
5 WASTES, REGULATED MULCH FACILITIES, LANDSPREADING AND SOIL AMENDING
6 OPERATIONS, AND INCINERATORS.

7 S 27-1203. MITIGATION AND REMEDIATION OF SOLID WASTE SITES.

8 1. THE SOLID WASTE SITE PRIORITY IN THIS STATE IS TO MITIGATE AND
9 REMEDIATE ANY SOLID WASTE SITE CAUSING OR SUBSTANTIALLY CONTRIBUTING TO
10 IMPAIRMENTS OF DRINKING WATER QUALITY WHICH MAY IMPACT PUBLIC HEALTH.

11 2. THE DEPARTMENT SHALL, IN CONJUNCTION WITH THE DEPARTMENT OF HEALTH,
12 DEVELOP A SYSTEM TO SELECT AND PRIORITIZE SITES FOR MITIGATION AND REME-
13 DIATION, CONSIDERING THE EFFECTS ON THE HEALTH OF THE STATE.

14 3. BEGINNING JULY FIRST, TWO THOUSAND NINETEEN AND ANNUALLY THEREAFT-
15 ER, THE DEPARTMENT SHALL PREPARE AND SUBMIT TO THE GOVERNOR AND THE
16 LEGISLATURE A COMPREHENSIVE PLAN DESIGNED TO MITIGATE AND REMEDIATE
17 SOLID WASTE SITES. THIS PLAN SHALL ESTABLISH A SOLID WASTE SITE MITI-
18 GATION AND REMEDIATION PRIORITY LIST.

19 4. THE DEPARTMENT IS AUTHORIZED TO CONDUCT PRELIMINARY INVESTIGATIONS
20 TO DETERMINE IF A SOLID WASTE SITE IS CAUSING OR SUBSTANTIALLY CONTRIB-
21 UTING TO IMMINENT OR DOCUMENTED DRINKING WATER SOURCE CONTAMINATION. THE
22 DEPARTMENT, AND ANY EMPLOYEE, AGENT, CONSULTANT OR OTHER PERSON ACTING
23 AT THE DIRECTION OF THE DEPARTMENT, SHALL HAVE THE AUTHORITY TO ENTER
24 ALL SOLID WASTE SITES FOR THE PURPOSE OF PRELIMINARY INVESTIGATION,
25 MITIGATION AND REMEDIATION, PROVIDED THAT THE DEPARTMENT HAS MADE A
26 REASONABLE EFFORT TO IDENTIFY THE OWNER OF SUCH PROPERTY TO NOTIFY SUCH
27 OWNER OF THE INTENT TO ENTER THE PROPERTY AT LEAST TEN DAYS IN ADVANCE.
28 IN THE EVENT THE COMMISSIONER OF HEALTH MAKES A WRITTEN DETERMINATION
29 THAT SUCH TEN DAY NOTICE WILL NOT BE SUFFICIENT TO PROTECT PUBLIC
30 HEALTH, TWO DAYS' WRITTEN NOTICE SHALL BE SUFFICIENT. ANY INSPECTION OF
31 THE PROPERTY AND EACH TAKING OF SAMPLES SHALL TAKE PLACE AT REASONABLE
32 TIMES AND SHALL BE COMMENCED AND COMPLETED WITH REASONABLE PROMPTNESS.
33 SUCH PRELIMINARY INVESTIGATION SHALL INCLUDE:

34 A. CONDUCTING OR CAUSING TO BE CONDUCTED FIELD INVESTIGATIONS OF HIGH
35 PRIORITY SITES IDENTIFIED IN THE PLAN ESTABLISHED PURSUANT TO SUBDIVI-
36 SION THREE OF THIS SECTION FOR THE PURPOSE OF FURTHER DEFINING NECESSARY
37 MITIGATION AND REMEDIATION, IF ANY. TO THE MAXIMUM EXTENT PRACTICABLE,
38 THE DEPARTMENT SHALL UTILIZE EXISTING INFORMATION INCLUDING, BUT NOT
39 LIMITED TO, SUBSURFACE BORINGS AND ANY ANALYSES OR TESTS OF SAMPLES
40 TAKEN FROM SUCH SITES BY OWNERS OR OPERATORS, OTHER RESPONSIBLE PERSONS
41 AND ANY FEDERAL OR NON-FEDERAL AGENCIES;

42 B. MAKING ANY SUBSURFACE BORINGS AND ANY ANALYSES OR TESTS OF SAMPLES
43 TAKEN AS MAY BE NECESSARY OR DESIRABLE TO EFFECTUATE THE FIELD INVESTI-
44 GATIONS OF SITES AS REQUIRED UNDER THIS SECTION SUBJECT TO THE REQUIRE-
45 MENTS OF THIS TITLE. IF THE OWNER OF A SOLID WASTE SITE CAN BE IDENTI-
46 FIED, THE DEPARTMENT SHALL PROVIDE SUCH OWNER WITH A MINIMUM OF TEN
47 DAYS' WRITTEN NOTICE OF THE INTENT TO TAKE SUCH BORINGS OR SAMPLES IN
48 ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TWELVE OF SECTION 27-1205
49 OF THIS TITLE. IF ANY ANALYSIS IS MADE OF SUCH SAMPLES, A COPY OF THE
50 RESULTS OF SUCH ANALYSIS SHALL BE FURNISHED PROMPTLY TO THE OWNER OR
51 OPERATOR. UPON THE COMPLETION OF ALL SAMPLING ACTIVITIES, THE DEPARTMENT
52 OR AUTHORIZED PERSON SHALL REMOVE, OR CAUSE TO BE REMOVED, ALL EQUIPMENT
53 AND WELL MACHINERY AND RETURN THE GROUND SURFACE OF THE PROPERTY TO ITS
54 CONDITION PRIOR TO SUCH SAMPLING, UNLESS THE DEPARTMENT OR AUTHORIZED
55 PERSON, AND THE OWNER OF THE PROPERTY SHALL OTHERWISE AGREE;

1 C. MAKING ANY RECORD SEARCHES OR DOCUMENT REVIEWS AS MAY BE NECESSARY
2 OR DESIRABLE TO EFFECTUATE THE PURPOSES OF THIS SECTION SUBJECT TO THE
3 REQUIREMENTS OF THIS TITLE.

4 5. IF THE DEPARTMENT OR THE DEPARTMENT OF HEALTH, AS APPROPRIATE,
5 DETERMINES THAT A SOLID WASTE SITE POSES A SIGNIFICANT THREAT TO THE
6 PUBLIC HEALTH OR ENVIRONMENT DUE TO HAZARDOUS WASTE, THE DEPARTMENT
7 SHALL REFER THE SITE TO THE INACTIVE HAZARDOUS WASTE DISPOSAL SITE REME-
8 DIAL PROGRAM PURSUANT TO TITLE THIRTEEN OF THIS ARTICLE.

9 6. WHERE THE DEPARTMENT HAS DETERMINED THROUGH A PRELIMINARY INVESTI-
10 GATION CONDUCTED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION THAT A
11 SOLID WASTE SITE IS CAUSING OR SUBSTANTIALLY CONTRIBUTING TO CONTAM-
12 INATION OF A PUBLIC DRINKING WATER SUPPLY, THE OWNER OR OPERATOR OF A
13 SOLID WASTE SITE SHALL, AT THE DEPARTMENT'S WRITTEN REQUEST, COOPERATE
14 WITH ANY AND ALL REMEDIAL MEASURES DEEMED NECESSARY AND WHICH SHALL BE
15 UNDERTAKEN BY THE DEPARTMENT, IN CONJUNCTION WITH THE DEPARTMENT OF
16 HEALTH, FOR THE MITIGATION AND REMEDIATION OF A SOLID WASTE SITE OR AREA
17 WHICH IS NECESSARY TO ENSURE THAT DRINKING WATER MEETS APPLICABLE STAND-
18 ARDS, INCLUDING MAXIMUM CONTAMINANT LEVELS, NOTIFICATION LEVELS, MAXIMUM
19 RESIDUAL DISINFECTANT LEVELS, OR ACTION LEVELS ESTABLISHED BY THE
20 DEPARTMENT OF HEALTH. THE DEPARTMENT MAY IMPLEMENT NECESSARY MEASURES TO
21 MITIGATE AND REMEDIATE THE SOLID WASTE SITE WITHIN AMOUNTS APPROPRIATED
22 FOR SUCH PURPOSES FROM THE SOLID WASTE MITIGATION ACCOUNT.

23 S 27-1205. MITIGATION OF CONTAMINANTS IN DRINKING WATER.

24 1. WHENEVER THE COMMISSIONER OF HEALTH HAS REQUIRED A PUBLIC WATER
25 SYSTEM TO TAKE ACTION TO REDUCE EXPOSURE TO AN EMERGING CONTAMINANT OR
26 EMERGING CONTAMINANTS AND HAS DETERMINED THAT THE CONCENTRATION OF THE
27 EMERGING CONTAMINANT CONSTITUTES AN ACTUAL OR POTENTIAL THREAT TO PUBLIC
28 HEALTH BASED ON THE BEST AVAILABLE SCIENTIFIC INFORMATION PURSUANT TO
29 SECTION ELEVEN HUNDRED TWELVE OF THE PUBLIC HEALTH LAW, THE DEPARTMENT
30 IN CONJUNCTION WITH THE DEPARTMENT OF HEALTH, MAY, PURSUANT TO THE CLEAN
31 WATER INFRASTRUCTURE ACT OF 2017 AND WITHIN THE UP TO ONE HUNDRED THIRTY
32 MILLION DOLLARS APPROPRIATED FOR SUCH PURPOSES, UNDERTAKE ALL REASONABLE
33 AND NECESSARY ADDITIONAL MITIGATION MEASURES IN ANY AREA OF THE STATE IN
34 WHICH CONTAMINATION IS KNOWN TO BE PRESENT. THE DEPARTMENT SHALL EMPLOY
35 FEASIBLE MEASURES THAT CAN BE SUCCESSFULLY CARRIED OUT WITH AVAILABLE,
36 IMPLEMENTABLE AND COST EFFECTIVE TECHNOLOGY. SUCH AREA SHALL INCLUDE, AT
37 A MINIMUM, ALL PROPERTIES SERVED BY THE PUBLIC WATER SYSTEM, ANY INDI-
38 VIDUAL ONSITE WATER SUPPLY SYSTEMS IMPACTED BY THE CONTAMINATION, AND
39 ANY LAND AND ANY SURFACE OR UNDERGROUND WATER SOURCES IMPACTED BY THE
40 CONTAMINATION. SUCH APPROVED MEASURES SHALL BE PROTECTIVE OF PUBLIC
41 HEALTH AND MAY INCLUDE BUT NOT BE LIMITED TO THE INSTALLATION OF TREAT-
42 MENT SYSTEMS OR THE PROVISION OF ALTERNATIVE WATER SUPPLY SOURCES TO
43 ENSURE THAT DRINKING WATER MEETS APPLICABLE STANDARDS, INCLUDING MAXIMUM
44 CONTAMINANT LEVELS, NOTIFICATION LEVELS, MAXIMUM RESIDUAL DISINFECTANT
45 LEVELS, OR ACTION LEVELS ESTABLISHED BY THE DEPARTMENT OF HEALTH.

46 2. IF THE DEPARTMENT OR THE DEPARTMENT OF HEALTH, AS APPLICABLE,
47 DETERMINES THAT A DRINKING WATER CONTAMINATION SITE POSES A SIGNIFICANT
48 THREAT TO THE PUBLIC HEALTH OR ENVIRONMENT FROM A HAZARDOUS WASTE, THE
49 DEPARTMENT SHALL REFER THE SITE TO THE INACTIVE HAZARDOUS WASTE DISPOSAL
50 SITE REMEDIAL PROGRAM PURSUANT TO TITLE THIRTEEN OF THIS ARTICLE.

51 3. WHENEVER THE COMMISSIONER OF HEALTH HAS REQUIRED A PUBLIC WATER
52 SYSTEM TO TAKE ACTION TO REDUCE EXPOSURE TO EMERGING CONTAMINANTS AND
53 HAS DETERMINED THAT THE CONCENTRATION OF THE EMERGING CONTAMINANT
54 CONSTITUTES AN ACTUAL OR POTENTIAL THREAT TO PUBLIC HEALTH BASED ON THE
55 BEST AVAILABLE SCIENTIFIC INFORMATION PURSUANT TO SECTION ELEVEN HUNDRED
56 TWELVE OF THE PUBLIC HEALTH LAW:

1 A. THE DEPARTMENT SHALL HAVE THE AUTHORITY TO UNDERTAKE DIRECTLY IN
2 CONJUNCTION WITH THE DEPARTMENT OF HEALTH, THE DEVELOPMENT AND IMPLEMEN-
3 TATION OF ALL NECESSARY AND REASONABLE MITIGATION AND REMEDIATION MEAS-
4 URES OF DRINKING WATER CONTAMINATION, AS APPROVED BY THE DEPARTMENT OF
5 HEALTH, TO ADDRESS EMERGING CONTAMINANTS IN PUBLIC WATER SUPPLIES;

6 B. THE COMMISSIONER MAY ORDER, AFTER NOTICE AND OPPORTUNITY FOR A
7 HEARING, THE OWNER AND/OR OPERATOR OF THE DRINKING WATER CONTAMINATION
8 SITE AND/OR ANY PERSON RESPONSIBLE FOR SUCH CONTAMINATION TO UNDERTAKE
9 ALL REASONABLE AND NECESSARY MITIGATION AND REMEDIATION, AS APPROVED BY
10 THE DEPARTMENT OF HEALTH, TO ENSURE THAT DRINKING WATER MEETS APPLICABLE
11 STANDARDS, INCLUDING MAXIMUM CONTAMINANT LEVELS, NOTIFICATION LEVELS,
12 MAXIMUM RESIDUAL DISINFECTANT LEVELS, OR ACTION LEVELS ESTABLISHED BY
13 THE DEPARTMENT OF HEALTH, AND EMPLOY FEASIBLE MEASURES THAT CAN BE
14 SUCCESSFULLY CARRIED OUT WITH AVAILABLE, IMPLEMENTABLE AND COST EFFEC-
15 TIVE TECHNOLOGY, SUBJECT TO THE APPROVAL OF THE DEPARTMENT AND THE
16 DEPARTMENT OF HEALTH, AT SUCH SITE, AND TO IMPLEMENT SUCH PROGRAM WITHIN
17 REASONABLE TIME LIMITS SPECIFIED IN THE ORDER. PROVIDED, HOWEVER, THAT
18 IN THE EVENT THE COMMISSIONER OF HEALTH SHALL ISSUE AN ORDER PURSUANT TO
19 SUBDIVISION THREE OF SECTION ONE THOUSAND THREE HUNDRED EIGHTY-NINE-B OF
20 THE PUBLIC HEALTH LAW, SUCH ORDER OF THE COMMISSIONER OF HEALTH SHALL
21 SUPERSEDE ANY ORDER ISSUED HEREUNDER.

22 4. THE DEPARTMENT SHALL HAVE THE AUTHORITY A. TO DELEGATE RESPONSIBIL-
23 ITY FOR A SPECIFIC DRINKING WATER CONTAMINATION SITE TO THE MUNICIPALITY
24 IN WHICH SUCH SITE IS LOCATED AND B. TO CONTRACT WITH ANY OTHER PERSON
25 TO PERFORM NECESSARY WORK IN CONNECTION WITH SUCH SITES.

26 5. SECTION EIGHT OF THE COURT OF CLAIMS ACT OR ANY OTHER PROVISION OF
27 LAW TO THE CONTRARY NOTWITHSTANDING, THE STATE SHALL BE IMMUNE FROM
28 LIABILITY AND ACTION WITH RESPECT TO ANY ACT OR OMISSION DONE IN THE
29 DISCHARGE OF THE DEPARTMENT'S AFORESAID RESPONSIBILITY PURSUANT TO THIS
30 TITLE; PROVIDED, HOWEVER, THAT THIS SUBDIVISION SHALL NOT LIMIT THE
31 LIABILITY WHICH MAY OTHERWISE EXIST FOR UNLAWFUL, WILLFUL, OR MALICIOUS
32 ACTS OR OMISSIONS ON THE PART OF THE STATE, STATE AGENCIES, OR THEIR
33 OFFICERS, EMPLOYEES OR AGENTS; OR FOR THE OWNERSHIP OR RESPONSIBILITY
34 FOR THE DISPOSAL OF SUCH CONTAMINANT, INCLUDING LIABILITY FOR THE COST
35 OF REMEDIATION, PURSUANT TO THIS SECTION.

36 6. WHENEVER THE COMMISSIONER OF HEALTH, AFTER INVESTIGATION, FINDS:

37 A. THAT A PUBLIC DRINKING WATER CONTAMINATION SITE REPRESENTS AN ACTU-
38 AL OR POTENTIAL THREAT TO THE PUBLIC HEALTH; AND

39 B. THE THREAT MAKES IT PREJUDICIAL TO THE PUBLIC INTEREST TO DELAY
40 ACTION UNTIL A HEARING CAN BE HELD PURSUANT TO THIS TITLE, THE DEPART-
41 MENT MAY, PURSUANT TO PARAGRAPH A OF SUBDIVISION THREE OF THIS SECTION
42 AND WITHIN THE FUNDS AVAILABLE TO THE DEPARTMENT FROM THE DRINKING WATER
43 RESPONSE ACCOUNT, DEVELOP AND IMPLEMENT, IN CONJUNCTION WITH THE DEPART-
44 MENT OF HEALTH, ALL REASONABLE AND NECESSARY MITIGATION AND REMEDIAL
45 MEASURES TO ADDRESS DRINKING WATER CONTAMINATION FOR SUCH SITE TO ENSURE
46 THAT DRINKING WATER MEETS APPLICABLE STANDARDS, INCLUDING MAXIMUM
47 CONTAMINANT LEVELS, NOTIFICATION LEVELS, MAXIMUM RESIDUAL DISINFECTANT
48 LEVELS OR ACTION LEVELS ESTABLISHED BY THE DEPARTMENT OF HEALTH. FIND-
49 INGS REQUIRED PURSUANT TO THIS SUBDIVISION SHALL BE IN WRITING AND MAY
50 BE MADE BY THE COMMISSIONER OF HEALTH ON AN EX PARTE BASIS SUBJECT TO
51 JUDICIAL REVIEW.

52 7. ANY ORDER ISSUED PURSUANT TO PARAGRAPH B OF SUBDIVISION THREE OF
53 THIS SECTION SHALL BE ISSUED ONLY AFTER NOTICE AND THE OPPORTUNITY FOR A
54 HEARING IS PROVIDED TO PERSONS WHO MAY BE THE SUBJECT OF SUCH ORDER.
55 THE COMMISSIONER OR THE COMMISSIONER OF HEALTH SHALL DETERMINE WHICH
56 PERSONS ARE RESPONSIBLE PURSUANT TO SAID SUBDIVISION ACCORDING TO APPLI-

1 CABLE PRINCIPLES OF STATUTORY OR COMMON LAW LIABILITY. SUCH PERSONS
2 SHALL BE ENTITLED TO RAISE ANY DEFENSE SET FORTH IN SECTION 27-1211 OF
3 THIS TITLE OR COMMON LAW DEFENSE AT ANY SUCH HEARING AND SUCH DEFENSES
4 SHALL HAVE THE SAME FORCE AND EFFECT AT SUCH HEARINGS AS THEY WOULD HAVE
5 IN A COURT OF LAW. IN THE EVENT A HEARING IS HELD, NO ORDER SHALL BE
6 ISSUED BY THE COMMISSIONER UNDER SUBDIVISION THREE OF THIS SECTION UNTIL
7 A FINAL DECISION HAS BEEN RENDERED. ANY SUCH ORDER SHALL BE REVIEWABLE
8 PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES
9 WITHIN THIRTY DAYS AFTER SERVICE OF SUCH ORDER. THE COMMISSIONER OR THE
10 COMMISSIONER OF HEALTH MAY REQUEST THE PARTICIPATION OF THE ATTORNEY
11 GENERAL IN SUCH HEARINGS.

12 8. THE COMMISSIONER SHALL MAKE ALL REASONABLE EFFORTS, IN ACCORDANCE
13 WITH THE REQUIREMENTS OF SUBDIVISION SIX OF SECTION NINETY-SEVEN-B OF
14 THE STATE FINANCE LAW, TO RECOVER ALL MITIGATION COSTS INCURRED PURSUANT
15 TO SUBDIVISIONS ONE AND THREE OF THIS SECTION FROM THE OWNER AND/OR
16 OPERATOR OF THE DRINKING WATER CONTAMINATION SITE.

17 9. WHEN A MUNICIPALITY DEVELOPS AND IMPLEMENTS REMEDIATION TO ADDRESS
18 A DRINKING WATER CONTAMINATION SITE, DETERMINED PURSUANT TO SUBDIVISION
19 FOUR OF THIS SECTION, AND THE PLAN IS APPROVED BY THE DEPARTMENT, IN
20 CONJUNCTION WITH THE DEPARTMENT OF HEALTH, WHICH IS OWNED OR HAS BEEN
21 OPERATED BY SUCH MUNICIPALITY OR WHEN THE DEPARTMENT, IN CONJUNCTION
22 WITH THE DEPARTMENT OF HEALTH, PURSUANT TO AN AGREEMENT WITH A MUNICI-
23 PALITY, DEVELOPS AND IMPLEMENTS SUCH REMEDIATION, THE COMMISSIONER
24 SHALL, IN THE NAME OF THE STATE, AGREE IN SUCH AGREEMENT TO PROVIDE FROM
25 THE DRINKING WATER RESPONSE ACCOUNT, WITHIN THE LIMITATIONS OF APPROPRI-
26 ATIONS THEREFOR, SEVENTY-FIVE PERCENT OF THE ELIGIBLE DESIGN AND
27 CONSTRUCTION COSTS OF SUCH PROGRAM FOR WHICH SUCH MUNICIPALITY IS LIABLE
28 SOLELY BECAUSE OF ITS OWNERSHIP AND/OR OPERATION OF SUCH SITE AND WHICH
29 ARE NOT RECOVERED FROM OR REIMBURSED OR PAID BY A RESPONSIBLE PARTY OR
30 THE FEDERAL GOVERNMENT.

31 10. NOTHING CONTAINED WITHIN THIS SECTION SHALL BE CONSTRUED AS
32 IMPAIRING OR IN ANY MANNER AFFECTING THE RIGHT OR JURISDICTION OF THE
33 ATTORNEY GENERAL TO SEEK APPROPRIATE RELIEF PURSUANT TO HIS OR HER STAT-
34 UTORY OR COMMON LAW AUTHORITY.

35 11. MONEYS FOR ACTIONS TAKEN OR TO BE TAKEN BY THE DEPARTMENT, THE
36 DEPARTMENT OF HEALTH OR ANY OTHER STATE AGENCY PURSUANT TO THIS TITLE
37 SHALL BE PAYABLE DIRECTLY TO SUCH AGENCIES FROM THE DRINKING WATER
38 RESPONSE ACCOUNT PURSUANT TO SECTION NINETY-SEVEN-B OF THE STATE FINANCE
39 LAW.

40 12. A. EVERY PERSON SHALL, UPON THE WRITTEN REQUEST OF THE COMMISSION-
41 ER OR A DESIGNEE, PERMIT A DULY DESIGNATED OFFICER OR EMPLOYEE OF THE
42 DEPARTMENT AT ALL REASONABLE TIMES TO HAVE ACCESS TO AND TO COPY ALL
43 BOOKS, PAPERS, DOCUMENTS AND RECORDS PERTINENT TO AN ONGOING INVESTI-
44 GATION OF DRINKING WATER CONTAMINATION IDENTIFIED IN SECTION 27-1203 OF
45 THIS TITLE.

46 B. THE COMMISSIONER MAY SIGN AND ISSUE SUBPOENAS IN THE NAME OF THE
47 DEPARTMENT REQUIRING THE PRODUCTION OF BOOKS, PAPERS, DOCUMENTS AND
48 OTHER RECORDS AND MAY TAKE TESTIMONY BY DEPOSITIONS UNDER OATH OF ANY
49 PERSON RELATING TO THE ONGOING INVESTIGATION OF A DRINKING WATER CONTAM-
50 INATION IDENTIFIED IN THIS TITLE. SUCH SUBPOENAS AND DEPOSITIONS SHALL
51 BE REGULATED BY THE STATE OF NEW YORK'S CIVIL PRACTICE LAW AND RULES.
52 THE COMMISSIONER MAY INVOKE THE POWERS OF THE SUPREME COURT OF THE STATE
53 OF NEW YORK TO COMPEL COMPLIANCE WITH ANY SUCH SUBPOENA OR ANY REQUEST
54 TO TAKE SUCH DEPOSITIONS.

55 C. WHEN THE DEPARTMENT HAS SUBSTANTIAL EVIDENCE THAT SUCH DRINKING
56 WATER CONTAMINATION SITE IS CAUSING OR SUBSTANTIALLY CONTRIBUTING TO THE

1 CONTAMINATION OF DRINKING WATER, AND SUBJECT TO THE APPLICABLE NOTICE
2 PROVISIONS SET FORTH IN PARAGRAPH D OF THIS SUBDIVISION, ANY DULY DESIG-
3 NATED OFFICER OR EMPLOYEE OF THE DEPARTMENT, OR OF ANY STATE AGENCY, AND
4 ANY AGENT, CONSULTANT, CONTRACTOR, OR OTHER PERSON, INCLUDING AN EMPLOY-
5 EE, AGENT, CONSULTANT, OR CONTRACTOR OF A RESPONSIBLE PERSON ACTING AT
6 THE DIRECTION OF THE DEPARTMENT, SO AUTHORIZED IN WRITING BY THE COMMIS-
7 SIONER, MAY ENTER ANY DRINKING WATER CONTAMINATION SITE AND AREAS NEAR
8 SUCH SITE AND INSPECT AND TAKE SAMPLES OF WASTES, SOIL, AIR, SURFACE
9 WATER, AND GROUNDWATER. IN ORDER TO TAKE SUCH SAMPLES, THE DEPARTMENT OR
10 AUTHORIZED PERSON MAY UTILIZE OR CAUSE TO BE UTILIZED SUCH SAMPLING
11 METHODS AS IT DETERMINES TO BE NECESSARY INCLUDING, BUT NOT LIMITED TO,
12 SOIL BORINGS AND MONITORING WELLS.

13 D. THE DEPARTMENT OR AUTHORIZED PERSON SHALL NOT TAKE ANY SAMPLES
14 INVOLVING THE SUBSTANTIAL DISTURBANCE OF THE GROUND SURFACE OF ANY PROP-
15 erty UNLESS IT HAS MADE A REASONABLE EFFORT TO IDENTIFY THE OWNER OF THE
16 PROPERTY AND TO NOTIFY SUCH OWNER OF THE INTENT TO TAKE SUCH SAMPLES. IF
17 THE OWNER CAN BE IDENTIFIED, THE DEPARTMENT SHALL PROVIDE SUCH OWNER
18 WITH A MINIMUM OF TEN DAYS' WRITTEN NOTICE OF THE INTENT, UNLESS SUCH
19 OWNERS AND OCCUPANTS CONSENT TO AN EARLIER DATE, TO TAKE SUCH SAMPLES,
20 UNLESS THE COMMISSIONER MAKES A WRITTEN DETERMINATION THAT SUCH TEN DAY
21 NOTICE WILL NOT ALLOW THE DEPARTMENT TO PROTECT THE ENVIRONMENT OR
22 PUBLIC HEALTH, IN WHICH CASE TWO DAYS' WRITTEN NOTICE SHALL BE SUFFI-
23 CIENT. ANY INSPECTION OF THE PROPERTY AND EACH SUCH TAKING OF SAMPLES
24 SHALL TAKE PLACE AT REASONABLE TIMES AND SHALL BE COMMENCED AND
25 COMPLETED WITH REASONABLE PROMPTNESS. IF ANY OFFICER, EMPLOYEE, AGENT,
26 CONSULTANT, CONTRACTOR, OR OTHER PERSON SO AUTHORIZED IN WRITING BY THE
27 COMMISSIONER OBTAINS ANY SAMPLES PRIOR TO LEAVING THE PREMISES, HE OR
28 SHE SHALL GIVE TO THE OWNER OR OPERATOR A RECEIPT DESCRIBING THE SAMPLE
29 OBTAINED AND, IF REQUESTED, A PORTION OF SUCH SAMPLE EQUAL IN VOLUME OR
30 WEIGHT TO THE PORTION RETAINED. IF ANY ANALYSIS IS MADE OF SUCH SAMPLES,
31 A COPY OF THE RESULTS OF SUCH ANALYSIS SHALL BE FURNISHED PROMPTLY TO
32 THE OWNER OR OPERATOR. UPON THE COMPLETION OF ALL SAMPLING ACTIVITIES,
33 THE DEPARTMENT OR AUTHORIZED PERSON SHALL REMOVE, OR CAUSE TO BE
34 REMOVED, ALL EQUIPMENT AND WELL MACHINERY AND RETURN THE GROUND SURFACE
35 OF THE PROPERTY TO ITS CONDITION PRIOR TO SUCH SAMPLING, UNLESS THE
36 DEPARTMENT OR AUTHORIZED PERSON, AND THE OWNER OF THE PROPERTY SHALL
37 OTHERWISE AGREE.

38 E. THE EXPENSE OF ANY SUCH MITIGATION BY THE DEPARTMENT OR THE DEPART-
39 MENT OF HEALTH SHALL BE PAID BY THE DRINKING WATER RESPONSE ACCOUNT, BUT
40 MAY BE RECOVERED FROM ANY RESPONSIBLE PERSON IN ANY ACTION OR PROCEEDING
41 BROUGHT PURSUANT TO THE STATE FINANCE LAW, THIS TITLE, OTHER STATE OR
42 FEDERAL STATUTE, OR COMMON LAW IF THE PERSON SO AUTHORIZED IN WRITING IS
43 AN EMPLOYEE, AGENT, CONSULTANT, OR CONTRACTOR OF A RESPONSIBLE PERSON
44 ACTING AT THE DIRECTION OF THE DEPARTMENT, THEN THE EXPENSE OF ANY SUCH
45 SAMPLING AND ANALYSIS SHALL BE PAID BY THE RESPONSIBLE PERSON.

46 F. ANY DULY DESIGNATED OFFICER OR EMPLOYEE OF THE DEPARTMENT OR ANY
47 OTHER STATE AGENCY, AND ANY AGENT, CONSULTANT, CONTRACTOR, OR OTHER
48 PERSON ACTING AT THE DIRECTION OF THE DEPARTMENT, AUTHORIZED IN WRITING
49 BY THE COMMISSIONER, MAY ENTER ANY DRINKING WATER CONTAMINATION SITE AND
50 AREAS NEAR SUCH SITE TO UNDERTAKE ALL REASONABLE AND NECESSARY MITI-
51 GATION AND REMEDIATION FOR SUCH SITE, PROVIDED: (A) THE COMMISSIONER HAS
52 SENT A WRITTEN NOTICE TO THE OWNERS OF RECORD OR ANY KNOWN OCCUPANTS OF
53 SUCH SITE OR NEARBY AREAS OF THE INTENDED ENTRY AND WORK AT LEAST TEN
54 DAYS PRIOR TO SUCH INITIAL ENTRY UNLESS SUCH OWNERS AND OCCUPANTS
55 CONSENT TO AN EARLIER DATE; AND (B) THE DEPARTMENT HAS SUBSTANTIAL
56 EVIDENCE THAT SUCH DRINKING WATER CONTAMINATION SITE IS CAUSING OR

1 SUBSTANTIALLY CONTRIBUTING TO THE CONTAMINATION OF DRINKING WATER. IN
2 THE EVENT THE COMMISSIONER OF HEALTH MAKES A WRITTEN DETERMINATION THAT
3 SUCH TEN DAY NOTICE WILL NOT BE SUFFICIENT TO PROTECT PUBLIC HEALTH, TWO
4 DAYS' WRITTEN NOTICE SHALL BE SUFFICIENT.

5 S 27-1207. USE AND REPORTING OF THE SOLID WASTE MITIGATION ACCOUNT AND
6 THE DRINKING WATER RESPONSE ACCOUNT.

7 1. PURSUANT TO THE CLEAN WATER INFRASTRUCTURE ACT OF TWO THOUSAND
8 SEVENTEEN AND WITHIN THE UP TO ONE HUNDRED THIRTY MILLION DOLLARS APPRO-
9 PRIATED FOR SUCH PURPOSES, MITIGATION AND REMEDIATION EFFORTS TO ADDRESS
10 PUBLIC DRINKING WATER CONTAMINATION FROM EMERGING CONTAMINANTS AND SOLID
11 WASTE SITES CAUSING OR SUBSTANTIALLY CONTRIBUTING TO DRINKING WATER
12 IMPAIRMENT THAT IMPACTS PUBLIC HEALTH MAY BE CONDUCTED IN ACCORDANCE
13 WITH THIS TITLE.

14 2. THE SOLID WASTE MITIGATION ACCOUNT SHALL BE MADE AVAILABLE TO THE
15 DEPARTMENT AND THE DEPARTMENT OF HEALTH, AS APPLICABLE, FOR THE FOLLOW-
16 ING PURPOSES:

- 17 A. ENUMERATION AND ASSESSMENT OF SOLID WASTE SITES;
- 18 B. INVESTIGATION AND ENVIRONMENTAL CHARACTERIZATION OF SOLID WASTE
19 SITES, INCLUDING ENVIRONMENTAL SAMPLING;
- 20 C. MITIGATION AND REMEDIATION OF SOLID WASTE SITES;
- 21 D. MONITORING OF SOLID WASTE SITES; AND
- 22 E. ADMINISTRATION AND ENFORCEMENT OF THE REQUIREMENTS OF SECTION
23 27-1203 OF THIS TITLE.

24 3. THE DRINKING WATER RESPONSE ACCOUNT SHALL BE MADE AVAILABLE TO THE
25 DEPARTMENT AND THE DEPARTMENT OF HEALTH, AS APPLICABLE, FOR THE FOLLOW-
26 ING PURPOSES:

- 27 A. MITIGATION OF DRINKING WATER CONTAMINATION;
- 28 B. INVESTIGATION OF DRINKING WATER CONTAMINATION;
- 29 C. REMEDIATION OF DRINKING WATER CONTAMINATION; AND
- 30 D. ADMINISTRATION AND ENFORCEMENT OF THE REQUIREMENTS OF THIS TITLE
31 EXCEPT THE PROVISIONS OF SECTION 27-1203.

32 4. ON OR BEFORE JULY FIRST, TWO THOUSAND NINETEEN AND JULY FIRST OF
33 EACH SUCCEEDING YEAR, THE DEPARTMENT SHALL REPORT ON THE STATUS OF THE
34 PROGRAMS.

35 S 27-1209. RULES AND REGULATIONS.

36 THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS NECESSARY AND
37 APPROPRIATE TO CARRY OUT THE PURPOSES OF THIS TITLE AND SHALL AT A MINI-
38 MUM INCLUDE SUCH PROVISIONS FOR REQUISITE DUE PROCESS AND MEANINGFUL
39 PUBLIC PARTICIPATION AS ARE APPROPRIATE TO ANY ACTION UNDERTAKEN PURSU-
40 ANT TO THIS TITLE, TAKING INTO CONSIDERATION THE NATURE AND DEGREE OF
41 ANY PUBLIC HEALTH IMPACTS AND THE URGENCY OF ANY NEED FOR INVESTIGATION
42 OR REMEDIATION OF CONTAMINATION.

43 S 27-1211. PROTECTION AGAINST LIABILITY AND LIABILITY EXEMPTIONS AND
44 DEFENSES.

45 IN ADDITION TO COMMON LAW DEFENSES, THE PROVISIONS OF SECTIONS 27-1321
46 AND 27-1323 OF THIS ARTICLE SHALL APPLY TO A SOLID WASTE SITE THAT IS
47 CAUSING OR SUBSTANTIALLY CONTRIBUTING TO CONTAMINATION OF PUBLIC DRINK-
48 ING WATER SUPPLIES OR A DRINKING WATER CONTAMINATION SITE PURSUANT TO
49 THIS TITLE AND SHALL APPLY TO EMERGING CONTAMINANTS IN THE SAME WAY
50 APPLICABLE TO HAZARDOUS MATERIALS AND HAZARDOUS WASTES.

51 S 5. Subdivisions 1, 2 and 6 and paragraphs (i) and (j) of subdivision
52 3 of section 97-b of the state finance law, subdivision 1 as amended and
53 paragraph (j) of subdivision 3 as added by section 4 of part I of chap-
54 ter 1 of the laws of 2003, subdivision 2 as amended by section 5 of part
55 X of chapter 58 of the laws of 2015, paragraph (i) of subdivision 3 as
56 amended by section 1 of part R of chapter 59 of the laws of 2007, subdi-

1 vision 6 as amended by chapter 38 of the laws of 1985, are amended and
2 two new paragraphs (k) and (l) are added to subdivision 3 to read as
3 follows:

4 1. There is hereby established in the custody of the state comptroller
5 a nonlapsing revolving fund to be known as the "hazardous waste remedial
6 fund", which shall consist of a "site investigation and construction
7 account", an "industry fee transfer account", an "environmental restora-
8 tion project account", "hazardous waste cleanup account", [and] a
9 "hazardous waste remediation oversight and assistance account", A
10 "SOLID WASTE MITIGATION ACCOUNT", AND A "DRINKING WATER RESPONSE
11 ACCOUNT".

12 2. Such fund shall consist of all of the following:

13 (a) moneys appropriated for transfer to the fund's site investigation
14 and construction account; (b) all fines and other sums accumulated in
15 the fund prior to April first, nineteen hundred eighty-eight pursuant to
16 section 71-2725 of the environmental conservation law for deposit in the
17 fund's site investigation and construction account; (c) all moneys
18 collected or received by the department of taxation and finance pursuant
19 to section 27-0923 of the environmental conservation law for deposit in
20 the fund's industry fee transfer account; (d) all moneys paid into the
21 fund pursuant to section 72-0201 of the environmental conservation law
22 which shall be deposited in the fund's industry fee transfer account;
23 (e) all moneys paid into the fund pursuant to paragraph (b) of subdivi-
24 sion one of section one hundred eighty-six of the navigation law which
25 shall be deposited in the fund's industry fee transfer account; (f) all
26 [monies] MONEYS recovered under sections 56-0503, 56-0505 and 56-0507 of
27 the environmental conservation law into the fund's environmental resto-
28 ration project account; (g) all fees paid into the fund pursuant to
29 section 72-0402 of the environmental conservation law which shall be
30 deposited in the fund's industry fee transfer account; (h) payments
31 received for all state costs incurred in negotiating and overseeing the
32 implementation of brownfield site cleanup agreements pursuant to title
33 fourteen of article twenty-seven of the environmental conservation law
34 shall be deposited in the hazardous waste remediation oversight and
35 assistance account; (I) ALL MONEYS RECOVERED PURSUANT TO TITLE TWELVE OF
36 ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION LAW INTO THE
37 FUND'S DRINKING WATER RESPONSE ACCOUNT; and [(i)] (J) other moneys cred-
38 ited or transferred thereto from any other fund or source for deposit in
39 the fund's site investigation and construction account.

40 (i) with respect to moneys in the hazardous waste remediation over-
41 sight and assistance account, non-bondable costs associated with hazard-
42 ous waste remediation projects. Such costs shall be limited to agency
43 staff costs associated with the administration of state assistance for
44 brownfield opportunity areas pursuant to section nine hundred seventy-r
45 of the general municipal law, agency staff costs associated with the
46 administration of technical assistance grants pursuant to titles thir-
47 teen and fourteen of article twenty-seven of the environmental conserva-
48 tion law, and costs of the department of environmental conservation
49 related to the geographic information system required by section 3-0315
50 of the environmental conservation law; [and]

51 (j) with respect to moneys in the hazardous waste remediation over-
52 sight and assistance account, technical assistance grants pursuant to
53 titles thirteen and fourteen of article twenty-seven of the environ-
54 mental conservation law[.];

55 (K) WITH RESPECT TO MONEYS IN THE SOLID WASTE MITIGATION ACCOUNT, WHEN
56 ALLOCATED, SHALL BE AVAILABLE TO THE DEPARTMENT OF ENVIRONMENTAL CONSER-

1 VATION TO UNDERTAKE MITIGATION AND REMEDIATION AS THE DEPARTMENT OF
2 ENVIRONMENTAL CONSERVATION MAY DETERMINE NECESSARY RELATED TO A SOLID
3 WASTE SITE PURSUANT TO TITLE TWELVE OF ARTICLE TWENTY-SEVEN OF THE ENVI-
4 RONMENTAL CONSERVATION LAW WHICH INDICATES THAT CONDITIONS ON SUCH PROP-
5 erty ARE IMPAIRING DRINKING WATER QUALITY AND TO ENSURE THE PROVISION OF
6 SAFE DRINKING WATER, PROVIDED HOWEVER, THAT NO MORE THAN FIVE MILLION
7 DOLLARS WILL BE AVAILABLE ANNUALLY FOR SUCH ACCOUNT; AND

8 (L) WITH RESPECT TO MONEYS IN THE DRINKING WATER RESPONSE ACCOUNT,
9 WHEN ALLOCATED, SHALL BE AVAILABLE TO THE DEPARTMENT OF ENVIRONMENTAL
10 CONSERVATION, AND TO THE DEPARTMENT OF HEALTH, TO UNDERTAKE MITIGATION
11 AND REMEDIATION AS THE DEPARTMENTS MAY DETERMINE NECESSARY RELATED TO A
12 DRINKING WATER CONTAMINATION SITE PURSUANT TO TITLE TWELVE OF ARTICLE
13 TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION LAW WHICH INDICATES THAT
14 CONDITIONS ON SUCH PROPERTY ARE IMPAIRING DRINKING WATER QUALITY,
15 PROVIDED HOWEVER, THAT NO MORE THAN TWENTY MILLION DOLLARS WILL BE
16 AVAILABLE ANNUALLY FOR SUCH ACCOUNT.

17 6. The commissioner of the department of environmental conservation
18 shall make all reasonable efforts to recover the full amount of any
19 funds expended from the fund pursuant to paragraph (a) AND PARAGRAPH (L)
20 of subdivision three of this section through litigation or cooperative
21 agreements with responsible persons. Any and all moneys recovered or
22 reimbursed pursuant to this section through voluntary agreements or
23 court orders shall be deposited with the comptroller and credited to the
24 account of such fund from which such expenditures were made.

25 S 6. 1. This section shall be known and be cited as the "New York
26 State water infrastructure improvement act of 2017".

27 2. For purposes of this act:

28 a. "water quality infrastructure project" shall mean "sewage treatment
29 works" as defined in section 17-1903 of the environmental conservation
30 law or "eligible project" as defined in paragraphs (a), (b), (c) and (e)
31 of subdivision 4 of section 1160 of the public health law.

32 b. "construction" shall mean:

33 (i) for sewage treatment works, the same as defined in section 17-1903
34 of the environmental conservation law; and

35 (ii) for eligible projects, the same meaning as defined in section
36 1160 of the public health law.

37 c. "municipality" shall mean any county, city, town, village, district
38 corporation, county or town improvement district, school district, Indi-
39 an nation or tribe recognized by the state or the United States with a
40 reservation wholly or partly within the boundaries of New York state,
41 any public benefit corporation or public authority established pursuant
42 to the laws of New York or any agency of New York state which is
43 empowered to construct and operate a water quality infrastructure
44 project, or any two or more of the foregoing which are acting jointly in
45 connection with a water quality infrastructure project.

46 3. a. The environmental facilities corporation shall undertake and
47 provide state financial assistance payments, from funds appropriated for
48 such purpose, to municipalities in support of water quality infrastruc-
49 ture projects provided, however, in any such year that funds are appro-
50 priated for such purpose, no municipality shall receive more than five
51 million dollars of appropriated funds. Such state financial assistance
52 payments shall be awarded only to water quality infrastructure projects
53 for:

54 (i) replacement or repair of infrastructure; or

55 (ii) compliance with environmental and public health laws and regu-
56 lations related to water quality.

1 b. Any state financial assistance payment awarded pursuant to this act
2 shall not exceed seventy-five percent of the project cost.

3 c. A municipality may make an application for such state financial
4 assistance payment, in a manner, form and timeframe and containing such
5 information as the environmental facilities corporation may require
6 provided however, such requirements shall not include a requirement for
7 prior listing on the intended use plan.

8 d. A municipality shall not be required to accept environmental facil-
9 ities corporation loan financing in order to obtain a state financial
10 assistance payment pursuant to this act if it can provide proof of
11 having obtained similarly low cost financing or other funding from
12 another source.

13 e. In awarding such financial assistance payments, the corporation
14 shall be prohibited from requiring as a condition of receipt, or other-
15 wise giving preference to, applicants who agree to participate in the
16 design, creation, or implementation of a municipal consolidation plan.

17 f. In awarding such state financial assistance payments, the environ-
18 mental facilities corporation shall consider and give preference to
19 municipalities that meet the hardship criteria established by the envi-
20 ronmental facilities corporation pursuant to section 1285-m of the
21 public authorities law and projects that result in the greatest water
22 quality improvement or greatest reduction in serious risk to public
23 health. For the purposes of this act, the hardship criteria of section
24 1285-m of the public authorities law shall also apply to sewage treat-
25 ment works as defined in section 17-1903 of the environmental conserva-
26 tion law.

27 g. Water quality infrastructure projects financed with state financial
28 assistance made available pursuant to this section shall be subject to
29 the requirements of article 8 of the labor law, the requirements of
30 article 17-B of the executive law and the requirements and provisions of
31 all applicable minority- and women-owned business mandates including,
32 but not limited to article 15-A of the executive law.

33 S 7. The public authorities law is amended by adding a new section
34 1285-s to read as follows:

35 S 1285-S. NEW YORK STATE INTERMUNICIPAL WATER INFRASTRUCTURE GRANTS
36 PROGRAM. 1. FOR PURPOSES OF THIS SECTION:

37 (A) "WATER QUALITY INFRASTRUCTURE PROJECT" SHALL MEAN "SEWAGE TREAT-
38 MENT WORKS" AS DEFINED IN SECTION 17-1903 OF THE ENVIRONMENTAL CONSERVA-
39 TION LAW OR "ELIGIBLE PROJECT" AS DEFINED IN PARAGRAPHS (A), (B), (C)
40 AND (E) OF SUBDIVISION FOUR OF SECTION ELEVEN HUNDRED SIXTY OF THE
41 PUBLIC HEALTH LAW.

42 (B) "CONSTRUCTION" SHALL MEAN:

43 (I) FOR SEWAGE TREATMENT WORKS, THE SAME MEANING AS DEFINED IN SECTION
44 17-1903 OF THE ENVIRONMENTAL CONSERVATION LAW; AND

45 (II) FOR ELIGIBLE PROJECTS, THE SAME MEANING AS DEFINED IN SECTION ONE
46 THOUSAND ONE HUNDRED SIXTY OF THE PUBLIC HEALTH LAW.

47 (C) "MUNICIPALITY" SHALL MEAN ANY COUNTY, CITY, TOWN, VILLAGE,
48 DISTRICT CORPORATION, COUNTY OR TOWN IMPROVEMENT DISTRICT, SCHOOL
49 DISTRICT, INDIAN NATION OR TRIBE RECOGNIZED BY THE STATE OR THE UNITED
50 STATES WITH A RESERVATION WHOLLY OR PARTLY WITHIN THE BOUNDARIES OF NEW
51 YORK STATE, ANY PUBLIC BENEFIT CORPORATION OR PUBLIC AUTHORITY ESTAB-
52 LISHED PURSUANT TO THE LAWS OF NEW YORK OR ANY AGENCY OF NEW YORK STATE
53 WHICH IS EMPOWERED TO CONSTRUCT AND OPERATE AN INTERMUNICIPAL WATER
54 QUALITY INFRASTRUCTURE PROJECT, OR ANY TWO OR MORE OF THE FOREGOING
55 WHICH ARE ACTING JOINTLY IN CONNECTION WITH AN INTERMUNICIPAL WATER
56 QUALITY INFRASTRUCTURE PROJECT.

1 2. (A) THE ENVIRONMENTAL FACILITIES CORPORATION SHALL UNDERTAKE AND
2 PROVIDE STATE FINANCIAL ASSISTANCE PAYMENTS, FROM FUNDS APPROPRIATED FOR
3 SUCH PURPOSE, TO MUNICIPALITIES IN SUPPORT OF INTERMUNICIPAL WATER QUAL-
4 ITY INFRASTRUCTURE PROJECTS PROVIDED, HOWEVER, IN ANY SUCH YEAR THAT
5 FUNDS ARE APPROPRIATED FOR SUCH PURPOSE, EACH PROJECT SHALL RECEIVE AN
6 AWARD OF UP TO TEN MILLION DOLLARS OF APPROPRIATED FUNDS; PROVIDED THAT
7 SUCH MONIES SHALL NOT EXCEED SIXTY PERCENT OF THE TOTAL PROJECT COST;
8 AND PROVIDED FURTHER THAT THE TOTAL STATE FINANCIAL ASSISTANCE PAYMENT
9 FOR THE PROJECT DOES NOT REPRESENT A DISPROPORTIONATE SHARE OF THE TOTAL
10 AMOUNT OF AVAILABLE FUNDING IN ANY GIVEN YEAR.

11 (B) INTERMUNICIPAL WATER QUALITY INFRASTRUCTURE PROJECTS SHALL SERVE
12 MULTIPLE MUNICIPALITIES AND MAY INCLUDE A SHARED WATER QUALITY INFRAS-
13 TRUCTURE PROJECT OR INTERCONNECTION OF MULTIPLE MUNICIPAL WATER QUALITY
14 INFRASTRUCTURE PROJECTS AND SHALL BE AWARDED ONLY TO WATER QUALITY
15 INFRASTRUCTURE PROJECTS FOR:

16 (I) CONSTRUCTION, REPLACEMENT OR REPAIR OF INFRASTRUCTURE PROVIDED,
17 HOWEVER, THAT SUCH ASSISTANCE SHALL NOT BE AWARDED FOR CONSTRUCTION TO
18 EXCLUSIVELY SUPPORT RESIDENTIAL OR COMMERCIAL DEVELOPMENT; OR

19 (II) COMPLIANCE WITH ENVIRONMENTAL AND PUBLIC HEALTH LAWS AND REGU-
20 LATIONS RELATED TO WATER QUALITY.

21 (C) COOPERATING MUNICIPALITIES MAY MAKE AN APPLICATION FOR AN INTERMU-
22 NICIPAL WATER INFRASTRUCTURE GRANT, IN A MANNER, FORM AND TIMEFRAME AND
23 CONTAINING SUCH INFORMATION AS THE ENVIRONMENTAL FACILITIES CORPORATION
24 MAY REQUIRE PROVIDED HOWEVER, SUCH REQUIREMENTS SHALL NOT INCLUDE A
25 REQUIREMENT FOR PRIOR LISTING ON THE INTENDED USE PLAN.

26 (D) COOPERATING MUNICIPALITIES SHALL NOT BE REQUIRED TO ACCEPT ENVI-
27 RONMENTAL FACILITIES CORPORATION LOAN FINANCING IN ORDER TO OBTAIN A
28 STATE FINANCIAL ASSISTANCE PAYMENT PURSUANT TO THIS SECTION IF IT CAN
29 PROVIDE PROOF OF HAVING OBTAINED SIMILARLY LOW COST FINANCING OR OTHER
30 FUNDING FROM ANOTHER SOURCE.

31 (E) IN AWARDING FINANCIAL ASSISTANCE PAYMENTS, THE CORPORATION SHALL
32 BE PROHIBITED FROM REQUIRING AS A CONDITION OF RECEIPT, OR OTHERWISE
33 GIVING PREFERENCE TO, APPLICANTS WHO AGREE TO PARTICIPATE IN THE DESIGN,
34 CREATION, OR IMPLEMENTATION OF A MUNICIPAL CONSOLIDATION PLAN.

35 3. INTERMUNICIPAL WATER QUALITY INFRASTRUCTURE PROJECTS FINANCED WITH
36 STATE FINANCIAL ASSISTANCE MADE AVAILABLE PURSUANT TO THIS SECTION SHALL
37 BE SUBJECT TO THE REQUIREMENTS OF ARTICLE EIGHT OF THE LABOR LAW, THE
38 REQUIREMENTS OF ARTICLE SEVENTEEN-B OF THE EXECUTIVE LAW AND THE
39 REQUIREMENTS AND PROVISIONS OF ALL APPLICABLE MINORITY- AND WOMEN-OWNED
40 BUSINESS MANDATES INCLUDING, BUT NOT LIMITED TO ARTICLE FIFTEEN-A OF THE
41 EXECUTIVE LAW.

42 S 8. The public authorities law is amended by adding a new section
43 1285-t to read as follows:

44 S 1285-T. WATER INFRASTRUCTURE EMERGENCY FINANCIAL ASSISTANCE. 1. FOR
45 PURPOSES OF THIS SECTION, "MUNICIPALITY" MEANS ANY COUNTY, CITY, TOWN,
46 VILLAGE, DISTRICT CORPORATION, COUNTY OR TOWN IMPROVEMENT DISTRICT,
47 SCHOOL DISTRICT, INDIAN NATION OR TRIBE RECOGNIZED BY THE STATE OR THE
48 UNITED STATES WITH A RESERVATION WHOLLY OR PARTLY WITHIN THE BOUNDARIES
49 OF NEW YORK STATE, ANY PUBLIC BENEFIT CORPORATION OR PUBLIC AUTHORITY
50 ESTABLISHED PURSUANT TO THE LAWS OF NEW YORK OR ANY AGENCY OF NEW YORK
51 STATE WHICH IS EMPOWERED TO CONSTRUCT AND OPERATE A WASTEWATER OR DRINK-
52 ING WATER INFRASTRUCTURE PROJECT, OR ANY TWO OR MORE OF THE FOREGOING
53 WHICH ARE ACTING JOINTLY IN CONNECTION WITH SUCH A PROJECT.

54 2. UPON A MUNICIPALITY'S FORMAL DECLARATION OF AN EMERGENCY, THE MUNI-
55 CIPALITY SHALL PROVIDE THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION OR
56 THE DEPARTMENT OF HEALTH, AS APPROPRIATE, WITH INFORMATION TO ASSESS ANY

1 SITUATION IN WHICH THE STATE OF THE MUNICIPALITY'S WASTEWATER OR WATER
2 INFRASTRUCTURE IS CAUSING OR MAY CAUSE AN IMMINENT HAZARD TO THE PUBLIC
3 HEALTH OR WELFARE, OR THE ENVIRONMENT. AFTER ITS ASSESSMENT, IF EITHER
4 DEPARTMENT DETERMINES THE STATE OF THE INFRASTRUCTURE IS RESULTING OR
5 MAY RESULT IN IMMINENT HAZARD TO THE PUBLIC HEALTH OR WELFARE, OR TO THE
6 ENVIRONMENT, THE CORPORATION SHALL PROVIDE TEMPORARY EMERGENCY ASSIST-
7 ANCE, WITHIN AMOUNTS APPROPRIATED, TO THE MUNICIPALITY IN AN AMOUNT NOT
8 TO EXCEED REASONABLE COSTS FOR INFRASTRUCTURE CONSTRUCTION, REPLACEMENT,
9 OR REPAIR, AND RELATED ENGINEERING COSTS, THAT IS IMMEDIATELY NECESSARY
10 TO ELIMINATE OR SUBSTANTIALLY REDUCE SUCH HAZARD.

11 3. THE CORPORATION AND THE MUNICIPALITY SHALL ENTER INTO AN AGREEMENT
12 SIGNED BY AN OFFICER DULY AUTHORIZED BY THE GOVERNING BODY OF THE MUNI-
13 CIPALITY PURSUANT TO WHICH THE CORPORATION SHALL TRANSMIT EMERGENCY
14 FINANCIAL ASSISTANCE IN AN AMOUNT DETERMINED BY THE DEPARTMENT OF ENVI-
15 RONMENTAL CONSERVATION OR THE DEPARTMENT OF HEALTH, AS APPLICABLE, AS
16 NECESSARY TO ADDRESS THE IMMINENT HAZARD, AND SHALL PROVIDE THE ASSIST-
17 ANCE PAYMENT TO THE MUNICIPALITY WITHIN TWO BUSINESS DAYS OF RECEIPT OF
18 SUCH DETERMINATION. THE MUNICIPALITY SHALL SUBMIT AN ITEMIZED COST ESTI-
19 MATE FROM THE MUNICIPALITY'S ENGINEER OR ENGINEERING CONSULTANT TO THE
20 APPLICABLE DEPARTMENT SUFFICIENT TO MAKE SUCH DETERMINATION.

21 4. NO LATER THAN FOURTEEN DAYS AFTER THE CESSATION OF THE EMERGENCY,
22 THE MUNICIPALITY SHALL PROVIDE TO THE CORPORATION DOCUMENTATION FOR ALL
23 COSTS PAID WITH THE EMERGENCY ASSISTANCE AND REFUND TO THE CORPORATION
24 ANY PORTION OF THE FINANCIAL ASSISTANCE NOT USED OR COMMITTED TO PAY FOR
25 THE CONSTRUCTION, REPLACEMENT, OR REPAIR AND RELATED ENGINEERING COSTS
26 DETERMINED TO BE NECESSARY UNDER SUBDIVISION ONE OF THIS SECTION.

27 5. SUBJECT TO APPROPRIATION OR DULY AUTHORIZED INDEBTEDNESS, THE MUNI-
28 CIPALITY SHALL REPAY THE CORPORATION WITHIN ONE YEAR OF ITS RECEIPT OF
29 EMERGENCY FINANCIAL ASSISTANCE THE FULL AMOUNT OF SUCH ASSISTANCE
30 PROVIDED TO IT UNDER THIS SECTION. THE CORPORATION MAY EXTEND THE TIME
31 TO REPAY FOR UP TO ONE ADDITIONAL YEAR IF THE CORPORATION DETERMINES IN
32 ITS SOLE DISCRETION THAT SUCH AN EXTENSION IS WARRANTED UNDER THE
33 CIRCUMSTANCES.

34 6. NOTHING IN THIS SECTION NULLIFIES THE ELIGIBILITY OF A MUNICIPALITY
35 FOR OTHER INFRASTRUCTURE FUNDING, INCLUDING GRANT, WHICH MAY BE PROVIDED
36 BY THE STATE FOR WATER INFRASTRUCTURE DIRECTLY RELATED TO THE INFRAS-
37 TRUCTURE FOR WHICH EMERGENCY FINANCIAL ASSISTANCE IS AWARDED UNDER THIS
38 SECTION, INCLUDING FUNDING THE MUNICIPALITY COULD USE TO REPAY THE EMER-
39 GENCY FINANCIAL ASSISTANCE. IF THE MUNICIPALITY RECEIVES SUCH OTHER
40 FUNDING FROM THE STATE OR ANY FINANCIAL ASSISTANCE FROM A THIRD PARTY
41 FOR THE SAME INFRASTRUCTURE, THE MUNICIPALITY SHALL WITHIN TEN DAYS
42 FIRST REPAY THE CORPORATION THE OUTSTANDING BALANCE OF THE EMERGENCY
43 FINANCIAL ASSISTANCE BEFORE PAYING ANY REMAINING COSTS FOR THE WATER
44 INFRASTRUCTURE.

45 S 9. The public authorities law is amended by adding a new section
46 1285-u to read as follows:

47 S 1285-U. SEPTIC SYSTEM REPLACEMENT FUND. 1. DEFINITIONS. FOR
48 PURPOSES OF THIS SECTION:

49 (A) "CESSPOOL" MEANS A DRYWELL THAT RECEIVES UNTREATED SANITARY WASTE
50 CONTAINING HUMAN EXCRETA, WHICH SOMETIMES HAS AN OPEN BOTTOM AND/OR
51 PERFORATED SIDES.

52 (B) "FUND" MEANS THE STATE SEPTIC SYSTEM REPLACEMENT FUND CREATED BY
53 THIS SECTION.

54 (C) "PARTICIPATING COUNTY" MEANS A COUNTY THAT NOTIFIES THE CORPO-
55 RATION THAT IT SEEKS AUTHORITY TO ADMINISTER A SEPTIC SYSTEM REPLACEMENT
56 PROGRAM WITHIN ITS MUNICIPAL BOUNDARIES AND AGREES TO ABIDE BY THE

1 PROGRAM'S GOALS, GUIDELINES, ELIGIBILITY REQUIREMENTS AND REIMBURSEMENT
2 PROCEDURES AND PROVIDE INFORMATION TO PROPERTY OWNERS REGARDING PROGRAM
3 PARAMETERS INCLUDING ELIGIBILITY CRITERIA.

4 (D) "SEPTIC SYSTEM" MEANS A SYSTEM THAT PROVIDES FOR THE TREATMENT
5 AND/OR DISPOSITION OF THE COMBINATION OF HUMAN AND SANITARY WASTE WITH
6 WATER NOT EXCEEDING ONE THOUSAND GALLONS PER DAY, SERVING A SINGLE
7 PARCEL OF LAND, INCLUDING RESIDENCES AND SMALL BUSINESSES.

8 (E) "SEPTIC SYSTEM PROJECT" MEANS THE REPLACEMENT OF A CESSPOOL WITH A
9 SEPTIC SYSTEM, THE INSTALLATION, REPLACEMENT OR UPGRADE OF A SEPTIC
10 SYSTEM OR SEPTIC SYSTEM COMPONENTS, OR INSTALLATION OF ENHANCED TREAT-
11 MENT TECHNOLOGIES, INCLUDING AN ADVANCED NITROGEN REMOVAL SYSTEM, TO
12 SIGNIFICANTLY AND QUANTIFIABLY REDUCE ENVIRONMENTAL AND/OR PUBLIC HEALTH
13 IMPACTS ASSOCIATED WITH EFFLUENT FROM A CESSPOOL OR SEPTIC SYSTEM TO
14 GROUNDWATER USED AS DRINKING WATER, OR A THREATENED OR AN IMPAIRED
15 WATERBODY.

16 (F) "SMALL BUSINESS" MEANS ANY BUSINESS WHICH IS RESIDENT IN THIS
17 STATE, INDEPENDENTLY OWNED AND OPERATED, NOT DOMINANT IN ITS FIELD, AND
18 EMPLOYING NOT MORE THAN ONE HUNDRED INDIVIDUALS.

19 2. (A) THERE IS HEREBY CREATED THE STATE SEPTIC SYSTEM REPLACEMENT
20 FUND, WHICH SHALL BE ADMINISTERED BY THE CORPORATION TO REIMBURSE PROP-
21 erty owners for up to fifty percent of the eligible costs incurred for
22 eligible septic system projects, provided that no property owner shall
23 be reimbursed more than ten thousand dollars.

24 (B) ELIGIBLE COSTS INCLUDE DESIGN AND INSTALLATION COSTS, AND COSTS OF
25 THE SYSTEM, SYSTEM COMPONENTS, OR ENHANCED TREATMENT TECHNOLOGIES, BUT
26 SHALL NOT INCLUDE COSTS ASSOCIATED WITH ROUTINE MAINTENANCE SUCH AS A
27 PUMP OUT OF A SEPTIC TANK.

28 (C) THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, IN CONSULTATION WITH
29 THE DEPARTMENT OF HEALTH AND PARTICIPATING COUNTIES, SHALL FROM THE LIST
30 OF PARTICIPATING COUNTIES ESTABLISH PRIORITY GEOGRAPHIC AREAS AND, IN
31 THE ABSENCE OF COUNTY INFORMATION, IDENTIFY ELIGIBLE SEPTIC SYSTEM
32 PROJECTS, BASED ON AN AREA'S VULNERABILITY TO CONTAMINATION, INCLUDING
33 THE PRESENCE OF A SOLE SOURCE AQUIFER, OR KNOWN WATER QUALITY IMPAIR-
34 MENT, POPULATION DENSITY, SOILS, HYDROGEOLOGY, CLIMATE, AND REASONABLE
35 ABILITY FOR SEPTIC SYSTEM PROJECTS TO MITIGATE WATER QUALITY IMPACTS.
36 THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION MAY DELEGATE TO A PARTIC-
37 IPATING COUNTY THE IDENTIFICATION OF PRIORITY GEOGRAPHIC AREAS. THE
38 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, IN CONSULTATION WITH PARTIC-
39 IPATING COUNTIES IN WHICH PRIORITY AREAS HAVE BEEN IDENTIFIED, SHALL
40 DETERMINE THE AMOUNT OF MONEY FROM THE FUND TO BE PROVIDED TO EACH
41 PARTICIPATING COUNTY BASED ON DENSITY, DEMAND FOR REIMBURSEMENT FROM THE
42 FUND AND THE CRITERIA USED TO ESTABLISH THE PRIORITY GEOGRAPHIC AREAS.
43 THE CORPORATION SHALL PUBLISH INFORMATION, APPLICATION FORMS, PROCEDURES
44 AND GUIDELINES RELATING TO THE PROGRAM ON ITS WEBSITE AND IN A MANNER
45 THAT IS ACCESSIBLE TO THE PUBLIC.

46 (D) THE CORPORATION SHALL PROVIDE STATE FINANCIAL ASSISTANCE PAYMENTS
47 FROM THE FUND, FROM MONEYS APPROPRIATED BY THE LEGISLATURE AND AVAILABLE
48 FOR THAT PURPOSE, TO PARTICIPATING COUNTIES TO ADMINISTER A SEPTIC
49 SYSTEM REPLACEMENT PROGRAM TO SUPPORT SEPTIC SYSTEM PROJECTS WITHIN
50 THEIR MUNICIPAL BOUNDARIES UNDERTAKEN BY PROPERTY OWNERS WITHIN THEIR
51 MUNICIPAL BOUNDARIES. WHERE SUCH PROJECT IS LOCATED IN A PRIORITY
52 GEOGRAPHIC AREA IDENTIFIED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVA-
53 TION AS THREATENED OR IMPAIRED BY NITROGEN, INCLUDING GROUNDWATER USED
54 AS DRINKING WATER, SUCH SEPTIC SYSTEM PROJECT MUST REDUCE NITROGEN
55 LEVELS BY AT LEAST THIRTY PERCENT.

1 (E) THE CORPORATION SHALL MAKE PAYMENTS MONTHLY TO A PARTICIPATING
2 COUNTY UPON THE RECEIPT BY THE CORPORATION OF A CERTIFICATION FROM THE
3 PARTICIPATING COUNTY OF THE TOTAL COSTS INCURRED BY PROPERTY OWNERS
4 WITHIN ITS MUNICIPAL BOUNDARIES FOR SEPTIC SYSTEM PROJECTS WITHIN ITS
5 MUNICIPAL BOUNDARIES THAT ARE ELIGIBLE FOR REIMBURSEMENT FROM THE FUND.

6 3. (A) A PARTICIPATING COUNTY SHALL NOTIFY PROPERTY OWNERS WHO MAY BE
7 ELIGIBLE TO PARTICIPATE IN THE PROGRAM. DETERMINATIONS OF ELIGIBILITY
8 WILL BE MADE BY THE PARTICIPATING COUNTY BASED ON THE PUBLISHED PROGRAM
9 CRITERIA AND CONSIDERATION OF A PROPERTY'S LOCATION IN RELATION TO A
10 WATERBODY, IMPACTS TO GROUNDWATER USED AS DRINKING WATER, AND THE CONDI-
11 TION OF THE PROPERTY OWNER'S CURRENT SEPTIC SYSTEM AS DETERMINED BY:

12 (I) THE COUNTY HEALTH DEPARTMENT OFFICIAL; OR

13 (II) OTHER DESIGNATED AUTHORITY HAVING JURISDICTION, PURSUANT TO
14 SEPTIC INSPECTIONS REQUIRED BY A MUNICIPAL SEPARATE STORM SEWER SYSTEM
15 PERMIT; OR

16 (III) A SEPTIC CONTRACTOR PURSUANT TO THE APPLICABLE COUNTY SANITARY
17 CODE.

18 (B) AN OWNER OF PROPERTY SERVED BY A SEPTIC SYSTEM OR CESSPOOL MAY
19 APPLY TO A PARTICIPATING COUNTY ON AN APPLICATION SUBSTANTIALLY IN THE
20 FORM PROVIDED BY THE CORPORATION.

21 (C) PROPERTY OWNERS IN PARTICIPATING COUNTIES MUST HAVE SIGNED A PROP-
22 erty owner participation agreement with the county before the start of
23 the design phase to be eligible for reimbursement from the fund. The
24 agreement must be substantially in the form provided by the corporation
25 and include, without limitation, the program's goals, guidelines, eligi-
26 bility requirements and reimbursement procedures.

27 (D) A PROPERTY OWNER MAY APPLY FOR REIMBURSEMENT OF ELIGIBLE COSTS BY
28 SUBMITTING TO THE PARTICIPATING COUNTY A REIMBURSEMENT APPLICATION,
29 WHICH MUST INCLUDE AT LEAST:

30 (I) A SIGNED PROPERTY OWNER PARTICIPATION AGREEMENT;

31 (II) A COMPLETED REIMBURSEMENT APPLICATION FORM SUBSTANTIALLY IN THE
32 FORM PROVIDED BY THE CORPORATION;

33 (III) ANY APPLICABLE DESIGN APPROVAL FOR THE SEPTIC SYSTEM PROJECT;

34 (IV) DESCRIPTION OF ALL WORK COMPLETED; AND

35 (V) COST DOCUMENTATION AND INVOICE OR INVOICES FOR ELIGIBLE COSTS.

36 (E) PARTICIPATING COUNTIES WILL BE RESPONSIBLE FOR REVIEWING THEIR
37 PROPERTY OWNERS' APPLICATIONS AND APPROVING, MODIFYING OR DENYING THE
38 REIMBURSEMENT REQUESTS AS APPROPRIATE AND ISSUING REIMBURSEMENT PAYMENTS
39 TO PROPERTY OWNERS FROM FINANCIAL ASSISTANCE PAYMENTS MADE TO THE COUNTY
40 FROM THE FUND.

41 (F) PARTICIPATION IN THIS PROGRAM AND THE RECEIPT OF PAYMENTS SHALL
42 NOT PREVENT PARTICIPATING COUNTIES FROM PROVIDING ADDITIONAL REIMBURSE-
43 MENT TO PROPERTY OWNERS.

44 (G) SUBJECT TO THE LIMITATIONS OF PARAGRAPH (D) OF THIS SUBDIVISION,
45 THE COUNTY MAY SET GRADUATED INCENTIVE REIMBURSEMENT RATES FOR SEPTIC
46 SYSTEM PROJECTS TO MAXIMIZE POLLUTION REDUCTION OUTCOMES.

47 4. ON OR BEFORE MARCH FIRST, TWO THOUSAND NINETEEN, AND ANNUALLY THERE-
48 EAFTER, THE CORPORATION SHALL SUBMIT TO THE GOVERNOR, THE TEMPORARY
49 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY A REPORT REGARD-
50 ING THE PROGRAM. SUCH REPORT SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO,
51 THE NUMBER AND AMOUNT OF GRANTS PROVIDED, THE NUMBER AND AMOUNT OF ANY
52 GRANTS DENIED, GEOGRAPHIC DISTRIBUTION OF SUCH PROJECTS AND ANY OTHER
53 INFORMATION THE CORPORATION DETERMINES USEFUL IN EVALUATING THE BENEFITS
54 OF THE PROGRAM.

1 S 10. Subdivision 4 of section 11-b of the soil and water conservation
2 districts law, as amended by chapter 538 of the laws of 1996, is amended
3 to read as follows:

4 4. Eligible costs that may be funded pursuant to this section are
5 architectural and engineering services, plans and specifications,
6 including watershed based or individual agricultural nonpoint source
7 pollution assessments, consultant and legal services, CONSERVATION EASE-
8 MENTS AND ASSOCIATED TRANSACTION COSTS SPECIFIC TO TITLE THIRTY-THREE OF
9 ARTICLE FIFTEEN OF THE ENVIRONMENTAL CONSERVATION LAW and other direct
10 expenses related to project implementation.

11 S 11. Report on integrated database of infrastructure projects. The
12 environmental facilities corporation shall, in cooperation with the
13 departments of health and environmental conservation, study and prepare
14 a report to the legislature by January 30, 2018, on the feasibility of
15 establishing, an integrated database or platform incorporating past,
16 present, and ongoing infrastructure projects that have been applied for,
17 as well as those which have been funded through grant and loan programs
18 administered by the department of environmental conservation, the
19 department of health, and the environmental facilities corporation
20 relating to water quality infrastructure for the purpose of informing
21 ongoing and future policy and funding initiatives.

22 S 12. Subdivision 1 of section 3-0315 of the environmental conserva-
23 tion law, as added by section 1 of part C of chapter 1 of the laws of
24 2003, is amended to read as follows:

25 1. The department IN CONJUNCTION WITH THE COMMISSIONER OF HEALTH shall
26 create [or modify an existing] AND MAINTAIN A geographic information
27 system, [and maintain such system] AND ASSOCIATED DATA STORAGE AND
28 ANALYTICAL SYSTEMS for purposes OF COLLECTING, STREAMLINING, AND VISUAL-
29 IZING INTEGRATED DATA, PERMITS, AND RELEVANT SITES ABOUT DRINKING WATER
30 QUALITY including, but not limited to, incorporating [information from
31 remedial programs under its jurisdiction, and] SUPPLY WELL AND MONITOR-
32 ING WELL DATA, EMERGING CONTAMINANT DATA, WATER QUALITY MONITORING DATA,
33 PERTINENT DATA FROM REMEDIATION AND LANDFILL SITES, PERMITTED DISCHARGE
34 LOCATIONS AND OTHER POTENTIAL CONTAMINATION RISKS TO WATER SUPPLIES.
35 SUCH SYSTEM shall also incorporate information from the source water
36 assessment program collected by the department of health, data from
37 annual water supply statements prepared pursuant to section eleven
38 hundred fifty-one of the public health law, information from the data-
39 base pursuant to title fourteen of article twenty-seven of this chapter,
40 and any other existing data regarding soil and groundwater contamination
41 currently gathered by the department, as well as data on contamination
42 that is readily available from the United States geological survey and
43 other sources determined appropriate by the department. IN ADDITION TO
44 FACILITATING INTERAGENCY COORDINATION AND PREDICTIVE ANALYSIS TO PROTECT
45 WATER QUALITY, SUCH SYSTEM SHALL PROVIDE STATE AGENCY INFORMATION TO THE
46 PUBLIC THROUGH A WEBSITE, WITHIN REASONABLE LIMITATIONS TO ENSURE CONFID-
47 ENTIALITY AND SECURITY.

48 S 13. If any clause, sentence, paragraph, section or part of this act
49 shall be adjudged by any court of competent jurisdiction to be invalid,
50 such judgment shall not affect, impair or invalidate the remainder there-
51 of, but shall be confined in its operation to the clause, sentence,
52 paragraph, section or part thereof directly involved in the controversy
53 in which such judgment shall have been rendered.

54 S 14. This act shall take effect immediately; provided, however, that
55 emergency financial assistance will not be available under section
56 1285-t of the public authorities law established pursuant to section

1 eight of this act until one hundred twenty days after this act shall
2 take effect; and provided further that the provisions of section nine of
3 this act shall take effect on the one hundred eightieth day after it
4 shall become a law.

5 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
6 sion, section or part of this act shall be adjudged by any court of
7 competent jurisdiction to be invalid, such judgment shall not affect,
8 impair, or invalidate the remainder thereof, but shall be confined in
9 its operation to the clause, sentence, paragraph, subdivision, section
10 or part thereof directly involved in the controversy in which such judg-
11 ment shall have been rendered. It is hereby declared to be the intent of
12 the legislature that this act would have been enacted even if such
13 invalid provisions had not been included herein.

14 S 3. This act shall take effect immediately provided, however, that
15 the applicable effective date of Parts A through T of this act shall be
16 as specifically set forth in the last section of such Parts.