

STATE OF NEW YORK

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[2021-2022] Regular Sessions

IN ASSEMBLY

Introduced by []

AN ACT to amend the agriculture and markets law, the environmental conservation law, the soil and water conservation districts law [and the state finance law], in relation to soil, watershed and ecosystem health and climate resiliency

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

§ 1. This act shall be known and may be cited as the “[equity and cooperation for New York farmers, soil health and watershed health act]”.

§ 2. Section 2 of the soil and water conservation districts law is amended to read as follows:

§ 2. Declaration of policy. (1) Preservation of soil and water resources. It is hereby declared to be the policy of the legislature to provide for soil health, and for the conservation, restoration and regeneration of the soil and water resources of this state, and for the improvement of water quality, and for the control and prevention of soil erosion and for the prevention of floodwater and sediment damages and for furthering the conservation, development, utilization and disposal of water in each of this state’s several watersheds, and thereby to preserve natural resources, control and abate nonpoint sources of water pollution, assist in the control of floods, assist in the drainage and irrigation of agricultural lands, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife and biodiversity, protect the tax base, protect public lands, and protect and promote the health, safety and general welfare of the people of this state.

(2) Promotion of soil and watershed health and resiliency. It is further declared the policy of the legislature to promote the health and resiliency of New York's agricultural soils, soils on lands owned or controlled by this state

or any of its agencies, and soils on any other lands within the district, including the biological, physical, and chemical components of such soils, to sustain agricultural plants, ~~and~~ animals and biodiversity, produce a healthy, affordable food supply, promote climate resilient farming and the reduction of agricultural greenhouse gas emissions, promote the conservation and restoration of watershed health, and further protect and promote natural resources and the health, safety and welfare of the people of this state.

(3) Utilizing resources to enhance the quality of life. It is further declared the policy of the legislature to encourage the use of agricultural land for recreational uses which are consistent with the primary use of such land while, at the same time, promoting additional tourism and employment opportunities and income for [~~landowners~~] land stewards in rural areas and enhancing the quality of life of persons not otherwise able to obtain access to agricultural land for recreational uses.

§ 3. Subdivision 8 of section 3 of the soil and water conservation districts law is amended to read as follows:

(8) "County board" means the county board of supervisors, the county legislature, or the county legislative body of any county, by whatsoever name designated.

§ 4. Subdivision 9 of section 3 of the soil and water conservation districts law is amended to read as follows:

(9) "Land occupier," [~~or~~] "occupier of land," "land steward" or "steward of land" includes any person, firm, corporation, or governmental unit who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this chapter, whether as owner, lessee, renter, tenant or otherwise.

§ 5. Subdivision 16 of section 3 of the soil and water conservation districts law is amended to read as follows:

(16) "Best management practices" means a practice or combination of practices, including soil health practices, determined to be the most effective, economically feasible and practicable means of advancing the goals of preventing or reducing pollution generated by nonpoint sources, air pollution including greenhouse gasses, and other adverse environmental impacts of farm operations; of conserving, restoring and regenerating soil health and watershed health for flood attenuation, drought mitigation, water quality protection and their other benefits; and of adapting to and mitigating climate change.

§ 6. Section 3 of the soil and water conservation districts law is amended by adding new subdivisions 19 through 25 to read as follows:

(19) "Soil health" shall have the meaning given to it in subdivision 1 of section 151-1 of the agriculture and markets law.

(20) "Soil health practices" shall have the meaning given to it in subdivision 2 of section 151-1 of the agriculture and markets law.

(21) "Watershed" shall mean an area of land that drains water into a specific body of water. Watersheds include networks of rivers, streams, and lakes and the land area surrounding them. As used in this chapter, New York's watersheds shall mean any or all of (i) the major watersheds, or drainage basins, recognized by the department of environmental conservation, (ii) any watershed comprising all or parts of more than one such major watershed; for example, the Great Lakes watershed, and (iii) any smaller watershed or sub-watershed within one or more than one of such major watersheds.

(22) "Watershed health" shall have the meaning given to it in subdivision 5 of section 151-1 of the agriculture and markets law.

(23) "Watershed [coalition]" shall mean any coalition, collaboration, alliance, partnership, organization or group that includes soil and water conservation districts, counties, municipalities, indigenous nations or tribes, or a combination thereof, established for the purpose of coordination by or with such entities to conserve, restore, regenerate or otherwise optimize the watershed health of the watershed or watersheds within which such entities are located. Watershed [coalitions] may also include farmers, foresters, educational institutions, local offices of Cornell Cooperative Extension, conservationists, activists, residents and other stakeholders. Watershed [coalitions] may be established pursuant to section 10 of the soil and water conservation districts law, section 119-o of the general municipal law, section 220-a of the county law, sections 299-m and 299-n of the county law, or any other relevant law of the state of New York, including any enabling legislation specific to such watershed [coalition].

(24) "Disadvantaged communities" shall have the meaning given to it in subdivision 5 of section 75-0101 of the environmental conservation law.

(25) "Underserved farmer, rancher or forester" shall have the meaning given to it in subdivision 12 of section 151-1 of the agriculture and markets law.

§ 7. Section 4 of the soil and water conservation districts law is amended to read as follows:

§ 4. State soil and water conservation committee. (1) There is established in the department of agriculture and markets, the state soil and water conservation committee as an agency of this state which committee shall exercise the functions conferred upon it in this chapter. The administrative functions of such department under the agriculture and markets law shall not operate or be applied in derogation of the powers of the committee, or of the free exercise thereof, as conferred by this chapter.

(a) The following shall serve as lay members of the committee: [~~five~~ seven interested and qualified citizens to be appointed by the governor, with the advice and consent of the commissioner,

(i) one of whom shall be appointed from a list of nominees submitted by the [~~state-grange~~ Northeast Organic Farming Association of New York,

(ii) one of whom shall be appointed from a list of nominees submitted by the state farm bureau federation,

(iii) one of whom shall be appointed from a list of nominees submitted by the New York Soil Conservation Districts Association, Inc.,

(iv) one of whom shall be appointed from a combined list of nominees submitted by the state college of agriculture and life sciences at Cornell University, the college of environmental science and forestry of the state university of New York and the commission on independent colleges and universities, with the nominees for such fourth member position all having research and implementation experience in soil health practices, and

(v) three of whom shall be appointed at large, one of whom~~[who]~~ shall represent the underserved farm, ranch or forestry interest, and one of whom ~~[and a fifth member appointed at large who]~~ shall represent the~~[urban, suburban and rural non-farm landowner]~~ disadvantaged communities interest; with nominations submitted to the commissioner by any interested party.

(vi) The commissioner shall ensure that the committee includes at least one lay member who actively manages a farm that comprises less than fifty acres. The commissioner shall also ensure that expertise in each of the following areas is represented across the lay members of the committee, and that each lay member of the committee has expertise in at least one of the following areas: soil health, watershed health, climate science, private land conservation, natural resource inventory, agricultural viability, agricultural research, environmental and climate justice, urban land management, food justice and food security. [†]

(b) The following shall also serve as members of the committee: the director of the state agricultural extension service, or his or her designated representative who has expertise in soil health practices; the dean of the state college of agriculture and life sciences, or his or her designated representative who has expertise in soil health practices; the president of the college of environmental science and forestry of the state university of New York, or his or her designated representative who has expertise in soil health practices; the commissioner of environmental conservation, or his or her designated representative who has expertise in soil health practices; the commissioner of agriculture and markets, or his or her designated representative; the commissioner of health, or his or her designated representative; the secretary of state, or his or her representative; a representative of the New York State Conservation District Employees' Association; and the state conservationist of the soil conservation service of the United States department of agriculture, or his designated representative.

(c) The ~~[five]~~seven lay members shall be the voting members. The balance of the committee will serve in an advisory or consulting capacity. The committee shall keep a record of its official actions, and may perform such acts, and promulgate such rules and regulations as may be necessary for the execution of its functions under this chapter. ~~[After April twenty-third, nineteen hundred sixty-four, the first appointment of the member chosen from a list submitted by the New York soil and water conservation districts association shall be made of~~

~~a successor to the member representing the state grange whose term first expires, and the first appointment of the member representing non-farm interests shall be made of a successor to the member representing the New York farm bureau whose term first expires.]~~

(2) The committee may call upon the attorney-general of the state for such legal services as it may require. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees such powers and duties as it may deem proper. Upon request of the committee for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys or studies as the committee may request.

(3) The committee shall designate its chairman and may from time to time change such designation. The lay members shall be appointed for a period of five years~~[7]~~; provided that any new members appointed after [July 1, 2023] [except that the first five appointed] shall be designated to serve terms of one, two, three, four ~~[and]or~~ five years ~~[respectively]~~ at the determination of the governor in order to stagger end dates of terms of office, the terms of office to correspond to the state's fiscal year. Committee members shall hold office until their successors have been appointed and have qualified. The selection of successors to fill a vacancy shall be made in the same manner in which the retiring committee members shall have been selected. A majority of the committee shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. The members shall not receive a salary or other compensation, but shall be entitled to their actual and necessary expenses, including traveling expenses incurred in the discharge of their duties. The committee shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

(4) In addition to the duties and powers hereinafter conferred upon the state soil and water conservation committee, it shall have the following duties and powers:

a. To adopt such policies in the carrying out of district programs as it deems appropriate;

b. To keep the directors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them, including within the framework of watershed [coalitions];

c. To approve and coordinate the programs of the several soil and water conservation districts organized hereunder;

d. To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such districts;

e. To disseminate information throughout the state concerning the activities and programs of the soil and water conservation districts organized

hereunder, and to encourage the formation of such districts in areas where their organization is desirable;

f. To accept contributions from any source to carry on work under the provisions of this chapter;

g. To develop and maintain principles and standards for, and procedures for participating in, the agricultural environmental management (AEM) program in partnership with the department of environmental conservation, as set forth in article eleven-A of the agriculture and markets law;

h. To develop evaluation criteria, collect, maintain and analyze information to assess the AEM program for effectiveness in meeting state and federal environmental and public health goals;

i. To coordinate and approve the participation of the several districts in the AEM program as set forth in article eleven-A of the agriculture and markets law;

j. To coordinate and approve the participation of the several districts in support of soil health, watershed health and climate resilient farming as set forth in article eleven-B of the agriculture and markets law[-];

k. To coordinate and approve the participation of the several districts with state agencies, councils, committees and other entities in implementing programs and regulations promulgated under the New York state climate leadership and community protection act and the most current scoping plan adopted thereunder in support of the Climate Action Council's findings that well-managed and healthy soils contribute to water quality protection and the mitigation of GHG emissions, among other benefits.

§ 8. Subsection 1 of section 6 of the soil and water conservation districts law is amended to read as follows:

§ 6. Designation of district directors. 1. (a) When a county has been declared a soil and water conservation district a board of directors consisting of five members shall be ~~[appointed by the county board]~~ designated as provided in this section. This board of directors shall consist of two members of the county board and three persons not members of the county board ~~[of supervisors]~~, two of whom shall be active practical farmers or foresters. ~~[One of these farmers]~~ The three persons not members of the county board shall be appointed by the the county board from a combined list of nominees submitted by any or all of ~~[the county grange, one of these farmers shall be appointed from a list submitted by]~~ the county farm bureau, the New York Soil Conservation Districts Association, Inc., the local chapter of the National Young Farmers Coalition, the local office of Cornell Cooperative Extension, the state college of agriculture and life sciences at Cornell University, the college of environmental science and forestry of the state university of New York, the commission on independent colleges and universities, and any watershed ~~[coalition]~~ or other organization focused on conservation, biodiversity or habitat preservation active in the county. Should ~~[the appointed farm bureau representative]~~ an appointed practical farmer or forester not be a resident of the county, ~~[the farm bureau representative]~~ they must be a steward of ~~[own or rent]~~ land in the county in which they serve. ~~[The fifth member shall be appointed from the county at large and shall represent the urban, suburban and~~

~~rural non-farm landownership interest.~~ The county board shall ensure that expertise in each of the following areas is represented on the board of directors, and that each director has expertise in at least one of the following areas: soil health, watershed health, conventional agriculture, organic agriculture, climate science, private land conservation, natural resource inventory, agricultural viability, agricultural research, environmental and climate justice, urban land management, food justice and food security.

(b) ~~[In counties where one or both of the above named farm groups lack formal county organization, the county board shall appoint from the county at large in place of from a list of nominees from such lacking farm organization or organizations.]~~ ~~(e)~~ At the option of the county [legislative body] board, the board of directors of the soil and water conservation district may be expanded to seven members. Of the two additional board members, they shall be residents of or stewards of land in the county appointed in the same manner as the board members appointed in accordance with subsection 1(a) of this section, and at least one shall be ~~[a]~~ an active practical farmer or forester.

(c) At the option of the county board [or by popular petition], the county board may, in accordance with the state constitution, the county law, the municipal home rule law and other applicable state and local law, create the office of soil and water conservation district director for the county with one or two elected positions to replace one or both of the members of the board of directors who are members of the county board. In such case, all registered voters in a county shall be qualified electors and eligible to vote in district board of directors elections. The tenure and compensation of any such elected directors shall be set by the county board in accordance with the state and local law; provided, that such tenure shall not exceed three years.

(d) The board of directors of each district shall complete annual training and education programs as required by the committee in the areas of soil health, watershed health, climate science, private land conservation, natural resource inventory, agricultural viability, agricultural research, environmental and climate justice, urban land management, food justice and food security. Such training and education programs shall be funded by [the environmental protection fund] and may be provided by the committee or by a third party approved by the committee.

§ 9. Section 10 of the soil and water conservation districts law is amended to read as follows:

§ 10. Cooperation between districts. The directors of any two or more districts organized under the provisions of this chapter may cooperate with one another in the exercise of any or all powers conferred in this Chapter, including, but not limited to, within the framework of a watershed [coalition]. The commissioner and the soil and water conservation committee shall encourage districts located within shared watersheds to cooperate with one another and with other watershed stakeholders pursuant to this provision and as members of watershed [coalitions].

§ 10. Section 3 of the county law is amended to read as follows:

§ 3. When used in this chapter: 1. ~~Definition of a county.~~ A "county" is a municipal corporation comprising the inhabitants within its boundaries and formed for the purpose of exercising such powers and discharging such duties of local government and administration of public affairs as may be imposed or conferred upon it by law.

2. "Watershed" shall have the meaning given to it in subdivision 21 of section 3 of the soil and water conservation districts law.

3. "Watershed [coalition]" shall have the meaning given to it in subdivision 23 of section 3 of the soil and water conservation districts law.

4. "Watershed health" shall have the meaning given to it in subdivision 5 of section 151-1 of the agriculture and markets law.

§ 11. Section 220-A of the county law is amended to read as follows:

§ 220-a. Water quality management agency. The board of supervisors or county legislature, shall have the power to designate a water quality management agency for the purposes of water quality management program oversight. Such agency may, in the discretion of the board of supervisors or county legislature, be an existing county official, a county agency, a group of agencies or officials or other county entity, a watershed [coalition], or may be a newly created agency or watershed [coalition]. Such a water quality management agency shall be responsible for providing oversight of all water quality programs and related activities in the county. This includes a continuing assessment of the impact of point and nonpoint sources of pollution on the waters of the county, and the appropriateness of the monitoring and administrative activities related thereto. The water quality management agency shall have the responsibility to review and coordinate all activities of county officers, agencies, departments, ~~or~~ other entities of county government and local watershed [coalitions], which have a substantial impact on or interest in water quality management. The agency shall prepare an annual report, which shall be submitted to the county executive, the board of supervisors or county legislature, the New York state department of environmental conservation, and where appropriate to a regional planning agency. This report shall identify needs of the county and document progress in improving water quality management performance.

This report shall include but not be limited to the following:

1. recommended changes in surface and groundwater classification.
2. status and results of water quality monitoring activities.
3. status of facilities construction.
4. onsite sewage facilities programs.
5. hazardous and toxic materials disposal.

6. status of point sources control and operation.
7. nonpoint source management, including soil health and watershed health assessments.
8. economic and demographic changes and the impact of current water quality condition and of any proposed water quality management projects or programming on disadvantaged communities.
9. an assessment of water quality condition in the county.
10. quantification of needs to improve water quality management.
11. findings and recommendations for future programming.

§ 12. Section 299-L of the county law is amended to read as follows:

§ 299-l. Declaration of policy and purposes. Whereas erosion, flood water and sediment damage in the watersheds of the rivers and streams of the state cause loss of life and damage to property and constitute a menace to the health, safety and welfare of the people of this state, it is the sense of the legislature that the state should cooperate with the federal government and its agencies and with the several counties of the state for the purpose of preventing such damage, of promoting the conservation, restoration and regeneration of watershed health in the state's watersheds and of furthering the conservation, development, utilization and disposal of water and thereby preserving and protecting the state's land and water resources, in the manner hereinafter described.

§ 13. Section 299-M of the county law is amended to read as follows:

§ 299-m. County small watershed protection districts. The board of supervisors of each county may establish or extend, or may enter into agreements with other counties, soil and water conservation districts, municipalities or indigenous nations within the framework of a watershed [coalition], to establish or extend, county small watershed protection districts in the manner hereinafter provided, for the purpose of undertaking, constructing and maintaining projects and works of improvement for flood prevention, land treatment, conservation, restoration and regeneration of watershed health, and for the conservation, development, disposal and utilization of water including but not limited to use for irrigation in watershed and sub-watershed areas as provided for in the federal act approved August four, nineteen hundred fifty-four, and known as public law five hundred sixty-six, and as the "Watershed Protection and Flood Prevention Act", and all acts amendatory thereof and supplemental thereto, and which projects and works of improvement have been or may be approved by the federal government and for which federal financial and other forms of assistance shall be made available.

§ 14. Subsection 1 of section 299-N of the county law is amended to read as follows:

1. Designation of an agency. The board of supervisors may appoint or designate a county small watershed agency (hereinafter referred to as the agency), in similar manner as provided in section two hundred fifty-one of this chapter in the case of county water districts, as now in effect or as hereafter amended. However, in any county where the board of supervisors has established or shall establish a soil conservation district pursuant to the soil conservation districts law, the soil conservation district shall serve as such agency. The board of supervisors or the soil conservation district, as applicable, may delegate the role of agency to a watershed [coalition] pursuant to agreement satisfying local and state law. The agency shall undertake studies and assemble data relating to the need for a small watershed project (hereinafter referred to as the "project"), pursuant to said "Watershed Protection and Flood Prevention Act" and the need for the establishment of a county small watershed protection district (hereinafter referred to as the "watershed district").

§ 15. Section 146-c of the agriculture and markets law is amended to read as follows:

§ 146-c. Reports and fees. Each licensee who distributes commercial fertilizers in this state shall furnish the commissioner with a written statement of the tonnage of each grade of commercial fertilizer, including fifty zero tonnage if applicable, sold by him or her in this state during the calendar year to persons not required to be licensed under this article. The tonnage of grades of which less than fifty tons were sold shall be reported, either individually or combined under the heading of miscellaneous sales. This report shall be submitted in the form and with such frequency as the commissioner shall require by regulation. The licensee shall pay to the commissioner a sum set by the state soil and water conservation committee equal to [~~ten cents~~] not less than one dollar for each ton or portion thereof of commercial fertilizer distributed in this state for agricultural use, and not less than thirty dollars for each ton or portion thereof of commercial fertilizer distributed in this state for non-agricultural use, to persons not required to be licensed under this article provided that such annual tonnage fee shall not be less than fifty dollars. This fee shall be remitted on or before February first and calculated based on the calendar year immediately preceding. Notwithstanding any other provision of law to the contrary, the commissioner is hereby authorized and directed to deposit all but [ten cents] for each ton of the money received from fees collected pursuant to this article into [the soil and watershed health fund established under subsection seven of section 151-m of article 11-B of the agriculture and markets law for the soil health initiative][the New York state environmental protection fund, provided that the director of the budget shall request that the comptroller deposit such funds into an account dedicated to climate change mitigation and adaptation in the agriculture and forestry sectors.]

No information furnished under this section shall be disclosed in such a way as to divulge the method or scope of the operation of any person.

The commissioner shall publish at least annually a summary of the tonnage reports submitted pursuant to this section.

The licensee shall make such other reports as the commissioner may require.

Failure to make such reports or to pay such fee shall be grounds for revocation of the license hereunder.

§ 16. Section 150 of the agriculture and markets law is amended to read as follows:

§ 150. Definitions. As used in this article: 1. "Agricultural environmental management (AEM) program" means the program established in this article to assist farmers in managing their farm operations in a way that protects the environment and helps maintain the economic viability of the farm.

2. "AEM" means agricultural environmental management.

3. "AEM plan" means a document prepared or approved by a certified AEM planner and accepted by a participating farmer which documents a course of action for the environmental management of a farm operation, including, but not limited to, measures to abate and control agricultural nonpoint source water pollution, air pollution and other adverse environmental impacts from farm operations while improving soil health and watershed health through the implementation of best management practices, in a way which maintains the viability of the farm operation. An AEM plan ~~may~~ shall also include measures to address greenhouse gas emissions, global warming and renewable energy related to farm operations.

4. "Best management practice" means a practice or combination of practices, including soil health practices, determined to be the most effective, economically feasible and practicable means of advancing the goals of preventing or reducing water pollution generated by nonpoint sources, air pollution including greenhouse gasses, and other adverse environmental impacts from farm operations; of conserving, restoring and regenerating soil health and watershed health for flood attenuation, drought mitigation, water quality protection and their other benefits; and of adapting to and mitigating climate change.

5. "Renewable energy systems" shall have the meaning given to it in subsection (b) of section 66-P of the public service law, as amended by the climate leadership and community protection act.

§ 17. Section 151 of the agriculture and markets law is amended to read as follows:

§ 151. Agricultural environmental management program. There is hereby established within the department an agricultural environmental management program to assist farmers in maintaining the economic viability of their farm operations while addressing environmental impacts from those operations, including, but not limited to, soil, air and water pollution and greenhouse gas emissions while improving soil health and watershed health. The program may also include assistance to farmers for the development or installation of agriculturally-derived renewable energy sources systems in a manner that sustains, restores or regenerates soil health. The program may consist of planner certification to qualify persons to prepare AEM plans; technical assistance to farmers participating in the program; financial assistance, within funds available, to soil and water conservation districts and farmers to prepare and implement plans; other incentives for program participation; and evaluation of program procedures and projects to assess effectiveness. The awarding of any assistance or incentives under the program, including the providing of assistance to soil and water conservation districts and farmers to prepare and implement plans and to document farm compliance with program principles, standards and procedures, shall prioritize underserved farmers, ranchers and foresters.

§ 18. Section 151-b of the agriculture and markets law is amended to read as follows:

§ 151-b. Education and training. The commissioner is authorized, within funds available, to provide education and training to prospective and certified planners in agriculturally related soil health, watershed health, water quality and environmental issues; and training to participants in the program. The department may contract with Cornell cooperative extension, the United States department of agriculture natural resources conservation service or other parties to provide such education and training. Educational and training materials may include a review of environmental, legal and technical standards affecting agricultural operations; environmental concerns associated with agricultural activities; and agricultural management principles affecting the environment, soil health and watershed health.

§ 19. Article 11-B of the agriculture and markets law is amended to read as follows:

§ 151-1. Definitions. As used in this ~~[article]~~ chapter: 1. "Soil health" means soils that have the continuing capacity to function as a vital, living ecosystem that sustains plants, animals, and humans. The benefits of healthy soil include, but are not limited to: supporting the production of food, feed, fiber, ~~[and]~~ fuel and forestry products; facilitating infiltration, storage and filtration of water and protecting water quality; providing enhanced nutrient-holding capacity and nutrient cycling; providing habitat for diverse soil organisms; enhanced resilience to drought, extreme precipitation events, temperature extremes, pests, diseases and other stresses; breaking down harmful chemicals; reducing agricultural impacts on, and mitigating the impact on agriculture of,

global climate change; and sequestering carbon and net long-term greenhouse gas benefits.

2. "Soil health practices" means agricultural and land management practices that improve [~~the function of soils~~]soil health through actions that follow the principles of: minimizing mechanical, chemical and biological soil disturbance [~~from soil preparation~~]; maximizing soil vegetation cover; maximizing the biodiversity of beneficial soil organisms and aboveground flora and fauna; maximizing presence of living roots; and integrating animals into land management, including grazing animals, birds, beneficial insects and other species beneficial to the soil, such as earthworms; and in support of such principles, include, but are not limited to, such practices as conservation tillage or no-till, cover-cropping, reduced and precision nitrogen and phosphorous application, planned rotational grazing, integrated crop-livestock systems, agroforestry, perennial crops, integrated pest management, nutrient best management practices, sustainable forest management, planting and maintaining vegetated riparian buffers, and those practices recommended by the United States Department of Agriculture Natural Resources Conservation Service and that are supported by the state soil and water conservation committee.

3. "Watershed" shall have the meaning given to it in subdivision 21 of section 3 of the soil and water conservation districts law.

4. "Watershed [coalition]" shall have the meaning given to it in subdivision 23 of section 3 of the soil and water conservation districts law.

5. "Watershed health" means the continued capacity of a surface and groundwater ecosystem to function as a vital living ecosystem that is resilient to drought and storm events and that sustains humans, plants, and animals; healthy watersheds provide public and private benefits including but not limited to improved water cycle, water quality, drinking water security, recreation and tourism, stormwater management, flood mitigation, habitat resilience, environmentally sound control of invasive species, and lower crop risk.

6. "Land occupier," "occupier of land," "land steward" or "steward of land" shall have the meaning given to it in subdivision 9 of section 3 of the soil and water conservation districts law.

7. "Ecosystem services" means the conditions, processes and functions through which natural and well-managed ecosystems sustain or otherwise benefit human life. Ecosystem services may be amplified and increased in value by proper human investment and management, including by use of soil health practices, promotion of watershed health and other conservation practices. In addition to the provision of food, fiber and fuel, ecosystem services include, but are not limited to, carbon sequestration in healthy soils and aboveground biomass, providing clean water downstream, increased drought and flooding resilience, improved public health and recreational benefits, economic stabilization and revitalization from reduced spending on externalities and facilitating pollination and biodiversity.

8. "PES" or "Payment for Ecosystem Services" means a framework that compensates farmers and other land stewards for implementing soil health practices, promoting watershed health and applying any other land management practices and systems that produce measurable ecosystem services including, but not limited to, reduced nutrient runoff into watersheds for improved water quality; flood, erosion and drought mitigation through increased soil water-holding capacity; climate resilience through carbon sequestration in healthy soils and aboveground biomass; safe habitat for pollinators and other native wildlife; improved recreational benefits; and economic stabilization and revitalization from reduced spending on externalities.

9. "Regenerative agriculture" means holistic agricultural land management systems using soil health practices.

10. "Invasive species" shall have the meaning given to it in subdivision 10 of section 9-1703 of the environmental conservation law.

11. "Disadvantaged communities" shall have the meaning given to it in subdivision 5 of section 75-0101 of the environmental conservation law.

12. "Underserved farmer, rancher or forester" means any farmer or rancher that is a beginning, socially disadvantaged or veteran farmer or rancher as defined by 7 U.S.C. §2279(a) or that is a historically underserved farmer or rancher as defined by the federal Farm Service Agency, Natural Resources Conservation Service or Risk Management Agency, including, but not limited to, women, American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander or Hispanic farmers and ranchers, and any forester that meets any of the above criteria, substituting forestry for farming and ranching.

§ 151-m. Soil health initiative. 1. The department, in cooperation with the state soil and water conservation committee, the several soil and water conservation districts and other partners working on soil health shall, in the implementation of their programs and policies, encourage, incentivize, educate and assist agricultural producers, foresters and non-agricultural land stewards in urban, suburban and rural communities to improve and maintain the health of [~~farm~~] soils by: managing and optimizing soil health and watershed health to mitigate and adapt to climate change[7] and improve water quality while improving long term soil productivity, efficiency, resiliency and profitability of farming, forestry and other public and private land use; ensuring that soil is conserved as a living ecosystem managed to provide nutrients for the growth of agricultural plants and animals and a healthy, affordable food supply; and addressing such environmental impacts from farm operations and other public and private land use, including, but not limited to absorbing and holding rainwater for use during dry periods, reducing the use of potential pollutants on and filtering and buffering potential pollutants from leaving fields, lawns, gardens, public and private forests, parks and other open or green spaces and

other public and private non-paved areas, improving climate resiliency, and providing habitat for beneficial soil microbes to flourish and diversify. Such improvement and maintenance shall account for the differences in soils in different regions of the state. The department shall coordinate the soil health initiative with the agricultural environmental management program established in article eleven-A of this chapter and section eleven of the soil and water conservation districts law, the integrated pest management program established in article eleven of this chapter, the agricultural and farmland protection programs established in article 25-AAA of this chapter, the farmland viability program established in article 25-AAAA of this chapter, any programs and regulations promulgated under the New York state climate leadership and community protection act and the most current scoping plan adopted thereunder and other relevant programs implemented by the several soil and water conservation districts.

2. The department, in cooperation with the state soil and water conservation committee, the several soil and water conservation districts, watershed [coalitions] and other partners working on soil health and watershed health, shall encourage, incentivize, educate and assist agricultural producers, foresters and non-agricultural land stewards in urban, suburban and rural communities with planning and implementing soil health practices and systems of soil health practices to promote goals that include, but shall not be limited to:

(a) improving, enhancing, or otherwise [~~maximizing~~]optimizing soil health and quality, building soil organic matter, and minimizing soil erosion and sedimentation;

(b) improving, enhancing, or otherwise [~~maximizing~~]optimizing watershed health, water infiltration rates and water holding capacities of soils for improved storm water management and flood control, drought resilience, and groundwater supply; [~~and~~]

(c) managing and enhancing the healthy cycling of nutrients within fields, to minimize nutrient runoff and reduce downstream nutrient loading, reduce nitrous oxide emissions, regenerate or improve watershed health and reliable water availability, restore and enhance wildlife habitat and biodiversity, and manage water runoff and drainage water for improved local and downstream water quality[~~-~~]; and

(d) reducing reliance on and total use of chemical pesticides, herbicides and fertilizers in combination with soil health practices and the above goals.]

3. The department, in the development of efforts to promote and encourage soil health and watershed health, shall conduct public virtually accessible stakeholder meetings and provide opportunity for written public comment and consult with stakeholders, as appropriate, including, but not limited to:

(a) the state soil and water conservation committee, the department of environmental conservation,

(b) agricultural producers and foresters including organic farmers and ranchers and [historically marginalized producers] underserved farmers, ranchers and foresters, via outreach through organizations with statewide membership such as the Farm Bureau, the Northeast Organic Farming Association of New York, the National Young Farmers Coalition, Cornell Cooperative Extension and public outreach,

(c) disadvantaged communities,

(d) food justice and food security organizations including community gardens, community supported agriculture programs, and farmers markets,

(e) indigenous nations, tribes and organizations,

(f) not-for-profit conservation organizations,

(g) watershed [coalitions],

(h) environmental protection organizations including environmental justice organizations,

(i) the United States Department of Agriculture's National Resources Conservation Services,

(j) the New York state college of agriculture and life sciences established in section fifty-seven hundred twelve of the education law including Cornell Cooperative Extension,

(k) other institutions of higher education in New York state working on soil health, and

(l) any other organization designated by the commissioner.

4. The department, in cooperation with the state soil and water conservation committee, the New York state college of agriculture and life sciences established in section fifty-seven hundred twelve of the education law, and with input from other organizations and institutions of higher education in New York state with expertise in soil health and regional stakeholders, shall establish appropriate voluntary standards and objectives for soil health and quality and watershed health, reflective of the different geographic regions and watersheds, soil types, ~~and~~ farming operations, and other land uses including, but not limited to, suburban and urban lawns, yards and gardens, public and private forests, parks and other open or green spaces, and non-paved outdoor areas of office complexes, mixed use facilities, businesses, industries, colleges and other entities. Such standards should include soil quality indicators for biological, physical, and chemical properties of soil and reflect the latest scientific advancements.

5. Subject to the availability of funding, the department, in cooperation with the state soil and water conservation committee and the several soil and water conservation districts, shall make grants, loans, direct payments and incentives to farmers, foresters, agricultural cooperatives and watershed [coalitions] to enhance the education, training, employment, income, productivity and retention of those working or aspiring to work in the field of soil health practices, and to implement soil health practices in the state and provide technical support in implementing these practices.

6. The department, in cooperation with the state soil and water conservation committee, shall establish a statewide network of champions to promote soil health stewardship and training, where a "champion" means a farmer

or other land steward that is declared a soil health champion due to the land steward's excellence in applying and promoting soil health practices and principles, as modeled by the soil health champions network program of the national association of conservation districts. These farmer and other land steward champions shall be recognized, trained and compensated as determined by the department, in cooperation with the state soil and water conservation committee, to provide expertise in soil health and soil health practices to other farmers as part of the soil health initiative.

[7. Establishment of fund. (a) There is hereby created and established in the department a fund to be known as the "soil and watershed health fund."

(b) There shall be paid into such soil and watershed health fund (i) any moneys appropriated and made available by the state for the purposes of such fund, (ii) all but ten cents for each ton of the money received from fees collected pursuant to section 146-c of the agriculture and markets law, (iii) the first [five million] dollars in fees collected pursuant to section 33-0304 of the environmental conservation law, (iv) notwithstanding the provisions of the state finance law or any other provision of law, any moneys which the committee shall receive in repayment of advances made from such fund, (v) any moneys from the United States government for the purpose of such fund, including but not limited to moneys from the United States Department of Agriculture, Federal Emergency Management Agency, and Environmental Protection Agency, and (vi) any other moneys which may be made available to the department for the purpose of such fund from any other source or sources.

(c) Amounts credited to the fund shall be used, without further appropriation, for the costs associated with administering and implementing the soil health initiative and may also be used to provide grants or loans on a competitive basis to public, private and charitable entities to finance projects in furtherance of the healthy soils initiative.

(d) The soil health initiative shall be designed to prioritize incentives to underserved farmers, ranchers and foresters and projects that positively impact disadvantaged communities. Up to five percent of funding, unless otherwise restricted, may be used for research in soil health and soil health measurement. Up to five percent of funding, unless otherwise restricted, may be used for administrative and overhead expenses of the several soil and water conservation districts implementing the soil health initiative. Expenditures from the fund for this purpose shall complement and not replace existing local, state, private or federal funding for related programs.

(e) All moneys paid into the soil health fund from repayments of loans authorized by subdivision 7(c) of this section shall continue to be made available for the purpose of providing loans pursuant to such subdivision.

(f) Any moneys held in such soil health fund not required for immediate disbursement may be invested, at the discretion of the committee, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States

government. Any income or interest earned by, or increment to, such soil health fund shall be added to the moneys held in such fund for the purposes herein provided.

8. The department, in conjunction with the state soil and water conservation committee, shall report annually to the governor, the legislature and participating agencies, and to the public on the department's publicly accessible website on the progress of the soil health initiative, including an assessment of program effectiveness in achieving program objectives, public and private program participation, and such other information as the department and the committee deem appropriate. The report shall include receipts, expenditures, and activities funded through the program. The report shall include information regarding the program and the results of activities, including demonstrated progress toward meeting the timetable for achieving specific goals for land area managed for soil health and watershed health, and measurable improvements to soil and watershed health which have been set by the committee.]

§ 151-n. Climate resilient farming initiative. 1. The department, in cooperation with the state soil and water conservation committee, and other partners working on climate resilient farming, shall encourage, incentivize, educate and assist agricultural producers in urban, suburban and rural communities in the planning and implementation of best management practices to reduce the effects of farming on climate change, such as greenhouse gas emissions, and adapt to and mitigate the impact of climate change by improving and maintaining water management systems, watershed health, [~~and~~]soil health and resiliency.

2. The department shall promote best management practices for climate mitigation and soil resiliency, including watershed-based best management practices for flood attenuation, drought mitigation, water quality protection and other benefits related to soil health and watershed health, as informed by state policy including the New York state climate leadership and community protection act and the most current scoping plan adopted thereunder, by the United States Department of Agriculture Natural Resources Conservation Service Field Office Technical Guide and by research conducted by New York state institutions of higher education with expertise in soil health, and approved by the New York state soil and water conservation committee.

3. The department shall coordinate the climate resilient farming initiative with the agricultural environmental management program established in article eleven-A of this chapter and section eleven of the soil and water conservation districts law, the integrated pest management program established in article eleven of this chapter, the agricultural and farmland protection programs established in article 25-AAA of this chapter, the farmland viability program established in article 25-AAAA of this chapter, programs and regulations promulgated under the New York state climate leadership and community protection act and the most current scoping plan adopted thereunder and other relevant programs implemented by the several soil and water conservation districts.

4. The department, in cooperation with the state soil and water conservation committee, shall design this climate resilient farming initiative

and the soil health initiative established in section 151-m of this article 11-B such that:

(a) the awarding of any assistance or incentives provided under the initiatives prioritizes underserved farmers, ranchers and foresters and projects that positively impact disadvantaged communities;

[(b) the awarding of any assistance or incentives provided under the initiatives prioritizes applicants who minimize or eliminate their use of chemical pesticides, herbicides and fertilizers; and

(c) no funding, assistance or incentives awarded under the initiatives shall support practices that include the use of pesticides classified by the department of environmental conservation as restricted use pursuant to section 33-0303 of the environmental conservation law.]

[4]5. The commissioner and the state soil and water conservation committee are each empowered to promulgate such rules and regulations and to prescribe such forms as each shall deem necessary to effectuate the purpose of this section and section 151-m of this article 11-B.

§ 151-o. Soil health research. The commissioner shall make available practical information from soil health research to agricultural producers, foresters and land stewards in urban, suburban and rural communities with goals to: continue accelerating the percentage of farmers, foresters and land stewards who actively utilize best management practices to foster soil health and watershed health and resiliency; and[~~r~~] to promote scientific understanding of soil health and carbon sequestration with various [~~farming practices, including but not limited to no-till, cover cropping, managed grazing, perennial pasture, and precise application of added nutrients to achieve nitrous oxide emissions reduction.~~] soil health practices.

§ 151-p. Payment for ecosystem services pilots. 1. In support of the Climate Action Council's recommendations under section AF16. "Establish a Payment for Ecosystem Services (PES) Program" of the draft scoping plan, released December 31, 2021, for the New York state climate leadership and community protection act, the department, in coordination with the state soil and water conservation committee, shall establish a pilot program to develop a PES mechanism that compensates farmers and foresters for generating ecosystem services through their land management techniques. Such pilot program shall comprise several local pilots throughout the state, designated or recognized by the commissioner and organized based on watershed region[, farming or forestry practices or otherwise]. The department, the state soil and water conservation committee and any local watershed [coalition] shall coordinate in the development and implementation of each local pilot with stakeholders in the pilot region, including the department of environmental conservation, any local office of Cornell Cooperative Extension, agricultural producers and foresters including

organic farmers and ranchers and underserved farmers, ranchers and foresters, not-for-profit conservation organizations, disadvantaged communities, food justice and food security organizations including community gardens, community supported agriculture programs and farmers markets, environmental protection organizations, environmental justice organizations, the United States Department of Agriculture's National Resources Conservation Services, the New York state college of agriculture and life sciences established in section fifty-seven hundred twelve of the education law including Cornell Cooperative Extension, other institutions of higher education in New York state working on soil health, and any other organization designated by the commissioner.

2. [Funding]

3. [Coordination/information and data sharing/working group within CAC]

§ 20. Subsection 1 of section 322 of the agriculture and markets law is amended to read as follows:

1. "Agricultural and farmland protection" means the preservation, conservation, management or improvement of lands, including the soil health and watershed health of such lands, which are part of viable farming operations, for the purpose of encouraging such lands to remain in agricultural production. Such preservation efforts include the use of farmland protection conservation easements and purchase of development rights and producer incentive programs, such as Payment for Ecosystem Services, under the soil health and climate resilient farming initiatives.

§ 21. Section 323 of the agriculture and markets law is amended to read as follows:

§ 323. State agricultural and farmland protection program. The commissioner shall initiate and maintain a state agricultural and farmland protection program to provide financial and technical assistance, within funds available, to counties, municipalities, soil and water conservation districts, watershed [coalitions] and not-for-profit conservation organizations for their agricultural and farmland protection efforts.

Activities to be conducted by the commissioner shall include, but not be limited to:

1. developing guidelines for the creation by counties and municipalities of agricultural and farmland protection plans;

2. providing technical assistance to county agricultural and farmland protection boards, as established in article twenty-five-AA of this chapter, and municipalities;

3. administering state assistance payments to county agricultural and farmland protection boards, municipalities and soil and water conservation districts;

4. disseminating information to county and municipal governments, soil and water conservation districts, owners of agricultural lands and other agricultural interests about the state agricultural and farmland protection program established pursuant to this article;

5. administering state assistance payments to not-for-profit conservation organizations and watershed [coalitions]; and

6. reporting biennially to the governor and the legislature regarding the activities of the commissioner, the types of technical assistance rendered to county agricultural and farmland protection boards, municipalities, soil and water conservation districts and not-for-profit conservation organizations, and the need to protect the state's agricultural economy and land resources.

§ 22. Section 324 of the agriculture and markets law is amended to read as follows:

§ 324. County agricultural and farmland protection plans. 1. County agricultural and farmland protection boards may develop plans, and may jointly develop plans with other county agricultural and farmland protection boards, in cooperation with the local soil and water conservation district or districts,~~and~~ soil conservation service and watershed [coalition or coalitions], which shall include, but not be limited to:

(a) the location of any land or areas proposed to be protected;

(b) an analysis of the following factors concerning any areas and lands proposed to be protected:

(i) value to the agricultural economy of the county;

(ii) open space value;

(iii) consequences of possible conversion, including environmental consequences to the surrounding ecosystem and watershed; and

(iv) level of conversion pressure on the lands or areas proposed to be protected; and

(c) a description of the activities, programs and strategies, including efforts to support the successful transfer of agricultural land from existing owners to new owners and operators, especially new and beginning farmers and underserved farmers, and incentive programs, such as Payment for Ecosystem Services, under the soil health and climate resilient farming initiatives, intended to be used by the county or counties to promote continued agricultural use, which may include but not be limited to revisions to [~~the~~ any such county's comprehensive plan pursuant to section two hundred thirty-nine-d or two hundred thirty-nine-i of the general municipal law.

2. The county agricultural and farmland protection board, or boards working together, shall conduct at least one public hearing for public input regarding such agricultural and farmland protection plan, and shall thereafter submit such plan to [~~the~~]all relevant county legislative [~~body~~]bodies for [~~its~~]their approval.

3. The county agricultural protection plan must be submitted by the county or counties to the commissioner for approval.

§ 23. Section 325 of the agriculture and markets law is amended to read as follows:

§ 325. Agricultural protection. 1. Subject to the availability of funds, a program is hereby established to finance through state assistance payments the state share of the costs of locally-led agricultural and farmland protection activities, including activities to protect soil health and watershed health. State assistance payments for planning activities shall not exceed fifty thousand dollars to each county agricultural and farmland protection board, [~~or~~] one hundred thousand dollars to two such boards applying jointly or a proportionately higher amount to more than two such boards applying jointly, and shall not exceed fifty percent of the cost of preparing an agricultural and farmland protection plan. State assistance payments for planning activities shall not exceed twenty-five thousand dollars to each municipality other than a county, [~~or~~] fifty thousand dollars to two such municipalities applying jointly or a proportionately higher amount to more than two such municipalities applying jointly, and shall not exceed seventy-five percent of the cost of preparing an agricultural and farmland protection plan. Counties, municipalities and farmland protection boards may cooperate together, including within the framework of watershed [coalitions], to develop agricultural and farmland protection plans. A county or group of counties which has an approved farmland protection plan may after one hundred twenty months from the date of such approval by the commissioner apply for additional state assistance payments for planning activities related to the updating of their current plan or development of a new farmland protection plan. Such additional state assistance payments shall not exceed fifty thousand dollars to each county agricultural and farmland protection board, [~~or~~] one hundred thousand dollars to two such boards applying jointly or a proportionately higher amount to more than two such boards applying jointly, and shall not exceed fifty percent of the cost of preparing an agricultural and farmland protection plan. State assistance payments for implementation of approved agricultural and farmland protection plans may fund up to seventy-five percent of the cost of implementing the county plan or portion of the plan for which state assistance payments are requested. State assistance payments to such counties shall not exceed seventy-five percent of the cost of implementing the local plan or portion of the plan for which state assistance has been requested. Such maximum shall be increased by a percentage equal to the percentage of the total eligible costs for such specified projects that are contributed by the owner of the agricultural land for which the project is being funded, provided, however, that in no event shall the total of such

state assistance payments exceed eighty-seven and one-half percent of such eligible costs for any specified project.

2. (a) A county agricultural and farmland protection board, two or more such boards acting jointly, a municipality or two or more such municipalities acting jointly shall make application to the commissioner in such manner as the commissioner may prescribe. Application for state assistance payments for planning activities may be made at any time after the county agricultural and farmland protection board has formed and has elected a chairperson. A county agricultural and farmland protection board may make application for state assistance payments for plan implementation at any time after the commissioner has approved a county agricultural and farmland protection plan pursuant to section three hundred twenty-four of this article. Applications made jointly by two or more county agricultural and farmland protection boards, including within the framework of a watershed [coalition], may be made after such agricultural and farmland protection plan is approved by each county pursuant to the provisions of section three hundred twenty-four of this article. State assistance payments to such counties shall not exceed seventy-five percent of the cost of implementing the county agricultural and farmland protection plan or portion of the plan for which state assistance has been requested. The commissioner may require such information or additional planning as he or she deems necessary to evaluate such a request for state assistance.

(b) Within [~~a county~~] one or more counties, a municipality or group of municipalities, including an intermunicipal watershed [coalition] or other intermunicipal organization, which has in place a local farmland protection plan may apply and shall be eligible for agricultural protection state assistance payments to implement its plan, or a portion of its plan, provided the proposed project is endorsed for funding by the agricultural and farmland protection board for [~~the~~] each county in which the municipality or group of municipalities is located and that any plan developed on or after January first, two thousand six complies with section three hundred twenty-four-a of this article. State assistance payments to such municipalities shall not exceed seventy-five percent of the cost of implementing the local plan or portion of the plan for which state assistance has been requested. Such maximum shall be increased by a percentage equal to the percentage of the total eligible costs for such specified projects that are contributed by the owner of the agricultural land for which the project is being funded; provided, however, that in no event shall the total of such state assistance payments exceed eighty-seven and one-half percent of such eligible costs for any specified project. The commissioner may require such information or additional planning as he or she deems necessary to evaluate such a request for state assistance.

(c) A soil and water conservation district or a group of soil and water conservation districts, including under the framework of a watershed [coalition], may apply and shall be eligible for agricultural protection state assistance payments to implement a county or municipal agricultural and farmland protection plan, including farmland protection plans developed by groups of counties or municipalities working together under the framework of a watershed [coalition] or otherwise, approved by the commissioner provided that the

proposed project is endorsed for funding by the county agricultural and farmland protection board for ~~the~~each county in which the proposed project is located. A soil and water conservation district, two or more such soil and water conservation districts acting jointly, a group of soil and water conservation districts, ~~and a municipality~~municipalities or counties acting jointly, ~~or~~ a group of soil and water conservation districts and a watershed [coalition] or not-for-profit conservation organization acting jointly or any combination of the above shall make application to the commissioner in such manner as the commissioner may prescribe. The proposed project must also be endorsed for funding by ~~the~~each municipality in which the proposed project is located if the soil and water conservation district or any group of organizations described above is seeking agricultural protection state assistance payments to implement an approved municipal agricultural and farmland protection plan. State assistance payments to such soil and water conservation districts shall not exceed seventy-five percent of the cost of implementing the local plan or portion of the plan for which state assistance has been requested. Such maximum shall be increased by a percentage equal to the percentage of the total eligible costs for such specified projects that are contributed by the owner of the agricultural land for which the project is being funded; provided, however, that in no event shall the total of such state assistance payments exceed eighty-seven and one-half percent of such eligible costs for any specified project. The commissioner may require such information or additional planning as he or she deems necessary to evaluate such a request for state assistance.

(d) A watershed [coalition] or not-for-profit conservation organization may apply and shall be eligible for agricultural protection state assistance payments to implement a county or municipal agricultural and farmland protection plan, including farmland protection plans developed by groups of counties or municipalities working together under the framework of a watershed [coalition] or otherwise, approved by the commissioner provided that the proposed project is endorsed for funding by the county agricultural and farmland protection board for ~~the~~each county in which the proposed project is located. The proposed project must also be endorsed for funding by ~~the~~each municipality in which the proposed project is located if the watershed [coalition] or not-for-profit conservation organization is seeking agricultural protection state assistance payments to implement an approved municipal agricultural and farmland protection plan. State assistance payments to such watershed [coalitions] or not-for-profit organizations shall not exceed seventy-five percent of the cost of implementing the local plan or portion of the plan for which state assistance has been requested. Such maximum shall be increased by a percentage equal to the percentage of the total eligible costs for such specified projects that are contributed by the owner of the agricultural land for which the project is being funded; provided, however, that in no event shall the total of such state assistance payments exceed eighty-seven and one-half percent of such eligible costs for any specified project. The commissioner may require such information or additional planning as he or she deems necessary to evaluate such a request for state assistance.

(e) In evaluating applications for funding, the commissioner shall give priority to projects intended to preserve viable agricultural land as defined

in section three hundred one of this chapter; that are in areas facing significant development pressure; ~~and~~ that serve as a buffer for a significant natural public resource containing important ecosystem or habitat characteristics, that incorporate soil health practices and that are designed to protect, conserve, restore and regenerate watershed health.

(f) In evaluating applications for funding, the commissioner shall consider whether future physical climate risk due to sea level rise, and/or storm surges and/or flooding, based on available data predicting the likelihood of future extreme weather events, including hazard risk analysis data if applicable, has been considered.

(g) In evaluating applications for funding, projects for protecting agricultural land that include farmer-purchaser farmland protection agreements are eligible for state assistance payments.

(h) In evaluating applications for funding, preference shall be given to projects that positively impact disadvantaged communities or that prioritize assistance to underserved farmers, ranchers or foresters.

3. Upon receipt of a request for state assistance, the commissioner shall review the request, consult with the advisory council on agriculture and, within ninety days from the receipt of a complete application, shall make a determination as to whether or not such projects shall receive state assistance.

§ 24. Section 329 of the agriculture and markets law is amended to read as follows:

§ 329. Farmland viability program. The commissioner shall initiate and maintain a state farmland viability program within the department which is intended to improve the soil health, profitability and efficiency of participating farms. The program shall provide technical and financial assistance in the form of matching grants to applicants for projects which contribute to overall farm profitability and sound environmental management.

1. The commissioner may award grants, within available funding, for the following purposes:

a. to a county agricultural and farmland protection board for the implementation of any component of its approved agricultural protection plan which addresses improved soil health and farm profitability;

b. to an applicant, other than a county agricultural and farmland protection board, for the development of a farmland viability plan or a portion of such a plan, which shall assess overall soil health and farm profitability and identify potential strategies for improved farm profitability such as farm expansion, value added production, diversification, environmental and soil health management, or marketing and promotional activities, and

c. to an applicant, other than a county agricultural and farmland protection board, for the implementation of any component of its farmland viability plan which has been approved by the commissioner.

2. The commissioner shall consult with the college of agriculture and life sciences at Cornell university and the state advisory council on agriculture to identify and coordinate available resources for the farmland viability program.

§ 25. Section 1-0303 of the environmental conservation law is amended by adding new subdivisions 26 and 27 to read as follows:

26. "Soil health" shall have the meaning given to it in subdivision 1 of section 151-1 of the agriculture and markets law.

27. "Watershed" shall have the meaning given to it in subdivision 21 of section 3 of article 1 of the soil and water conservation districts law.

27. "Watershed health" shall have the meaning given to it in subdivision 5 of section 151-1 of the agriculture and markets law.

§ 26. Section 15-0103 of the environmental conservation law is amended to read as follows:

§ 15-0103. Legislative findings.

Article 15 shall be construed and administered in the light of the following findings of fact:

1. The sovereign power to regulate and control the water resources of this state ever since its establishment has been and now is vested exclusively in the state of New York, except to the extent of any delegation of power to the United States;

2. New York State has been generously endowed with water resources which have contributed and continue to contribute greatly to the position of preeminence attained by New York in population, agriculture, commerce, trade, industry and outdoor recreation;

3. Adequate and suitable water for water supply, domestic, municipal, industrial, agricultural and commercial uses, power, irrigation, transportation, fire protection, sewage and waste assimilation, the growth of forests, maintenance of fish and wildlife, recreational enjoyment and other uses is essential to the health, safety and welfare of the people and economic growth and prosperity of the state;

4. In recent years our population growth and the development and use of new technology and processes have resulted in demands for more water and the equitable use thereof for these purposes;

5. In recent years recreational activities are making new and greater demands on lakes and streams of the state for boating, fishing, bathing and water sports, and the lands adjacent thereto for campsites, access areas and public beaches;

6. The growth of cities and urban areas and their expansion into formerly rural areas has in many cases resulted in the filling in, diversion and destruction of water courses, necessarily destroying aquatic habitat and lessening supplies of water for multiple use purposes;

7. Increased motorized highway travel and public safety are requiring the construction of new, better and larger public highways which may alter the water ways of the state and encroach upon water courses and affect their uses;

8. All fish, game, wildlife, shellfish, crustacea and protected insects in the state, except those legally acquired and held in private ownership, are owned by the state and held for the use and enjoyment of the people of the state, and the state has a responsibility to preserve, protect and conserve such terrestrial and aquatic resources from destruction and damage and to promote their natural propagation;

9. The unreasonable, uncontrolled and unnecessary interference with or defilement and disturbance of water courses create hazards to the health, safety and welfare of the people of the state causing great economic loss by erosion of soil, increased costs of water purification and treatment, the loss of crop lands and forests by flooding, the destruction and failure of natural propagation of fish and aquatic resources and the loss of water for domestic, industrial, navigational, municipal, agricultural, recreational and other beneficial uses and purposes;

10. The unreasonable and unregulated (a) interference with the channels and beds of lakes and streams by construction of dams, roads and other structures, (b) alteration of water courses and gradients, (c) impounding of water, (d) dredging and filling in of stream beds, and the unreasonable removal of sand, gravel or other materials from streams, and by other action, have resulted in pollution of such waters, increase in turbidity and the deposit of silt and debris, irregular variations of velocity, temperature and levels of water, erosion of banks and uplands and the flooding of valuable lands;

11. Tree canopy, forest health, watershed health, wetland protection and restoration, soil coverage and soil health are crucial to water infiltration rates and water holding capacity of soils, drought resilience, water and food security, stormwater management, water quality, and mitigation of and adaptation to climate change;

[11]12. The department, and two of its predecessors, the Water Resources Commission and the Water Pollution Control Board, has classified substantially all of the waters of the state;

[12]13. The department, pursuant to title 11 of article 15 of the Environmental Conservation Law, is continuing the work of its predecessor, the Water Resources Commission in undertaking comprehensive planning for the protection, conservation and development of the water resources of the state;

[13]14. It is in the best interest of the state that provision be made for the regulation and supervision of activities that deplete, defile, damage or otherwise adversely affect the waters of the state and land resources associated therewith.

§ 27. Section 15-0105 of the environmental conservation law is amended to read as follows:

§ 15-0105. Declaration of policy.

In recognition of its sovereign duty to conserve and control its water resources for the benefit of all inhabitants of the state, it is hereby declared to be the public policy of the state of New York that:

1. The regulation and control of the water resources of the state of New York be exercised only pursuant to the laws of this state;

2. The waters of the state be conserved and developed for all public beneficial uses;

3. Comprehensive planning be undertaken for the protection, conservation, equitable and wise use and development of the water resources of the state to the end that such water resources be not wasted and shall be adequate to meet the present and future needs for domestic, municipal, agricultural, commercial, industrial, power, recreational and other public, beneficial purposes;

4. With respect to the use of the waters of the state and the water courses thereof, due consideration shall be given to the relative importance of different uses;

5. The acquisition, storage, diversion and use of water for domestic and municipal purposes shall have priority over all other purposes;

6. Alterations in the conditions of waters and water courses be planned and carried out in such manner that the important uses will be impaired as little as possible;

7. Tree canopy, forest health, watershed health, wetland protection and restoration, soil coverage and soil health shall be included in the

comprehensive planning to protect, conserve, restore and control water resources;

[7]8. Reasonable standards of purity and quality of the waters of the state be maintained consistent with public health, safety and welfare and the public enjoyment thereof, the propagation and protection of fish and wildlife, including birds, mammals and other terrestrial and aquatic life, and the industrial development of the state, and to that end, to require the use of all known available and reasonable methods to prevent and control pollution, wastage and unreasonable disturbance and defilement of the waters of the state;

[8]9. In addition to other recognized public beneficial uses and control of water as provided by this article 15 or by any other statute, the regulated acquisition, storage, diversion and use of water for the supplemental irrigation of agricultural lands within the state is a public purpose and use, in the interests of the health, safety and welfare of the people of the state and for their interest.

§ 28. Section 16-0105 of the environmental conservation law is amended to read as follows:

§ 16-0105. Appropriation for flood control purposes.

The legislature may appropriate from any money in the state treasury not otherwise appropriated for payment by the state for the costs of the state's participation in federal flood control projects and for engineering connected with these projects including personal services and expenses. The money appropriated shall be available for the cost of relocation and reconstruction of state highways, including structures; for channel improvements; for check dams; for quarries, gravel pits, spoil banks and burrow pits; for access roads; for camp sites; for relocation of buildings, structures and facilities; for relocation of the properties, structures, service lines and connections incident thereto of public service utilities, both publicly and privately owned; for relocation of railroad rights-of-way, facilities and structures; for improvement of water infiltration rates and water holding capacities of soils and of soil health and watershed health; for rights of way and for other related purposes contemplated by and incidental to said flood control projects. The moneys appropriated shall also be available for payment by the state for the relocation and reconstruction of streets, sidewalks, public grounds, parks, cemeteries, water supply systems, sewer systems and lighting systems of municipal corporations, county roads and town highways, including structures and including rights of way.

§ 29. Section 33-0304 of the environmental conservation law is amended to read as follows:

§ 33-0304. Fees.

All fees collected pursuant to this article shall be deposited into the environmental conservation special revenue fund to the credit of the environmental regulatory account; provided, however, that the first five million dollars collected pursuant to this article shall be deposited into the environmental protection fund established pursuant to section ninety-two-s of the state finance law.

§ 30. Section 54-1501 of the environmental conservation law is amended to read as follows:

§ 54-1501. Definition.

For purposes of this title, "climate smart community projects" shall mean adaptation and mitigation projects, including flood mitigation and coastal and riparian resiliency, soil health and watershed health conservation, restoration and regeneration, greenhouse gas reductions outside the power sector, ~~and~~ climate change adaptation planning, food security enhancement, local and regional food procurement by government purchasers that includes a bid preference for foods sourced from farms implementing soil health practices, and clean vehicle projects.

[§ 31. Section 92-s of the state finance law is amended to read as follows:

§ 92-s. Environmental protection fund. 1. There is hereby established in the joint custody of the comptroller and the commissioner of taxation and finance a special fund to be known as the "environmental protection fund".

2. a. The comptroller shall establish the following separate and distinct accounts within the environmental protection fund:

- (i) solid waste account;
- (ii) parks, recreation and historic preservation account;
- (iii) open space account;
- (iv) climate change mitigation and adaptation account; and
- (v) environmental protection transfer account.

b. All monies received by the comptroller for deposit in the environmental protection fund shall be deposited first to the credit of the environmental protection transfer account. No monies shall be expended from any such account for any project except pursuant to appropriation by the legislature.

* 3. Such fund shall consist of the amount of revenue collected within the state from the amount of revenue, interest and penalties deposited pursuant to section fourteen hundred twenty-one of the tax law, the amount of fees and penalties received from easements or leases pursuant to subdivision fourteen of section seventy-five of the public lands law and the money received as annual service charges pursuant to section four hundred four-n of the vehicle and traffic law, all moneys required to be deposited therein from the contingency reserve fund pursuant to section two hundred ninety-four of chapter fifty-seven of the laws of nineteen hundred ninety-three, all moneys required to be deposited pursuant to section thirteen of chapter six hundred ten of the laws of nineteen hundred ninety-three, repayments of loans made pursuant to section 54-0511 of the environmental conservation law, all moneys to be deposited from the Northville settlement pursuant to section one hundred twenty-four of chapter three hundred nine of the laws of nineteen hundred ninety-six, provided however, that such moneys shall only be used for the cost of the purchase of private lands in the core area of the central Suffolk pine barrens pursuant to a consent order with the Northville industries signed on October thirteenth, nineteen hundred ninety-four and the related resource restoration and replacement plan, the amount of penalties required to be deposited therein by section 71-2724 of the environmental conservation law, all moneys required to be deposited pursuant to article thirty-three of the environmental conservation law, all fees collected pursuant to subdivision eight of section 70-0117 of the environmental conservation law, all moneys collected pursuant to title thirty-three of article fifteen of the environmental conservation law, beginning with the fiscal year commencing on April first, two thousand thirteen, nineteen million dollars, and all fiscal years thereafter, twenty-three million dollars plus all funds received by the state each fiscal year in excess of the greater of the amount received from April first, two thousand twelve through March thirty-first, two thousand thirteen or one hundred twenty-two million two hundred thousand dollars, from the payments collected pursuant to subdivision four of section 27-1012 of the environmental conservation law and all funds collected pursuant to section 27-1015 of the environmental conservation law, all moneys required to be deposited pursuant to sections 27-2805 and 27-2807 of the environmental conservation law, all moneys collected pursuant to section 71-2730 of the environmental conservation law, [all but ten cents for each ton of the money received from fees collected pursuant to section 146-c of the agriculture and markets law,] and all other moneys credited or transferred thereto from any other fund or source pursuant to law. All such revenue shall be initially deposited into the environmental protection fund, for application as provided in subdivision five of this section.

* NB Effective until January 1, 2024

* 3. Such fund shall consist of the amount of revenue collected within the state from the amount of revenue, interest and penalties deposited pursuant to section fourteen hundred twenty-one of the tax law, the amount of fees and penalties received from easements or leases pursuant to subdivision fourteen of section

seventy-five of the public lands law and the money received as annual service charges pursuant to section four hundred four-n of the vehicle and traffic law, all moneys required to be deposited therein from the contingency reserve fund pursuant to section two hundred ninety-four of chapter fifty-seven of the laws of nineteen hundred ninety-three, all moneys required to be deposited pursuant to section thirteen of chapter six hundred ten of the laws of nineteen hundred ninety-three, repayments of loans made pursuant to section 54-0511 of the environmental conservation law, all moneys to be deposited from the Northville settlement pursuant to section one hundred twenty-four of chapter three hundred nine of the laws of nineteen hundred ninety-six, provided however, that such moneys shall only be used for the cost of the purchase of private lands in the core area of the central Suffolk pine barrens pursuant to a consent order with the Northville industries signed on October thirteenth, nineteen hundred ninety-four and the related resource restoration and replacement plan, the amount of penalties required to be deposited therein by section 71-2724 of the environmental conservation law, all moneys required to be deposited pursuant to article thirty-three of the environmental conservation law, all fees collected pursuant to subdivision eight of section 70-0117 of the environmental conservation law, all moneys collected pursuant to title thirty-three of article fifteen of the environmental conservation law, beginning with the fiscal year commencing on April first, two thousand thirteen, nineteen million dollars, and all fiscal years thereafter, twenty-three million dollars plus all funds received by the state each fiscal year in excess of the greater of the amount received from April first, two thousand twelve through March thirty-first, two thousand thirteen or one hundred twenty-two million two hundred thousand dollars, from the payments collected pursuant to subdivision four of section 27-1012 of the environmental conservation law and all funds collected pursuant to section 27-1015 of the environmental conservation law, all moneys required to be deposited pursuant to sections 27-2805 and 27-2807 of the environmental conservation law, all moneys collected pursuant to section 71-2730 of the environmental conservation law, all moneys required to be deposited pursuant to section 27-3205 of the environmental conservation law, [all but ten cents for each ton of the money received from fees collected pursuant to section 146-c of the agriculture and markets law,] and all other moneys credited or transferred thereto from any other fund or source pursuant to law. All such revenue shall be initially deposited into the environmental protection fund, for application as provided in subdivision five of this section.

* NB Effective January 1, 2024

5. Revenues in the environmental protection fund shall be kept separate and shall not be commingled with any other moneys in the custody of the comptroller. All deposits of such revenues shall, if required by the comptroller, be secured by obligations of the United States or of the state having a market value equal at all times to the amount of such deposits and all banks and trust companies are authorized to give security for such deposits. Any such revenues in such fund may, upon the discretion of the comptroller, be invested in obligations in

which the comptroller is authorized to invest pursuant to section ninety-eight-a of this article.

6. (a) All moneys heretofore and hereafter deposited in the environmental protection transfer account shall be transferred by the comptroller to the solid waste account, the parks, recreation and historic preservation account, the climate change mitigation and adaptation account or the open space account upon the request of the director of the budget.

(b) Moneys from the solid waste account shall be available, pursuant to appropriation and upon certificate of approval of availability by the director of the budget, for any non-hazardous municipal landfill closure project; municipal waste reduction or recycling project, as defined in article fifty-four of the environmental conservation law; for the purposes of section two hundred sixty-one and section two hundred sixty-four of the economic development law; any project for the development, updating or revision of local solid waste management plans pursuant to sections 27-0107 and 27-0109 of the environmental conservation law; environmental justice projects and grants and for the development of the pesticide sales and use data base pursuant to title twelve of article thirty-three of the environmental conservation law.

(c) Moneys from the parks, recreation and historic preservation account shall be available, pursuant to appropriation, for any municipal park project, historic preservation project, urban cultural park project, waterfront revitalization program, coastal rehabilitation project.

(d) Moneys from the open space account shall be available, pursuant to appropriation, for any open space land conservation project, bio-diversity stewardship and research pursuant to chapter five hundred fifty-four of the laws of nineteen hundred ninety-three, for the purposes of agricultural and farmland protection activities as authorized by article twenty-five-AAA of the agriculture and markets law, non-point source abatement and control projects pursuant to section 17-1409 of the environmental conservation law and section eleven-b of the soil and water conservation districts law, for Long Island Central Pine Barrens area planning or Long Island south shore estuary reserve planning pursuant to title thirteen of article fifty-four of the environmental conservation law, and for operation and management of the Albany Pine Bush preserve commission pursuant to subdivision two of section 54-0303 of the environmental conservation law.

(e) The governor shall include a specific line appropriation in the capital projects budget describing individual open space land conservation projects proposed to be undertaken by the department of environmental conservation and/or the office of parks, recreation and historic preservation pursuant to title three of article fifty-four of the environmental conservation law and listed in the state open space land acquisition plan prepared pursuant to title two of article forty-nine of the environmental conservation law.

(f) Moneys from the climate change account shall be available, pursuant to appropriation and upon certificate of approval of availability by the director of the budget, for climate smart communities projects pursuant to title fifteen of article fifty-four of the environmental conservation law and for projects, programs and incentives authorized by the department of agriculture, in coordination with the state soil and water conservation committee, in support of the soil health initiative, the climate resilient farming initiative and soil health research pursuant to article 11-B of the agriculture and markets law.

7. Notwithstanding any other provision of law, no state assistance payment authorized under this section or article fifty-four of the environmental conservation law may be applied, with respect to any project located within the area of New York county bounded by (a) the northern boundary of Fifty-ninth street and Fifty-ninth street extended; (b) the United States pierhead line; (c) the northern boundary of the area known as Battery Park City; and (d) eight hundred feet inland easterly from the United States bulkhead line:

(i) for, other than for recreational use or access inland of the existing bulkhead line, any roads, bridges, ramps or parking facilities or sewers or water mains;

(ii) for any site improvement, including sewers or water mains, to support residential, industrial or commercial development;

(iii) to excavate, place fill or plantings in, or place any piling, platform or structure, including a floating structure, in the Hudson river;

(iv) to plan, evaluate or study any project involving such excavation or placement as described in subparagraph (iii) of this paragraph; or

(v) for any purpose or project except where the commissioner of environmental conservation, with the approval of the director of the budget, enters into a contract with the city of New York or a state agency, but not with any public benefit corporation or public authority or any other person or entity, for the undertaking of the purpose or project. No part of the purpose or project may be subcontracted to any public benefit corporation, public authority, not-for-profit corporation, or municipality other than the city of New York, nor shall any such state assistance payment be paid to, on behalf of, or pursuant to any agreement with any such entity.

8. All payments of moneys from the fund shall be made on the audit and warrant of the comptroller.

9. Notwithstanding any other law to the contrary and in accordance with section four of this chapter, the comptroller is hereby authorized at the direction of the director of the division of the budget to transfer moneys from the general fund to the environmental protection fund for the purpose of maintaining the solvency of the environmental protection fund. If, in any fiscal year, moneys

in the environmental protection fund are deemed insufficient by the director of the division of the budget to meet actual and anticipated disbursements from enacted appropriations or reappropriations made pursuant to this section, the comptroller shall at the direction of the director of the division of the budget, transfer from the general fund to the environmental protection fund moneys sufficient to meet such disbursements. Such transfers shall be made only upon certification of need by the director of the division of the budget, with copies of such certification filed with the chairperson of the senate finance committee, the chairperson of the assembly ways and means committee and the state comptroller. The aggregate amount of all transfers shall not exceed four hundred forty-seven million one hundred seventy-one thousand dollars.]

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